

Texas Historical Statutes Project

WEST'S TEXAS STATUTES 1974
VOLUME 3

Revised Civil Statutes (Articles 1 to 2460)



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West's Texas Statutes and Codes

Volume 3

SUPERSEDED

REVISED CIVIL STATUTES

Articles 1 to 2460

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PREFACE

These volumes of West's Texas Statutes and Codes include, in compact and convenient form, the text of all the general and permanent laws of the State of Texas enacted through the Regular Session and First Called Session of the 63rd Legislature, and the Texas Constitution, as amended through November 6, 1973.

The laws in West's Texas Statutes and Codes are under the same classification as Vernon's Annotated Texas Statutes and Vernon's Texas Codes Annotated. Therefore, the user of this edition may go from any article or section herein to the same article or section in the annotated editions, where the complete constructions of the laws by the state and federal courts, historical data relative to the origin and development of the law, and other helpful research aids, are conveniently available.

Scope of Volumes

Volume 1 contains the Constitution of the State of Texas; the Business and Commerce Code; the Education Code; the Family Code; the Penal Code; Penal Auxiliary Laws (Liquor Control Act; Game, Fish and Oysters); the Code of Criminal Procedure; and the Water Code. The Business and Commerce, Education, Family, Penal and Water Codes are units of the Texas Legislative Council's on-going statutory revision program, authorized by Civil Statutes, Art. 5429b-1.

Volume 2 contains the Business Corporation Act; Title 32, Corporations, of the Civil Statutes; the Election Code; the Insurance Code; Title 78, Insurance, of the Civil Statutes; the Probate Code; and Title 122, Taxation, and Title 122A, Taxation-General, of the Civil Statutes.

Volumes 3 to 5 contain the balance of the text of the Civil Statutes.

Tables

Disposition Tables are provided following each Code and throughout the Civil Statutes, providing a means of tracing repealed subject matter to parallel provisions.

Special laws pertaining to education and water, which were neither repealed by, nor incorporated into, the Education and Water Codes, are tabulated following the respective Codes.

Additionally, Disposition Table 2 of the Penal Code shows the new official citations or classifications of unrepealed articles of the Texas Penal Code of 1925.

PREFACE

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A separate detailed descriptive word Index follows the Constitution, each Code and the Penal Auxiliary Laws to facilitate the search for specific provisions found therein. Laws in the Civil Statutes may be located by means of the Topical Index at the end of Volume 5.

THE PUBLISHER

November, 1974

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Art. 1. Common Law

The common law of England, so far as it is not inconsistent with the Constitution and laws of this State, shall together with such Constitution and laws, be the rule of decision, and shall continue in force until altered or repealed by the Legislature.

[Acts 1925, S.B. 84.]

Art. 1a. Emergency Care; Relief from Liability for Civil Damages

No person shall be liable in civil damages who administers emergency care in good faith at the scene of an emergency for acts performed during the emergency unless such acts are wilfully or wantonly negligent; provided that nothing herein shall apply to the administering of such care where the same is rendered for remuneration or with the expectation of remuneration or is rendered by any person or agent of a principal who was at the scene of the accident or emergency because he or his principal was soliciting business or seeking to perform some services for remuneration. [Acts 1961, 57th Leg., p. 681, ch. 317, § 1, eff. Aug. 28, 1961.]

Art. 1b. Liability of Real Property Owner Permitting Persons to Enter to Hunt, Fish or Camp

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

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

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

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

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

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

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

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

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

be required for the replacement of such game.

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

Sec. 6. The word "premises," as used in this Act, shall include lands, roads, waters, water courses, and private ways, together with all buildings, structures, machinery or equipment attached thereto or located thereon.

[Acts 1965, 59th Leg., p. 1551, ch. 677, eff. Aug. 30, 1965.]

Art. 1c. Governor's Committee on Human Relations

Sec. 1. There is hereby created an agency of the State of Texas to be known as the Governor's Committee on Human Relations, which shall consist of fifty citizens of the State of Texas, to be appointed by the Governor. They shall be persons who have demonstrated their interest in the promotion and attainment of ideals of dignity and equality of opportunity for all members of society, and they shall be chosen so as to represent the various geographical sections and the various ethnic, racial and religious groups of the state. No person shall be ineligible for appointment because of his holding a public office or employment. Duties performed by members of the Committee are of an advisory nature, and membership shall not be deemed to constitute the holding of a public office.

Sec. 2. The term of office of a member of the committee is two years which expires on February 1 of odd-numbered years.

The Committee shall come into existence on September 1, 1969, and shall cease to exist on August 31, 1973, unless extended by the Legislature.

Sec. 3. Recognizing that the improvement of human relations between and among the various ethnic and racial groups of the state and nation is a matter of the highest importance and priority, the Legislature is creating this Committee upon the request of the Governor, as an official governmental agency to recommend programs of action designed and intended to promote and obtain a better understanding and relationship between the various groups. The Committee is charged with the duty of gathering and assembling suggestions for and information pertinent to the attainment of this goal from all practicable sources, both private and public, including individuals, groups, organizations, and other governmental agencies. In carrying out its duties and responsibilities, the Committee may conduct hearings and interviews at such places as it deems desirable, either through individual members or subcommittees or through members of its administrative staff, and it may also employ all other available means for gathering these materials.

The Committee shall report the results of its studies and make recommendations to the Governor at such times as it determines or as re-

quested by the Governor. It shall also make a report to the Governor and to each member of the Legislature not later than November 1 of the years 1970 and 1972, on any recommendations involving legislative action.

Sec. 4. Members of the Committee shall serve without compensation, but each shall receive reimbursement for travel expense when on official business of the Committee, in accordance with the rules and regulations applicable to state employees which are in effect for the period in which the travel occurs. The payment shall be made out of the appropriation made to the Governor's Office for general operating expenses.

Sec. 5. The Governor shall designate the Chairman of the Committee and shall call the first meeting of the Committee, at which meeting the members shall elect a Vice-Chairman and a Secretary from among their number. After the first meeting, the Committee shall meet at the call of the Chairman or the Governor, on the date and at the place designated in each call. The Committee may adopt procedural rules governing the conduct of its meetings and other affairs.

Sec. 6. The Committee shall appoint an Executive Director and shall fix his salary. The Executive Director shall employ or contract for the professional, technical and clerical staff necessary to accomplish the goals of this Act, and is authorized to make such other expenditures as are necessary for that purpose, within the budgetary limits fixed by the Committee.

Operating expenses of the Committee, other than traveling expenses of its members, shall be paid from money appropriated for that purpose in the general appropriation act. The Committee shall adopt an annual budget, which may be amended from time to time, allocating funds for the various expenditures to be incurred.

The Board of Control shall provide suitable quarters for the Committee and its staff in the City of Austin. The Secretary of State shall cooperate with the Committee in furnishing technical and clerical staff and services when necessary.

Sec. 7. Every state agency, department and institution and every state, county and municipal officer is directed to provide such information as may be requested by the Committee, and to assist the Committee in accomplishing its objectives.

Sec. 8. The Committee may accept gifts and grants of money from any individual, group, association, corporation, or the Federal Government. Such funds as are received shall be deposited in the State Treasury and are hereby appropriated to be expended in accordance with the specific purpose for which given and under such conditions as may be imposed by the donor or as may be provided by law.

[Acts 1969, 61st Leg., p. 1495, ch. 446, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 1, ch. 1, § 1, eff. Feb. 8, 1973.]

Art. 1d. Privilege to Investigate Theft

A person reasonably believing another has stolen or is attempting to steal property is privileged to detain the person in a reasonable manner and for a reasonable period of time for the purpose of investigating ownership of the property.

[Acts 1973, 63rd Leg., p. 988, ch. 399, § 2(F), eff. Jan. 1, 1974.]

SPECIAL LAWS**Art. 2. Special Laws: Notice**

Any person intending to apply for the passage of any local or special law shall give notice of such intention by having a statement of the substance of such law published in some newspaper published in the county embracing the locality to be affected by said law, at least once each week for the period of thirty days prior to the introduction into the Legislature of such contemplated laws.

[Acts 1925, S.B. 84.]

Art. 3. If No Newspaper Published

If no newspaper is published in said county, a written copy of such statement shall be posted at the court house door and in five other public places in the immediate locality to be affected thereby in said county, for thirty days, and such notice shall accurately define the locality to be affected by said law.

[Acts 1925, S.B. 84.]

Art. 4. Notice for Each County

Where the locality to be affected by said law shall extend beyond the limits of any one county, such notice shall be given for each county to be affected.

[Acts 1925, S.B. 84.]

Art. 5. Affecting Persons

Whenever any person intends applying for the passage of a special law which shall affect persons chiefly, and not directly affect any particular locality more than others, such persons, if residing in this State, shall make publication of notice of such intention in the county of the residence of such person in the same manner as if the said law was to affect such locality.

[Acts 1925, S.B. 84.]

Art. 6. Where Applicant is a Non-Resident

If the applicant is a non-resident of this State, said publication need only be made in a newspaper published at the Capital, in like manner as if such person resided at the seat of government.

[Acts 1925, S.B. 84.]

Art. 7. Details Unnecessary

Said notice need not contain the particular form and terms of such contemplated law, but a statement only of the general purposes and nature of the same shall be sufficient.

[Acts 1925, S.B. 84.]

Art. 8. Proof of Publication

Whenever publication in a newspaper is required by law, proof of the same shall be made by the affidavit of the publisher accompanied with a printed copy of such notice as published.

[Acts 1925, S.B. 84.]

Art. 9. Proof of Posting

The posting above provided for may be shown by the return of the sheriff or constable, or by the affidavit of any credible person made on a written copy of the notice so posted, showing the fact of such posting, and such proof or other competent proof of the giving of said notice shall accompany the introduction of every local or special law.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 42, ch. 29, § 1.]

CONSTRUCTION OF LAWS**Art. 10. General Rules**

The following rules shall govern in the construction of all civil statutory enactments:

1. The ordinary signification shall be applied to words, except words of art or words connected with a particular trade or subject matter, when they shall have the signification attached to them by experts in such art or trade, with reference to such subject matter.

2. The present or past tense shall include the future.

3. The masculine gender shall include the feminine and neuter.

4. The singular and plural number shall each include the other, unless otherwise expressly provided.

5. A joint authority given to any number of persons or officers may be executed by a majority of them, unless it is otherwise declared.

6. In all interpretations, the court shall look diligently for the intention of the Legislature, keeping in view at all times the old law, the evil and the remedy.

7. Whenever one law which shall have repealed another shall itself be repealed, the former law shall not be thereby revived without express words to that effect.

8. The rule of the common law that statutes in derogation thereof shall be strictly construed shall have no application to the Revised Statutes; but the said statutes shall constitute the law of this State respecting the subjects to which they relate; and the provisions thereof shall be liberally construed with a view to effect their objects and to promote justice.

[Acts 1925, S.B. 84.]

Art. 11. Grammatical Errors

Grammatical errors shall not vitiate a law, and a transposition of words and clauses may be resorted to when the sentence or clause is

without meaning as it stands. In no case shall the punctuation of a law control or affect the intention of the Legislature in the enactment thereof.

[Acts 1925, S.B. 84.]

Art. 11a. Severability of Statutes

Sec. 1. Except to the extent otherwise specifically provided in a statute enacted previously or in the future, if any provision of a statute or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the statute which can be given effect without the invalid provision or application, and to this end the provisions of each statute are declared to be severable.

Sec. 2. Nothing in this Act affects the power or the duty of a court in an appropriate case to ascertain and effectuate the intent of the legislature with regard to the severability of a statute.

[Acts 1973, 63rd Leg., p. 69, ch. 45, eff. April 18, 1973.]

MISCELLANEOUS

Art. 12. Fiscal Year

The fiscal year of the State shall terminate on the thirty-first day of August of each year, and appropriations of the State government shall conform thereto. All officers who are required by law to report annually or biennially to the Legislature or Governor shall close their accounts on that date, and as soon thereafter as practicable shall prepare and compile their respective reports.

[Acts 1925, S.B. 84.]

Art. 13. Reports of Officers

All annual or biennial reports intended for the use of the Legislature or Governor shall be sent by the respective officers to the Secretary of State on or before November first, and he shall promptly cause the same to be printed before the assembling of the Legislature, and upon its organization he shall send to the presiding officer of each house ten copies of each printed report for the members thereof.

[Acts 1925, S.B. 84.]

Art. 14. Quorum

The majority of any legally constituted board or commission, unless otherwise specially provided, shall constitute a quorum for the transaction of business.

[Acts 1925, S.B. 84.]

Art. 15. Disqualifications

No judge or justice of the peace shall sit in any case wherein he may be interested or where either of the parties may be connected with him by affinity or consanguinity within the third degree, or where he shall have been counsel in the case.

[Acts 1925, S.B. 84.]

Art. 16. Oath of Office

Each officer in this State, whether elected or appointed shall, before entering upon the duties of his office, take and subscribe the oath prescribed by Article 16, Section 1, of the Constitution of this State; and if he shall be required by law to give an official bond, said oath shall be filed with said bond.

[Acts 1925, S.B. 84.]

Art. 17. Commencement of Term of Office

The regular terms of office for all elective state, district, county and precinct offices of the State of Texas, excepting the offices of Governor, Lieutenant Governor, State Senator, and State Representative, shall begin on the first day of January next following the general election at which said respective offices are regularly filled, and those who are elected to regular terms shall qualify and assume the duties of their respective offices on the first day of January following their election, or as soon thereafter as possible. Persons elected to unexpired terms in the various state, district, county and precinct offices shall be entitled to qualify and assume the duties of their respective offices immediately upon receiving a certificate of election, which certificate shall be issued immediately following the official canvass of the results of the election at which they were elected, and they shall take office as soon thereafter as possible.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 1017, ch. 424, § 5, eff. Aug. 23, 1963.]

Art. 18. Term of Office

Each officer, whether elected or appointed under the laws of this State, and each Commissioner, or member of any board or commission created by the laws of this State, shall hold his office for the term provided by law and until his successor is elected or appointed and qualifies; and each, on retiring from office, shall deliver to his successor all books, papers and documents relating to his office.

[Acts 1925, S.B. 84.]

Art. 19. Vacancies; Ratification by Senate

All vacancies in State or district offices, except members of the Legislature, shall be filled unless otherwise provided by law, by appointment of the Governor, which appointment, if made during its session, shall be with the advice and consent of two-thirds of the Senate present. If made during the recess of the Senate, the said appointee, or some other person to fill such vacancy, shall be nominated to the Senate during the first ten days of its session. If rejected, said office shall immediately become vacant, and the Governor shall, without delay, make further nominations until a confirmation takes place. But should there be no confirmation during the session of the Senate, the Governor shall not thereafter appoint any person to fill such vacancy, who has been rejected by the Senate; but may appoint some other person to fill the vacancy until the next session of the Senate, or until the regular elec-

tion to said office, should it sooner occur. Appointments to vacancies in offices elective by the people shall only continue until the first general election thereafter.

[Acts 1925, S.B. 84.]

Art. 20. Vacancy Filled by Election

All elections to fill vacancies in office shall be to fill the unexpired term only.

[Acts 1925, S.B. 84.]

Art. 21. Vacancy in Board or Commission

Any vacancy in the office of any commissioner, commission or board created by law where the appointment to such office shall be authorized to be made by the Governor shall be filled by the Governor for the unexpired time, unless otherwise provided by law.

[Acts 1925, S.B. 84.]

Art. 22. Officers of Texas

When an officer is referred to in any civil or criminal law of this State, it shall mean an officer of this State, unless otherwise expressly provided.

[Acts 1925, S.B. 84.]

Art. 23. Definitions

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

1. "Property" includes real and personal property, and life insurance policies and the effects thereof.
2. "Person" includes a corporation.
3. "Written" or "in writing" includes any representation of words, letters or figures, whether by writing, printing or otherwise.
4. "Oath" includes affirmation.
5. "Swear" or "sworn" includes affirm.
6. "Signature" or "subscribe" includes the mark of a person unable to write.
7. "Justice" when applied to a magistrate, means justice of the peace.
8. "Preceding Federal Census" shall be construed to mean the United States Census of date preceding the action in question and each such subsequent Census as it occurs.
9. "Governing body," the governing or legislative body of any incorporated town, city or village, whether known as a council, commission, board of commissions, common council, board of aldermen, city council, or by whatever name such bodies may be known or designated.
10. "Official oath" means the oath required by Article 16, Section 1, of the Constitution of Texas.
11. "Comptroller" means the Comptroller of Public Accounts of the State of Texas.

12. "Land Commissioner" means the Commissioner of the General Land Office of Texas.

13. "Preceding" when used by way of reference to title, chapter or Article, means the next preceding.

14. "Succeeding" in like manner, means the next succeeding.

15. "Month" means a calendar month.

16. "Year" means a calendar year.

17. "Effects" includes all personal property and all interest therein.

18. "Affidavit" means a statement in writing of a fact or facts signed by the party making it, and sworn to before some officer authorized to administer oaths, and officially certified to by such officer under his seal of office.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., p. 1228, ch. 404, § 1.]

Art. 23a. Standard Time

The standard time throughout this state shall be that of the ninetieth (90th) meridian of longitude west from Greenwich, commonly known as "central standard time"; provided, however, that regions of this State using Mountain Standard Time, shall continue to use that time as their official standard time. In all statutes, orders, rules, and regulations, either now in force or hereafter to be promulgated, relating to the time within which any Act shall or shall not be performed by any person, it shall be understood and intended that the time referred to is the standard time as provided for in this Article, unless otherwise expressly provided.

[Acts 1947, 50th Leg., p. 723, ch. 359, § 1.]

Art. 24. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 25. Form of Oath

All oaths and affirmations shall be administered in the mode most binding upon the conscience of the individual taking same and shall be subject to the pains and penalties of perjury.

[Acts 1925, S.B. 84.]

Art. 26. Oaths, Affidavits and Affirmations; Persons Authorized to Administer and Issue Certificate; Members of Armed Forces; Presumption; Absence of Seal

1. All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by:
 - a. A judge, clerk, or commissioner of any court of record;
 - b. A notary public;
 - c. A justice of the peace;
 - d. Any member of any board or commission created by the laws of this State, in matters pertaining to the duties thereof.
 - e. The Secretary of State of Texas.

2. Such oath, affidavit, or affirmation made without this State and within the physical limits of the United States and its territories may be administered and a certificate of fact given by:

- a. A clerk of any court of record having a seal;
- b. A commissioner of deeds duly appointed under the laws of this State;
- c. A notary public.

3. Such oath, affidavit, or affirmation made without the physical limits of the United States and its territories may be administered and a certificate of fact given by:

- a. A minister, a commissioner, or charge d'affaires of the United States, resident and accredited to the country where the oath, affidavit, or affirmation is made;
- b. A consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul or consular agent of the United States, resident in the country where the oath, affidavit, or affirmation is made;
- c. A notary public.

4. In addition to the methods above provided, any such oath, affidavit, or affirmation made by a member of the Armed Forces of the United States of America or any Auxiliaries thereto, may be administered by any commissioned officer in the Armed Forces of the United States of America or in the Auxiliaries thereto, and a certificate of such fact may be made by such officer.

In the absence of pleading or proof to the contrary it shall be presumed, when any certificate of an oath, affidavit, or affirmation is offered in evidence, that the person signing such as a commissioned officer was such on the date signed, and that the person making such oath, affidavit, or affirmation, to which such officer certifies, was one of those with respect to whom such action is hereby authorized.

No oath, affidavit, or affirmation administered in accordance with the provisions of this sub-section 4 of this Act shall be held invalid by reason of the failure of the officer certifying to such oath, affidavit, or affirmation to attach an official seal to the certificate thereto.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 544, ch. 331, § 1; Acts 1947, 50th Leg., p. 2, ch. 2, § 1; Acts 1971, 62nd Leg., p. 2491, ch. 814, § 1, eff. June 8, 1971.]

Art. 27. Seals and Scrolls

Each commissioner and each commission and each board which is or may be created by the laws of this State shall have authority to adopt a seal with which to attest its official documents, certificates or any official written paper of any kind. No private seal or scroll shall be required in this State on any written instrument except such as are made by corporations.

[Acts 1925, S.B. 84.]

Art. 28. Repealed by Acts 1929, 41st Leg., p. 235, ch. 100, § 1

Art. 28a. Legal Publications, Definitions

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

(1) The term "publication" shall mean any proclamation, notice, citation, advertisement, or other matter required or authorized by law to be printed in a newspaper or newspapers by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State, or of any county, political subdivision, or district of whatever nature within the State, whether to be paid for out of public funds or charged as costs or fees.

(2) The term "newspaper" shall mean any newspaper devoting not less than twenty-five per cent (25%) of its total column lineage to the carrying of items of general interest, published not less frequently than once each week, entered as second-class postal matter in the county where published, and having been published regularly and continuously for not less than twelve (12) months prior to the making of any publication mentioned in this Act, except that any weekly newspaper shall be allowed to omit two (2) publication issues in twelve (12) months and still retain its status as a newspaper eligible to make any publication mentioned in this Act.

(3) The term "political subdivision" shall include cities, towns, and villages, but this definition shall not be exclusive.

(4) The term "district" shall include school districts of every kind, road districts, drainage districts, irrigation districts, levee improvement districts, conservation and reclamation districts, and improvement districts of every kind, but this definition shall not be exclusive.

(5) The term "shall" whenever used in this Act shall be construed as indicating mandatory provisions in this Act.

(6) The officer, employee, agency, or persons charged with the duty of inserting any publication in a newspaper or newspapers shall select the newspaper or newspapers in which such publication is to be inserted.

[Acts 1933, 43rd Leg., 1st C.S., p. 223, ch. 84, § 1; Acts 1941, 47th Leg., p. 480, ch. 303, § 1; Acts 1963, 58th Leg., p. 462, ch. 163, § 1, eff. Aug. 23, 1963.]

Art. 29. Legal Rate of Publication

Wherever any publication, as publication is defined in Section 1 hereof,¹ is authorized or required by any law, general or special, to be inserted in a newspaper, the legal rate which such newspaper shall charge for such publica-

tion shall be the lowest published rate of that newspaper for classified advertising.

All bills for publication shall be accompanied by a certificate of the publisher, under oath, certifying the number of publications and the dates thereof, together with the clipping of said publication from an issue of said newspaper, the rate charged, and certification that it is the lowest published classified rate. The Board of Control, or any district or county official charged with the publication of any notice required by law to be published, is hereby fully authorized and empowered to cancel any contract made by them, or either of them, in the event said Board or official may ascertain or determine that a higher rate is being charged by said newspaper than provided herein. All political advertising, except display advertising, shall be done at the same rate as legal notices, and under the same supervision and regulations. Political advertising shall include the announcements for public office.

This Act shall apply to all publications required by law, and it is specially provided that this Act shall apply to all citations or notices which are required to be published or may be published in delinquent tax suits and to notices of sale of real estate under execution, order of sale, or any other judicial sale provided for in Articles 3808, 4203, 7276, and 7342 of the Revised Civil Statutes of Texas, 1925.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 480, ch. 303, § 1; Acts 1961, 57th Leg., p. 586, ch. 278, § 1, eff. Aug. 28, 1961.]

¹ Articles 28a, 29, 29a.

Art. 29a. Official Publications

After the effective date of this Act, in every case where any law, general or special, requires the giving of any notice, the making of any proclamation or advertisement, or the service of any citation by any institution, board, commission, department, officer, agent, representative, or employee of the State or of any subdivision or department of the State or of any county, political subdivision, or district of whatever nature within the State by publication in a newspaper, the giving of such notice, the making of such proclamation or advertisement, or the service of such citation shall be by publication in a newspaper, as defined in Section 1 of this Act.¹ If any such law or laws specifies the manner of publication of such notice, proclamation, advertisement, or citation in a newspaper, such law or laws shall govern the manner of publication of such notice, proclamation, advertisement, or citation. If the manner of publication of such notice, proclamation, advertisement, or citation is not prescribed by the law requiring such notice to be given, such proclamation or advertisement to be made, or such citation to be served, then publication of such notice, proclamation, advertisement, or citation shall be made in a newspaper subject to the following restrictions and requirements:

(1) When the number of insertions of a publication is not specified by the law or

laws requiring or authorizing such publication, such publication shall be inserted in some newspaper for at least one issue of such newspaper.

(2) If the period of time required for the giving of any notice, the making of any proclamation or advertisement, or the service of any citation is specified by the law or laws requiring or authorizing the giving of such notice, the making of such proclamation or advertisement, or the service of such citation, then the provisions of such law or laws shall be complied with as to such period of time in all publications made under the provisions of this Act.

(3) If the period of time referred to in paragraph 2 of this Article is not specified in the law or laws referred to therein, then such publication shall be in some newspaper issued at least one day prior to the happening of the events referred to in such publication.

(4) In every case where any notice, proclamation, or advertisement is required to be given by any district or political subdivision within the State, such notice or proclamation shall be given or made by publication in some newspaper published in such district or political subdivision, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper, then such publication shall be made in any newspaper published in the county in which said district or political subdivision is situated, or, if there be no newspaper in such county which will make such publication at a price not in excess of the maximum prescribed by this Act, then such notice shall be posted at the courthouse door of said county.

(5) In every case where any notice, proclamation, or advertisement is required to be given or made by any county, such notice, proclamation, or advertisement shall be given or made by publication in some newspaper published in the county, if there be such newspaper which will make such publication at a price not in excess of the maximum prescribed by this Act, but if there be no such newspaper published in the county, then such notice shall be made by posting a copy of same at the courthouse door of said county.

In every case where the service of any citation or notice in any case, controversy, suit, or proceeding in any of the Courts of the State is required to be by publication under the provisions of any general or special law of this State, such publication shall be published as required by the general or special law providing for such notice by publication.

In every case, controversy, proceeding, or suit in any of the Courts of the State where the service of citation or notice is required to

be made by publication under any general or special law of this State and in which case, controversy, proceeding, or suit the State or any political subdivision or district thereof is a party and in which case, controversy, proceeding, or suit the cost of publication of such citation or notice is to be charged as fees or costs, the refusal of any newspaper to make publication of such citation or notice without payment of the cost of such publication in advance of publication shall be deemed as unqualified refusal to publish such citation or notice, and the sworn statement of the publisher or the person offering to insert such publication shall be subject to record as proof of such refusal.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 480, ch. 303, § 1.]

¹ Articles 28a, 29, 29a.

Repealed in Part

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Vernon's Texas Rules of Civil Procedure, rule 117a.

Art. 29b. Annual Financial Statements; Publication by School, Soil Conservation, Road, and Other Districts

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

[Acts 1957, 55th Leg., p. 1240, ch. 410, § 1.]

Art. 29c. Certified Mail with Return Receipt; Use in Lieu of Registered Mail Authorized

All persons, firms, associations, corporations, and all municipalities, counties and other political subdivisions of the State, all State Depart-

ments, and State Agencies and boards, and all public officials are hereby authorized and empowered to use certified mail with return receipt requested, in lieu of registered mail in all instances where registered mail has heretofore been required or may hereafter be authorized by law. The mailing of any required notice of hearing, citation, bid request, or other notices, information or material by such certified mail shall have the same legal effect as if sent by registered mail, provided receipt for such certified mail is validated by official post office postmark. Provided, further, that where existing law now requires registered mail so as to provide insurance against loss of articles or material having an intrinsic value, then such insured articles or material shall continue to be sent by registered mail.

[Acts 1957, 55th Leg., p. 1266, ch. 424, § 1.]

Art. 29c-1. Unsolicited Goods; Gift to Recipient

Unless otherwise agreed, where unsolicited goods are delivered to a person, he has a right to refuse to accept delivery of the goods and is not bound to return such goods to the sender. Goods received due to a bona fide mistake are to be returned, but the burden of proof of the error shall be upon the sender. If such unsolicited goods are either addressed to or intended for the recipient, they shall be deemed a gift to the recipient, who may use them or dispose of them in any manner without any obligation to the sender. Provided, however, the provisions of this Act shall not apply to goods substituted for goods ordered or solicited by the recipient.

[Acts 1969, 61st Leg., p. 2044, ch. 700, § 1, eff. Sept. 1, 1969.]

Art. 29d. Official Notice of Federal Decennial Census

Section 1. Neither the state nor any political subdivision or agency thereof except the Legislature shall ever officially recognize or act upon any report or publication, in whatever form, of any Federal Decennial Census, either as a whole or as to any part thereof, before the first day of September of the year immediately following the calendar year during which such census was taken.

Sec. 2. As of the first day of September of the year immediately following the calendar year during which said census was taken, the state and all political subdivisions and agencies thereof shall recognize and act upon the population reports or counts as released by the Director of the Bureau of the Census of the U. S. Department of Commerce, or of its successor agency; and as to those parts of such population reports or counts not then published, official recognition shall be taken immediately upon the publication thereof after said first day of September.

[Acts 1963, 58th Leg., p. 1151, ch. 447, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 37, ch. 18, § 1, eff. March 11, 1971.]

**Art. 29e. Boards and Commissioners Courts;
Notice of Certain Public Hearings**

In addition to other required notice and if not otherwise required by law to give notice by publication, any school board, county commissioners court, or governing board of a city or tax equalization board shall place a notice in at least one newspaper of general circulation in the county where the board or court is located not more than 30 days nor less than 10 days

before a public hearing relating to fiscal budgets or to equalizations for tax purposes or a regular or special election.

[Acts 1967, 60th Leg., p. 1218, ch. 549, § 1, eff. Aug. 28, 1967.]

Art. 30. Revised Statutes Cited

These Revised Civil Statutes shall be known and may be cited as the "Revised Statutes."
[Acts 1925, S.B. 84.]

TITLE 2

ACCOUNTANTS—PUBLIC AND CERTIFIED

Article

31 to 41. Repealed.

41a. Public Accountancy Act of 1945.

Arts. 31 to 41. Repealed by Acts 1945, 49th Leg., p. 517, ch. 315, § 26

Art. 41a. Public Accountancy Act of 1945

Name

Sec. 1. This Act may be cited as the "Public Accountancy Act of 1945".

Definitions

Sec. 2. (a) The term "Board" when used in this Act means the "Texas State Board of Public Accountancy."

(b) The term "person" when used in this Act shall, unless the context indicates otherwise, mean individuals, partnerships and corporations.

(c) The term "state" when used herein includes any state, territory or insular possession of the United States, or the District of Columbia.

Acts Not Restricted

Sec. 3. (a) Nothing contained in this Act shall be construed as applying to restrict any official act of any County Auditor, or other officer of the state, county, municipality, quasi-municipality, or other political subdivision thereof, or any officer of a Federal department or agency, or of their assistants, deputies or employees while working in their official capacities.

(b) Nothing contained in this Act shall prohibit any person not a certified public accountant or public accountant from serving as an employee of a certified public accountant or public accountant or partnership composed of certified public accountants and/or public accountants holding a permit to practice issued by the Texas State Board of Public Accountancy; provided, however, that such employee shall not issue any accounting or financial statements over his name.

(c) Nothing contained in this Act shall prohibit a certified public accountant or a registered public accountant of another state, or any accountant who holds a certificate, degree or license in a foreign country, constituting a recognized qualification for the practice of public accountancy in such country, from temporarily practicing in this state on professional business incident to his regular practice outside this state; provided, that such temporary practice is conducted in conformity with the laws of Texas and the regulations and rules of professional conduct promulgated by the Board.

State Board of Public Accountancy

Sec. 4. The Texas State Board of Public Accountancy shall consist of nine (9) members, each of whom shall be a citizen of the United States and a resident of this State. Members of the Board and their successors shall be appointed by the Governor, with the advice and consent of the Senate, and shall be accountants in public practice; at least five (5) of whom shall hold certified public accountant certificates issued under the laws of this State; and the other four (4) shall be public accountants in public practice who shall hold permits issued under the laws of this State or certified public accountants in public practice who shall hold certified public accountant certificates issued under the laws of this State. The term of office of each member of the Board shall be six (6) years or until his successor is appointed. Vacancies occurring during a term shall be filled by appointment for the unexpired term. The Governor shall remove from the Board any member whose certificate or permit to practice has been voided, revoked or suspended.

Reappointment of Board Member

Sec. 4. (a) A Board member, who has served as a member for six (6) consecutive years, shall not be eligible for reappointment until a lapse of two (2) years shall have occurred between the end of the term of his last prior appointment and the beginning of the new term of a new appointment.

Powers and Duties of Board

Sec. 5. The Board shall administer the provisions of this Act. The Board shall formally elect a chairman and a secretary-treasurer from its members and may adopt such rules as it deems necessary for the orderly conduct of its affairs. The Board may promulgate, and may amend from time to time, rules of professional conduct appropriate to establish and maintain a high standard of integrity in the profession of public accountancy, after notice to all holders of valid permits to practice public accountancy in this State. Such notice shall set forth the proposed rules of professional conduct, or amendments, and the time when same shall be voted on by public accountants holding valid permits under this Act. No such rule or amendment shall be operative until approved by a majority of those voting at such election. The voting shall be by mail and under such reasonable rules and regulations as the Board may prescribe. The Board shall declare the results of such election and proclaim the effective date of such rules of professional conduct, or amendments, and adopt reasonable

means of notifying all public accountants of the results of such election. A majority of the Board shall constitute a quorum for the transaction of business. The Board shall keep a seal which shall be judicially noticed. The Board shall keep records of all proceedings and actions by and before the Board. The Board may employ such clerks as are necessary to assist it in the performance of its duties and in the keeping of its records. The members of the Board who are noncertified public accountants shall have all the authority, responsibility and duties of any other member of said Board except as to the giving of examinations to candidates seeking the certificates of Certified Public Accountant, and except as to all other matters relating to the issuance of certificates as Certified Public Accountants as provided for in Section 12 of the Public Accountancy Act of 1945. The Board members holding certificates as Certified Public Accountants shall have the sole authority, responsibility and duty of performing all acts relating to such examinations and the issuance of certificates as Certified Public Accountants.

Compensation of Board

Sec. 6. Members of the Board shall not receive any compensation for their services, but shall be reimbursed for their necessary expenses incurred in the discharge of their official duties.

Expenses of Board

Sec. 7. All expenses incurred under this Act shall be paid from the fees collected by the Board under this Act. No expenses incurred under this Act shall ever be a charge against the funds of the State of Texas. The Board shall, as of December 31, 1946, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements under this Act, for each calendar year.

Prohibition Against Practicing Without Permit

Sec. 8. (a) No person shall assume or use the title or designation "certified public accountant," or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a certified public accountant, unless such person has received a certificate as a certified public accountant under Section 12 or Section 13 of this or prior Acts, holds a permit issued under Section 9 of this Act which is not revoked or suspended (hereinafter referred to as a "live permit"), and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 of this Act; provided, however, that an accountant of another state or foreign country who has registered under the provisions of Section 14 of the Public Accountancy Act of 1945, and who holds a live permit issued under Section 9 of this Act, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license or degree.

(b) No partnership shall assume or use the title or designation "certified public accountant" or the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such partnership is composed of certified public accountants unless such partnership is registered as a partnership of certified public accountants under Section 17 of the Public Accountancy Act of 1945, holds a live permit issued under Section 9 of this Act and all of such partnership's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(c) No person shall assume or use the title or designation "public accountant" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such person is a public accountant, unless such person is registered as a public accountant under Section 11 or Section 13 of the Public Accountancy Act of 1945, holds a live permit issued under Section 9 of this Act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof, or unless such person has received a certificate as a certified public accountant under Section 12 or Section 13 of this or prior Acts, holds a live permit issued under Section 9 of this Act and all of such person's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(d) No partnership shall assume or use the title or designation "public accountants" or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that such partnership is composed of public accountants, unless such partnership is registered as a partnership of public accountants under Section 19 of the Public Accountancy Act of 1945, or as a partnership of certified public accountants under Section 17 of the Public Accountancy Act of 1945, and holds a live permit issued under Section 9 of this Act and all of such partnership's offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof.

(e) No person shall assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations, "CA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA"; provided, however, that only a person holding a live permit issued under Section 9 of this Act and all of whose offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof may hold himself out to the public as an "accountant" or "auditor" or combinations of said

terms; and provided further, that a foreign accountant registered under Section 14 of the Public Accountancy Act of 1945, who holds a live permit issued under Section 9 of this Act and all of whose offices in this state for the practice of public accounting are maintained and registered as required under Section 10 hereof, may use the title under which he is generally known in his state or country, followed by the name of the state or country from which he received his certificate, license or degree.

(f) No corporation shall assume or use the title or designation "certified public accountant," or "public accountant," nor shall any corporation assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," or any other title or designation likely to be confused with "certified public accountant" or "public accountant," or any of the abbreviations "CPA," "PA," "EA," "RA," or "LA," or similar abbreviations likely to be confused with "CPA." If a corporation was registered under Section 10 of the Public Accountancy Act of 1945, prior to November 1, 1945, and holds a live permit under Section 9 hereof, it may use the same designations applicable to certified public accountants or public accountants hereinabove set out.

(g) No person shall sign or affix his name or any trade or assumed name used by him in his profession or business, with any wording indicating that he is an accountant or auditor, or with any wording indicating that he has expert knowledge in accounting or auditing, to any accounting or financial statement, or to any opinion on, report on or certificate to any accounting or financial statement, unless he has complied with the applicable provisions of this Act; provided, however, that the provisions of this Subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his signature to any statement or report in reference to the financial affairs of said organization with any wording designating the position, title or office which he holds in said organization, nor shall the provisions of this Subsection prohibit any act of a public official or public employee in the performance of his duties as such.

(h) No person shall assume or use the title or designation "certified public accountant" or "public accountant" in conjunction with names indicating or implying that there is a partnership or in conjunction with the designation "and Company," or "and Co.," or a similar designation if, in any such case, there is in fact no bona fide partnership registered under Sections 17 or 19 of the Public Accountancy Act of 1945; provided that a partnership lawfully using such title or designation in conjunction with such names or designation on the effective date of this Act, may continue to do so if it otherwise complies with the provisions of this Act.

Annual Permits to Practice

Sec. 9. Permits shall be issued by the Board to the following upon the payment of fees hereinafter specified:

(a) Holders of the certificate of "Certified Public Accountant" issued under this or any prior Acts.

(b) Such persons as are registered with the Board under the provisions of Section 10 of this Act.

(c) Such persons as are registered with the Board under the provisions of Section 14 of the Public Accountancy Act of 1945.

There shall be paid to the secretary-treasurer of the Board by all persons referred to in Subsections (a), (b) and (c) hereof an annual permit fee not to exceed Twenty Dollars (\$20.00). All permits shall expire on the 31st day of December of each year, but shall, annually, be renewed for a period of one (1) year, upon the payment of a fee of not more than Twenty Dollars (\$20.00), the Board being hereby given the authority and duty to determine the amount of such renewal fee for each coming year on or before December 1 of each year, and to mail notices thereon each year by that date.

Failure of any permit holder to pay the annual permit renewal fee on or before January 31 of each year shall automatically cancel his permit. Any permit holder whose permit shall have been canceled because of failure to pay the annual permit renewal fee may secure reinstatement of his permit at any time within that calendar year upon payment of the delinquent fee together with a penalty of Ten Dollars (\$10.00). After expiration of the calendar year for which the permit fee was not paid, no permit shall be reinstated except upon application and examination satisfactory to the Board. The Board shall have no authority to waive the collection of any fee or penalty.

Expiration Dates of Permits; Proration of Fees

Sec. 9A. The board by rule may adopt a system under which permits expire on various dates during the year. Dates relating to cancellation and reinstatement of permits shall be adjusted accordingly. For the year in which the permit expiration date is changed, permit fees payable on or before January 31 shall be prorated on a monthly basis so that each permit holder shall pay only that portion of the permit fee which is allocable to the number of months during which the permit is valid. On renewal of the permit on the new expiration date, the total permit renewal fee is payable.

Registration with the Board

Sec. 10. The following persons shall be registered with the Board for the practice of public accountancy in this state:

(a) All individuals and public accountants qualified or who may qualify under Section 11 of the Public Accountancy Act of 1945.

(b) Partnerships qualified under Sections 17 or 19 of the Public Accountancy

Act of 1945, as amended. The name or designation under which any partnership may be registered shall contain the personal name or names of one or more individuals presently or previously members thereof, and shall not contain any descriptive words indicating character or grade of service offered.

(c) Corporations qualified under Section 21 of the Public Accountancy Act of 1945. Provided, however, that no corporation may hereafter be created for the purpose of engaging in the practice of public accountancy within this state after the effective date of this Act. No corporate charters or corporate permits shall be renewed one (1) year after the effective date of this Act.

(d) Each office established or maintained in this state for the practice of public accounting in this state by a certified public accountant, or partnership of certified public accountants, or by a public accountant, or a partnership of public accountants, or by one registered under Section 14 shall be registered under this Act with the Board, but no fee shall be charged for such registration. Each such office shall be under the direct supervision of a resident manager who may be either a principal or a staff employee holding a permit issued by the Board which is in full force and effect; provided that the title or designation "certified public accountant" or the abbreviation "C.P.A." shall not be used in connection with such office unless such resident manager is the holder of a certificate as a certified public accountant and a permit issued by the Board, both of which are in full force and effect. Such resident manager may serve in such capacity only in one office at the same time. The Board shall by regulation prescribe the procedure to be followed in effecting such registrations.

All applicants for registration shall furnish satisfactory evidence that the applicant is entitled to registration. The Board shall have power to examine such applications and may refuse registration to any applicant who is unable to meet the standards imposed by this Act.

Individuals or Public Accountants Entitled to Register

Sec. 11. All persons listed in subdivisions (a), (b), and (c) of this Section who are citizens of the United States, or have declared their intention of becoming citizens, who reside within the State or have a place for the regular transaction of business therein, and who are twenty-one (21) years of age or over, and of good moral character, may register on or before the first day of November, 1947, with the Board as public accountants as provided in Section 10 of Acts 1945, Forty-ninth Legislature, page 517, Chapter 315;

(a) Persons engaged at the date of the enactment of this Act, or persons who

have engaged for at least three (3) years during the ten (10) years immediately preceding the date of enactment of this Act, in the practice of public accountancy within the State either as individuals on their own account, members of copartnerships engaged in the practice of public accountancy, or as officers of corporations engaged in the practice of public accountancy;

(b) Any individual who at the date of the enactment of this Act, may be an employee of any person engaged in the practice of public accountancy or may be employed in any governmental agency, provided all such persons meet any one of the three (3) following standards:

(1) Who is a graduate of a junior college, senior college or university and has completed thirty (30) or more semester hours or the equivalent thereof in the study of accounting, business law, economics and finance, of which at least twenty (20) semester hours or the equivalent thereof shall be in the study of accounting, and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a nonroutine accounting nature which continually requires independent thought and judgment on important accounting matters for two (2) years preceding the date of application; or

(2) Who is a graduate of a junior college, senior college or university but has not completed the hours of study in subjects specified in subdivision (1) of this Section, and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a nonroutine accounting nature which continually requires independent thought and judgment on important accounting matters for three (3) years preceding the date of application; or

(3) Who is a graduate of a high school or has an equivalent education and has been in the employ of a person engaged in the practice of public accountancy, or shall have been employed as an accountant or auditor in work of a nonroutine accounting nature which continually requires independent thought and judgment on important accounting matters, for at least four (4) years preceding the date of application;

(c) Individuals serving in the armed forces of the United States or any of the United Nations, who at the date of entering such service may be qualified as specified in either subdivision (a) or (b) of

this Section. In the case of any person serving in the armed forces of the United States or any of the United Nations on the effective date of this Act, the Board shall extend the time for compliance prescribed by any provisions of this Act, for a period of twelve (12) months from the time such person is honorably discharged from such service.

Certification of Certified Public Accountants

Sec. 12. The certificate of a "Certified Public Accountant" shall be granted by the Board to any person:

(a) Who is a citizen of the United States or who, if not a citizen, has lived in the State of Texas for the 90 days immediately preceding the date of submitting to the Board the initial application to take the written examination conducted by the Board for the purpose of granting a certificate of "Certified Public Accountant," or has maintained his permanent legal residence in Texas for the six months immediately preceding said date of submission; and

(b) Who is a resident of the State of Texas, or has a place of business therein, or, as an employee, is regularly employed therein, and provided that any person who shall have qualified to take the examination for the certificate in this state, and who, while so qualified shall have received credit for all or any part thereof, shall remain qualified under this Subsection until he receives his certificate; and

(c) Who has attained the age of twenty-one (21) years; and

(d) Who is of good moral character; and

(e) Who meets the requirements of education and experience as hereinafter provided:

(1) During the three (3) year period immediately following the effective date of this Act the educational requirement shall be: (a) satisfactory completion of two (2) years of study at one (1) or more colleges or universities, recognized by the Board; or (b) graduation from a junior college, recognized by the Board, or such education as the Board determines to be substantially the equivalent thereof; and the experience requirements shall be four (4) years of accounting experience, satisfactory to the Board, as a certified public accountant in any state, or as a public accountant registered or entitled to register under Sections 11 or 13 hereof, or in public practice under the guidance of such a certified public accountant or public accountant, or in an activity comparable thereto, or in any combination of such types of experience, in work of a nonroutine accounting nature, which

continually requires independent thought and judgment on important accounting matters; or such education and experience requirements may be those set out in (2), (3), or (4) below:

(2) During the second three (3) year period following the effective date of this Act, the educational requirement shall be either (a) that specified in (1) above and, in addition, satisfactory completion of what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration; and the experience requirement shall be three (3) years of the experience described in (1) above; or (b) graduation from an accredited high school, plus two (2) years of study of accounting or related subjects in one (1) or more colleges or universities, recognized by the Board, plus six (6) years of experience under the supervision of a Certified Public Accountant in work described in (1) above, in which event such Certified Public Accountant or Certified Public Accountants, if the applicant has been employed by more than one (1), shall certify to the Board that the applicant has, during such six (6) year period, had the experience described in (1) above.

(3) After the expiration of six (6) years from the effective date of this Act, the educational requirement shall be either (a) a baccalaureate degree conferred by a college or university recognized by the Board, with a major in accounting, or with a nonaccounting major, supplemented by what the Board determines to be substantially the equivalent of an accounting major, including related courses in other areas of business administration; and the experience requirement shall be two (2) years of the experience described in (1) above; or (b) graduation from an accredited high school, plus two (2) years of study of accounting or related subjects in one (1) or more colleges or universities, recognized by the Board, plus six (6) years of experience under the supervision of a Certified Public Accountant in work described in (1) above, in which event such Certified Public Accountant or Certified Public Accountants, if the applicant has been employed by more than one (1), shall certify to the Board that the applicant has, during such six (6) year period, had the experience described in (1) above.

(4) At any time after the effective date of this Act the experience re-

quirement shall be only one (1) year of the experience described in (1) above for any candidate holding a Masters Degree with a major in accounting or business administration from a college or university recognized by the Board, or holding a professional degree in accounting designated other than a Masters Degree but judged by the Board to be equivalent to that degree and to be at an appropriate professional level, if he has satisfactorily completed such number of semester hours in accounting, business administration and economics, and such related subjects as the Board shall determine to be appropriate; and

(f) who shall have passed a written examination in theory of accounts, in accounting practice, in auditing, in commercial law as affecting public accounting, and in such other related subjects as the Board shall determine to be appropriate. A grade of at least seventy-five per cent (75%) on each subject shall be required as a passing grade.

Any candidate who meets the educational requirements under Subsections (1), (2), (3), or (4) of (e) above, and who is duly enrolled as an attorney in the Supreme Court of Texas and has complied with the provisions of the State Bar Act and is a member of the State Bar in good standing, shall be given credit for commercial law without taking the written examination on commercial law.

The Board may by written regulations provide for granting credit to a candidate for his satisfactory completion of a written examination at one sitting in any two (2) or more of the subjects specified in (f) above given by the licensing authority in any other state; provided, that when he took such examination in such other state he was not a resident of Texas, had no place of business in Texas, nor, as an employee, was he regularly employed in Texas. Such regulations shall include such requirements as the Board shall determine to be appropriate in order that any examination approved as a basis for any such credit, shall, in the judgment of the Board, be at least as thorough as that included in the most recent examination given by the Board at the time of the granting of such credit.

None of the educational requirements specified in (1), (2), or (3) of (e) above shall apply to a candidate who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945, as amended.

A candidate who has met the educational requirements but has not met the experience requirements provided for herein, shall be eligible to take the examination in all subjects except accounting practice without waiting until he meets the experience requirements, or a candidate who has met the educational requirements as specified in (3)(a) of (e) above shall

be eligible to take the entire examination without waiting until he meets the experience requirements, provided that in either case he also meets the requirements of (a), (b), and (d) above of this Section.

A candidate for the certificate of certified public accountant who has successfully completed the examination under (f) above, shall have no status as a certified public accountant, unless and until he has met all of the requirements, has the requisite experience, and has received notice of his certificate as a certified public accountant.

The holder of a certificate heretofore issued under the provisions of Chapter 122 of the Acts of the 34th Legislature,¹ or under subsequent Acts, shall not be required to secure a new certificate as a certified public accountant under this Act.

The applicable educational and experience requirements under Subsections (1), (2) or (3) of (e) of this Section shall be those in effect on the date of his application for the examination or reexamination by which the candidate successfully completes his examination under (f) above. With reference to any candidate who has passed at least one (1) subject under any prior Act, the applicable educational and experience requirements shall be those in effect immediately prior to the effective date of this Act.

Any person who, at the effective date of this Act, has entered a program to meet the education and experience requirements of the Public Accountancy Act of 1945 as in force immediately prior to the effective date of the amendments by this Act, shall file with the Board within 180 days after the effective date of this Act, a written declaration thereof, and submit such proof thereof as the Board may require. After the filing of such declaration and proof, under rules and regulations prescribed by the Board, said person shall be allowed the time reasonably required to complete his program to meet the education and experience requirements in force immediately prior to the effective date of this Act, but not more than four (4) years after the effective date of this Act, and on completion of such requirements, if otherwise qualified to take the examination, he shall be permitted to make his application and take the examination under such education and experience requirements.

Every person who has met the requirements of (a), (b), (c), (d), (e), and (f) of this Section and is ready to receive his certificate as a "Certified Public Accountant," shall, before receiving such certificate, take an oath that he will support the Constitution of the United States and of this state, and the laws thereof, and will comply with the rules of professional conduct promulgated under the Public Accountancy Act of 1945 as amended. This oath shall be administered by a member of the Board or by such other person as may be authorized by law to administer oaths.

¹ Arts. 31 to 41, repealed.

Reciprocity

Sec. 13. (a) The Board may in its discretion waive the examination of, and may issue a certificate of "Certified Public Accountant" to any person possessing the other qualifications mentioned in Section 12 of this Act who is the holder of a certificate as Certified Public Accountant issued under the laws of any state or territory (or the equivalent thereof issued in any foreign country), provided the requirements for such certificate in the state or territory (or foreign country) which has granted it to the applicant were, in the opinion of the Board, at least equivalent to those required in this state at the time the applicant's original certificate was issued. The Board shall charge for the issuance of such a certificate as a "Certified Public Accountant," under this Section a fee of not more than Seventy-five Dollars (\$75.00).

(b) Any person holding a permit under the laws of any state or territory to practice public accountancy, if such state or territory, in the opinion of the Board, has standards equal to those required by this state, shall be granted a permit by the Board if such state or territory admits public accountants of this state to practice in such state or territory; provided, however, no such permit shall be granted by the Board unless such person had made application for a permit to practice public accountancy to the licensing board of his own state not later than November 1, 1947. For such permits as are authorized by this Section the Board shall charge the same annual permit fees and reinstatement fees as are charged all other persons to whom annual permits are issued by the Board.

Certified Public Accountants of Other States and Persons
Holding Similar Titles in Foreign Countries
—Registration Thereof

Sec. 14. A certified public accountant of another state or territory, or the holder of a certificate, license, or degree authorizing him to practice public accountancy in a foreign country, may register with the Board as a certified public accountant of such other state or territory, or as holding such certificate, license or degree of a foreign country, if the Board determines that the standards under which the applicant became a certified public accountant, or received such certificate, license, or degree, were as high as the standards of this state at the same time for giving the Certificate of Certified Public Accountant. A person so registered may describe himself as a certified public accountant of the state or territory which issued his certificate, or may use the title held by him in a foreign country, provided that the country of its origin is indicated.

Examinations; Re-examinations, and Fees Therefore

Sec. 15. All examinations provided for under the Public Accountancy Act of 1945, as amended, shall be conducted by the Board. The examination for the certificate of "Certified Public Accountant" shall take place as of-

ten as the Board deems necessary, but not less frequently than once each year. The time and place of holding examinations shall be duly advertised for not less than three (3) days in three (3) daily newspapers published, one (1) in each of three (3) principal cities in Texas, beginning not less than thirty (30) days prior to the date of each examination.

A candidate, who fails, shall have the right to apply for an additional examination, subject to the satisfaction of the Board that he continues to meet requirements of (a), (b), and (d) of Section 12 of this Act, and the following additional requirements: (1) if a candidate fails to score a grade of fifty per cent (50%) on any subject in an examination, the Board shall refuse to admit him to write that subject in the next succeeding examination; and (2) if a candidate has made application to write the examination at a session and he fails to submit a paper on any subject for which he is eligible at that session, the Board shall score a grade of less than fifty per cent (50%) for the candidate in that subject. Except for the foregoing requirements, a candidate, who has taken the examination under this Act or any prior Act, shall have the right to any number of reexaminations. The additional requirements specified in (1) and (2) of this paragraph shall not apply to a candidate who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945, as amended.¹

Any candidate who, at the time of filing his application to take the examination, or reexamination, provided for herein, had, prior to the effective date of this Act, passed one (1) or more subjects under any prior Act, or who shall, after the effective date of this Act, pass in a single examination two (2) or more subjects, or who is registered as a public accountant under Section 11 of the Public Accountancy Act of 1945, as amended, and who shall pass one (1) or more subjects after the effective date of this Act, shall have the right, subject to the approval of his application for reexamination under the provisions of the preceding paragraph, to be reexamined in the remaining subjects only, at subsequent examinations held by the Board, may receive credit for one (1) or more subjects in any subsequent examination, and when he shall have received credit for all subjects, he shall then be considered to have passed the examination.

The Board shall charge for the first examination of a candidate for certification as a "Certified Public Accountant" a fee of not more than Seventy-Five Dollars (\$75.00), which shall be payable by the applicant at the time of making the initial application. For each subsequent examination, or reexamination, the fee shall not exceed for each subject for which he is eligible: Thirty Dollars (\$30.00) for accounting practice, and Fifteen Dollars (\$15.00) for each of theory of accounts, auditing and commercial law, which shall be payable by the applicant at the time of making the application for the subsequent examination

or reexamination. Where the applicant fails to be present for the examination and shows to the Board satisfactory reason for such failure, the Board may, in its discretion, refund any fee so paid, and relieve the candidate of the penalty in the second paragraph of this Section relating to the grade of less than fifty per cent (50%).

All fees provided for herein shall be paid to the secretary-treasurer of the Board.

It is further provided, that any applicant who has failed any such examination or examinations shall have a right to demand a copy, certified by the Board, of the questions and the answers thereto made by him upon any such examination, with the grade clearly shown, together with a copy of solutions to such questions; and the Board shall forthwith comply with such demand by delivering by registered mail to such applicant a true copy of the questions and his answers thereto, certified by the Board, together with a copy of solutions to such questions, and the Board may charge such applicant a reasonable fee therefor; and such application by the candidate shall be made within six (6) months after the grades are mailed to said candidate, and not thereafter.

Use of Name "Certified Public Accountant"
—Abbreviations

Sec. 16. Any person who has received from the Board a certificate of Certified Public Accountant and holds a valid permit to practice, shall be styled and known as a "Certified Public Accountant" and may also use the abbreviation "C.P.A."

Use of Name of "Certified Public Accountant"
—Partnerships

Sec. 17. A partnership engaged in this state in the practice of public accountancy may register with the Board as a partnership of certified public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant of this state in good standing.

(b) Each partner thereof personally engaged within this state in the practice of public accountancy as a member thereof must be a certified public accountant in this state in good standing.

(c) Each partner thereof must be a certified public accountant of some state in good standing.

(d) Each resident manager in charge of an office of the firm in this state must be a certified public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who is a certified public accountant of this state in good standing. Such affidavit must set forth the partnership name and the post office address thereof within the state, and the address of the principal office thereof, wherever located, together with

the name, residence and post office address of each general partner. The Board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a permit issued under Section 9 of this Act may use the words "certified public accountants" or the abbreviation "C.P.A.'s" in connection with its partnership name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership so registered.

Use of Name "Public Accountant"

Sec. 18. Any individual qualified under this Act to register with the Board for the practice of public accountancy and who has so registered, and who holds a valid permit for the practice of public accountancy, may be styled and known as a "public accountant."

Use of Name "Public Accountant"—Partnerships

Sec. 19. A partnership engaged in this state in the practice of public accountancy may register with the Board as a partnership of public accountants provided it meets the following requirements:

(a) At least one general partner thereof must be a certified public accountant or a public accountant of this state in good standing.

(b) Each partner thereof personally engaged within this state in the practice of public accountancy as a member thereof must be a certified public accountant or a public accountant of this state in good standing.

(c) Each resident manager in charge of an office of a firm in this state must be a certified public accountant or a public accountant of this state in good standing.

Application for such registration must be made upon the affidavit of a general partner of such partnership who holds a permit to practice in this state as a certified public accountant or as a public accountant. Such affidavit must set forth the partnership name and the post office address thereof within the state, together with the name, residence and address of each general partner of the partnership. The Board shall in each case determine whether the applicant is eligible for registration. A partnership which is so registered and which holds a partnership permit issued under Section 9 of this Act may use the words "public accountants" in connection with its partnership name. Notification shall be given the Board, within one month, after the admission to or withdrawal of a partner from any partnership so registered.

Prohibited Designation and Abbreviations

Sec. 20. Repealed by Acts 1961, 57th Leg., p. 608, ch. 289, § 12, eff. Aug. 28, 1961.

Practice of Public Accountancy by Corporations

Sec. 21. A corporation authorized to engage in the practice of public accountancy in this

state and actually engaged in such practice at the time of the enactment of this Act, may register with the Board as a corporation engaged in the practice of public accountancy. Application for such registration must be made upon the affidavit of an officer of such corporation. The Board shall in each case determine whether the applicant is eligible for registration. A corporation which is so registered and which holds a permit issued under this Act may practice public accountancy under a corporate name indicating that it is engaged in such practice, provided it had such corporate name before the enactment of this Act.

Revocation or Suspension of Certificate or Permit

Sec. 22. (a) After notice and hearing as provided in Section 23 of this Act, the Board may revoke or may suspend for a period not to exceed five (5) years, any certificate issued under Sections 12 or 13 of this or any prior Acts, or any registration granted under Sections 10 or 14 of this or any prior Acts, or may revoke, suspend or refuse to renew any permit issued under Sections 9 or 13 of this Act, or may reprimand the holder of any such permit for any one or more of the following causes:

(1) Fraud or deceit in obtaining a certificate as certified public accountant, or in obtaining registration under this or any prior Acts, or in obtaining a permit to practice public accounting under this Act.

(2) Dishonesty, fraud or gross negligence in the practice of public accounting.

(3) Violation of any of the provisions of Section 8 of the Public Accountancy Act of 1945, as amended by this Act.

(4) Violation of a rule of professional conduct promulgated by the Board under the authority granted by law.

(5) Conviction of a felony under the laws of any state or of the United States.

(6) Conviction of any crime, an element of which is dishonesty or fraud, under the laws of any state or of the United States.

(7) Cancellation, revocation, suspension, or refusal to renew authority to practice as a certified public accountant or a public accountant by any other state, for any cause other than failure to pay an annual registration fee in such other states.

(8) Suspension or revocation of the right to practice before any state or federal agency, for a cause which, in the opinion of the Board, warrants its action.

(9) Failure of a certificate holder or registrant to obtain an annual permit under Section 9 of the Public Accountancy Act of 1945, as herein amended, within either (a) three (3) years from the expiration date of the permit to practice last obtained or renewed by said certificate holder or registrant, or (b) three (3) years from the date upon which the certificate holder or registrant was granted his certificate or registration, if no permit was

ever issued to him, unless such failure shall be excused by the Board pursuant to the provisions of said Section 9.

(10) Conduct discreditable to the public accounting profession.

(b) After notice and hearing as provided in Section 23 of the Public Accountancy Act of 1945, as herein amended, the Board shall revoke the registration and permit to practice of a partnership, if at any time it does not have all the qualifications prescribed by the Section of this Act under which it qualified for registration.

After notice and hearing as provided in said Section 23, the Board may revoke or suspend the registration of a partnership or may revoke, suspend or refuse to renew its permit under Section 9 to practice or may reprimand the holder of any such permit for any of the causes enumerated in part (a) of this Section, or for any of the following additional causes:

(1) The revocation or suspension of the certificate or registration or the revocation or suspension or refusal to renew the permit to practice of any partner.

(2) The cancellation, revocation, suspension or refusal to renew the authority of the partnership or any partner thereof to practice public accounting in any other state for any cause other than failure to pay annual registration fee in such other state.

Procedure and Review

Sec. 23. (a) The Board may initiate proceedings under this Act either on its own motion or on the complaint of any person.

(b) A written notice stating the nature of the charge or charges against the accused and the time and place of the hearing before the Board on such charges shall be served on the accused, not less than twenty (20) days prior to the date of said hearing, either personally or by mailing a copy thereof by registered mail to the address of the accused last known to the Board.

(c) At any hearing the accused may appear in person and by counsel, produce evidence and witnesses on his own behalf, cross-examine witnesses, and examine such evidence as may be produced against him. The accused shall be entitled, on application to the Board, to the issuance of subpoenas to compel the attendance of witnesses on his behalf.

(d) The Board, or any member thereof, may issue subpoenas to compel the attendance of witnesses and the production of documents, and may administer oaths, take testimony, hear proofs and receive exhibits in evidence in connection with or upon hearing under this Act. In case of disobedience to a subpoena the Board may invoke the aid of any court of this state in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(e) If, after having been served with the notice of hearing as provided for herein, the accused fails to appear at said hearing the Board

may proceed to hear evidence against him and may enter such order as shall be justified by the evidence and a copy of such order shall be mailed by registered mail to the last known address of the accused. The Board is hereby authorized to grant continuances upon written request and, upon a showing of good cause for failure to appear at such hearing, set out in writing, signed by the accused and filed with the Board, the Board may reopen said proceedings and permit the accused to submit evidence in his behalf, provided further, that said written request to reopen is filed with the Board within twenty (20) days after a copy of said order has been mailed to the accused.

(f) A stenographic record of the hearings shall be kept and, if deemed necessary by the Board, a transcript thereof shall be prepared and filed with the Board.

(g) At all hearings the Attorney General of this state, or one of his assistants, or such other legal counsel as may be employed, shall appear and represent the Board.

(h) The decision of the Board shall be by majority vote thereof.

(i) Any person, firm or corporation adversely affected by any order, rule or decision of the Board may file a petition in the District Court of the county of his residence in Texas, or by a nonresident of Texas in the District Court of Travis County, Texas, setting forth the particular objection to such decision, rule or order, against the Texas State Board of Public Accountancy as defendant, such petition to be filed within thirty (30) days after the date a copy of such order is sent by registered mail to such person, firm or corporation. Service of citation may be had by leaving a copy thereof at the office of the Board in Austin, Travis County, Texas. The case shall be tried as other civil cases. The cause shall be tried and determined upon a trial de novo to the same extent as now provided for in the case of an appeal from the justice court to the county court. Either party to said action may appeal to the appellate court having jurisdiction of said cause. The Board shall not be required to give any appeal bond in any cause arising hereunder. Neither the Texas State Board of Public Accountancy nor any member thereof shall be liable to any person, firm or corporation charged or investigated by said Board, for any damages incident to such investigation, or any complaint, charge, prosecution, proceeding or trial.

(j) Upon application in writing and after hearing pursuant to notice, the Board may issue a new certificate to a certified public accountant whose certificate shall have been revoked, or may permit the reregistration of anyone whose registration has been revoked, or may reissue or modify the suspension of any permit to practice public accounting which has been revoked or suspended.

Penalties

Sec. 24. (a) Whenever in the judgment of the Board any person who is not the holder of a valid and existing permit to practice public accountancy in this state has engaged in any act or practices which constitute the practice of public accountancy within this state, the Board may apply to the District Court of the county in which such person resides or has an office, for an injunction enjoining such person from engaging in the practice of public accountancy, and in such cases the Board shall not be required to give bond as a condition precedent to the issuance of such injunctive relief.

(b) Any person who violates any provision of the Public Accountancy Act of 1945, as amended, or of this Act, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than Fifty Dollars (\$50.00) and not more than Five Hundred Dollars (\$500.00) or by imprisonment in county jail for not less than ten (10) days and not more than one (1) year or by both such fine and imprisonment, and each violation shall constitute a separate offense. Any complaints filed under the provisions of this Section shall be filed in the county where the offense occurred.

Partial Invalidity

Sec. 25. If any section or any part of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions thereof, it being the express intention of the Legislature to enact such Act without respect to such section or part so held to be invalid.

[Acts 1945, 49th Leg., p. 517, ch. 315; Acts 1947, 50th Leg., p. 465, ch. 266, § 1; Acts 1951, 52nd Leg., p. 621, ch. 369, §§ 1 to 4; Acts 1959, 56th Leg., p. 1082, ch. 493, § 1, eff. June 1, 1959; Acts 1961, 57th Leg., p. 608, ch. 289, §§ 1 to 15, eff. Aug. 28, 1961; Acts 1971, 62nd Leg., pp. 931, 932, ch. 145, §§ 1 to 3, eff. May 10, 1971; Acts 1971, 62nd Leg., pp. 934, 935, ch. 146, §§ 1, 2, eff. May 10, 1971; Acts 1973, 63rd Leg., p. 624, ch. 266, § 5, eff. June 11, 1973.]

TITLE 3

ADOPTION

Article

42 to 46b-1. Repealed.

46b-2. Adoption of Hard-to-Place Children; Financial Assistance.

Arts. 42 to 46. Repealed by Acts 1931, 42nd Leg., p. 300, ch. 177, § 11

Arts. 46a to 46b-1. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing these articles, enacts Title 2 of the Texas Family Code.

Art. 46b-2. Adoption of Hard-to-Place Children; Financial Assistance

Purpose

Sec. 1. It is the purpose and intent of the Legislature in enacting this Act to encourage and promote the placement in adoptive homes of children who because of their ethnic background, race, color, language, physical or mental, or emotional or medical handicaps, or age, or because they are a sibling group who should be placed in the same home have become difficult to place in adoptive homes. It is the legislative intent to make available to prospective adoptive parents information concerning the availability of relinquished children, information and assistance in completing the adoption process, and the financial aid which might be required to enable them to adopt an otherwise hard-to-place child. It is the intent of the Legislature to benefit hard-to-place children residing in foster homes at state or county expense by providing the stability and security of permanent homes and, in doing so, achieve a reduction in total state and county expense by reducing costly foster-home care.

Definitions

Sec. 2. In this Act:

(1) "Hard-to-place child" is a child who is disadvantaged because of adverse parental background, or a handicapped child, or a child of the age of three years or more.

(2) "Department" means the State Department of Public Welfare.

Administration

Sec. 3. The department shall establish and administer the program to be carried out by any licensed adoption agency or county child care or welfare unit pursuant to this Act. The department shall adopt regulations necessary to carry out the provisions of this Act. The

department shall keep records necessary to evaluate the program's effectiveness in encouraging and promoting the adoption of hard-to-place children.

Information

Sec. 4. The department, county child care or welfare units, and all adoption agencies shall disseminate information to prospective adoptive families, especially those families of lower income levels and those belonging to disadvantaged groups as to the availability of adoptable hard-to-place children and of the existence of aid to adoptive families under this Act. The county responsible for providing foster care for a child shall provide financial aid to the adoptive family in an amount determined under Section 5 of this Act.

Financial Assistance

Sec. 5. (a) The adoption fees may be waived for all adoptive parents as necessary to provide adoptive families for hard-to-place children.

(b) There may be paid for a period not to exceed three years an amount of financial assistance not more than the amount that would be paid for foster care for the child if the placement for adoption had not taken place. Additional financial assistance may be granted for a period of not more than two years if the adoptive parents have a continuing need as determined by the department, county child care or welfare unit, or designated licensed adoption agency.

(c) The county responsible for the care of the child in a foster home is responsible for the payment provided for by this section in adoptive placements arranged by the department, county child care or welfare unit, or any licensed adoption agency and in cases in which a child receiving aid to families with dependent children in a foster home is adopted by his foster parents with the approval of the department, county child care or welfare unit, or designated adoption agency.

Federal Funds

Sec. 6. The department shall actively seek, and make maximum use of, federal funds which might be available for the purposes of this Act. All gifts or grants received from private sources for the purposes of this Act shall be used to offset costs incurred under the program established by this Act.

[Acts 1971, 62nd Leg., p. 2397, ch. 751, eff. Aug. 30, 1971.]

TITLE 3A

AERONAUTICS

AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS

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AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS

Art. 46c-1. Definitions

When used in this Act, unless expressly stated otherwise:

(a) The term "person" means any individual, firm, partnership, corporation, association, joint stock association or body politic; and includes any trustee, receiver, assignee, agent or authorized representative thereof.

(b) The term "aircraft" means any contrivance now known or hereafter invented which is intended, used or designed for flight in the air.

(c) The term "certificate" means a certificate of public convenience and necessity issued under this Act.

(d) The term "commission" means the Texas Aeronautics Commission.

(e) The term "air carrier" means every person owning, controlling, operating or managing any aircraft as a common carrier in the transportation of persons or property for compensation or hire which conducts all or part of its operation in the State of Texas; providing that the term "air carrier" as used in this Act shall not include, and this Act shall not apply to, air carriers operating within the State of Texas pursuant to the provisions of a certificate of public convenience and necessity issued by the Civil Aeronautics Board under the Federal Aviation Act of 1958, as now or hereafter amended.¹

(f) The term "aeronautics" means the art and science of flight of aircraft of all types; aviation; the operation, navigation, maintenance, construction of aircraft and all component parts thereof and includes air navigation aids, such as lighting, markings, radio, ground to aircraft, aircraft to ground, aircraft to aircraft, and related communication navigation and piloting and air crew facilities and also includes air-

ports and airstrips and the design, construction, repair or maintenance of all or any part thereof and improvements thereto and the dissemination of information and instruction pertaining to all of the foregoing.

[Acts 1945, 49th Leg., p. 580, ch. 344 § 1; Acts 1961, 57th Leg., p. 850, ch. 379, § 1, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]
¹ 49 U.S.C.A. § 1301 et seq.

Art. 46c-2. Declaration

It is hereby declared that the purpose of this Act is to further the public interest and aeronautical progress by providing for the protection, promotion, and development of aeronautics; by cooperating in effecting a uniformity of the laws relating to the development of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the promotion of a state-wide system of airports, may cooperate with and assist the political subdivisions of this state in order that those engaged in aeronautics of every character may so engage with the least possible restrictions consistent with the safety and the rights of other person or persons; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the province of the federal agencies.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 2; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

Art. 46c-3. Aeronautics Commission, Organization, Membership

(a) The Texas Aeronautics Commission, created in 1945, shall consist of six Commissioners to be appointed by the Governor and confirmed by the Senate. The terms of the Commissioners shall be for a period of six years. Such terms shall begin on the first day of an odd numbered year and end on the last day of an even numbered year. The present Commissioners shall continue in office for a term as designated by the Governor at the time of their appointment. The Governor shall appoint successors for the present Commissioners (who may be reappointed) at the expiration of their present terms. Any member appointed to fill a vacancy occurring prior to the expiration of the term to which his predecessor was appointed shall be appointed to only the remainder of such term. Each member shall serve until the appointment and qualification of his successor. Each member shall be reimbursed for actual and necessary expenses incurred by him in the performance of his duties. Each member may be paid the sum of \$10 per diem, or part there-

of, spent in attending to his duties as Commissioner, but no member shall receive more than the sum of \$600 in any one year as per diem.

(b) To qualify for appointment to the Commission by the Governor, an appointee must have the following minimum qualifications in addition to those set out herein:

(1) Bona fide continuous residence in the state for the 10 years immediately previous.

(2) Ten years of successful experience in business, professional or governmental activities.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 3; Acts 1961, 57th Leg., p. 850, ch. 379, § 2, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

Art. 46c-4. Organization, Meetings, Reports

The Commission shall adopt a seal, and make such rules and regulations for its administration, not inconsistent with this Act, as hereby amended, as in its judgment it may deem advisable or necessary, and may from time to time amend such rules and regulations. It shall elect from among its members a chairman, a vice chairman, and a secretary, to serve for one year and annually thereafter shall elect such officers all to serve until their successors are appointed and qualified. It shall fix the date and place for its regular meetings. Four members shall constitute a quorum, and except as hereafter provided, no action shall be taken by less than a majority of the Commission members present. Special meetings may be called as provided by its rules and regulations. All regular and special Commission meetings shall be open to the public. Not later than December 1 each year, it shall report in writing to the governor detailed and itemized statements of all revenues and of all expenditures made by or in behalf of the Commission, and shall furnish such other information as it may deem necessary or useful or which may be requested by the Governor. The fiscal year of the Commission shall conform to the fiscal year of the state.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 4; Acts 1961, 57th Leg., p. 850, ch. 379, § 3, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

Art. 46c-5. Office and Expense—Employees

Suitable offices and office equipment shall be provided by the state for the Commission in the City of Austin, and it may maintain temporary offices in any other place in the state that it may designate and may incur the necessary expense for office furniture, stationery, printing, incidental expenses, and other expenses necessary for the enforcement of this Act and the general promotion of aeronautics within the state. Regular meetings shall be held at its offices at Austin, but, whenever the convenience of the public or of the parties may be promoted, or delay or expense may be prevented, it may hold hearings or proceedings at any other place designated by it. The Commission may employ such clerical and other employees and assistants as it may deem necessary for

the proper transaction of its business and shall fix their salaries. Provided that the Commission shall not make any obligations or expend any state moneys unless and until an appropriation by the Legislature is made therefor.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 5; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

Art. 46c-6. Commission Powers and Duties

Subd. 1. General. The Commission, and its Director acting under its authority, is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage, aid, and assist in the establishment of airports and airstrips and air navigational facilities in this state, and, as to lands, or portions thereof, or navigational aids or facilities donated or given to the state, or to the Texas Aeronautics Commission to be held by it in trust for the state, the Texas Aeronautics Commission may control, administer, and have jurisdiction thereover, and may lease the same on the terms hereafter provided. The Commission and its Director may cooperate with and assist the United States, municipalities or other governmental subdivisions of this state, or persons engaged in aeronautics or in the development of aeronautics, and may endeavor to coordinate the aeronautical activities of such others, and, municipalities and governmental subdivisions are authorized to cooperate with the Commission in the development of aeronautics and aeronautical navigational facilities or aids in this state.

Subd. 2. Authority to Contract. The Commission may enter into contracts which it deems necessary or advisable in conformity with and in the execution of the powers granted it by this Act, as amended. However, except as to moneys received by gift, the Commission shall have no power to enter into any contract or agreement binding on the State of Texas for the payment of any moneys which have not been authorized by appropriation of the Legislature from the general revenues or from the Texas Aeronautics Commission Fund. All contracts entered into by the Commission shall be submitted to the attorney general for the approval as to form. The Commission shall not enter into any contract binding the State of Texas in excess of the power granted in this Act.

Subd. 3. Air Carriers. (a) The Commission is hereby granted and vested with the right, power and authority to promulgate and administer economic and safety rules and regulations over air carriers. The Commission shall be vested with broad discretion in promulgating such rules and regulations. Without limiting the right, power and authority of the Commission, to the extent necessary to enable it to perform its functions, it may approve or disapprove the maximum or minimum or maximum and minimum rates, fares and charges of each air carrier, require filing of such reports and other data of air carriers as the Commission may deem necessary, and adopt

a program, rules and regulations necessary to effectuate its duties hereunder.

(b) No air carrier shall operate as such, after this Act goes into effect, without having first obtained from the Commission a certificate of public convenience and necessity pursuant to a determination by the Commission that its proposed service is in the interest of public convenience and necessity; provided, however, that all operating rights and privileges granted to any air carrier by the Commission prior to the passage of this Act shall continue in effect, authorizing the same service under the same terms and conditions as previously granted by the Commission. Upon notice and hearing, certificates of public convenience and necessity shall be subject to revocation or suspension for violation of the Commission's regulations, the provisions of this Act or the regulations or laws of the United States or any authorized agency or board thereof. Any such certificate so revoked or suspended may be reinstated upon order of the Commission on its own motion or upon application of the air carrier, when the Commission finds reinstatement to be in the public interest. In determining the existence of a public convenience and necessity for a proposed air service, the Commission shall consider the encouragement and development of an intrastate air transportation system properly adapted to the present and future needs of the State of Texas, and in addition shall consider the financial responsibility of the air carrier, its proposed routes and rates or charges, the effect, if any, upon existing air carriers and CAB certificated carriers, and any other factors similarly related to public convenience and necessity. Nothing in this Act affects any litigation pending on the effective date of this Act.

(c) No application for a certificate shall be received and filed by the Commission unless the same shall be in writing under oath in original and six copies filed with the Director of the Commission and contain the following information:

(1) The name and address of the applicant and the names and addresses of its officers, if any, and full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each aircraft which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by plats or maps showing the route or routes over which the applicant desires to operate, on which plats or maps shall be delineated the line or lines of any existing air carrier or airlines, whether or not subject to this

Act, serving such territory, and shall point out the need for additional air service.

(5) Such other information, exhibits and other data in regard to the application as may be required by duly promulgated rules and regulations of the Commission.

(6) Every application filed with the Commission for a certificate shall be accompanied by a filing fee in the sum of \$50, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission, whether the application is approved or not, to defray operating expenses.

Copies of such application shall be transmitted contemporaneously by certified mail, return receipt requested, to the Civil Aeronautics Board, the Federal Aviation Administration and to any air carrier or CAB certificated carrier, which serves, or is authorized to serve, over the routes proposed to be served by the applicant, or any portion thereof. Upon receipt of such application in proper form, the Commission shall set a date for public hearing which may be conducted by the Commission, or at its discretion, by the Director, or any staff member of the Commission.

Any other provision of this Act notwithstanding, carriers certificated by the Civil Aeronautics Board pursuant to the Federal Aviation Act of 1958, as now or hereafter amended,¹ together with any other interested party shall be afforded the right to appear and present evidence and arguments at such hearing on all issues involved in any such hearing. The final determination of such application shall be made by the Commission by written order setting forth its findings and served upon the parties in such manner as the Commission shall specify, and such application may be granted or denied, in whole, or in part; provided, however, any service not specifically authorized shall be deemed specifically denied. The order of the Commission granting any application and the certificate issued thereunder shall be voidable upon appeal unless the Commission shall set forth in its order full and complete findings of fact pointing out in detail the basis on which it made each of its findings on the factors related to public convenience and necessity as provided in Subsection (b) of this Subdivision.

(d) Any certificate held, owned or obtained by any air carrier operating under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval and after public notice and public hearing the Commission may disapprove such proposed sale, assignment, lease or transfer if it is found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not in good faith or that the proposed purchaser,

assignee, lessee, or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred in such manner as to render the services demanded by the public convenience and necessity on and along a designated route, or that the proposed sale, assignment, lease or transfer is not in the best public interest. The Commission in approving or disapproving any sale, assignment, lease or transfer of any certificate may take into consideration all the requirements and qualifications of a regular applicant required in this Act and apply the same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of \$25, which fee shall be in addition to any other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate is approved or not.

(e) If any air carrier, or other party in interest be adversely affected by any decision, rate, charge, order, rule, act or regulation adopted by the Commission, that party, after failing to get relief from the Commission, may file a petition setting forth its particular objections to the action of the Commission in the District Court of Travis County, Texas, against the Commission as defendant. This action shall have precedence over all other causes on the docket of a different nature. In an appeal of a Commission action other than revocation or suspension of a certificate, the Commission action shall be sustained unless there is no substantial evidence to support it. An appeal of the revocation or suspension of a certificate shall be tried in the same manner as appeals from justice court to the county court. Appeals from any final judgment of the District Court may be taken by any party to the cause in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commission.

(f) Every officer, agent, servant, or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding \$100 for each and every day of such violation. The penalty shall be recovered in any court of competent jurisdiction in the county in which the violation occurs. Suit for the penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney in the county in which the violation occurs in the name of the State of Texas. Upon violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this

Act, any district court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, orders, and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the attorney general, or any district or county attorney or competing air carrier. No bond shall be required when such injunctive relief is sought upon the application of the Commission, attorney general or any district or county attorney. Such relief may be granted in suits for penalties as provided in this section, but suit for penalties shall not be a condition precedent to the injunctive relief provided hereby.

Subd. 4. Cooperation with the United States. The Commission shall work with the agencies of the United States in enforcing the statutes, directives, rules and regulations of the United States. It is authorized to report to the appropriate federal agencies and agencies of other states all proceedings instituted charging violations of this Act or of federal statutes. It is authorized to receive reports of penalties and other data from agencies of the United States and other states, and when necessary, to enter into agreements, approved by the Attorney General of Texas as to form, with the United States and the agencies of other states governing the delivery, receipt, exchange and use of reports and data. The commission may make such reports, with or without request therefor, to any officer of the state or of a municipality authorized by the commission or by the United States to enforce the aeronautics laws, but such reports shall not constitute evidence of any violation nor shall the same be received as evidence by any court.

Subd. 5. Aircraft Operation. Aircraft shall be operated in and over the state in a safe manner. Operation shall be deemed safe if conducted in compliance with the United States laws and regulations governing air traffic and aeronautical operation, now in existence or hereafter enacted.

Subd. 6. Airports and Navigation Aids, Gifts, Leases. (a) To develop aeronautics for the common good, benefit, and safety of the citizens of Texas, and to provide for catastrophe, disaster, or state or national emergency, the state, or the Texas Aeronautics Commission on behalf of the state, is granted the right, under its police power, to accept gifts or donations of all or any parts of lands on, adjacent to, or utilizable as, airports or airstrips, or utilizable as a navigational aid, in the judgment of the Texas Aeronautics Commission, from the United States or any agency thereof or from any governmental, municipal, or other political subdivision of this state, or from any other person, firm, association, group, or corporation. The same shall be administered by the Texas Aeronautics Commission and shall be and remain under its control and jurisdiction. The

Texas Aeronautics Commission is hereby granted the right to utilize such portion of the Texas Aeronautics Commission Fund, or other moneys appropriated to it by the Legislature, to construct improvements, facilities or navigational aids thereon as the commission shall deem advisable or necessary. The commission is granted the right to rent or lease such lands and improvements to any governmental or municipal agency or subdivision, or to any other person, firm, association, group, or corporation, provided any such lease so executed by the commission shall be for a term not to exceed 20 years, and provided further, the Texas Aeronautics Commission shall determine, after investigation, and reduce its findings to writing in a book or books to be maintained in the office of the Texas Aeronautics Commission for that purpose:

(1) that the lease is desirable or essential for the purpose above stated;

(2) that the lessee is financially responsible; and

(3) that the amount of monthly or periodic rental payments shall be sufficient to amortize the amount it has expended thereon for improvements within the term of the lease. Any such lease, before the same shall become effective, shall be submitted to, and approved by, the attorney general as to form. Any such lease shall provide that the lessee shall maintain the land, premises and improvements placed thereon by the Texas Aeronautics Commission in accordance with the standards prescribed by the Texas Aeronautics Commission and shall contain a provision that the lease shall immediately terminate and that the lessee shall surrender the premises to the Texas Aeronautics Commission without liability, and without court action, in the event of violation of any of the provisions of the lease, or any rule, regulation or order of the Texas Aeronautics Commission pertaining thereto; and provided further, the Texas Aeronautics Commission shall have the right to utilize the same, or any part thereof, for itself or others, without liability or cost, in time of national or state disaster, emergency, or catastrophe, as determined by either the Governor of Texas or the Texas Aeronautics Commission.

(b) Independently and additionally, the Commission shall be authorized to accept any grant, payment, or gift of moneys, funds or property made to it by any person, individual, firm, association, corporation, municipality, county, or other political subdivision of the state, or from the United States, or any department or agency thereof, as to which the donor has prescribed a particular use for one or more aeronautical purposes. The Commission shall utilize any such grant of property in accordance with the terms of the grant, and as to any such payment, or gift of funds or moneys, the

Commission shall (1) deposit the same in any one or more state or national banks approved by the State Depository Board as a depository of the public funds of Texas, and shall (2) utilize such moneys for the purpose or purposes prescribed by the donor. A record shall be maintained in the Commission's offices of such properties and funds. Such funds shall be expended only upon general or special order of the Commission, and all checks shall be signed by the Director and countersigned by the Chairman of the Commission, or some other Commissioner designated by a majority of the Commission to so countersign. Reports of any such expenditures shall be made at the end of each fiscal year to the Comptroller of Public Accounts of the State of Texas.

Subd. 7. Investigations, Hearings (General). The Commission shall have the power to conduct and hold investigations, inquiries, and hearings concerning matters covered by the provisions of this Act and the rules, regulations and orders of the Commission, unless specifically provided otherwise herein. Hearings shall be open to the public. Each member of the Commission, the Director and every officer or employee of the Commission, designated by it to hold an inquiry, investigation or hearing, shall have the power to administer oaths, certify to all official acts, issue subpoenas, and order the attendance and testimony of witnesses and the production of papers, books and documents. Each subpoenaed witness who shall appear at a designated place outside the county of his residence shall receive for his attendance Five Dollars per day and six cents per mile traveled by the nearest practicable route in going to and returning from the place so designated, which shall be ordered paid, on the presentation of proper vouchers, sworn to by such witness and approved by the Commission or Chairman thereof, provided, no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested or involved in the investigation or hearing on account of which he is summoned. Any witness entitled to be paid shall be paid out of any funds so appropriated by the Legislature, or out of the Texas Aeronautics Commission Fund. In the case of the failure of any person to comply with any subpoena or order issued under the authority of this section, the Commission shall notify the attorney general who may bring suit in the name of the state in any district court of Travis County, Texas. The court, if it determines such noncompliance was not justified, shall thereupon order such person to comply with the requirements of the subpoena or order, and failure to obey the order of the court may be punished by the court as a contempt thereof.

Subd. 8. Education, Publications. The Commission may organize and administer a program of aeronautical education in the schools and colleges of the state and for the general public and may prepare and conduct flight clinics for airmen. The Commission may is-

sue such aeronautical publications as may be required in the public interest.

Subd. 9. Technical Services. In the interest of public safety and welfare, the Commission may, insofar as is reasonably possible, make available its engineering and technical services, with or without charge, to any municipality or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance or operation of airports, air navigation facilities or other aeronautical activities.

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

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

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

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

(3) Loans shall be made in lieu of grants whenever feasible. Prior to approving any loan or grant the Commission shall require that:

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

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

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

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

(5) The project be adequately planned.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 6; Acts 1961, 57th Leg., p. 850, ch. 379, § 4; Acts 1965, 59th Leg., p. 397, ch. 196, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 745, ch. 324, § 1, eff. Aug. 27, 1973.]

1 49 U.S.C.A. § 1301 et seq.

Art. 46c-7. Director of Aeronautics

Subd. 1. Appointment, Compensation. A Director of Aeronautics shall be appointed by the Commission. He shall receive such compensation as may be provided in the biennial department appropriation bill and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

Subd. 2. Powers and Duties. The Director shall be the executive officer of the Commission and under its supervision shall administer the provisions of this Act (and the rules, regulations, and orders established thereunder), and all other laws of the state relative to aeronautics. He shall attend all meetings of the Commission, but shall not have the power to vote. At the direction of the Commission he shall, together with the Chairman of the Commission, execute all contracts entered into by the Commission which are legally authorized and for which funds are provided by this Act, as amended, or in any appropriation Act.

[Acts 1945, 49th Leg., p. 580, ch. 344, § 8; Acts 1961, 57th Leg., p. 850, ch. 379, § 6, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, eff. Sept. 1, 1969.]

Art. 46c-8. Hearings, Judicial Review, and Court Aid

The Commission is authorized to enforce the provisions of this Act, by revocation or suspension of any lease or permit; in the event of violation of this Act, the Commission shall notify the attorney general thereof, who is authorized to enforce the same by bringing a suit in any of the district courts of the county of the residence of the defendant in such action, and any such court may enforce the same by injunction or other appropriate legal process.

[Acts 1961, 57th Leg., p. 850, ch. 379, § 7, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 1394, ch. 424, § 1, Sept. 1, 1969.]

MUNICIPAL AIRPORTS ACT

Art. 46d-1. Definitions

As used in this Act, unless the text otherwise requires:

(a) "Airport" means any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or right-of-ways,

together with all airport buildings and facilities located thereon.

(b) "Air navigation facility" means any facility—other than one owned and operated by the United States—used in, available for use in, or designed for use in, aid of air navigation, including any structures, mechanism, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(c) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(d) "Municipality" means any county, or any incorporated city, village or town of this State. "Municipal" means pertaining to a municipality as herein defined.

(e) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee or other similar representative thereof.

[Acts 1947, 50th Leg., p. 184, ch. 114, § 1.]

Art. 46d-2. General Powers of Municipalities in the Establishment, Acquisition, Operation and Maintenance of Airports and Air Navigation Facilities

(a) Establishment, Operation, Land Acquisition. Every municipality is authorized, out of any appropriations or other moneys made available for such purposes, to plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police airports and air navigation facilities, either within or without the territorial limits of such municipality and within or without the territorial boundaries of this State, including the construction, installation, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers, and the purchase and sale of supplies, goods and commodities as an incident to the operation of its airport properties. For such purposes the municipality may use any available property that it may now or hereafter own or control and may, by purchase, gift, devise, lease, eminent domain proceedings or otherwise, acquire property, real or personal, or any interest therein including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airport or to permit the removal, elimination, obstruction—marking of obstruction—lighting of air-

port hazards or to prevent the establishment of airport hazards.

(b) Acquisition of Existing Airports. The municipality may by purchase, gift, devise, lease, proceedings or otherwise, acquire existing airports and air navigation facilities, provided however it shall not acquire or take over any airport or air navigation facility owned or controlled by another municipality or public agency of this or any other State without the consent of such municipality or public agency.

(c) Establishment of Airports on Public Waters and Reclaimed Lands. For the purposes of this Act, a municipality may establish or acquire and maintain, within or bordering upon the territorial limits of the municipality, airports in, over and upon, any public waters of this State, any submerged lands under such public waters, and any artificial or reclaimed lands which before the artificial making or reclamation thereof constituted a portion of the submerged lands under such public waters; and may construct and maintain terminal buildings, landing floats, causeways, roadways and bridges for approaches to or connecting with any such airport, and landing floats and breakwaters for the protection thereof.

(d) Limitation on Design and Operation of Air Navigation Facilities. All air navigation facilities established or operated by municipalities shall be supplementary to and coordinated in design and operation with those established and operated by the Federal and State governments.

[Acts 1947, 50th Leg., p. 184, ch. 114, § 2.]

Art. 46d-3. Disposal of Airport Property

Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act,¹ every municipality may by sale, lease or otherwise, dispose of any airport, air navigation facility or other property, or portion thereof or interest therein, acquired pursuant to this Act. Such disposal by sale, lease or otherwise, shall be in accordance with the laws of this State, or provisions of the charter of the municipality, governing the disposition of other property of the municipality, except that in the case of disposal to another municipality or agency of the State or Federal government for aeronautical purposes incident thereto, the sale, lease, or other disposal may be effected in such manner and upon such terms as the governing body of the municipality may deem in the best interest of the municipality.

[Acts 1947, 50th Leg., p. 185, ch. 114, § 3.]

¹ Article 46d-12.

Art. 46d-4. Operation and Use Privileges

(a) Under Municipal Operation. In operating an airport or air navigation facility owned, leased or controlled by a municipality, such municipality may, except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act,¹ enter into contracts, leases and other arrange-

ments for a term not exceeding forty (40) years with any persons:

(1) granting the privilege of using or improving such airport or air navigation facility or any portion or facility thereof, or space therein for commercial purposes;

(2) conferring the privilege of supplying goods, commodities, things, services or facilities at such airport or air navigation facility; or

(3) making available services to be furnished by the municipality or its agents at such airport or air navigation facility.

In each case the municipality may establish the terms and conditions and fix the charges, rentals or fees for the privileges or services, which shall be reasonable and uniform for the same class of privilege or service and shall be established with due regard to the property and improvements used and the expenses of operation to the municipality.

(b) Under Other Operation. Except as may be limited by the terms and conditions of any grant, loan, or agreement pursuant to Section 12 of this Act, a municipality may by contract, lease or other arrangement, upon a consideration fixed by it, grant to any qualified person for a term not to exceed forty (40) years the privilege of operating, as agent of the municipality or otherwise, any airport owned or controlled by the municipality; provided that no such person shall be granted any authority to operate the airport other than a public airport or to enter into any contracts, leases or other agreements in connection with the operation of the airport which the municipality might not have undertaken under Subsection (a) of this Section.

[Acts 1947, 50th Leg., p. 185, ch. 114, § 4.]

¹ Article 46d-12.

Art. 46d-5. Liens

To enforce the payment of any charges for repairs or improvements to or storage or care of, any personal property made or furnished by the municipality or its agents in connection with the operation of an airport or air navigation facility owned or operated by the municipality, the municipality shall have liens on such property, which shall be enforceable by the municipality as provided by law.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 5.]

Art. 46d-6. Delegation of Authority to Airport Officer or Board

Any authority vested by this Act in a municipality or in the governing body thereof, for the planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing of airports or other air navigation facilities established, owned or controlled, or to be established, owned or controlled by the municipality may be vested by resolution of the governing body of the municipality in an officer or board or other municipal

agency whose powers and duties shall be prescribed in the resolution; provided however, that the expense of such planning, establishment, development, construction, enlargement, improvement, maintenance, equipment, operation, regulation, protection and policing shall be a responsibility of the municipality.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 6.]

Art. 46d-7. Regulations and Jurisdiction

(a) Scope. A municipality, which has established or acquired or which may hereafter establish or acquire an airport or air navigation facility, is authorized to adopt, amend and repeal such reasonable ordinances, resolutions, rules, regulations and orders as it shall deem necessary for the management, government and use of such airport or air navigation facility under its control, whether situated within or without the territorial limits of the municipality. For the enforcement thereof, the municipality, may, by ordinance or resolution, as may by law be appropriate, appoint airport guards or police, with full police powers, and fix penalties, within the limits prescribed by law, for the violation of the aforesaid ordinances, resolutions, rules, regulations and orders. Said penalties shall be enforced in the same manner in which penalties prescribed by other ordinances, or resolutions of the municipality are enforced. To the extent that an airport or other air navigation facility controlled and operated by a municipality is located outside the territorial limits of the municipality, it shall, subject to Federal and State laws, rules and regulations, be under the jurisdiction and control of the municipality controlling or operating it, and no other municipality shall have any authority to charge or exact a license fee or occupation tax for operations thereon.

(b) Conformity to Federal and State Law. No ordinance, resolution, rule, regulation or order adopted by a municipality pursuant to this Act shall be inconsistent with, or contrary to, any Act of the Congress of the United States or laws of this State, or to any regulations promulgated or standards established pursuant thereto.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 7.]

Art. 46d-8. Taxation

In addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds, notes or time warrants issued under authority of this Act, or any other Act of the Legislature authorizing municipalities to issue such bonds, notes, or warrants for airport purposes, the governing body of any municipality may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents (5¢) on each One Hundred Dollars (\$100) for the purpose of improving, operating, maintaining and conducting an airport or air navigation facility, or for any other purpose falling within the purview of this Act; provided, however, that nothing in this Act shall be construed as authorizing any

municipality to exceed the limits of indebtedness placed upon it under the Constitution.

[Acts 1947, 50th Leg., p. 186, ch. 114, § 8.]

Art. 46d-9. Bond Issues—Financing Acquisition Costs and Improvements

The cost of planning and acquiring, establishing, developing, constructing, enlarging, improving, or equipping, an airport or air navigation facility, or the site therefor, including buildings and other facilities incidental to the operation thereof, and the acquisition or elimination of airport hazards, may be paid for wholly or partly from the proceeds of the sale of bonds of the municipality, as the governing body of the municipality shall determine. For such purposes a municipality may issue general or special obligation bonds, revenue bonds or other forms of bonds, secured or unsecured, including refunding bonds, and levy taxes to provide for the interest and sinking funds of any bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Title 22 of the Revised Civil Statutes of Texas, 1925, Article 701 et seq., and Acts amendatory thereof or supplementary thereto. All bonds issued by a municipality pursuant to this Act which are payable, as to principal and interest, solely from the revenues of an airport or air navigation facility shall so state on their face. In any suit, action or proceeding involving the security, or the validity or enforceability, of any bonds issued by a municipality, which bonds state on their face that they were issued pursuant to the provisions of this Act and for a purpose or purposes authorized to be accomplished by this Act, such bonds shall be conclusively deemed to have been issued pursuant to this Act for such purpose or purposes.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 9.]

Art. 46d-10. Validation of Prior Acquisitions, Actions and Bond Issues

Any acquisition of property heretofore made, within or without the limits of any municipality of the State, for the purposes authorized by this Act, and any other action heretofore taken by a municipality in the furtherance of such purposes, including but not limited to the making of appropriations, the expenditure of money, the incurring of debts, the acceptance and disbursement of Federal, State or other grants or loans, the issuance of payment and bonds, the execution of leases and contracts, which acquisition or action would have been authorized had this Act been in effect at the time of such acquisition or action, is hereby ratified and made valid. All bonds heretofore issued in furtherance of purposes authorized by this Act and actions ratified by this Section are confirmed as legal obligations of the municipality, and, without prejudice to the general powers granted to the municipality by this Act, such municipality is hereby authorized to issue further bonds for such purposes up to the limit fixed in the original authorization therefor,

which bonds shall be legal obligations in accordance with their terms.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 10.]

Art. 46d-11. Application of Airport Revenues and Sale Proceeds

The revenues obtained by a municipality from the ownership, control or operation of any airport or air navigation facility, including proceeds from the sale of any airport or portion thereof or air navigation facility property, shall be deposited in a special fund to be designated the "_____ Airport Fund," which revenues shall be appropriated solely to, and used by the municipality for, the purposes authorized by this Act.

[Acts 1947, 50th Leg., p. 187, ch. 114, § 11.]

Art. 46d-12. Federal and State-Aid

(a) Acceptance Authorized, Conditions. Every municipality is authorized to accept, receive, receipt for, disburse and expand Federal and State moneys and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this Act. All Federal moneys accepted under this Section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the United States and as are consistent with State law; and all State moneys accepted under this Section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the State. Unless otherwise prescribed by the agency from which such moneys were received, the chief financial officer of the municipality shall, on its behalf deposit all moneys received pursuant to this Section and shall keep them, in separate funds designated according to the purposes for which the moneys were made available, in trust for such purposes.

(b) Aeronautics Commission as Agent. A municipality is authorized to designate the Texas Aeronautics Commission as its agent to accept, receive, receipt for and disburse Federal and State moneys, and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this Act; and to designate the said Commission as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment or operation of any airport or other air navigation facility. All contracts made, let or awarded by the Texas Aeronautics Commission acting as agent of a municipality under authority of this Section, shall be made, let or awarded pursuant to the laws governing the making of contracts by or on behalf of the State. Such municipality may enter into an agreement with the said Aeronautics Commission prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if Federal money is involved, and in accordance with the applicable laws of this

State. All Federal moneys accepted under this Section by the Texas Aeronautics Commission shall be accepted and transferred or expended by said Commission upon such terms and conditions as are prescribed by the United States. All moneys received by the Texas Aeronautics Commission pursuant to this Subsection shall be deposited in the State Treasury, and unless otherwise prescribed by the agency from which such moneys were received, shall be kept in separate funds designated according to the purposes for which the moneys were made available, and held by the State in trust for such purposes.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 12.]

Art. 46d-13. Contracts

A municipality may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by this Act.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 13.]

Art. 46d-14. Joint Operations

(a) Authorization. For the purposes of this Section, unless otherwise qualified, the term "public agency" includes municipality, as defined in this Act, any agency of the State government and of the United States, and any municipality, political subdivision and agency of another State; and the term "governing body" means the governing body of a county or municipality, and the head of the agency if the public agency is other than a county or municipality. All powers, privileges and authority granted to any municipality by this Act may be exercised and enjoyed jointly with any public agency of any other State or of the United States to the extent that the laws of such other State or of the United States permit such joint exercise or enjoyment. If not otherwise authorized by law, any agency of the State government when acting jointly with any municipality, may exercise and enjoy all of the powers, privileges and authority conferred by this Act upon a municipality.

(b) Agreement. Any two (2) or more public agencies may enter into agreements with each other for joint action pursuant to the provisions of this Act and any two (2) or more municipalities are specially authorized to make such agreement or agreements as they may deem necessary for the joint acquisition and operation of airports and air navigation facilities. Concurrent action by ordinance, resolution or otherwise of the governing bodies of the participating public agencies shall constitute joint action. Each such agreement shall specify its duration, the proportionate interest which each public agency shall have in the property, facilities and privileges involved, the proportion to be borne by each public agency of preliminary costs and costs of acquisition, establishment, construction, enlargement, improvement, and equipment of the airport or air navigation facility, the proportion of the expenses of maintenance, operation, regulation and protection thereof to be borne by each and

such other terms as are required by the provisions of this Section. The agreement may also provide for: amendments thereof, and conditions and methods of termination of the agreement; the disposal of all or any of the property, facilities and privileges jointly owned, prior to or upon said property, facilities and privileges, or any part thereof, ceasing to be used for the purposes provided in this Act, or upon termination of the agreement; the distribution of the proceeds received upon any such disposal, and of any funds or other property jointly owned and undisposed of; the assumption or payment of any indebtedness arising from the joint venture which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.

(c) Joint Board. Public agencies acting jointly pursuant to this Section shall create a joint board which shall consist of members appointed by the governing body of each participating public agency. The number to be appointed, their term and compensation, if any, shall be provided for in the joint agreement. Each such joint board shall organize, select officers for terms to be fixed by the agreement, and adopt and amend from time to time rules for its own procedure. The joint board shall have power to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect and police any airport or air navigation facility or airport hazard to be jointly acquired, controlled and operated, and such board may exercise on behalf of its constituent public agencies all the powers of each with respect to such airport, air navigation facility or airport hazard, subject to the limitations of Subsection (d) of this Section.

(d) Limitations on Joint Board.

(1) Expenditures. The total expenditures to be made by the joint board for any purpose in any calendar year shall be determined by a budget approved by the governing bodies of its constituent public agencies on or before the preceding December 1st.

(2) Acquisitions Beyond Sums Allotted. No airport, air navigation facility, airport hazard, or real or personal property, the cost of which is in excess of sums therefor fixed by the joint agreement or allotted in the annual budget, may be acquired by the joint board without the approval of the governing bodies of its constituent public agencies.

(3) Eminent Domain. Eminent domain proceedings under this Section may be instituted only by authority of the governing bodies of the constituent public agencies of the joint board. If so authorized, such proceedings shall be instituted in the names of the constituent public agencies jointly, and the property so acquired shall be held by said public agencies as tenants in common until conveyed by them to the joint board.

(4) Disposal of Real Property. The joint board shall not dispose of any airport, air navigation facility or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board may, without such consent, enter into the contract, lease or other arrangements contemplated by Section 4 of this Act.¹

(5) Police Regulations. Any resolutions, rules, regulations or orders of the joint board dealing with subjects authorized by Section 7 of this Act² shall become effective only upon approval of the governing bodies of the constituent public agencies provided that upon such approval, the resolutions, rules, regulations or orders of the joint board shall have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, rules, regulations or orders of each public agency would have in its own territory or jurisdiction.

(e) Joint Fund. For the purpose of providing a joint board with moneys for the necessary expenditures in carrying out the provisions of this Section, a joint fund shall be created and maintained, into which shall be deposited the share of each of the constituent public agencies as provided by the joint agreement. Each of the constituent public agencies shall provide its share of the fund from sources available to each. Any Federal, State or other contributions or loans, and the revenues obtained from the joint ownership, control and operation of any airport or air navigation facility under the jurisdiction of the joint board shall be paid into the joint fund. Disbursements from such fund shall be made by order of the board, subject to the limitations prescribed in Subsection (d) of this Section.

[Acts 1947, 50th Leg., p. 188, ch. 114, § 14.]

¹ Article 46d-4.

² Article 46d-7.

Art. 46d-15. Public Purpose, County and Municipal Purpose

The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection and policing of airports and air navigation facilities, including the acquisition or elimination of airport hazards, and the exercise of any other powers herein granted to municipalities and other public agencies, to be severally or jointly exercised, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity; and in the case of any county, are declared to be county functions and purposes as well as public and governmental; and in the case of any municipality other than a county, are declared to be municipal functions and purposes as well as public and governmental. All land and other property and privileges acquired and used

by or on behalf of any municipality or other public agency in the manner and for the purposes enumerated in this Act shall and are hereby declared to be acquired and used for public and governmental purposes and as a matter of public necessity, and, in the case of a county or municipality, for county or municipal purposes, respectively.

[Acts 1947, 50th Leg., p. 190, ch. 114, § 15.]

Art. 46d-16. Airport Property and Income Exempt from Taxation

Any property in this State acquired by a municipality for airport purposes pursuant to the provisions of this Act, and any income derived by such municipality from the ownership, operation or control thereof, shall be exempt from taxation to the same extent as other property used for public purposes. Any municipality is authorized to exempt from municipal taxation any property, acquired within its boundaries by a public agency of another State for airport purposes, and any income derived from such property, to the extent that such other State authorizes similar exemptions from taxation to municipalities of this State.

[Acts 1947, 50th Leg., p. 190, ch. 114, § 16.]

Art. 46d-17. Supplementary Authority

In addition to the general and special powers conferred by this Act, every municipality is authorized to exercise such powers as are necessarily incidental to the exercise of such general and special powers.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 17.]

Art. 46d-18. Airport Zoning

Nothing contained in this Act shall be construed to limit any right, power or authority of a municipality to regulate airport hazards by zoning.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 18.]

Art. 46d-19. Interpretation and Construction

This Act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this State and other States and of the government of the United States having to do with the subject of municipal airports.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 19.]

Art. 46d-20. Severability

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

[Acts 1947, 50th Leg., p. 191, ch. 114, § 20.]

Art. 46d-21. Cumulative

This Act is cumulative of and in addition to all laws of the State of Texas on this subject.

[Acts 1947, 50th Leg., p. 191, ch. 114, § 21.]

Art. 46d-22. Short Title

This Act may be cited as the "Municipal Airports Act."

[Acts 1947, 50th Leg., p. 191, ch. 114, § 22.]

AIRPORT ZONING REGULATIONS

Art. 46e-1. Definitions

As used in this Act, unless the context otherwise requires:

(1) "Airport" means any area of land or water, whether of public or private ownership, designed and set aside for the landing and taking off of aircraft and utilized or to be utilized in the interest of the public for such purposes. The term "Airport" shall also include any area having installations relating to flight and particularly including installations, facilities and base of operations for tracking and/or data acquisition concerning flight. Such areas shall be deemed to be "utilized in the interest of the public" when the owner thereof by contract, license or otherwise permits the use of such areas by others. Such areas also shall be deemed to be "utilized in the interest of the public" when utilized by the Government of the State of Texas or an agency thereof or by the Government of the United States or any agency thereof in furtherance of the National Defense or any National Government Program relating to flight.

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

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this Act.

(4) "Political subdivision" means any municipality, city, town, village or county.

(5) "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic, and includes any trustee, receiver, assignee, or other similar representative thereof.

(6) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(7) "Tree" means any object of natural growth.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 1; Acts 1951, 52nd Leg., p. 17, ch. 12, § 1; Acts 1965, 59th Leg., p. 295, ch. 128, § 1, eff. Aug. 30, 1965.]

Art. 46e-2. Airport Hazards Contrary to Public Interest

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) that this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 2.]

Art. 46e-3. Power to Adopt Airport Zoning Regulations

(1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) Where an airport is owned or controlled by a political subdivision or where an airport owned or operated by a defense agency of the federal government or the State of Texas is located within the territorial limits of a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport or the political subdivision within whose territorial limits the airport owned or operated by a defense agency of the federal government or the State of Texas is situated and the political subdivision within which the airport hazard area is located may create, by ordinance or resolution duly adopted, a joint

airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subsection (1) in the political subdivision within which such area is located. Each such joint board shall have as members two (2) representatives appointed by each political subdivision participating in its creation and in addition a chairman elected by a majority of the members so appointed.

Provided, however, where an airport is owned or controlled by any political subdivision having more than 600,000 inhabitants, according to the last preceding Federal Census, and such airport is located within the territorial limits of such political subdivision and any airport hazard area appertaining to such airport is located outside of the territorial limits of said political subdivision owning or controlling such airport, the political subdivision shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question within a five (5) mile radius of the airport reference point of such airport as that vested by subsection (1) in the political subdivision within which such area is located; provided, however, that said control of such political subdivision shall not extend beyond the county in which the political subdivision is located.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 3; Acts 1961, 57th Leg., p. 689, ch. 323, § 1; Acts 1963, 58th Leg., p. 1367, ch. 521, § 1, eff. Aug. 23, 1963.]

Art. 46e-4. Relation to Comprehensive Zoning Regulations

(1) Incorporation. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) Conflict. In the event of conflict between any airport zoning regulations adopted under this Act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 4.]

Art. 46e-5. Procedure for Adoption of Zoning Regulations

(1) Notice and Hearing. No airport zoning regulations shall be adopted, amended, or changed under this Act except by action of the legislative body of the political subdivision in question, or the joint board provided for in Section 3(2),¹ after a public hearing in rela-

tion thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Airport Zoning Commission. Prior to the initial zoning of any airport hazard area under this Act, the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the Airport Zoning Commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such commission. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 5.]

¹ Article 46e-3.

Art. 46e-6. Airport Zoning Requirements

(1) Reasonableness. All airport zoning regulations adopted under this Act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this Act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) Non-conforming Uses. No airport zoning regulations adopted under this Act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use, except as provided in Section 7(3).¹

[Acts 1947, 50th Leg., p. 784, ch. 391, § 6.]

¹ Article 46e-7.

Art. 46e-7. Permits and Variances

(1) Permits. Any airport zoning regulations adopted under this Act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially altered or repaired. In any event, however, all such regulations shall provide that before any non-conforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer

and enforce the regulations, authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Variances. Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this Act, may apply to the Board of Adjustment for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of regulations and this Act; provided, that any variance may be allowed subject to any reasonable conditions that the Board of Adjustment may deem necessary to effectuate the purposes of this Act.

(3) Hazard Marking and Lighting. In granting any permit or variance under this Section, the administrative agency or Board of Adjustment may, if it deems such action advisable to effectuate the purposes of this Act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 7.]

Art. 46e-8. Appeals

(1) Any person aggrieved, or taxpayer affected, by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this Act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the Board of Adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this Section must be taken within a reasonable time, as provided by the rules of the Board, by filing with the agency from which the appeal is taken and with the Board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the Board all the papers constituting the

record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certified to the Board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the Board on notice to the agency from which the appeal is taken and on due cause shown.

(4) The Board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The Board may, in conformity with the provisions of this Act, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken. [Acts 1947, 50th Leg., p. 784, ch. 391, § 8.]

Art. 46e-9. Administration of Airport Zoning Regulations

All airport zoning regulations adopted under this Act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision, but in no case shall administrative agency be or include any member of the Board of Adjustment. The duties of any administrative agency designated pursuant to this Act shall include that of hearing and deciding all permits under Section 7(1),¹ but such agency shall not have or exercise any of the powers herein delegated to the Board of Adjustment.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 9.]

¹ Article 46e-7.

Art. 46e-10. Board of Adjustment

(1) All airport zoning regulations adopted under this Act shall provide for a Board of Adjustment to have and exercise the following powers:

(a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations as provided in Section 8.¹

(b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such Board

may be required to pass under such regulations.

(c) To hear and decide specific variances under Section 7(2).²

(2) Where a zoning board of appeals or adjustment already exists, it may be appointed as the Board of Adjustment. Otherwise, the Board of Adjustment shall consist of five (5) members, each to be appointed for a term of two (2) years and removable for cause by the appointment authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

(3) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision, or determination of the administrative agent, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

(4) The Board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses. All hearings of the Board shall be public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the Board and shall be a public record.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 10.]

¹ Article 46e-8.

² Article 46e-7.

Art. 46e-11. Judicial Review

(1) Any person aggrieved, or taxpayer affected, by any decision of a Board of Adjustment, or any governing body of a political subdivision or any joint airport zoning board which is of the opinion that a decision of a Board of Adjustment is illegal, may present to a Court of record a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of illegality. Such petition shall be presented to the Court within ten (10) days after the decision is filed in the office of the Board.

(2) Upon presentation of such petition the Court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the Court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(3) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such

portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) The Court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the Board of Adjustment. In all appeals taken under this Act such case shall be tried and determined de novo on the basis of the facts adduced in the trial of the case in the Court, and the Court independently shall pass upon both the law and the facts as in an ordinary civil suit.

(5) Costs shall not be allowed against the Board of Adjustment unless it appears to the Court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.

(6) In any case in which airport zoning regulations adopted under this Act, although generally reasonable, are held by a Court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitution of this State or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land. [Acts 1947, 50th Leg., p. 784, ch. 391, § 11.]

Art. 46e-12. Enforcement and Remedies

In addition, the political subdivision or agency adopting zoning regulations under this Act may institute in any Court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this Act, or of airport zoning regulations adopted under this Act, or of any order or ruling made in connection with their administration or enforcement, and the Court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this Act and of the regulations adopted and orders and rulings made pursuant thereto.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 12.]

Art. 46e-13. Acquisition of Air Rights

In any case in which:

(1) it is desired to remove, lower, or otherwise terminate a non-conforming structure or use; or

(2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this Act; or

(3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political

subdivision within which the property or non-conforming use is located or the political subdivision owning the airport or served by it may acquire from any person or political subdivision of this State by purchase, grant, or condemnation in the manner provided by Title 52 of the Revised Civil Statutes of Texas, 1925, Articles 3264 to 3271, inclusive, and Acts amendatory thereof or supplementary thereto, such air right, avigation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purpose of this Act.

[Acts 1947, 50th Leg., p. 784, ch. 391, § 13; Acts 1951, 52nd Leg., p. 17, ch. 12, § 2.]

Art. 46e-14. Severability

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

[Acts 1947, 50th Leg., p. 784, ch. 391, § 14.]

Art. 46e-15. Short Title

This Act shall be known and may be cited as the "Airport Zoning Act."

[Acts 1947, 50th Leg., p. 784, ch. 391, § 15.]

OPERATION OF AIRCRAFT

Art. 46f-1. Taking Off, Landing or Maneuvering Aircraft on Highway, Road or Street

Sec. 1. No person may take off, land, or maneuver an aircraft, including heavier than air and lighter than air, on a public highway, road, or street except when it is necessary to prevent serious injury to a person or property. However, nothing herein shall prohibit any operation of said aircraft on a public highway, road, or street during or within a reasonable time after an emergency.

Sec. 1b. Any violation shall be subject to the provisions of Article 6701d, Section 148(a), Vernon's Texas Civil Statutes.

Sec. 2. A person who violates Section 1 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

[Acts 1967, 60th Leg., p. 865, ch. 371, eff. Aug. 28, 1967.]

Art. 46f-2. Aircraft Licenses

Definitions

Sec. 1. In this Act "aircraft" means any contrivance now known or hereafter invented, used or designated for navigation of or flight in the air, except a parachute or other contrivance designed for such navigation but used primarily as safety equipment. The term "public aircraft" means any aircraft used exclusively in the Federal governmental service or the State governmental service. The term "civil aircraft" means any aircraft other than public

aircraft. The term "airman" means any individual (including the person in command and any pilot, mechanic, or member of the crew) who engages in the navigation of aircraft while under way and any individual who is in charge of the inspection, overhauling, or repairing of aircraft.

License Required

Sec. 2. The public safety requiring and the advantages of uniform regulation making it desirable in the interest of aeronautical progress that aircraft operating within this State should conform with respect to design, construction, and airworthiness to the standards prescribed by the United States Government with respect to navigation of aircraft subject to its jurisdiction, it shall be unlawful for any person to navigate an aircraft within the State, whether for commercial, pleasure or noncommercial purposes, unless it is licensed and registered by the Department of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government then in force.

License of Operator

Sec. 3. No person shall serve as an airman in connection with any civil aircraft when such aircraft is flown or operated in this State until he shall have obtained a license under the provisions of the Federal Air Commerce Act of 1926¹ and amendments thereto and the Air Commerce Regulations and Air Traffic Rules pursuant thereto.

¹ 49 U.S.C.A. §§ 171 to 184 (repealed).

Personal Possession of License

Sec. 4. The certificate of the license herein required shall be kept in the personal possession of the licensee when he is operating aircraft within this State, or serving in connection with any civil aircraft flown or operated in this State, and must be presented for inspection upon the demand of any passenger, any peace officer of this State, or any official, manager or person in charge of any airport or landing field in this State upon which he shall land or perform any service.

Government Aircraft Excepted

Sec. 5. The provisions of this act shall not apply to any public aircraft owned by the Government of the United States or by this State. Any person who navigates or serves as an airman in any civil aircraft which has not been licensed and registered by the Department of Commerce of the United States in the manner prescribed by the lawful rules and regulations of the United States Government in force.¹

¹ So in enrolled bill. Last sentence of section 5 is incomplete.

Penalty

Sec. 6. Any person who navigates within this State any civil aircraft without an airman's license, or who serves as an airman in connection with any civil aircraft flown or operated within this State, without an airman's license issued in accordance with the provisions

of the Air Commerce Act of 1926 and amendments thereto, shall be guilty of a misdemeanor and punishable by a fine of not more than \$500.00 nor less than \$100.00 or by imprisonment in the county jail for not more than six months nor less than thirty days, or both; provided, however, that acts or omissions made unlawfully by this article shall not be deemed to include any act or omission which violated the law or lawful regulations of the United States; but it shall not be necessary to allege or prove, as part of the case of the State, that the defendant is not amenable, on account of the alleged violation, to prosecution under the laws of the United States. That he is amenable to such prosecution shall be matter of defense, unless it affirmatively appears from the evidence adduced by the State.

[Acts 1929, 41st Leg., p. 624, ch. 285.]

Art. 46f-3. Operation of Aircraft While Intoxicated

Any person who drives, operates or pilots an airplane, aircraft, heavier-than-aircraft, or lighter-than-aircraft, dirigible or balloon within the airspace of the State of Texas or drives, operates or pilots such craft upon a public airstrip within the State of Texas, while such person is intoxicated or under the influence of intoxicating liquor, shall be guilty of a misdemeanor, and upon conviction, shall be punished by confinement in the county jail for not less than fifteen (15) days nor more than two (2) years, or by a fine of not less than Two Hundred Dollars (\$200) nor more than One Thousand, Five Hundred Dollars (\$1,500), or by both such fine and imprisonment.

[Acts 1963, 58th Leg., p. 69, ch. 46, § 1.]

MISCELLANEOUS

Art. 46g. Airport Security Personnel; Employment; Commission as Peace Officers

(a) The governing body of any political subdivision of this state that operates an airport served by a Civil Aeronautics Board certificated air carrier may establish an airport security force and employ airport security personnel.

(b) A governing body may commission any employee of an airport security force established under this Act as a peace officer if he is certified as qualified to be a peace officer by the Commission on Law Enforcement Officer Standards and Education.

(c) Any person commissioned as a peace officer under this Act shall give an oath and such bond for the faithful performance of his duties as the governing body may require. The bond shall be approved by the governing body and made payable to the political subdivision that operates the airport. It shall be filed with the governing body.

(d) Any peace officer commissioned under this Act shall be vested with all the rights, privileges, obligations, and duties of any other peace officer in this state while he is on the property under the control of the airport.

[Acts 1973, 63rd Leg., p. 8, ch. 7, § 1, eff. Aug. 27, 1973.]

TITLE 4

AGRICULTURE AND HORTICULTURE

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CHAPTER ONE. COMMISSIONER OF AGRICULTURE

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Art. 47. Election and Qualification

A Commissioner of Agriculture shall be elected at each general election for a term of two years. He shall be an experienced and practical farmer, and shall have knowledge of agriculture, manufacture and general industry. His office shall be in Austin.

[Acts 1925, S.B. 84.]

Art. 48. Bond

He shall first execute a good bond in the sum of five thousand dollars, payable to the

State of Texas, to be approved by the Governor and conditioned for the faithful discharge of the duties of his office.

[Acts 1925, S.B. 84.]

Art. 49. Clerks

Said commissioner shall appoint one chief clerk, who shall possess a practical knowledge of agriculture, horticulture, manufacturing and kindred industries, and the proper methods of marketing the products of said industries. He may appoint such other clerks as the labors of his office may require. All clerks shall be removable at the pleasure of the commissioner.

[Acts 1925, S.B. 84.]

Art. 50. Chief Clerk

The chief clerk shall possess all the powers and perform such duties as may be prescribed by the commissioner, and all duties attached by law to the office of commissioner during the necessary or unavoidable absence of the commissioner, or his inability to act for any cause. The commissioner shall be responsible for the acts of his chief clerk, who shall, before entering upon the duties of his position, take the oath required of the commissioner, and enter into bond in the sum of three thousand dollars with two or more sureties to be approved by the Governor, and payable to the State of Texas, conditioned for the faithful performance of his duties. His expenses while traveling on the business of the office, under the direction of the commissioner, shall be paid by the State.

[Acts 1925, S.B. 84.]

Art. 51. Duties

The duties of the commissioner shall be as follows:

1. He shall cause to be executed all laws in relation to agriculture.

2. He shall encourage the proper development of agriculture, horticulture and kindred industries.

3. He shall encourage the organization of agricultural societies; and, for the benefit of the agricultural communities, he shall cause to be held farmers' institutes at such times and at such places throughout the State as will best promote the advancement of agricultural knowledge and the improvement of agricultural methods and practices. He shall publish and distribute such papers and addresses read or delivered at these institutes as he shall deem to be of value to the farming interest.

4. He shall investigate the subject of sub-soiling, the problems of drainage and of irrigation, their relation to agriculture,

with a view to extending the area of the same, and the best modes of affecting each in the different portions of the State.

5. He shall investigate and report upon the question of broadening the market and of increasing the demand for cotton goods and all other agricultural and horticultural products, both in the United States and in foreign countries. He shall compile the statistics showing from abroad the number of bales of cotton consumed by the spinners, and demands for our cotton, the methods and course that sales to foreign countries now take, showing the purchasers, brokers, etc., through whose hands the cotton largely passes after leaving the producers, likewise showing in what countries an increased trade could be worked up, and thereby giving a better outlet for the trade and the best method to bring consumer and purchaser together, and all other information beneficial to farmers.

6. He shall cause to be investigated the diseases of grain, cotton, fruit, and other crops grown in this State, with a view to discovering remedies for such diseases. He shall also investigate the habits and propagation of the various insects that are injurious to the crops of this State, and the best methods for their destruction. The protection of fruit trees, shrubs and plants shall be under his direct supervision and control, and he shall have and exercise all the powers and perform all the duties in relation thereto, conferred or imposed by law.

7. He shall investigate the subject of grasses and report upon their value and the cultivation of the varieties best adapted to the different sections of the State. He shall collect and publish information relating to forestry, tree planting, the best means of preserving and replenishing forests, and shall encourage the planting and culture of nut trees and recommend such legislation as may be necessary for the protection, restoration and preservation of the forests of this State.

8. He shall inquire into the subjects connected with stock raising, dairying and poultry; the obtaining and rearing of such domestic animals and fowls as are of most value, and the breeding and improvement of the same. He shall encourage the raising of fish and the culture of bees.

9. He shall investigate and report upon the growing of wool, and the utility and profit of sheep raising; he shall also inquire into the culture of silk, its preparation for market and its manufacture.

10. He shall correspond with the department of agriculture at Washington, and with such departments of the several states and territories of the United States, and, at his option, with those of foreign countries, and with the representatives of the United States in foreign countries,

with the view of gathering information that will advance the interests of agriculture in Texas. He may also, for the same purpose, correspond with such organizations, societies, associations and individuals in the State as he may choose, having for their object the promotion of agriculture in any of its branches.

11. He shall collect and publish statistics and such other information regarding such industries of this State and of other states as may be considered of benefit in developing the agricultural resources of this State. He shall cause a proper collection of agricultural statistics to be made annually; and shall furnish blank forms to the tax assessors of each county before the first of January of each year, including forms as to the acreage in cotton, grain and other leading products of the State to be filled out by persons assessed for taxes, together with such instructions as will properly direct said assessor in filling them out. The heads of the several State departments, and of the State institutions, are required to furnish accurately such information as may be at their command whenever called upon for same by said commissioner. In the prosecution of his work, the commissioner is hereby empowered to enter manufacturing establishments chartered or authorized to do business in this State, and said corporations shall furnish such information as said commissioner may request of them.

12. He shall collect and publish statistics and other information regarding the irrigation of rice and other crops as may be of benefit in developing a more efficient system of laws safeguarding and defining the rights of users and sellers of water for irrigation purposes; he may employ a competent engineer and expert, possessing a practical knowledge of the application of irrigation to the raising of rice and other crops, for the purpose of assisting him in performing the duties required of him in this article, and he shall make up and file an annual report on same with such recommendations as he may deem beneficial to the industry, which report shall be filed with the Governor and transmitted to the Legislature.

13. He shall make and publish such rules and regulations as he may deem necessary to carry into effect the provisions of this chapter.

[Acts 1925, S.B. 84.]

Art. 51-1. Repealed by Acts 1943, 48th Leg., p. 81, ch. 64, § 1

Art. 52. Repealed by Acts 1953, 53rd Leg., p. 31, ch. 25, § 1

Art. 53. Shall Make Report

The commissioner shall make and submit to the Governor, on or before the first day of No-

member of each year, a full report showing the work and expenditures of his office during the fiscal year preceding, which report shall be transmitted by the Governor to the Legislature. [Acts 1925, S.B. 84.]

Art. 54. Report Printed and Distributed

Under the direction of the Commissioner, the Board of Control shall cause to be printed annually not to exceed ten thousand copies of the annual report of said commissioner, said report to be distributed to the farmers through the farmers' institutes and other agricultural organizations or otherwise, at the discretion of the commissioner.

[Acts 1925, S.B. 84.]

Art. 55. Commissioner Shall Co-operate

No provision of this chapter shall be construed to in any way conflict with the scope and character of the work of the Agricultural and Mechanical College or of the agricultural experiment stations, but the said commissioner shall co-operate with the said college and said experiment stations in all lines looking toward the agricultural and horticultural interests of the State.

[Acts 1925, S.B. 84.]

Art. 55a. Grading and Classifying Rough Rice

Rice Grading Division; Appointment of Inspector-graders

Sec. 1. There is hereby created under the State Department of Agriculture what shall be known as the Rice Grading Division in the Division of Marketing; and it shall be the duty upon the passage of this Act for the Commissioner of Agriculture to appoint one Chief Rough Rice Inspector-grader, and it shall be further his duty to employ two assistants to such Inspector-grader, the salary of which shall be fixed by the Commissioner of Agriculture not to exceed Five Thousand (\$5,000.00) Dollars per annum which shall be paid in equal monthly installments.

Inspection and Grading

Sec. 2. It shall be the duty of the said Inspector and his assistants, under the direction and supervision of the Commissioner, to inspect and grade all rough rice grown in or produced in or imported into this State under such rules and regulations as said Commissioner may promulgate.

Cooperation with Federal Government or Agencies

Sec. 3. The Commissioner of Agriculture and the proper agencies of the Federal Government shall cooperate and work together with reference to the grading and inspection of such rice, and any certificate executed by an officer of the United States Government, or of the Commissioner, or any Inspector, or Assistant Inspector provided for herein, shall be admissible as evidence of the grade or classification and as to the truth of the contents thereof in any court of judicial proceedings in this State, provided herein that incorrectness, falsity or

lack of authenticity thereof may be shown. Said certificate shall be on the form prescribed by the United States Department of Agriculture and/or the Commissioner of Agriculture of the State of Texas.

Purpose of Act

Sec. 4. The purpose of this Act is to provide the rice farmers of Texas an inspector for the purpose of grading and classifying rough rice produced in Texas; and this Act shall not be considered as creating any office in the State of Texas, or causing any expense whatever to the State Government; but all expenses in administering this Act shall be borne by the rice farmers of Texas, through the Rice Growers' Association.

[Acts 1931, 42nd Leg., p. 299, ch. 176.]

Art. 55b. Repealed by Acts 1933, 43rd Leg., p. 10, ch. 8, § 1

Art. 55c. Financing Programs to Encourage Production, Marketing and Use of Agricultural Commodities; Referendum; Exemptions; Political Activity; Budget Approval

Statement of Policy

Sec. 1. It is declared to be in the interest of the public welfare of the State of Texas that the producers of any agricultural commodity be permitted and encouraged to develop, carry out, and participate in programs of research, disease and insect control, predator control, education, and promotion, designed to encourage the production, marketing, and use of such agricultural commodity. It is the purpose of this Act to provide the authorization and to prescribe the necessary procedures, whereby the producers of any agricultural commodity grown in this state may finance programs to achieve the purposes herein expressed. It is the express intent of the Legislature that such programs may be devised to alleviate any circumstances or conditions which serve to impede the production, marketing, or use of any agricultural commodity.

Definitions

Sec. 2. In this Act, unless the context requires a different definition:

(1) "Agricultural commodity" means any agricultural, horticultural, viticultural, or vegetable product, bees and honey, planting seeds, livestock and livestock product, or poultry and poultry product, produced in this state, either in its natural state or as processed by the producer.

(2) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(3) "Board" means the commodity producers board for a particular agricultural commodity.

(4) "Processor" means any person within this state who is a purchaser, warehouseman, processor, or other commercial

handler of any agricultural commodity, or any person in this state who processes planting seeds, or any person within this state who is the mortgagee of any agricultural commodity, provided the mortgage did not cover the commodity in its state as a growing crop and provided the mortgage was executed at a time when the commodity was ready for marketing.

(5) "Producer" means any person within this state engaged in the business of producing, or causing to be produced for commercial purposes, any agricultural commodity.

(6) "Person" means any individual, firm, corporation, association, or any other business unit.

Exemptions

Sec. 2A. Rice, flax, broiler-fryers, and cattle are exempt from all provisions of this Act. The original referendum and subsequent biennial board elections may provide exemptions for producers within the boundaries of the assessment district, provided such exemptions are included in full written form on the election ballot and are approved by two-thirds or more of those voting in the election.

Petition for Certification by Producer Organization

Sec. 3. (a) Any non-profit organization, authorized under the laws of the State of Texas, representing the producers of a particular agricultural commodity, may petition the commissioner of agriculture for certification as the duly delegated and authorized organization of such producers, for the purpose of conducting a referendum either on an area or statewide basis, on the proposition of whether or not the producers of such agricultural commodity shall levy an assessment upon themselves to finance programs authorized by this Act.

(b) If the petition proposes a commodity producers board to represent a portion of the state, the petition must describe the boundaries of the area to be included. The petition must also propose either a 6, 9, 12, or 15-member board.

Action by Commissioner; Public Hearing; Certification of Organization

Sec. 4. Within 30 days after receiving the petition filed by the organization, the commissioner shall hold a public hearing to consider the petition. If the commissioner determines on the basis of testimony presented at the public hearing that the petitioning organization is representative of the producers of the particular agricultural commodity, within the boundaries set forth in the petition, and finds that the petition is in conformity with the provisions of this Act and the purposes herein stated, then he shall certify the organization as the duly delegated and authorized organization representative of the producers of such agricultural commodity, within the boundaries set forth in the petition, to conduct among the producers a

referendum and election for the purposes herein stated.

Authority of Certified Organization

Sec. 5. (a) Upon being certified by the commissioner, the organization is fully authorized to hold and conduct on the part of the producers of the agricultural commodity, within the boundaries set forth in the petition, a referendum on the proposition of whether or not such producers shall levy an assessment upon themselves, not to exceed a rate specified on the ballot, for the purposes stated in this Act.

(b) The certified organization is further authorized to hold and conduct, at the same time as the referendum, an election of members to a commodity producers board for the particular commodity, which shall have the responsibility of formulating and administering programs for the purposes stated in this Act.

Notice of Referendum and Election; Distribution of Ballots

Sec. 6. (a) At least 60 days before the date set for the referendum and election, the certified organization shall give public notice, as hereinafter provided, of the date, hours, and polling places for voting in the referendum and election; the estimated amount and basis of the assessment proposed to be collected; and a description of the manner in which the assessment, if authorized, shall be collected and the proceeds administered and utilized.

(b) The above notice shall be given by publication thereof in a newspaper or newspapers published and distributed within the boundaries set forth in the petition, for not less than once a week for three consecutive weeks. In addition, direct written notice shall be given to each county agent in any county within the boundaries set forth in the petition.

(c) The certified organization shall prepare and distribute in advance of the referendum and election all necessary ballots.

Nomination of Candidates

Sec. 7. (a) Following the certification of an organization by the commissioner, and the issuance of notice by the certified organization of the holding of a referendum and election, any producer of the particular agricultural commodity who is qualified to vote at the referendum and election, if he desires to be a candidate for membership on the commodity producers board, shall file with the certified organization an application to have his name printed on the ballot to be used at the referendum and election. The application must be signed by the candidate and by at least 10 producers of such agricultural commodity who are qualified to vote at the referendum and election, and must be filed at least 30 days prior to the date set for the election.

(b) No candidate, unless so nominated, shall have his name placed on the official ballot. However, this does not prevent the writing of the name of any candidate on such ballot by

any qualified voter at the election, and spaces shall be provided on the ballot for such write-in candidates.

Basis of Referendum and Election; Eligibility of Voters; Expenses

Sec. 8. (a) Any referendum and election conducted under the provisions of this Act may be held either on an area or statewide basis, as determined by the certified organization in its petition to the commissioner of agriculture, and if approved by him at the public hearing herein provided for.

(b) All producers of the particular agricultural commodity, within the area defined in the call for the referendum and election, including owners of farms on which such commodity is produced, and their tenants and sharecroppers, are eligible to vote in the referendum and election if such producer would be required under the referendum to pay the assessment proposed.

(c) All expenses incurred in connection with the referendum and election shall be borne by the certified organization, but the organization may be reimbursed for actual and necessary expenses out of funds received and deposited in the treasury of the commodity producers board for such commodity, in the event the assessment is levied and subsequently collected.

Conduct of Election; Ballots; Canvass; Reporting

Sec. 9. The commissioner shall make and publish rules to regulate the form of the ballot, the conduct of the election, the canvass of the returns, and the reporting of the returns to the commissioner. The purpose of the commissioner's rules is to insure efficient and honest elections and efficient canvassing and reporting of the returns. The ballot shall have a space for the voter to certify the volume of his production of the commodity within the area described in the referendum petition during the preceding year or other relevant production period as designated on the ballot. In any contest of the election, if it is determined that on any ballot the voter has overstated his volume of production by more than 10 percent, the ballot shall be declared void and the results adjusted accordingly. Any other error in stating volume of production is not grounds for invalidating the ballot, but the error shall be corrected on the returns and the total results adjusted accordingly.

Findings of Commissioner

Sec. 10. On receiving the report of the returns of an election, the commissioner shall determine:

- (1) the number of votes cast for and against the referendum proposition;
- (2) the total volume of production of the commodity during the last preceding calendar year or relevant production period in the area defined in the petition for certification;

(3) the percentage of the total volume of production which was produced by those voting in favor of the referendum proposition; and

(4) the 6, 9, 12, or 15 candidates, whichever is applicable, receiving the highest number of votes for membership on the commodity producers board.

Result Certified

Sec. 11. If the commissioner finds that two-thirds or more of those voting in the election voted in favor of the referendum proposition, or that those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the last preceding calendar year or relevant production period, he shall publicly certify the establishment of the commodity producers board and issue certificates of election to those elected members of the board as determined under Section 10(4) of this Act. Otherwise, the commissioner shall publicly certify that the referendum proposition was defeated.

Commodity Producers Board Established

Sec. 12. If the commissioner certifies establishment of the commodity producers board, the board is established and it has all the powers and duties prescribed by this Act. The board is an agency of the state for all purposes and is exempt from taxation in the same manner and to the same extent as are other agencies of the state.

Terms of Office; Officers; Subsequent Elections; Vacancies; Quorum; Compensation

Sec. 13. (a) On receiving certificates of election from the commissioner, the members of the commodity producers board shall meet and organize. Members shall be divided into three classes by drawing lots. Those of class one hold office for two years beginning on the date the certificates of election were issued. Those of class two hold office for four years, and those of class three hold office for six years. Each member holds office until his successor is elected and has qualified. Successors hold office for terms of six years.

(b) The board shall elect from its number a chairman, a secretary-treasurer, and such other officers as it may deem necessary. The secretary-treasurer shall execute a corporate surety bond in such amount as may be required by the board. The condition of such bond shall be that he will faithfully account for all money which shall come into his custody. The bond shall be filed with the commissioner.

(c) The commodity producers board shall call and hold elections biennially for the purpose of electing members to the board. The giving of notice and the holding of the election are governed by the applicable provisions of this Act relating to the first election, and, to the extent necessary, by rules of the commissioner.

(d) In the event of a vacancy on the board, the board shall fill the vacancy by appointment for the unexpired term.

(e) A majority of the members of the board constitute a quorum for the transaction of any business; and for any action of the board to be valid, a majority vote of all members present shall be necessary.

(f) Members of the board shall receive no compensation for their services, but shall be entitled to receive all reasonable and necessary expenses incurred in the discharge of their duties.

Powers and Duties of Board

Sec. 14. A commodity producers board for any particular agricultural commodity has the following powers and duties:

(1) to employ necessary personnel, fix the amount and manner of their compensation, and incur other expenses that are necessary and proper to enable the board to effectively carry out the purposes of this Act;

(2) to promulgate and adopt reasonable rules and regulations, not inconsistent with the purposes of this Act;

(3) to keep minutes of its meetings, and other books and records which will clearly reflect all of the acts and transactions of the board, and to keep these records open to examination by any producer participant during normal business hours;

(4) to set the rate of the assessment which shall, however, in no instance exceed the maximum amount established in the election authorizing the assessment or at subsequent elections establishing a maximum rate;

(5) to act jointly and in cooperation with others, or separately, for the purpose of developing, carrying out, and participating in programs of research, disease and insect control, predator control, education, and promotion, designed to encourage the production, marketing, and use of the commodity upon which the assessment is levied; and

(6) to submit to the commissioner, within 30 days after the end of each fiscal year of the board, a report itemizing all income and expenditures and describing the activities of the board during the fiscal year.

Political Activity

Sec. 14A. No funds assessed and collected under this Act shall be expended for use directly or indirectly to promote or oppose the election of any candidate for public office or influence legislation. Any member of any commodity producers board who wilfully spends or assists in spending any money in violation of this section, or who participates in a regular, special, or called meeting or session of the board in which money is authorized or directed to be expended in violation of this section, without causing or attempting to cause his dissent to be entered in the record or minutes of the board, is guilty of a misdemeanor and upon

conviction is punishable by a fine of not less than \$100 nor more than \$1,000.

Collection of Assessment; Refund

Sec. 15. (a) The levying of an assessment which has been authorized by referendum vote shall be made and collected as provided in this section.

(b) The board shall determine the commodity process point at which collection of the assessment shall be made, except that when the producer and processor are the same legal entity the processor shall collect the assessment at the time of processing, also, except that when a producer retains ownership after processing, the processor shall collect the assessment at time of processing and the secretary-treasurer of the board shall notify all such processors at that point of process, by registered or certified mail, that on and after the date specified in the letter, the processor, when making any purchase of the commodity or advancing any funds therefor, shall collect the assessment from the producer by deducting the amount thereof from the purchase price or funds advanced at that process point.

(c) The amount of the assessment collected shall be clearly shown on the sales invoice or other document evidencing the transaction, and a copy of such receipt shall be furnished the producer by the processor.

(d) The processor collecting the assessment shall remit such funds monthly, not later than the 10th day of the month following that in which they were collected, to the secretary-treasurer of the commodity producers board for such commodity, unless otherwise provided in the original referendum which authorized creation of the assessment district.

(e) The secretary-treasurer shall deposit all money received by the board under this Act, including assessments, donations from individuals, concerns, or corporations, and grants from state or other governmental agencies, in a bank selected by the board. The money shall be expended for the purposes specified in this Act.

(f) Any producer who has paid such assessment may, if he desires to do so, obtain a refund of the amount paid, if application for a refund is made within 60 days after the date of payment. Such application shall be in writing on a form designed and furnished for such purpose by the commodity producers board. The application shall be filed with the secretary-treasurer of the board, accompanied by proof of the payment of the assessment, and it is the duty of the secretary-treasurer to promptly pay the refund to the producer not later than the 10th day of the month following the month in which the application and proof of payment is received.

Increase of Assessment

Sec. 15A. The board may at any biennial board election submit a proposition to increase the rate of assessment. If two-thirds or more

of those voting in the election vote in favor of the proposition, or if those voting in favor of the proposition produced at least 50 percent of the volume of production of the commodity during the last preceding calendar year or relevant production period, then the new assessment shall be in force.

Budget Approval

Sec. 15B. The Board of any producer of agricultural commodity shall prepare a budget in advance of the expenditure of any funds which shall be filed with the Commissioner of Agriculture. The Commissioner of Agriculture shall review the budget and shall approve or reject the budget. Once approval of the budget is obtained, then the funds may be expended. All funds are subject to audit by the State Auditor.

Geographic Representation on Board

Sec. 15C. Subject to any rules and regulations that may be prescribed by the commissioner, and subject to the approval of the commissioner in each case, the board may provide for the election of all or part of its members from specified geographical areas, which may be referred to as districts. Any such plan, once adopted, may be modified from time to time with the approval of the commissioner. If a geographical representation plan is adopted, only those persons who reside in a district and are entitled to vote in the election may be candidates for member of the board to represent that district; and only those may vote for candidates to represent the district. Subject to these same provisions, applied to the certified organization, geographic representation may be instituted in the referendum and election to establish a commodity producers board. If geographical representation is adopted, all provisions of this Act remain applicable to the extent they may be made applicable.

Discontinuance of Assessment

Sec. 16. The levy and collection of an assessment which has been authorized by referendum vote as herein provided shall be terminated if a simple majority of the qualified voters voting in a referendum, held upon the petition of 10 percent of the producers participating in the program, shall vote in favor of termination. Such a petition shall be filed with the secretary-treasurer of the board, and it shall be the duty and responsibility of the board to call and hold a referendum for such purpose, after giving notice in the manner provided for the original referendum. A referendum on the discontinuance of the levying and collecting of an assessment shall be held within 90 days of the date of filing of the petition. The referendum shall be held and the results declared in the manner provided for the original referendum, with any necessary exceptions as provided by rule of the commissioner.

Penalty

Sec. 17. A person who violates any provision of this Act is guilty of a misdemeanor and

upon conviction is punishable by a fine of not less than \$50 nor more than \$200, or by imprisonment in the county jail for not less than 10 days nor more than six months, or by both.

Other Remedies

Sec. 17A. (a) The board may investigate conditions that relate to the prompt remittance of the assessment by any producer or processor. When it appears that any person has failed to remit to the board the assessment as required by this Act, the board may independently institute proceedings, or request the Attorney General and/or county or district attorney having jurisdiction to institute proceedings in the board's behalf, in a court of competent jurisdiction in Travis County or in the county in which the violation occurred to recover for the board all money due and owing to the board by virtue of the violation, and for injunctive and other relief as appropriate.

(b) A violation of this Act is grounds for suspension or revocation of any license or permit issued by the commissioner according to the same procedures otherwise provided for suspension or revocation.

(c) The remedies provided by this section are cumulative of other remedies provided by this Act or other law.

Adding New Territory

Sec. 17B. (a) Producers of an agricultural commodity in an area not within the jurisdiction of a commodity producers board for that commodity may petition for the conduct of a referendum within the area specified in the petition on the issue of whether or not the area shall be included within the jurisdiction of the board. The petition must be submitted to the commissioner at least 105 days before the date of the biennial election of members of the board.

(b) If the commissioner determines that in the area described in the petition there exists among the producers of the commodity an interest in becoming subject to the jurisdiction of the board that is substantial enough to justify a referendum, he may transmit the petition to the board with an order authorizing the board in its discretion to conduct the referendum at its own expense. The petition and order must be transmitted at least 75 days before the date of the biennial election of members of the board.

(c) The board shall give public notice, as hereinafter provided, of the date of the election, which shall be the date of the biennial election of members of the board; the amount and basis of the assessment collected by the board; a description of the manner in which the assessment is collected and the proceeds administered and utilized; and any other proposition the board proposes to include on the ballot as authorized or required by this Act. The notice shall be given by publication thereof in a newspaper or newspapers published and distributed, or having general circulation,

within the boundaries set forth in the petition, for not less than once a week for three consecutive weeks beginning at least 60 days before the date of the regular biennial election. In addition, direct written notice shall be given to each county agent in any county within the boundaries set forth in the petition, at least 60 days before the date of the regular biennial election.

(d) At any time after the first publication of the notice, any producer of the agricultural commodity in the area set forth in the petition who is qualified to vote at the referendum, if he desires to be a candidate for membership on the board, shall file with the board an application to have his name printed on the ballot to be used at the election. The application must be signed by the candidate and by at least 10 producers of the commodity in that area who are qualified to vote at the election, and must be filed at least 30 days prior to the date of the election. If a geographical representation plan is in effect, this subsection applies only to candidacy for at-large positions and only if the board has one or more at-large positions.

(e) A person is qualified to vote in the referendum if he is, or for at least one production period during the three years preceding the referendum has been, a producer of the particular agricultural commodity within the area described in the petition, the owner of a farm on which the commodity is produced, or his tenant or sharecropper.

(f) The conduct of the election in the area set forth in the petition shall be as prescribed by Section 9 of this Act and by rules promulgated under that section. In addition to the referendum proposition of whether or not the proposed area shall be added to the jurisdiction of the board, the voters qualified to vote in the election are entitled to vote for candidates for membership on the board, but only candidates for at-large positions if a geographical representation plan is in effect, and on any other proposition printed on the ballot for the regular biennial election of the board. The ballots cast in the area set forth in the petition shall be canvassed and the returns reported separately. As to these returns, the board shall perform the functions described by Sections 10 and 11 of this Act with respect to the original election, which govern to the extent applicable, except that the board shall certify whether the referendum proposition was carried or defeated in the area set forth in the petition.

(g) If the referendum proposition was defeated, then the ballots cast in the area set forth in the petition shall not be counted for any other purpose. If the proposition was carried, the returns shall be included in determining the election of directors and any other proposition included on the ballot; and the area set forth in the petition becomes subject to the jurisdiction of the board on the day following the date the result is certified.

[Acts 1967, 60th Leg., p. 1052, ch. 462, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2395, ch. 806, §§ 1, 2, eff. June 14, 1969; Acts 1971, 62nd Leg., pp. 2401 to 2404, ch. 754, §§ 1 to 8, eff. Aug. 30, 1971.]

Art. 55c-1. Boll Weevil Control Act

Short Title

Sec. 1. This Act may be cited as the Texas Boll Weevil Control Act.

Public Nuisance

Sec. 2. The *Anthonomus grandis* Boheman, known as the boll weevil, is hereby declared to be a public nuisance and a menace to the cotton industry, and its eradication is a public necessity.

Authority of Commissioner of Agriculture

Sec. 3. (a) The commissioner shall enforce the rules and regulations relating to control and eradication of the boll weevil that may be promulgated by any cotton producers board and that are approved by the Commissioner of Agriculture, if the cotton producers board has been established under Chapter 462, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 55c, Vernon's Texas Civil Statutes).

(b) For the purpose of investigating compliance with the rules and regulations of a cotton producers board referred to in Subsection (a) of this section, the commissioner, his authorized agents, or both may enter into any field of cotton or on any premises in which cotton or its products may be stored or held and may examine any products or container of cotton or thing or substance that is liable to be infested with the boll weevil.

Penalty

Sec. 4. A person who violates any rule or regulation relating to the control and eradication of the boll weevil promulgated by a cotton producers board under the authority of Chapter 462, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 55c, Vernon's Texas Civil Statutes), commits a misdemeanor punishable by a fine of not less than \$50 nor more than \$200; and a separate offense is committed each day a violation continues.

Condition to Commissioner's Authority

Sec. 5. Regardless of any other provision of this Act, the commissioner of agriculture has no authority under this Act unless or until the establishment of a cotton producers board is certified pursuant to the referendum provisions of Chapter 462, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 55c, Vernon's Texas Civil Statutes).

Severability

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end

the provisions of this Act are declared to be severable.

[Acts 1973, 63rd Leg., p. 1278, ch. 471, eff. June 14, 1973.]

Art. 55d. "Texas Agricultural Product"; Use of Term; Regulation; Penalty

Sec. 1. The Commissioner of Agriculture by rule shall regulate the use of the term "Texas Agricultural Product" and any symbol connected with that term in the selling, advertising, marketing, and other commercial handling of food and fiber products.

Sec. 2. A person who violates any rule promulgated by the Commissioner under this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200.

Sec. 3. On the request of the Commissioner, the Attorney General shall sue in a court of competent jurisdiction to enjoin any violation or threatened violation of a rule promulgated under this Act.

[Acts 1971, 62nd Leg., p. 1083, ch. 232, eff. May 17, 1971.]

Art. 55e. Agricultural Marketing Act of 1973

Short Title

Sec. 1. This Act may be cited as the Texas Agricultural Marketing Act of 1973.

Purpose

Sec. 2. It is declared to be the policy of the State of Texas to foster, encourage, and assist agricultural producers and handlers in preventing or correcting adverse market conditions, preventing economic waste and developing more efficient and equitable methods of marketing agricultural commodities, expanding markets for agricultural products grown in this state, and to insure to the consumers of agricultural commodities in this state the availability of high-quality products marketed to meet the needs of the consuming public.

Definitions

Sec. 3. In this Act:

(1) "Agricultural commodity" means any fruit or vegetable, either in its natural state or in processed form, produced in this state for commercial purposes. Agricultural commodity does not include cotton or any byproduct of cotton.

(2) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(3) "Person" means any individual, corporation, association, partnership, or other business unit, except a cooperative marketing association.

(4) "Producer" means any person engaged in the business of growing, cultivating, or raising, or causing to be grown, cultivated, or raised, any agricultural commodity.

(5) "Handler" means any person engaged in the business of distributing an

agricultural commodity in intrastate commerce, including a commission merchant and a wholesaler, or any person engaged in the business of processing, receiving, grading, packing, canning, preserving, grinding, crushing, or changing the form of an agricultural commodity for the purpose of marketing it in intrastate commerce. A handler does not include, however, any person engaged in manufacturing from an agricultural commodity, so changed in form, another and different product.

(6) "Marketing order" means an order issued by the commissioner, under the requirements of this Act, which prescribes rules and regulations governing the distributing, handling, or processing in any manner of an agricultural commodity within this state during a specified period.

(7) "Marketing program" means the administration of the terms of a marketing order under procedures authorized by this Act.

(8) "Marketing committee" means an administrative body organized as specified in a marketing order or as otherwise authorized by this Act to administer a marketing program in conjunction with the state department of agriculture.

(9) "Directly affected" means regulated under the terms of a marketing order adopted under the provisions of this Act.

(10) "Lot" means a unit into which items, similar or identical in nature and produced by one person, are grouped or consolidated, whether in one or more containers or parcels, for packaging or transporting; or a cluster of items, similar or identical in nature and produced by one person, which are included in the same shipping order, bill of lading, order of consignment, or other itemized transport order.

Exceptions

Sec. 4. This Act does not apply to:

(1) any order, rule, or regulation issued by the Public Utilities Commission or the Interstate Commerce Commission with respect to the operation of common carriers;

(2) any retailer of an agricultural commodity, except to the extent that the retailer also is a producer or handler of an agricultural commodity; or

(3) (A) any person that makes only casual sales of an agricultural commodity; or

(B) any person whose sales or marketings of an agricultural commodity are incidental to urban home ownership or are the result of activity other than a commercial farm or business venture.

Lists of Producers and Handlers

Sec. 5. The commissioner shall compile lists of producers and handlers of agricultural

commodities. The lists must include the names and addresses of producers and handlers and the volume of each agricultural commodity that each listed person produced or handled in the last preceding marketing season. In compiling the lists, the commissioner shall receive any requested assistance from trade associations, cooperative marketing associations, and handlers. A producer or handler omitted from any of the lists may petition the commissioner to be included on a list at any time. On receipt of substantiation that the petitioner is a producer of an agricultural commodity and that the reported volume figures are correct, the commissioner shall add the petitioner's submitted data to the lists. Information as to the volume of agricultural commodities produced or handled by a single person is confidential and may be used only in the administration of this Act by the commissioner, his agents, a marketing committee, or any other person named in a court order. Lists of names and addresses of producers and handlers are public records and shall be made available for public inspection in the commissioner's office during normal working hours. The omission of any producer or handler from a list established by this section is not a ground for voiding, altering, or delaying the execution of any marketing order promulgated under the provisions of this Act.

Petition for Marketing Order

Sec. 6. (a) On the filing with the commissioner of a petition for the institution of a marketing order or for the amendment of a marketing order, the commissioner shall give notice of a public hearing on the proposed marketing order, if the petition satisfies the requirements of this section.

(b) The petition must be signed by at least:

(1) 25 percent of the producers listed by the commissioner as producers of the agricultural commodity; and

(2) 25 percent of the handlers listed by the commissioner as handlers of the agricultural commodity.

(c) A petition is not sufficient to initiate any action by the commissioner unless:

(1) those producers who have signed the petition constitute a group which in the aggregate produced at least 25 percent of the total state production of the agricultural commodity during the last preceding marketing season; and

(2) those handlers who have signed the petition constitute a group which in the aggregate handled at least 25 percent of the total state production of the agricultural commodity handled during the last preceding marketing season.

(d) The petition must contain or be accompanied by the following:

(1) the name of the agricultural commodity involved and a description of the

proposed territory to be included in the provisions of the order;

(2) a general statement of facts which sets forth the necessity for the order or amendment; and

(3) a draft of a proposed new marketing order or proposed amended marketing order, or a statement of the principal features to be included in the marketing program as proposed or amended.

Notice of Public Hearing

Sec. 7. (a) The commissioner shall give notice of a public hearing, as required by Section 6 of this Act, by publishing the notice in a newspaper of general circulation in the capital of the state, and in at least one other newspaper of general circulation elsewhere in the state, for a period of five consecutive days. The commissioner shall also mail a copy of the notice of hearing and a statement of the proposed order or amendments, or the principal features of the proposed order or amendments, to each listed producer or handler of the agricultural commodity who would be directly affected. The notice shall be first published and mailed no later than 10 days before the date of the hearing.

(b) The notice of hearing shall set forth all of the following:

(1) the date and place of the hearing, to be determined as stated in the petition, unless the date conflicts with the requirements of Subsection (a) of this section, in which case the commissioner shall set the date for the hearing;

(2) the agricultural commodity and the territory to be affected; and

(3) a statement that the commissioner will receive at the hearing, in addition to testimony concerning the appropriateness of proposed provisions of the order, testimony and evidence concerning the accuracy of the commissioner's lists of producers and handlers.

Public Hearing

Sec. 8. (a) At a public hearing on a proposed new marketing order or amendments to an existing order, all testimony shall be received under oath. A record of the proceedings at the hearing shall be made and maintained on file in the office of the commissioner.

(b) The commissioner shall receive at a hearing, in addition to other necessary and relevant matters, evidence concerning the following:

(1) the accuracy of the commissioner's lists of producers and handlers;

(2) evidence concerning the appropriateness of proposed provisions or features of a new or amended marketing order and program; and

(3) evidence concerning the method of voting by producers and handlers on any

proposed order if adopted by persons attending the hearing.

(c) The commissioner may determine the validity of any challenges to the accuracy of the commissioner's lists of producers and handlers. The decision is subject to subsequent review by a court of competent jurisdiction. Persons attending the hearing may determine, by a majority vote of those present, what provisions, if any, of a proposed order shall be submitted to a vote of the producers and handlers of the agricultural commodity involved that would be directly affected by the order. These provisions, however, are subject to approval or rejection, but not modification, by the commissioner. If the commissioner approves the proposals for submission to a vote of the producers and handlers directly affected, he shall make a finding that the proposed marketing order is consistent with the protection of the health, safety, and general welfare of the people of this state. Persons attending the meeting also shall choose, from the alternative methods authorized in Section 9 of this Act, the method of submitting any proposed order to a vote of the producers and handlers involved. No proposed marketing order may be submitted to a vote of producers and handlers for approval or rejection until the commissioner certifies that the costs of administering the program, including the costs incurred for the labor to be employed from the department of agriculture, are met by the proposed assessments, or proposed maximum rate of assessments, in the marketing order, levied against producers or handlers of the agricultural commodity.

Methods of Voting on Marketing Order

Sec. 9. (a) The method by which a proposed marketing order shall be submitted to a vote of the producers and handlers of the agricultural commodity involved in the territory included in the proposed order may be one of the following:

(1) voting by the filing of written assents to the order as proposed; or

(2) voting by referendum on the order as proposed.

(b) On the adoption of a method of voting on the proposed marketing order, the commissioner shall prepare a notice of election and shall send a copy of the notice and a proper ballot form to each producer and handler whose name and address appear on the commissioner's lists of producers and handlers and who would be directly affected by the institution of the marketing order and program. The commissioner shall conduct the election in the manner chosen at the hearing and shall certify the accuracy of the results. Each person who is a producer and would be directly affected by the proposed marketing order is entitled to one vote; and each person who is a handler and would be directly affected by the proposed marketing order is entitled to one vote. No person is entitled to more than two votes.

(c) A proposed new or amended marketing order is adopted at the election if:

(1) when the election is conducted by the filing of written assents:

(A) a majority of the producers entitled to vote in the election assent;

(B) a majority of the handlers entitled to vote in the election assent;

(C) the producers assenting to the order, as a group, produced 65 percent or more of the total production of the agricultural commodity affected during the latest marketing season; and

(D) the handlers assenting to the order, as a group, handled 65 percent or more of the total production of the agricultural commodity affected and handled during the latest marketing season; or

(2) when the election is conducted by a referendum:

(A) 40 percent or more of the producers entitled to vote in the election cast ballots;

(B) 40 percent or more of the handlers entitled to vote in the election cast ballots;

(C) a majority of the producers and a majority of the handlers voting in the election approve of the order;

(D) the producers voting in the election in favor of the order, as a group, produced 65 percent or more of the total production of the agricultural commodity affected produced during the latest marketing season by all producers voting in the election; and

(E) the handlers voting in the election in favor of the order, as a group, handled 65 percent or more of the total volume of the agricultural commodity affected and handled during the latest marketing season by all handlers voting in the election.

Contents of Notice of Election

Sec. 10. The notice of election required by Section 9 of this Act must contain, or be accompanied by:

(1) the text of the proposed marketing order;

(2) a statement of the method of voting employed and the requirements for approval of the order at the election;

(3) the address of the department of agriculture where ballots shall be received; and

(4) a statement of the date by which ballots must be received for counting by the commissioner, or mailed and post-marked for receipt, which date may not be less than 21 days nor more than 60 days from the date the ballots are sent.

Notice of Results of Election

Sec. 11. Notice of the results of any election on a proposed marketing order authorized by this Act shall be published by the commissioner, after he certifies the results, in a newspaper of general circulation in the capital of the state, and in at least one other newspaper of general circulation elsewhere in the state, for a period of five consecutive days, and a copy of the notice of election results shall be maintained and made available for public inspection during normal working hours in the office of the commissioner. The commissioner or his agents may not disclose information concerning the manner in which any certain person voted, except to the person himself or his attorney, or to any other person as directed by a court order.

Effective Dates of Marketing Order

Sec. 12. A marketing order approved by election as required by this Act takes effect 15 days after the last day of publication by the commissioner of the notice of election results, or on a date thereafter specified in the marketing order. A marketing order shall be in operation for five years from the effective date, unless a shorter period is provided in the order or unless the order is formally terminated.

Provisions of Marketing Order

Sec. 13. (a) A marketing order adopted under the provisions of this Act may contain provisions concerning the following:

(1) A marketing order may provide for limiting the total quantity of any agricultural commodity, or of any grade, size, or quality of it, which may be marketed by producers, or processed, distributed, or otherwise handled within this state by any producer or handler engaged in marketing, processing, distributing, or handling.

(2) A marketing order may provide for allotting the quantity of any agricultural commodity, or of any grade, size, or quality of it, which each handler may purchase or acquire from, or handle on behalf of, any producer of the commodity within this state, applicable to all handlers so regulated based on the amounts produced or sold by producers in a marketing period (either the last preceding marketing season or another period which the commissioner finds to be representative) to the end that the total quantity of the agricultural commodity, or of any grade, size, or quality of it, which is purchased or handled within this state is apportioned equitably among the producers of the commodity.

(3) A marketing order may provide for determining the existence and extent of the surplus of any agricultural commodity, or of any grade, size, or quality of it, and providing for the control and disposition of a surplus, and for equalizing the burden of the surplus elimination or control, and equalizing any proceeds from the elimina-

tion or control, among the producers, processors, distributors, or other handlers affected.

(4) A marketing order may provide for allotting the quantity of any agricultural commodity, or any grade, size, or quality of it, which each handler may process, distribute, or handle within this state, under a rule applicable to all handlers so regulated, based on the quantities of such commodity, or of any grade, size, or quality of it, of the current season's crop which each such handler has available for processing, distribution, or handling, or based on the quantities of the commodity, or of any grade, size, or quality of it, which was processed, distributed, or handled by each handler in a prior period which the commissioner finds to be representative, to the end that the total quantity of the commodity, or of any grade, size, or quality of it, processed, distributed, or handled within this state is equitably apportioned among all such handlers of the commodity.

(5) A marketing order may provide for establishing, with respect to any agricultural commodity, as delivered by producers to handlers of any kind or as handled or otherwise prepared for market or as marketed by producers or handlers, both of the following:

(A) grading standards of quality, condition, size, maturity, or pack, which standards may include minimum standards not below any minimum standards otherwise prescribed by law for the commodity; and

(B) uniform and grading of the agricultural commodity in accordance with the standards which are established.

(b) A marketing order adopted under the provisions of this Act shall contain provisions concerning the following:

(1) A marketing order shall provide that the provisions of the order be applied under a uniform rule applicable to all persons of a like class.

(2) A marketing order shall define the territory to be included within the terms of the order and program. The territory may be the entire state or a designated portion described by county boundaries.

(3) A marketing order shall determine the assessment, or the maximum rate of any assessment, which may be collected for the administration of the order and marketing program.

(c) A marketing order adopted under the provisions of this Act may specifically delegate the authority for instituting any of the provisions permitted by Subsection (a) of this section to a marketing committee set up to act with the department of agriculture in administering the marketing program.

Disposition of Surplus Commodities

Sec. 14. (a) A marketing order which contains provisions for disposing of the surplus of the agricultural commodity, or of any grade, size, or quality of it, or which delegates to a marketing committee the power to initiate a disposal program, shall further provide that the disposal of surplus be accomplished by one or both of the following methods:

(1) Provision may be made for the creation of a stabilization fund to be used for purchasing or otherwise acquiring any portion of the surplus of any agricultural commodity either in fresh or processed form, except when processed in airtight containers, and for the diversion of the surplus quantity of the commodity which is so acquired into noncompetitive uses or for disposing of such surplus in noncommercial channels. Money for the stabilization fund shall be provided by means of the establishment of an assessment rate for such purpose levied on both producers and handlers. The assessment rate shall be based on the units in which such commodity is handled or marketed or on any other uniform basis which the commissioner determines to be reasonable and equitable. For convenience of collection, the commissioner may collect any producer assessments from handlers of such commodity. Handlers paying such assessments for, and on behalf of, any producers may deduct producer assessments from any money which is owed by the handlers to the producers.

(2) Provision may be made for the establishment of byproduct pools for any agricultural commodity, or of any grade, size, quality, or condition of it, and providing for the sale of the commodity in any pool and for the equitable distribution among the persons that are participating in the pool of the net returns which are derived from the sale of the commodity. If the marketing order authorizes the establishment of a pool, the marketing committee may receive the commodity from each producer or handler and handle it according to the grade, size, quality, or condition of the commodity and account to each producer or handler participating in the pool on a pro rata basis for the net proceeds derived from the sale of the commodity. The contents of any surplus pool shall not be marketed by the marketing committee in any form which would compete directly with that portion of the commodity which is marketed in regular channels of trade. However, any portion of a surplus pool may be transferred by the marketing committee on any gratuitous basis to charitable organizations and other similar agencies under proper safeguards to insure that none of the commodity shall compete directly with the unrestricted portion of the commodity.

The marketing committee may dispose of the contents of a byproduct pool in the regular marketing channels in such manner and at such times as it deems advisable, consistent with the maintenance of stabilized marketing conditions for the commodity.

(b) If the marketing order authorizes the establishment of a stabilization fund or byproduct pool, the marketing committee may do any of the following:

(1) Arrange for and operate facilities necessary for the storing, financing, grading, packing, servicing, processing, preparing for market, selling, and disposing of the contents of any pools which are provided for in this section. The committee may not, however, engage in commercial warehousing.

(2) Pledge all of the commodity in any pool with banks or other lending agencies for the purpose of obtaining loans on it. The committee shall have title, for the purpose of financing and handling, to all of the commodity in any pool.

(3) Create, by a uniform assessment on producers, or by some other uniform and equitable method maintain, and disburse an equalization fund to be used for:

(A) the removal of any inequalities between producers or handlers that are participating in any pool which result from errors in estimating production or surplus;

(B) indemnifying producers whose production, in whole or in part, is diverted from normal marketing outlets or diverted to byproducts;

(C) relief; or

(D) other noncompetitive purposes under the provisions of the marketing order.

Marketing Committee

Sec. 15. (a) In conjunction with the implementation of a marketing order and program, the commissioner shall appoint a marketing committee to assist the state department of agriculture in administering the marketing program. The membership of the committee shall consist of producers and handlers of the commodity involved in the territory regulated by the marketing order. A marketing order may provide for the appointment of members from nominations made by the producers and handlers and may prescribe the method of nomination. Members shall serve at the pleasure of the commissioner.

(b) A member of a marketing committee may not receive a salary for the position but is entitled to actual expenses incurred in the performance of his duties as authorized by this Act.

(c) The marketing committee is under the control of the commissioner, who may prescribe its duties in the administration of the program. The marketing committee has such

other powers as may be prescribed as authorized by this Act in the marketing order. Duties may include gathering of information necessary to the administration of the program, assisting in the collection of assessments from producers and handlers, and receiving and reporting complaints of violations of the marketing order.

(d) The commissioner may authorize a marketing committee to employ necessary personnel, including attorneys engaged in the private practice of the law, and fix their compensation and terms of employment, and to incur expenses, to be paid by the commissioner from money collected as provided by this Act, as the commissioner deems necessary and proper to enable the committee to perform its duties authorized by this Act.

(e) The members and employees of a marketing committee are not responsible individually in any way to any person for any act performed in the course of their duties that was legally authorized by the committee.

Assessments and Funds

Sec. 16. (a) Each marketing order issued under this Act shall provide for the levying and collection of assessments in sufficient amounts to defray the necessary expenses incurred by the commissioner in the formulation, issuance, administration, and enforcement of the marketing order.

(b) Each marketing order shall indicate the assessment, or the maximum rate of assessment, which may be collected. The amount of the assessment for necessary expenses may not, however, exceed the following:

(1) in the case of producers, 2½ percent of the gross dollar volume of sales of the agricultural commodity which is affected by all producers regulated by the marketing order; or

(2) in the case of handlers, 2½ percent of the gross dollar volume of purchases of the agricultural commodity which is affected by the marketing order from producers or of the gross dollar volume of sales of the agricultural commodity which is affected by the marketing order and handled by all handlers regulated by the marketing order during the marketing season during which the order is effective.

(c) The marketing committee shall recommend to the commissioner, from time to time, budgets to cover necessary expenses, and the assessment rates which are necessary to provide sufficient funds, not exceeding the assessment rate in the marketing order and not exceeding the maximum rate prescribed in Subsection (b) of this section. If the commissioner finds that the budget and assessment rates are proper and equitable and will provide sufficient funds to defray the expenses which may be incurred, he may approve the budget and assessment rate and order each producer and handler so assessed to pay to the commis-

sioner, at the rates and in the installments as the commissioner may prescribe, an assessment based on the units in which the agricultural commodity is marketed, or on any other uniform basis which the commissioner determines to be reasonable and equitable.

(d) Any assessment levied as provided in this section, in a specified amount as may be determined or approved by the commissioner under this section, is a personal debt of each person assessed. If any person assessed fails to pay the assessment on the due date for assessments which is determined by the commissioner, the commissioner may file a complaint against the person in the court of competent jurisdiction for the collection of the assessment. If any person duly assessed under the provisions of this section fails to pay to the commissioner the amount assessed on or before the date specified by the commissioner, the commissioner may add to the unpaid assessment an amount not exceeding 10 percent of the unpaid assessment to defray the cost of enforcing the collection of the unpaid assessment.

(e) The commissioner may require persons that are assessed under the provisions of this section to deposit with him in advance an amount for necessary expenses. The amount of any advance deposit shall be based on the estimated number of units to be marketed or handled by the person assessed, or on any other uniform basis which the commissioner determines is reasonable and equitable. The basis shall be applicable during the marketing season during which the marketing order is effective. At any time after the deposit funds credited to the administrative account of the marketing order are sufficient to so warrant, or at the close of the marketing season, the sums deposited by any person shall be adjusted to the amount which is properly chargeable against the person under the assessment which was authorized.

(f) For the convenience of making collections of any producer assessments established under this section, the commissioner may collect such assessments from the handlers of the commodity which is being regulated. Any handler that pays any of these assessments for and on behalf of any producer may deduct the producer assessments from any money owed by the handler to the producer.

(g) Any money collected by the commissioner under this section shall be deposited in a special fund created for marketing programs in the state treasury and shall be disbursed by the commissioner only for the necessary expenses incurred by the marketing committee which are approved by the commissioner with respect to each marketing order. The legislature may appropriate all of the funds credited to the special fund during any period, not exceeding two years, for the purpose of carrying out the provisions of this Act, including the making of refunds. The commissioner may, at the close of each fiscal period which is used by

the marketing committee for budgetary purposes, refund any money which remains in the fund allocable to any particular agricultural commodity which is affected by a marketing order or, on recommendation of the marketing committee with approval of the commissioner, all or a portion of the money may be carried over into the next succeeding fiscal period if the commissioner finds that such money is required to defray subsequent expenses under the marketing order. Any refund made under this section shall be made on a pro rata basis to persons whom, or on whose behalf, the assessments being refunded were collected. On termination of a marketing order, any remaining balances not required by the commissioner to defray expenses of the marketing order shall be returned by the commissioner on a pro rata basis to all persons from whom, or on whose behalf, such assessments were collected unless the commissioner finds that the amounts so returnable are so small as to make impractical the computation and remitting of the pro rata fund to such persons. In that event, after all expenses are deducted, the commissioner shall certify to the state treasurer that the funds are released from the special fund, and the funds shall go into the general revenue fund in the state treasury.

Deposits by Applicants for Marketing Order

Sec. 17. Prior to the issuance of any marketing order under this Act, the commissioner may require the petitioners for the issuance of the marketing order to deposit with him an amount he deems necessary to defray the expenses of preparing, adopting, and making effective the marketing order. The funds shall be received, deposited, and disbursed by the commissioner in accordance with the provisions of Section 16 of this Act.

Rules and Regulations

Sec. 18. The commissioner may make rules and regulations to provide uniform methods and procedures to facilitate the administration and enforcement of marketing orders and marketing programs. The uniform methods and procedures may include, but are not limited to, the following:

- (1) methods and procedures which pertain to the receiving, depositing, and expenditure of moneys which are received from assessments collected under this Act;
- (2) the preparation, handling, and payment of claim schedules for the payment of bills, salaries, and other obligations;
- (3) establishing the maximum rates to be allowed for travel expenses of marketing committee members and employees; and
- (4) the preparation, verification, and filing of evidence which relates to violations of marketing orders, and marketing rules which are authorized under this Act and other fiscal and administrative activi-

ties which the commissioner finds are necessary to obtain reasonable uniformity, efficiency, and economy in the administration and enforcement of marketing orders and marketing programs.

Amendments

Sec. 19. In making effective an amendment to a marketing order, the commissioner and the petitioner for an amendment shall follow the same procedures which are prescribed by this Act for the institution of a marketing order. The terms of provisions which are permitted by Section 13 of this Act to be decided by marketing committees and which are delegated to a marketing committee in a marketing order, however, may be altered by the marketing committee involved without reference to the procedures prescribed in this Act for the institution of a marketing order.

Termination

Sec. 20. (a) A marketing order may terminate in any of the following ways:

- (1) automatically on a date specified in the marketing order, which date is not more than five years after the effective date of the marketing order;
- (2) automatically at the end of five years from the effective date of the order, except as provided by Section 21 of this Act; or
- (3) by vote at an election on a proposed termination.

(b) On the filing with the commissioner of a petition for the termination of a marketing order, signed by not less than 35 percent of the producers and 35 percent of the handlers of the agricultural commodity, the percentage computed separately by number of producers or handlers and by volume of the product produced or volume handled in the last preceding market season, the commissioner shall give notice of a public hearing on the proposed termination of the marketing order. Notice of hearing shall be given as provided in this Act for the giving of notice of hearing on a new or amended marketing order. The public hearing shall be conducted as provided in this Act for the conducting of public hearings on new or amended marketing orders.

(c) If the persons attending the public hearing on the proposed termination of a marketing order approve termination, the commissioner shall submit the issue of termination to a vote of the producers and handlers of the agricultural commodity that are directly affected, in accordance with the applicable provisions of this Act establishing procedures and requirements for conducting elections on the issues of institution or amendment of a marketing order, except that the vote requirement for termination shall be a majority vote of the producers and a majority vote of the handlers approving termination, computed separately for each by number of votes and volume of the affected ag-

ricultural commodity produced and handled, the percentage based either on the total number of producers or handlers that are directly affected and are on the commissioner's lists, if voting by filing written assents is chosen at the public hearing, or based on the number of producers and number of handlers that are directly affected and vote, if voting by referendum is chosen at the public hearing.

(d) Notice of the results of an election on termination shall be published by the commissioner as provided in this Act for publication of results concerning a new or amended marketing order, and the effective date of termination shall be 15 days after the last day of publication.

Reapproval

Sec. 21. During the last year a marketing order is in effect according to its terms or as provided by this Act, the commissioner shall on his own initiative give notice of a public hearing on the issue of reapproval of the marketing order. The notice of hearing and conducting of hearing shall be held under the provisions of this Act for the notice of hearing and conducting of a public hearing on a new or amended marketing order. If the participants at a public hearing approve, the issue of reapproval of the marketing order shall be submitted by the commissioner to a vote of the producers and handlers affected, the election to be held under the provisions of this Act for the vote on a proposed new or amended marketing order, except that if the marketing order is reapproved at the election, it shall continue in operation for a period identical in duration to the existing term of the marketing order. The new term of the marketing order shall begin on the expiration of the existing term of the marketing order. A marketing order reapproved may be terminated, under the provisions of Section 20 of this Act, as are marketing orders which have not been reapproved at an election held for that purpose.

Records

Sec. 22. (a) The commissioner may require that all handlers subject to the provisions of any marketing order issued under the provisions of this Act maintain books and records which reflect their operations under the marketing order. On receipt of a complaint of a violation of a marketing order, received from an applicable marketing committee or a private person, the commissioner may request a magistrate to issue an order allowing the commissioner access to all or a portion of the books and records of a named handler which reflect the operations of the handler under the marketing order. If the magistrate finds that there is reason to believe that a violation has occurred, he shall issue the order, and the commissioner, or his agents, may require that the handler furnish him with the designated books or records. If the handler served with an order of the magistrate and a demand by the commissioner fails to produce the requested

books and records, he may be required by the commissioner to present testimony under oath before the commissioner concerning his operations under the marketing order, and is subject to remedies available to the court to enforce its orders.

(b) Information which is obtained under this section is confidential and may not be disclosed to any other person except a person with a like right to obtain the information, or any attorney employed to give legal advice concerning it, or other person named in a court order.

Inspection

Sec. 23. (a) This section applies to a lot of an agricultural commodity regulated by a marketing order wherever, or in whose possession, the lot may be in the marketing channels within this state.

(b) Any authorized inspector, who is discharging his duties in the checking of compliance with the provisions of any marketing order made effective under this Act, may request a magistrate to issue an administrative inspection permit, after receipt by either the commissioner or the inspector of a complaint of a violation of a marketing order, alleging a violation of the order or of its enforcement regulations as to quality, condition, size, maturity, or pack. If the magistrate finds that there is reason to believe that a violation has occurred, he shall issue an administrative inspection permit to allow the inspector access to specified commodities in specified locations. On inspection, the inspector may hold a lot for a reasonable period of time sufficient to enable the officer to ascertain by an authorized inspection whether the lot complies with the marketing requirements, but in any event not to exceed 24 hours in the case of perishables or 72 hours in the case of nonperishables.

(c) Following inspection, the inspector or other authorized person may affix to any lot which is determined to be in noncompliance, an official notice, warning tag, or other appropriate marking which warns that the lot is held and states the reasons why it is held. It is unlawful for any person, except an authorized inspector or enforcing officer, to detach, alter, deface, or destroy any official notice, warning tag, or marking affixed to any such lot, or to remove or dispose of the lot in any manner or under conditions other than as prescribed in the notice of noncompliance except on written permission of an authorized enforcing officer or by order of a court of competent jurisdiction.

(d) The commissioner, or the authorized person by whom a lot is being held, shall serve the person in possession of the lot with a notice of noncompliance. The notice shall be served in person or by mail to the last known address of the person that is in possession. The person in possession shall notify the owner of the lot, or every other person that has an interest in it, of the serving of such notice of noncompliance.

(e) The notice of noncompliance must include:

- (1) a description of the lot;
- (2) the place where, and the reasons for which, the lot is held; and
- (3) a citation of the applicable marketing order or marketing regulation, or rule and regulation, and any section of it on which the notice of noncompliance is based.

(f) The owner of the lot shall have, in the case of a perishable commodity, not to exceed 48 hours, and in the case of a nonperishable commodity not to exceed 72 hours, from the time of the serving of a notice of noncompliance for reconditioning or for the correction of the deficiencies which are noted in the notice of noncompliance. If the lot is reconditioned or the deficiencies are corrected the enforcing officer shall remove the warning tags or markings and release the lot for marketing or may, with the consent of the owner of the lot, divert the lot to other lawful uses or destroy it.

(g) If the owner of the lot fails or refuses to give consent, or if the lot has not been reconditioned or the deficiencies otherwise corrected so as to bring it into compliance within the time which is specified in the notice, the enforcing officer shall proceed as provided in Subsection (h) of this section.

(h) The enforcing officer may file a verified petition in any court of competent jurisdiction in this state requesting permission to divert the lot to any other available lawful use or to destroy the lot. The verified petition shall show:

- (1) the condition of the lot;
- (2) that the lot is situated within the territorial jurisdiction of the court in which the petition is being filed;
- (3) that the lot is held, and that the notice of noncompliance has been served as provided in Subsection (e) of this section;
- (4) that the lot has not been reconditioned as required;
- (5) the name and address of the owner and the person in possession of the lot; and
- (6) that the owner has refused permission to divert or to destroy the lot.

(i) On the filing of the verified petition, the court may issue an order to show cause, returnable in five days after service on the owner, why the lot shall not be reconditioned or the deficiencies corrected, or why the lot shall not be diverted to other lawful uses or destroyed. The owner of the lot may, prior to the date when the order to show cause is returnable, either recondition or correct the deficiencies in the lot so as to bring it into compliance, or may file at or before the hearing on the order an answer with the court stating why the lot should not be reconditioned or the deficiencies corrected so as to bring it into compliance,

or showing why it should not be diverted to other lawful uses or destroyed.

(j) If at the expiration of the five-day period the owner of the lot has failed or refused to recondition or to correct the deficiencies so as to bring the lot into compliance, the court may enter judgment ordering that the lot be reconditioned, diverted to any other lawful use, destroyed in the manner which is directed by the court, relabeled, denatured or otherwise processed, sold, or released upon such conditions as the court in its discretion may impose. The lot may not, however, be sold or released into the regular channels of trade.

(k) In the event of sale of any lot by order of court, the costs of storage, handling, and reconditioning or disposal shall be deducted from the proceeds of sale and the balance, if any, paid into court for the account of the owner of the lot.

Judicial Review

Sec. 24. Any marketing order, or any order of the commissioner which regulates the administration of a marketing program and substantially affects the rights of any interested party, may be reviewed by any court of competent jurisdiction. An action for review shall be commenced within 30 days after the first day of the publication of the notice of election results or after the effective date of the regulatory order complained of, or it is barred.

Handling of Substandard Commodities

Sec. 25. If producers or handlers of any agricultural commodity which is regulated by a marketing order are required to comply with minimum quality, condition, size, or maturity regulations, no person may, except as otherwise provided in such order or agreement, process, distribute, or otherwise handle any of such commodity from any source, whether produced within or without this state, which commodity does not meet such minimum requirements applicable on producers or handlers of the commodity in this state. Such regulations do not, however, apply to any commodity which has been produced outside this state and is in transit on the effective date of the regulations.

False Reports

Sec. 26. No person may knowingly render or furnish a fraudulent or materially false report, statement, or record required to be provided under the provisions of this Act.

Injunction

Sec. 27. On receipt of notice of a violation of a marketing order, or a violation of a substantive rule promulgated under the terms of the marketing order and the provisions of this Act, the commissioner may apply to a court of competent jurisdiction for appropriate injunctive relief. If it appears to the court on any application for a temporary restraining order, or on the hearing of any order to show cause why a preliminary injunction should not be is-

sued, or on the hearing of any motion for a preliminary injunction, or if the court shall find, in any such action, that any defendant is violating, or has violated, any provision of this Act, any marketing order, or any rule, duly issued by the commissioner pursuant to this Act, the court shall enjoin the defendant from committing further violations, and the court may order the defendant to pay the costs of the prosecution of the action by the commissioner. Any costs recovered shall be deposited as provided in Section 16 of this Act concerning receipt of money.

Venue

Sec. 28. Any action under Section 27 of this Act may be commenced either in the county where defendant resides, or where any act or omission, or part of the act or omission, which is complained of occurred.

Severability

Sec. 29. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Effective Date

Sec. 30. This Act takes effect on January 1, 1974.

[Acts 1973, 63rd Leg., p. 1303, ch. 492, eff. Jan. 1, 1974.]

CHAPTER TWO. STATE SEED AND PLANT BOARD

Article

- 56. State Register.
- 57. State Seed and Plant Board.
- 58. Fees.
- 59. May Register as Breeder.
- 60. Certificate as Breeder.
- 61. May Register as Grower.
- 62. Certificate as Grower.
- 63. Form of Application.
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- 64a. Protection of Varietal Quality of Cotton.
- 65. Inspection Fee.
- 66. Fund.
- 67. Cancelling Registration.
- 67a. Registration of Agricultural Seed Growers.

Art. 56. State Register

The Commissioner of Agriculture is directed to establish a State Register of Cotton Seed Breeders and Cotton Seed Growers who produce and offer for sale cotton seed for planting purposes and who voluntarily apply for registration under the provisions of this chapter and conform to the rules and regulations established for the administration and enforcement thereof by said Commissioner.

[Acts 1925, S.B. 84.]

3 West's Tex. Stats. & Codes—5

Art. 57. State Seed and Plant Board

The administration of the licensing provisions of Title 4, Chapter 2 of the Revised Civil Statutes and of Chapter 93, Acts of the 41st Legislature, First Called Session, 1929 (codified as Article 67a, Vernon's Texas Revised Civil Statutes and Article 1555a, Vernon's Texas Penal Code¹) shall be vested in a Board to be known as the State Seed and Plant Board, consisting of six (6) members to be appointed by the Governor, with the advice and consent of the Senate. One (1) member shall be from the Department of Genetics of the Agricultural and Mechanical College of Texas; one (1) member shall be from the Department of Agronomy of Texas Technological College; one (1) member shall be a Texas Registered or Certified seed producer; one (1) member shall be the Chief of the Division of Seeds of the Texas Department of Agriculture; one (1) member shall be a person actively engaged in the seed trade, selling Texas registered or certified seed; and one (1) member shall be a person actively engaged in farming but not engaged in the seed trade nor registered or certified seed production. Persons appointed from the State Colleges and from the State Department of Agriculture shall be deemed to have been given additional ex officio duties by their appointment to membership on the Board. In the event an appointee severs his employment with the department or division from which he was appointed or fails to retain his active business or professional affiliation as a registered or certified seed producer or in the seed trade, his membership on the Board shall automatically terminate and the vacancy shall be filled as hereinafter provided. Members of the Board shall hold office for a term of two (2) years and until their successors are appointed and have qualified, except that in the initial appointment the member engaged in farming shall serve for a term expiring October 6, 1962, and thereafter the term shall be for two (2) years. The terms of office of members of the Board serving as of the effective date of this amendment shall be unaffected thereby. In the event of a vacancy caused by death, resignation, inability or ineligibility to act, or any other cause, the Governor shall appoint a qualified person to complete the unexpired term. The Board shall elect annually one (1) of its members as Chairman, one (1) as Vice-Chairman, and one (1) as Secretary. The Board shall meet at such times and places as the Chairman may order. All applicants for license as a registered or certified seed grower shall furnish such information as the Board may require and shall appear in person before the Board if the Board requests it. The Board shall approve and issue licenses for registered and certified seed growers, promulgate rules and regulations governing the producing of foundation, registered and certified seeds, and prescribe the qualifications and approve appointments of inspectors who may be employed under this Law. The Board may, from time to

time, appoint persons to act in an advisory capacity on technical matters, but such appointees shall not have a vote as Board members.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 264, ch. 163, § 1; Acts 1953, 53rd Leg., p. 502, ch. 180, § 1; Acts 1959, 56th Leg., p. 377, ch. 180, § 1; Acts 1961, 57th Leg., p. 62, ch. 38, § 1, eff. Aug. 28, 1961.]

¹ Transferred; see, now, art. 67a, § 6.

Art. 58. Fees

All applicants for license as Registered Cotton Seed Breeder and Certified Cotton Seed Grower shall pay to the said Board a fee of ten dollars as a prerequisite to such application for such license. Such fees as may be collected shall be used by the said Board in defraying expenses incident to conducting such examinations.

[Acts 1925, S.B. 84.]

Art. 59. May Register as Breeder

Any cotton breeder in the State, or any person, firm or corporation engaged in breeding cotton, who produces and offers for sale cotton seed for planting purposes, and who has in his or its employ experienced and competent cotton breeder or breeders shall be eligible to registration as a Registered Cotton Seed Breeder, when he or it has satisfied the State Board of Plant Breeder Examiners¹ herein provided for:

1. That he or it is a person, firm or corporation of good character and reputation for honesty, competency and fair dealing;

2. That he is skilled in the science of cotton breeding or has in his or its employment one or more persons who are skilled in the science of cotton breeding;

3. That he, or persons in his or its employment has originated or made distinctive improvements in the character of a useful strain of cotton;

4. That he or it owns or controls land and other facilities necessary in the breeding and production of seed of high purity and excellence; and has complied with the rules and regulations established by said State Board of Plant Breeder Examiners in pursuance of law.

[Acts 1925, S.B. 84.]

¹ Name changed to State Seed and Plant Board. See art. 57.

Art. 60. Certificate as Breeder

When the application of breeder of cotton seed made under the provisions of this law has been approved by said Board, said applicant shall be registered as a "Registered Cotton Seed Breeder" and shall be issued a certificate to that effect and shall be entitled to use the title "Registered Cotton Seed Breeder" and to advertise and sell cotton seed produced in conformity with the provisions of this law and the rules and regulations established in pursuance thereof as "Registered Cotton Seed;" which certificate shall expire one year from the date of issue unless otherwise revoked as herein provided.

[Acts 1925, S.B. 84.]

Art. 61. May Register as Grower

Any person, firm or corporation engaged in producing cotton seed to be offered for planting purposes shall be eligible for registration as a "Certified Cotton Seed Grower," when he or it has satisfied the State Board of Plant Breeder Examiners:¹

1. That he or it is a person, firm or corporation of good character and reputation for honesty, competency and fair dealing.

2. That he or it will plant only seed obtained from a registered cotton seed breeder, and will offer for sale only the first or second year progeny of such registered cotton seed.

3. That he or it owns or controls land and other facilities necessary in the production of seed of high purity and excellence; and has complied with the rules and regulations established by said Board in pursuance of this law.

[Acts 1925, S.B. 84.]

¹ Name changed to State Seed and Plant Board. See art. 57.

Art. 62. Certificate as Grower

When the application of a cotton seed grower made under the provisions of this law has been approved by the said Board, said applicant shall be registered as a "Certified Cotton Seed Grower" and shall be issued a certificate to that effect and shall be entitled to use the title "Certified Cotton Seed Grower," and to advertise and sell cotton seed produced in conformity with the provisions of this law and the rules and regulations established in pursuance thereof as "Certified Cotton Seed." Said certificate shall expire one year from date of issuance unless otherwise revoked as herein provided for.

[Acts 1925, S.B. 84.]

Art. 63. Form of Application

The Board shall prepare suitable form of application for registration for cotton seed breeders and cotton seed growers, and shall establish rules and regulations, tests and standards to carry into effect the purposes of this law, which are to provide supplies of high grade cotton seed for planting purposes, and to enable the farmers to secure pure bred cotton seed for planting true to name. Said forms shall be in conformity with the provisions of this law and all tags furnished the registered seed breeders and certified seed growers, shall contain the words, "Registered Cotton Seed Breeder," or the words "Certified Cotton Seed Grower," and such other conditions as may be prescribed by the State Board of Plant Breeders.¹ The Commissioner of Agriculture shall employ a sufficient number of competent inspectors to inspect fields of cotton, and the facilities for ginning, storing and handling cotton seed owned or controlled by persons registered under this law and used in the production of cotton seed to be offered for sale for

planting purposes. Said inspectors shall make reports upon forms provided by said commissioner.

[Acts 1925, S.B. 84.]

¹Name changed to State Seed and Plant Board. See art. 57.

Art. 64. Tags and Labels

If the reports of said inspectors show that the cotton grown by a licensee hereunder and the facilities for ginning, storing, and handling same conform to the rules and regulations and standards established by the board, there shall be issued to him or it a certificate evidencing his or its right to offer for sale the cotton seed so produced as "Registered Cotton Seed" or "Certified Cotton Seed." Then the said Commissioner of Agriculture shall also issue to said cotton seed breeders and cotton seed growers tags or labels to attach to packages or containers containing said cotton seed certifying that same has been produced under the terms of this law, and an amount sufficient to cover all cost of printing tags and inspection shall be collected by said Commissioner.

[Acts 1925, S.B. 84.]

Art. 64a. Protection of Varietal Quality of Cotton

Sec. 1. The purpose of this article is to encourage the development of superior cotton varieties through the investment of private and corporate funds, to improve the quality of cotton planting seed, and to reduce the sale of varietally impure cotton planting seed in this state.

Sec. 2. In this article,

(1) "person" means an individual, an association of individuals, a partnership, or a corporation; and

(2) "board" means the State Seed and Plant Board of the State of Texas.

Sec. 3. Under the provisions of this Chapter and Chapter 93, Acts of the 41st Legislature, 1st Called Session, 1929 (Article 67a, Vernon's Texas Civil Statutes), the board shall promulgate rules and regulations governing the registration and certification of newly developed cotton varieties.

Sec. 4. If a new variety of cotton is registered or certified by the board, no person may use the name given the new variety by its developer to sell non-certified cotton seed for a period of 17 years from the date the new variety is registered or certified by the board.

Sec. 5. A person who violates Section 4 of this article is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$1,000.

Sec. 6. (a) This article does not require a developer of a new variety of cotton to register, or have certified his new variety; and a developer after 10 days notice to the board, may withdraw from the operation of this article a variety that he has registered or had certified.

(b) This article does not prohibit a developer of a new cotton variety of cotton from entering into contracts with seedsmen and farmers for the production and/or sale of seed of the new variety.

(c) This article does not in any manner alter the farmer exemption in the present seed laws of Texas.

(d) At any time when a critical situation exists because rain, hail, drouth, insects, or any other natural elements beyond the originator's control, have reduced the supply of planting seed of varieties covered under this Act, the board may hold proper public hearings to gather information on the supply, demand, and quality of seed available; and if in its judgment an emergency exists, the board may allow non-certified seed, grown from state certified seed, of the variety, or varieties, in which a shortage exists, to be sold by variety name for that crop year only. For the protection of the purchaser, the board shall require bona fide grower affidavits to establish varietal status for all non-certified seed sold by variety name during such an emergency.

Sec. 7. This Act is not applicable to seeds which were marketed, certified, or registered before the effective date of this Act.

[Acts 1969, 61st Leg., p. 147, ch. 50, § 1, eff. Sept. 1, 1969.]

Art. 65. Inspection Fee

Before any cotton seed breeder or cotton seed grower is registered under this law he or it shall agree in writing to pay to the said Commissioner of Agriculture an inspection fee to be fixed by said commissioner to pay the expense of inspecting his fields, gin and other facilities used in producing cotton seed, and for printing tags. Said fee shall not exceed 25 cents per acre for each acre of cotton, and \$1.00 for each gin and warehouse.

[Acts 1925, S.B. 84.]

Art. 66. Fund

All money so collected shall belong to a special fund of this State and shall be paid over by the Commissioner of Agriculture to the State Treasurer, during the first week of each month, and shall be credited to the "Special Pure Bred Cotton Seed Inspection Fund," and such funds shall be expended in the enforcement of this law, by the Commissioner of Agriculture, and in the purchase and supply of means to enable the commissioner and his agents to enforce the provisions of this law. All such expenditures shall be verified by the affidavit of the Chief of the Division of Plant Pathology and Seeds to the Commissioner of Agriculture, and on the approval of such expenditures by the commissioner, the Comptroller shall draw his warrant on the Treasurer for the amount of such expenditures in favor of the person claiming the same, to be paid out of the "Special Pure Bred Cotton Seed Inspection Fund."

[Acts 1925, S.B. 84.]

Art. 67. Cancelling Registration

If the report of an inspector shall show that the character, quality and varietal purity of any field of cotton grown by any licensee hereunder does not conform to the rules, regulations, tests, and standards promulgated under authority of this law, or that the gin, warehouse, or other facilities do not conform to such rules, regulations, tests or standards, or if charges be made that any of the licensees hereunder have been guilty of any dishonest, unfair or improper conduct or practice in the conduct of his or its business of breeding or growing and selling cotton seed, the said Commissioner of Agriculture shall give written notice thereof to said breeder or grower and fix a time for hearing evidence relating to said report or charges of which the accused party shall have at least ten days' notice. If in the judgment of said Commissioner of Agriculture such adverse report or charges are sustained he shall cancel the registration and certificate of accused party and retake all tags or labels and license or certificate issued to him or it. If any registered cotton seed breeder or certified cotton seed grower is not satisfied with such verdict of the Commissioner of Agriculture, such person or persons shall have the right to appeal the case to the State Board of Plant Breeder Examiners,¹ and shall be entitled to a hearing.

[Acts 1925, S.B. 84.]

¹Name changed to State Seed and Plant Board. See art. 57.

Art. 67a. Registration of Agricultural Seed Growers

Purpose of Act

Sec. 1. The necessity for high grade planting seed for agricultural crops is hereby recognized and the purposes of this Act shall be to enable farmers to secure pure bred agricultural seeds true to name and free from noxious weed seeds and free from plant diseases transmissible through the agency of planting seed.

Registration of Planters; Marking or Tagging Bags or Containers

Sec. 2. Persons, firms, associations or corporations skilled in the science of plant breeding and who voluntarily apply, and who comply with the requirements herein provided for and who produce agricultural planting seed of the quality herein provided for registered planting seed, shall upon approval by the State Seed and Plant Board be recorded as "Registered Plant Breeders" by the Commissioner of Agriculture and shall be entitled to use the words "State Registered Plant Breeder", and all bags or containers for planting seed produced by them in conformity to tests and standards provided for registered planting seed, shall have securely attached tags, to be furnished at cost by the Commissioner of Agriculture, which shall contain the Seal of the State of Texas and the words "State Registered Planting Seed" and such other information as the Commissioner of Agriculture may deem necessary

for the protection of the purchaser. Persons, associations, firms or corporations engaged in the production of agricultural planting seed who voluntarily apply, and who comply with the requirements herein provided for Certified Seed Growers, and who produce agricultural planting seed of the quality herein provided for certified planting seed, shall upon approval by the State Seed and Plant Board, be recorded as "Certified Seed Growers" by the Commissioner of Agriculture, and shall be entitled to use the words "State Certified Seed Growers", and all bags or containers of planting seed produced by them in conformity to tests and standards provided for certified planting seed shall have securely attached tags, to be furnished at cost by the Commissioner of Agriculture, which shall contain the words "State Certified Seed" and such other information as the said Commissioner of Agriculture may deem necessary for the protection of the purchaser.

Seed and Plant Board; Certification of Registrants to Commissioner of Agriculture; Rules and Regulations

Sec. 3. The State Board of Plant Breeder Examiners created by the Chapter 2 of Title 4, Vol. 1, of Revised Civil Statutes of 1925¹ to be hereafter called the State Seed and Plant Board, shall certify to the Commissioner of Agriculture the names of persons, firms, associations, or corporations who are eligible to qualify as Registered Plant Breeders, and names of persons, firms, associations or corporations who are eligible to qualify as Certified Seed Growers; it shall promulgate rules, regulations, test and standards governing the production of Registered Planting Seed and Certified Planting Seed; shall prepare suitable blank forms to be used in making application for recognition as Registered Plant Breeders and Certified Seed Growers, and shall prescribe the qualifications of inspectors to be employed under the provisions of this Act; it shall hear and pass upon all applications for Registered Plant Breeders and Certified Seed Growers before certifying the same to the Commissioner of Agriculture; it shall collect a fee of Ten (\$10.00) Dollars from each applicant and deposit same in the State Treasury; it shall prescribe fees to cover the cost of administering this Act, which shall not exceed twenty-five (25¢) cents per acre for cotton; nor more than one per cent of the retail value of the average production of such other field seed on such land as may be applied on, and shall have full power and authority to determine the eligibility of persons, firms, associations or corporations applying for recognition as Registered Plant Breeders or Certified Seed Growers. Before certifying any applicant it shall consider his or its reputation for honesty, competency and fair dealing, his or its facilities for producing planting seed of a high degree of purity and excellence, the quality of planting seed owned or controlled by the applicant to be used in the production of Registered Planting Seed or Certified Planting Seed. Provided that the production of Certified Seed shall be not less

than the degree of purity and excellence set for Registered Seed and in the consideration of an applicant for recognition as a Registered Plant Breeder it shall investigate his skill as a Plant Breeder or the skill of someone in his or its employment.

¹ Articles 56 to 67.

Inspectors; Appointment; Duties; Rules and Regulations; Shipments into State; Use of Certain Tags and Terms in Connection with Seed

Sec. 4. (a) The Commissioner of Agriculture shall appoint a sufficient number of inspectors nominated by the State Seed and Plant Board to carry into effect the provisions of this Act. He shall cause inspections to be made of the fields and facilities of persons, firms, associations, or corporations certified to him by the State Seed and Plant Board as eligible to qualify as Registered Plant Breeders and Certified Seed Growers. When such inspection reveals the fact that the growing crops of a Registered Plant Breeder from which it is proposed to produce Registered Seed show a high degree of purity, excellence, and freedom from plant diseases, transmissible through the agency of planting seed, that are required for Registered Seed, and that such field or fields are reasonably free from noxious weed seeds and noxious grasses, and if such seed when produced show the high germination per cent determined to be necessary by the said State Seed and Plant Board for such seed, and are rendered reasonably free of foreign substances, he shall cause to be issued to such person, firm, association or corporation a certificate evidencing the fact that such person, firm, association, or corporation is recognized by the State as a Registered Plant Breeder, and shall cause to be printed tags for each sack or container of seed so produced and so registered, and shall furnish such tags to the applicant at cost, which tags shall bear the words "State Registered Planting Seed", and which shall give in addition thereto the true and correct varietal name of such seed and such other information as he may deem necessary for the protection of the purchaser. If an inspection of the fields and premises of persons, firms, associations, or corporations certified to him as Certified Seed Growers reveals the fact that such fields are of the degree of purity and excellence required for Certified Seed by the State Seed and Plant Board, and if such fields are reasonably free from noxious weed seeds and noxious grass seeds, and free from plant diseases transmissible through the agency of planting seed, and that such seed when produced show the high germination per cent required by the State Seed and Plant Board, and are reasonably free of foreign substances, he shall issue to each applicant his Certificate evidencing the fact that he or it is recognized as a Certified Seed Grower, and shall cause to be issued tags at cost of printing to the Certified Seed Grower, which tags shall bear the words "State Certified Planting Seed" and shall give the true and correct variety and

such other information as he may deem necessary for the protection of the public. He shall collect, prior to the making of the inspection, such fees as may be determined by the said State Seed and Plant Board, which shall be deposited in the State Treasury and be credited to a fund to be known as the "Pure Seed Fund", and it shall be paid out by the Treasurer upon warrants issued by the Comptroller upon accounts approved by the Commissioner of Agriculture, for the payment of expenses incurred in the enforcement of this Act.

(b) The Commissioner of Agriculture shall promulgate rules and regulations, tests and standards necessary to carry out the provisions of this Act under which cotton, alfalfa, corn and sorghum seed for planting purposes may be shipped into Texas, and providing that no cotton, alfalfa, corn or sorghum seed for planting purposes may be shipped into Texas for planting purposes unless said seed meet the requirements as set forth by the Commissioner of Agriculture; and each lot of seed of one hundred (100) pounds or less, whether sacked or in bulk, approved for shipment into Texas, shall bear a special tag issued by the Commissioner of Agriculture. Said Commissioner, through his agents, or specially appointed agents, may investigate the quality of the seed to be shipped into the State of Texas and provide such reasonable requirements as may be necessary to insure to the farmers and seed purchasers of this State seed of known origin, value, and merit; and further providing that the Commissioner of Agriculture shall have full authority to refuse permission to any applicant to ship cotton, alfalfa, corn or sorghum planting seed into Texas when the records and information of the agents of said Commissioner of Agriculture show the seed to be of inferior quality, lacking prescribed varietal purity, from diseased fields, or other reasons prescribed in the rules and regulations under the provisions of this Section.

(c) The term "sorghum seed" shall mean seed of grain, sweet and grass sorghum.

(d) Providing that all persons, firms, or corporations seeking to ship cotton, alfalfa, corn or sorghum planting seed into Texas shall secure a permit from the Commissioner of Agriculture prior to shipping any cotton, alfalfa, corn or sorghum planting seed into Texas. Said permit shall be valid for one year but may be cancelled prior to date of expiration for violation of any of the provisions of this Act or the rules and regulations promulgated thereunder.

(e) Providing that any seed for planting purposes shipped into Texas without first complying with the provisions of the law and regulations promulgated hereunder, be considered restricted material, and may be returned to the shipper at his expense. Said shipper shall be granted ten (10) days from date of notice to remove such seed from the State of Texas. Upon his refusal or failure to do so, the confiscation of such seed by the Commissioner

of Agriculture or his agents is hereby authorized and without recourse on the State of Texas.

(f) Providing that all planting seed shipped into Texas and bearing the label denoting Registered or Certified Seed shall have been produced under standards equal to the existing standards in Texas for such Class of seed. Such seed coming into the State of Texas and being declared by the Commissioner of Agriculture not to have been produced under Registration and Certification standards equal to the Texas standards, shall not bear the labels or be represented as Registered or Certified Seed, except as hereinafter provided for. Such seed may bear the Registration or Certification tag issued in the State of origin provided such tags are plainly marked "These seed do not meet the requirements of Registration or Certification in Texas."

(g) Providing that the use of the Red or Blue tag on planting seed in Texas is prohibited except when used by duly qualified Registered Plant Breeders or Certified Seed Growers, or when such tags are plainly marked in bold type "Non-Registered" or "Non-Certified" seed.

(h) Providing that the terms "from officially inspected fields", "State Inspected", "approved Seed", "Inspected fields", "first year from Certified Seed", "as good as certified", and other similar terms be confined to a description of Registered and Certified Seed. Providing, however, that where such terms are used by firms, individuals, or corporations, such written material shall plainly show the words "Non-Registered" or "Non-Certified."

Any person, firm, or corporation violating any of the provisions of this Section, or the rules and regulations adopted in accordance with this Act, or who shall sell or offer for sale in Texas cotton, alfalfa, corn or sorghum seed produced outside the confines of the State of Texas without a permit issued in accordance with the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, or by imprisonment of not less than ten (10) days nor more than thirty (30) days in the county jail, or both, in the discretion of the Court. Each violation shall constitute a separate offense.

Hearing on Charges of Violating Rules

Sec. 5. When an inspector reports to the Commissioner of Agriculture that any Registered Plant Breeder or Certified Seed Grower is guilty of any exaggerated claims, unfair dealing or is failing to observe any of the rules and regulations governing the production of State Registered Seed or State Certified Seed, the said Commissioner of Agriculture shall give notice to the accused party and shall set a date for a hearing upon such charges. If such charges are sustained, then the certificate theretofore issued to such Registered Seed

Breeder or Certified Seed Grower shall be cancelled and all tags shall be withdrawn. Provided, however, that in the event such Registered Seed Breeder or Certified Seed Grower is dissatisfied with the verdict of the said Commissioner of Agriculture, he shall have the right to appeal to the State Seed and Plant Board and shall be entitled to a rehearing.

Swindling

Sec. 6. When any person falsely advertises or proclaims himself a Registered Plant Breeder or Certified Seed Grower, or advertises for sale State Registered Seed or State Certified Seed without first complying with the provisions of this Act, or uses any emblem or wording so as to mislead the purchaser into believing he is buying State Registered Planting Seed or State Certified Seed, or who tells a purchaser that the seed sold are Registered Planting Seed or Certified Planting Seed, when they are not; or in anywise leads the purchaser to believe that the seed sold are Registered Planting Seed or Certified Planting Seed, when they are not, he shall be deemed guilty of swindling.

[Acts 1929, 41st Leg., 1st C.S., p. 229, ch. 93; Acts 1939, 46th Leg., p. 3.]

CHAPTER THREE. PINK BOLLWORM

Article

- 68. Declared a Nuisance.
- 69. Definitions.
- 70. Policy and Methods.
- 71. Investigation and Recommendation.
- 72. Emergency Quarantine.
- 73. Destruction of Cotton.
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- 81. Payment of Claims.
- 82. Former Zones.
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Art. 68. Declared a Nuisance

The *Pectinophora Gossypiella*, Saunders, known as the pink bollworm, is hereby declared a public nuisance and a menace to the cotton industry, and its eradication is a public necessity.

[Acts 1925, S.B. 84.]

Art. 69. Definitions

In this Chapter,

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

(2) "cotton" or "cotton products" shall mean cotton in the seed, ginned lint cotton, cottonseed, cotton hulls, cotton in the bolls, cotton stalk, any and all character of cotton products (except oil and meal), and

all other host plants to the pink bollworm, including okra and okra stalks.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., p. 1291, ch. 431, § 1.]

Art. 70. Policy and Methods

It is hereby declared the policy of the State in endeavoring to control and eradicate the pink bollworm to employ all such methods as scientific research demonstrates to be successful and as may be sanctioned by constitutional warrant, including inspection of cotton plants in the fields, or of cotton products wherever stored; the quarantine and fumigation of cotton and cotton products found to be contaminated; supervision of the growing of cotton in areas known to be contaminated; destruction of infested fields of cotton, or cotton products; and the prevention of planting of cotton in areas where infestation has been found.

[Acts 1925, S.B. 84.]

Art. 71. Investigation and Recommendation

If the Commissioner of Agriculture determines, through his co-operation with the Secretary of Agriculture of the United States, that the pink bollworm exists outside of Texas but adjacent to the Texas border, he shall certify that fact to the Governor, who shall thereupon cause the convening of the Pink Bollworm Commission appointed as hereinafter provided for, which commission shall give notice of, and hold a hearing in the manner hereinafter provided at some central and easily accessible point in the county or counties in this State along the boundary adjacent to such infestation, and investigate into the danger to the cotton industry of Texas from such infestation adjacent to the Texas border and make such recommendation to the Governor as they deem sufficient to the protection of the cotton industry of the State. Should this report express the conclusion that it is dangerous to the cotton industry of Texas that cotton be grown in this State along the boundary adjacent to such infestation, the Governor shall thereupon proclaim such area as may be set out in said report a non-cotton zone, in which it shall be unlawful to plant, cultivate or grow any cotton for such period as the proclamation may specify; and if such report indicates that it will be safe to grow cotton under rules and regulations within such zone adjacent to the infestation outside of Texas, the Governor shall thereupon issue his proclamation declaring it unlawful to grow cotton within such area as may be recommended by the Pink Bollworm Commission, except under such rules and regulations as the Commissioner of Agriculture shall promulgate. Should the report of such commission indicate that it may be dangerous to the cotton industry of this State to allow the free movement of contaminated material from such infested territory into this State, the Governor shall thereupon proclaim a quarantine against such infested territory, and thereafter it shall be unlawful to import into Texas from such quarantined territory any thing or sub-

stance liable to be contaminated with pink bollworm, and it shall be the duty of the Commissioner of Agriculture to maintain a rigid inspection of articles liable to be contaminated which are being carried from such quarantined territory into the State of Texas. Before recommending the establishment or continuance in any county in this State bounded by an international boundary line, or a non-cotton zone, under this or any other article of this chapter, the Pink Bollworm Commission shall give careful consideration to the conditions existing, or likely to exist, on the non-Texas side of said boundary line, and the evidence concerning such conditions shall be such as to reasonably show that the establishment of a non-cotton zone in said county will effectively protect the cotton industry of Texas against the further spread of the infestation.

[Acts 1925, S.B. 84.]

Art. 72. Emergency Quarantine

If the pink bollworm shall be found in any gin, cotton seed oil mill, cotton seed warehouse, compress, or transportation vehicle in the State, or in any field of cotton, the Commissioner of Agriculture shall immediately certify that fact to the Governor, who shall proclaim a special emergency quarantine surrounding the known location of the pest to such extent as may be determined sufficient to prevent the spread of the pink bollworm, and it shall be unlawful for any person or persons to ship any cotton or cotton products of any kind from such quarantine district, or transport any car, vehicle, or freight, or any other article liable to carry the pink bollworm from the quarantined area through, or to any other point in the State, except under such rules and regulations as the Commissioner of Agriculture shall promulgate; such emergency quarantine shall continue in full force and effect until such time as a hearing, as provided for in this chapter, can be held by the said Pink Bollworm Commission.

[Acts 1925, S.B. 84.]

Art. 73. Destruction of Cotton

When it is deemed necessary to the protection of the cotton industry of Texas that the Commissioner of Agriculture shall destroy cotton, cotton products, or fields of cotton in which the pink bollworm shall have been found or which are probably contaminated by being near infestation of the pink bollworm; he shall report such condition to the Governor, setting out in detail the area or amount of cotton or cotton products to be destroyed. The Governor shall thereupon declare such cotton or fields of cotton a public menace. Before the destruction of such cotton or cotton products the Compensation Claim Board, hereinafter provided for, shall go upon the premises and report to the Commissioner of Agriculture the value of the fields of cotton or cotton products to be destroyed. The Commissioner of Agriculture shall then be empowered to use all authority

requisite to the complete destruction of such cotton, cotton products or fields of cotton to prevent the spread of the pink bollworm from such localities. The Commissioner of Agriculture shall certify to the fact of such cotton products or fields of cotton having been destroyed and shall file such report and certificate with the State Comptroller, who shall issue his warrant upon the State Treasurer for such sum as may be declared just and due.

[Acts 1925, S.B. 84.]

Art. 74. Examination of Area

Whenever the Commissioner of Agriculture shall deem it necessary to the protection of the cotton industry of Texas that the growing of cotton within any area of the State, except as provided for in the preceding articles hereof, be placed under supervision, or that cotton growing be prohibited as a means of aiding in the control and eradication of the pink bollworm, he shall cause to be made a thorough examination of such area by a competent and experienced entomologist, who shall, after going upon the premises and after making an examination in person, report the result thereof to the Commissioner of Agriculture. Should this report express the conclusion that pink bollworms exist in such numbers as to constitute a serious menace within the territory under investigation, the Commissioner of Agriculture shall certify this report to the Governor, who shall cause the Pink Bollworm Commission hereinafter provided for, to hold a hearing at some central and easily accessible point within the area under investigation; due notice of the time and place of such hearing shall be published in some newspaper in or near the county or counties under investigation, at least ten days before such hearing. The Commissioner of Agriculture shall present to the Commission a statement setting forth the following facts:

1. The name of the entomologist making the examination on behalf of the State Department of Agriculture.
2. The date when such examination was made.
3. The locality where the pink bollworm is alleged to exist.
4. That the inspector invited the owner of the land, or his agent, or representative, to accompany him on the inspection trip, and that the owner, or his representative, accompanied him, or declined to do so.
5. Any other information deemed necessary by the Commission for the discharge of its duties under the provisions of this Chapter.

Such statement shall be verified by oath of the person making the same and shall be filed and preserved in the office of the Commissioner of Agriculture and be open to the inspection of the public. Said Pink Bollworm Commission shall make a report to the Governor immediately after the hearing. Should this report

and recommendation be for the prevention of the planting of cotton in any area and for the establishment of a non-cotton zone, such recommendation shall specify the area to be embraced in the proposed non-cotton zone. Upon receipt of this report, the Governor shall declare the growing of cotton within such area as may be recommended by the Pink Bollworm Commission a public menace, and thereafter it shall be unlawful to plant, cultivate or grow cotton, or to allow cotton to grow within such zone, such proclamation of the Governor to remain in effect until the Pink Bollworm Commission, herein provided for, shall have certified that the condition of menace no longer exists. In the event of the establishment of any non-cotton zone authorized by this Chapter, all persons prevented from producing cotton in the non-cotton zones shall be entitled to receive compensation from the State in the measure of the actual and necessary losses sustained thereby. In all regulated or restricted areas now established or that may hereafter be established, all persons, firms or corporations required to comply with said regulations or restrictions imposed upon them by law or any constituted authority shall be entitled to receive compensation for the actual losses sustained and for all actual expenses incurred by reason of said restrictions or regulations. From and after July 1, 1929, the State shall own or lease and operate all fumigation and sterilization plants and shall operate same without cost to the cotton grower or gin, compress or mill owner. The Compensation Claim Board, herein provided for, shall have full power and authority to determine the amount of compensation to such persons, firms or corporations. In determining the actual and necessary losses, the Compensation Claim Board shall take into consideration the value of the average yield of cotton and other crops second in economic importance thereto in that vicinity; the total amount of land planted to crops during the year for which compensation is claimed; the percentage of such land customarily planted in cotton in that vicinity, and such other factors as they deem essential. The words "cultivated crops" as used above shall not be construed to include any small grain crops, hay or pasture crops which are not cultivated during the growing season. No person shall be entitled to compensation who does not in good faith obey the proclamation of the Governor establishing such non-cotton or regulated zone. Should the report of the Pink Bollworm Commission express the conclusion that it will not be dangerous to the cotton industry of Texas to permit the growing of cotton within such district under such rules and regulations as it shall be deemed adequate to prevent the spread of the pink bollworm, the Governor shall proclaim such area as may be set out in the report of the Pink Bollworm Commission a regulated zone, in which it shall be unlawful to plant, cultivate and market cotton except under such rules and regulations as shall be promulgated therefor by the Commissioner of Ag-

riculture, which may include the planting of seed from non-infested territory, ginning at designated gins, milling or disinfecting of all seed products within such zone marketing, cleaning of fields, and such other rules as may be found necessary; provided that no ginner shall be authorized to gin cotton from regulated zones unless he shall disinfect all seed under such rules as the Commissioner of Agriculture shall prescribe. Such proclamation of the Governor, establishing such regulated zone shall remain in effect until the Pink Bollworm Commission shall have certified that the menace no longer exists.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 85, ch. 42, § 1.]

Art. 74a. Pink Bollworm Laws

Whoever shall transport any cotton or cotton products by any means from any territory in this State which has been quarantined and placed under restrictions by proclamation of the Governor of the State, in accordance with the authority conferred by the laws of this State relating to the pink bollworm; or whoever shall violate any proclamation or any rule, regulation or other restriction authorized by said laws or bring into the State any material contaminated with said worm or its eggs; or whoever shall plant, cultivate, grow, allow to grow, gather, transport or market cotton in or from any territory in this State, that has been quarantined or declared a non-cotton zone or placed under restrictions by any of the proclamations authorized by said laws; or whoever shall fail to comply with any of the said rules and regulations so promulgated for the control and direction of cotton growing and marketing in any restricted or regulated zone; or shall violate any proclamation, regulation or restriction authorized by said laws, or any ginner who shall fail or refuse to disinfect cotton seed as provided for in said laws; or whoever shall wilfully refuse or knowingly neglect to comply with any such proclamation, restriction or regulation promulgated and maintained for the protection of the cotton industry, shall be fined not less than Fifty Dollars (\$50) nor more than Five Hundred Dollars (\$500), or shall be imprisoned in jail for not less than ten (10) days nor more than thirty (30) days, or may be punished by both such fine and imprisonment. Each transaction of each product so shipped or transported, and each act in violation of the restrictions herein authorized governing the planting, growing, marketing and cleaning the fields, shall constitute a separate offense. The District Court of the county in which any criminal case is filed under the provisions of this article may, upon the application of either the State or of the defendant and a showing that the applicant cannot obtain a fair trial in that county, order a change of venue to an adjoining county or district; provided, however, that it shall be a complete defense to any alleged violation of the provisions hereof, if the act or failure denounced has been in accordance with

the rules and regulations promulgated by the Commissioner of Agriculture.

[1925 P.C.; Acts 1945, 49th Leg., p. 250, ch. 184, § 1; Acts 1965, 59th Leg., p. 36, ch. 13, § 1, eff. March 3, 1965.]

Art. 75. Compensation Claim Board

The Governor shall appoint a Compensation Claim Board for the State, who shall serve until relieved therefrom by the Governor, whose duty it shall be determined¹ in the manner herein provided the measure of compensation due persons prevented from growing cotton and the damages sustained by persons having cotton condemned and destroyed as provided for herein, and losses sustained or expenses incurred by all persons, firms or corporations in such regulated or restricted areas. The said Board shall be composed of three citizens of the State residing outside any area under quarantine under the provisions of this law, at least two of whom are actually engaged in the production of cotton. Before entering upon their duties, the members of the Board shall take the official oath, and shall organize by electing one of its members chairman and the Commissioner of Agriculture shall act as ex-officio secretary. The concurrence of two members of the Board shall constitute legal action. The Compensation Claim Board shall conduct a public hearing in the county or counties from which the claims for compensation have been filed, due notice of which hearing shall be given by publication in some newspaper published in or near the county or counties in which the claimant resides, not less than ten days before the date of such hearing, and by mailing from the office of the Commissioner of Agriculture a letter to each claimant, not less than ten days before the date of such hearing, which notices shall state the time and place of each hearing. Every such claim for compensation from the State shall be made under oath, attested by two citizens of the county in which the claimant resides, upon blanks to be furnished by the Commissioner of Agriculture. Every such claim shall state:

1. The name and the post office of the claimant.
2. The location of the farm upon which the claim is based.
3. The total acreage of all cultivated crops produced in the year in which such claim is presented.
4. All other information deemed essential by the said Compensation Claim Board for the performance of the duties developed² upon them by this law.

Each allotment of compensation shall be evidenced by a written order, entered in a permanently bound book kept by the Board in the office of the Commissioner of Agriculture, and a certified copy of each allotment shall be given the claimant. If any Claimant is dissatisfied with the action of the Claim Board on his claim, he shall have the right within six months after the decision of the Claim Board

to make application to the District Court of the county of which he is a resident or in which his cotton was destroyed or in which he was prevented from growing cotton or in the county where actual losses were sustained or actual expenses were incurred and have the action of the Claim Board reviewed by such District Court. If the State, acting through the Commissioner of Agriculture, is dissatisfied with any such decision of the Claim Board, it shall likewise have the right to resort to said court for such review.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 85, ch. 42, § 2.]

¹ R.S. 1925, art. 75, of which this is an amendment read "to determine."

² R.S. 1925, art. 75, of which this is an amendment read "devolved."

Art. 76. Pink Bollworm Commission

The Governor shall appoint a Pink Bollworm Commission for the State composed of five men who shall serve until relieved therefrom by the Governor. One shall be appointed upon the recommendation of the Commissioner of Agriculture; one upon the recommendation of the Secretary of Agriculture of the United States; one upon the recommendation of the District Judge of the county or counties under consideration; and two upon his own discretion. The latter two shall be actual cotton growers. Should any of the officials herein authorized to make recommendations for appointment fail or refuse so to do, or should any person so nominated refuse to serve or become incapacitated for service, the Governor shall make such appointment upon his own discretion. Said Bollworm Commission shall take the official oath. They shall organize by electing one of their number chairman and the Commissioner of Agriculture shall be ex-officio secretary.

[Acts 1925, S.B. 84.]

Art. 77. Salary and Expenses

The members of the said Board and of said Commission shall each receive a salary of five dollars per day and actual traveling expenses when engaged in the performance of their duties.

[Acts 1925, S.B. 84.]

Art. 78. Powers

The Commissioner of Agriculture and his authorized agents shall have the power to enter into any field of cotton or upon any premises in which cotton or its products may be stored or held, and may examine any products or container of cotton or thing or substance liable to be infested with the pink bollworm, and shall have power to enter upon any premises for the purpose of issuing permits and to examine all books and records of purchasers or handlers or common carriers of cotton products.

[Acts 1925, S.B. 84.]

Art. 79. Inspectors

The Commissioner of Agriculture shall make adequate investigation to determine the pres-

ence of the pink bollworm in the State and shall take prompt action to secure the establishment and maintenance of an effective quarantine of all infested areas that may be discovered within the State, pursuant to the provisions of this chapter. The Commissioner of Agriculture may employ inspectors, and such other help as he may deem necessary, and may prescribe the duties of such inspectors and other help. No person shall be appointed as an inspector who has not had at least two years actual experience as an entomologist, or two years training as an entomologist in the Science Department of some reputable college or university. Such inspectors shall be paid not exceeding one hundred and fifty dollars per month and their necessary expenses.

[Acts 1925, S.B. 84.]

Art. 80. Federal Co-operation

The Commissioner of Agriculture shall cooperate with the Secretary of Agriculture of the United States in any measure authorized and to be undertaken by authority of the Federal Government in preventing the introduction or establishment of the pink bollworm in the State of Texas. If the Congress of the United States should appropriate any moneys with which to assist this State in the payment of compensation to farmers for being deprived of the right to plant cotton, and should such appropriation by Congress provide for this money to be disbursed by the State of Texas, the State Treasurer is hereby authorized to receive such moneys from the United States Government, and the Commissioner of Agriculture is hereby authorized to disburse same in accordance with the laws of this State and the United States.

[Acts 1925, S.B. 84.]

Art. 81. Payment of Claims

All claims for damages and claims for compensation arising from the enforcement of the provisions of this law shall be paid on certified statement by the Chairman of the Compensation Claim Board, or upon certified copy of the final judgment of a court of competent jurisdiction, by warrants drawn by the Comptroller upon the State Treasurer, and all salaries and other expenses incurred in the administration of this law shall be paid in the usual way upon a certified statement of the Commissioner of Agriculture.

[Acts 1925, S.B. 84.]

Art. 82. Former Zones

All regulated zones and non-cotton zones in effect for 1921 are hereby renewed and carried forward and shall be subject to the provisions of this chapter and all procedure heretofore taken to establish such zones is hereby validated.

[Acts 1925, S.B. 84.]

Art. 82a. Elective Provisions; Additional Powers of Commissioner of Agriculture

Purpose of Act

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

Election

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

The Commissioner of Agriculture or his authorized agent shall upon receipt of a petition signed by not less than one hundred (100) eligible voters as hereinafter defined, establish and conduct each year the necessary election procedures and safeguards to ascertain the will of the cotton growers of the various districts to participate or not to participate under this Act. The election shall be conducted between September 1st and September 30th on the date that the Commissioner shall designate during the ginning season to determine whether the provisions of this Act shall apply for the following year. Notice of such election shall be given by publishing such notice in a newspaper or newspapers of general circulation in each county contained in the district once each week for three (3) consecutive weeks. Said elections shall be conducted and said ballots on the prescribed forms shall be collected at those polling places so designated by the Commissioner of Agriculture, which designation shall include at least one polling place in each county in the district. The election and collection of the ballots shall be conducted and supervised by representatives of the Commissioner of Agriculture on such forms and under such rules as shall be determined by the Commissioner of Agriculture to assure a fair and just determination of the will of the growers of the district. Only cotton farmers of the district shall be eligible to vote and only one (1) vote shall be allowed for each grower regardless of the number of bales ginned or the volume of cotton grown by said grower. A grower under the terms of this Act shall be any person who has applied and received a permit to plant cotton pursuant to authority vested in the Commissioner of Agriculture under the provisions of Articles 68-82, Vernon's Civil Statutes of Texas, or who is the owner and holder of an allotment card issued by the United States Secretary of Agriculture through the County Agricultural Services and Conservation Committee.

Escrow Account as Security; Payments Into by Cotton Growers; Forfeitures for Violations; Disposition of Proceeds

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

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

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

cluding unused escrow fees, shall be disbursed as the Commissioner may authorize towards research and improvement of present controls whereby the menace of pink bollworm can be eliminated. At the end of each calendar year, the Commissioner shall account for all funds received and disposed of under this program.

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

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

Selection of Depository

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

The Commissioner of Agriculture is hereby authorized to supplement by such rules and regulations by him deemed necessary to supplement the program described herein so long as such rules and regulations are consistent with the provisions of this Act.

[Acts 1955, 54th Leg., p. 541, ch. 170; Acts 1957, 55th Leg., p. 372, ch. 177, § 1.]

CHAPTER FOUR. AGRICULTURAL SEEDS

Article

- 83 to 93a. Repealed.
- 93b. Texas Seed Law.
- 93c. Law Not Applicable to Feed Mixtures.
- 93d-1. "Agricultural Seeds".
- 93d-2. Label.
- 93d-3. Mixture of.
- 93d-4. Exceptions.
- 93d-5. Samples.
- 93d-6. Penalty.
- 93d-7. Preventing Inspection or Sampling.
- 93d-8. Cotton Seed.

Arts. 83 to 93. Repealed by Acts 1929, 41st Leg., p. 678, ch. 304, § 16

Art. 93a. Repealed by Acts 1941, 47th Leg., p. 893, ch. 551, § 12

Art. 93b. Texas Seed Law

Name of Act

Sec. 1. This Act shall be known as "The Texas Seed Law."

Definitions

Sec. 2. When used in this Act:

(a) The term "person" shall include a partnership, corporation, company, society, vendor, or association.

(b) The term "agricultural seeds" shall include the seeds of grass, forage, cereal, and fiber crops and any other kind of seeds commonly recognized within this State as agricultural or field seeds, and mixtures of such seeds.

(c) The term "vegetable seeds" shall include the seeds of those crops which are grown in gardens or on truck farms and are generally known and sold under the name of vegetable seeds in this State.

(d) The term "weed seeds" shall include the seeds of all plants generally recognized as weeds within this State, and shall include noxious weed seeds.

(e) Hybrids. The Commissioner of Agriculture shall prescribe, amend, adopt and publish after public hearing following due public notice, rules and regulations defining a "hybrid" to more nearly conform with that definition acceptable for use in interstate commerce, or to utilize scientific developments, and to prescribe, amend, adopt and publish after public hearing following due public notice such rules and regulations as may be necessary to make effective such definition. Hybrid designations shall be treated as variety names.

(f) Noxious weed seeds shall be divided into two classes, "primary noxious weed seeds" and "secondary noxious weed seeds" which are defined in (1) and (2) of this subsection. Provided, that the Commissioner of Agriculture may add to or subtract from the list of seeds and may prohibit or establish the rate of occurrence allowed in Section 3(a)(5) of this Act.

(1) "Primary noxious weed seeds" are the seeds of weeds such as not only reproduce by seed, but also may spread by underground roots or stems, and which, when established, are highly destructive and difficult to control in this State by ordinary good cultural practice.

"Primary noxious weed seeds" in this State are the seeds of Johnson grass (*Sorghum halepense*), Field bindweed (*Convolvulus arvensis*), Dodder (*Cuscuta* spp.), Curled Dock (*Rumex crispus*), Nutgrass (*Cyperus rotundus*), Blueweed (*Helianthus ciliaris*), and Canada Thistle (*Carduus arvensis*).

(2) "Secondary noxious weed seeds" are the seeds of such weeds as are very objectionable in fields, lawns, or gardens of this State, but can be controlled by good cultural practice.

"Secondary noxious weed seeds" in this State are the seeds of Russian

thistle (*salsola kali*), Bermuda grass (*Cynodon dactylon*), Wild oats (*Avena fatua*), Cheat (*Bromus secalinus*), Wild carrot (*Daucus carota*), Buckhorn (*Plantago lanceolata*), Bracted plantain (*Plantago aristata*), Purple (or silverleaf) nightshade (*Solanum elaeagnifolium*), Wild onion and/or garlic (*Allium vineale*), Darnel (*Lolium temulentum*), Wild mustard (*Brassica kaber*), Goat grass (*Aegilops* spp.), Puncturevine "goat head" (*Tribulus terrestris*), Downy brome grass (*Bromus tectorum*), Cocklebur (*Xanthium* spp.), and Wild radish (*Raphanus raphanistrum*).

(g) The term "labeling" includes all labels, and other written, printed, or graphic representations, in any form whatsoever, accompanying and pertaining to any seed whether in bulk or in containers, and includes invoices.

(h) The term "advertisement" means all representations, other than those on the label, disseminated in any manner or by any means, relating to seed within the scope of this Act.

(i) The term "treated" means given an application of a substance or subjected to a process designed to reduce, control, or repel disease organisms, insects, or other pests which attack seeds or seedlings growing therefrom.

Label Requirements

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

(a) For Agricultural Seeds:

(1) The name of the kind or the kind and variety for each agricultural seed component present in excess of 5 percent of the whole and the percentage by weight of each: Provided, that if the variety of those kinds generally labeled as to variety as designated in the rules and regulations is not stated, the label shall show the name of the kind and the words, "Variety Not Stated." Hybrids shall be labeled as hybrids.

(2) Lot number or other lot identification.

(3) Origin, if known, of all agricultural seeds. If the origin is unknown, that fact shall be so stated.

(4) Percentage by weight of all weed seeds.

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

(A) All determinations of noxious weed seeds are subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(6) Percentage by weight of agricultural seeds other than those required to be named on the label.

(7) Percentage by weight of inert matter.

(8) For each named agricultural seed (a) percentage of germination, exclusive of hard seed, (b) percentage of hard seed, if present, and (c) the calendar month and year the test was completed to determine such percentages. Following (a) and (b) the additional statement "total germination and hard seed" may be stated as such, if desired.

(9) Name and address of the person who labeled said seed, or who sells, offers, or exposes said seed for sale within this state.

(10) All fescue, certified or noncertified, must have shown on the tag that the seed contains rye grass, if any, and the amount given in percentage. If no rye grass is found in the sample, the tag shall state "None Found."

(11) Net Weight.

(b) For Vegetable Seed:

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

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

(B) Kind and variety of seed.

(C) Percentage purity.

(D) Germination.

(E) Date of Test, and

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

Promulgation of Rules and Regulations Concerning Labels; Procedure

Sec. 3a. (1) All seeds named and treated as defined in this Act (for which a separate label may be used) shall be labeled in accordance with rules and regulations prescribed by the Commissioner of Agriculture.

(2) The Commissioner of Agriculture shall hold public hearing in Austin, Travis County, Texas, concerning any proposed rules and regulations or any amendments to the rules and regulations pertaining to the seeds described in this section.

(3) Notice of such a public hearing shall be published in three or more newspapers of general circulation throughout the entire State for three consecutive weeks prior to the date of the public hearing.

(4) Immediately following any ruling by the Commissioner of Agriculture made pursuant to the provisions of this section, the Commissioner shall publish the new rules or the amendments to the existing rules in at least three newspapers of general circulation throughout the State for a period of three consecutive weeks. Copies of any new rules or changes in the existing rules shall be made available to anyone who desires a copy.

Prohibitions

Sec. 4. (a) It is unlawful for any person to sell, offer for sale, expose for sale or to transport for sale any agricultural and vegetable seeds within this state:

(1) Unless the test to determine the percentage of germination required by Section 3 shall have been completed within a nine month period, exclusive of the calendar month in which the test was completed, immediately prior to sale, exposure for sale, or offering for sale or transportation; except that the Commissioner of Agriculture may prescribe, amend, adopt and publish after public hearing following due public notice rules and regulations to designate a longer period for any kind of agricultural or vegetable seed which is packaged in such container materials and under such other conditions prescribed by the Commissioner of Agriculture as he finds will, during such longer period, maintain the viability of said seed under ordinary conditions of handling.

(2) Not labeled in accordance with the provisions of this Act, or having a false or misleading labeling.

(3) Pertaining to which there has been a false or misleading advertisement.

(4) Any agricultural seeds containing primary noxious weed seeds subject to tolerances and methods of determination prescribed in the rules and regulations under this Act.

(b) It shall be unlawful for any person within this state:

(1) To detach, alter, deface, or destroy any label provided for in this Act or the rules and regulations made and promulgated thereunder, or to alter or substitute seed in a manner that may defeat the purposes of this Act.

(2) To disseminate any false or misleading advertisement concerning agricultural or vegetable seed in any manner or by any means.

(3) To hinder or obstruct in any way any authorized person in the performance of his duties under this Act.

(4) To fail to comply with a "stop-sale" order.

(5) To use the word "type" in any labeling in connection with the name of any agricultural seed variety.

Exemptions

Sec. 5. (a) The provisions of Sections 2 and 3 do not apply:

(1) To seed or grain not intended for sowing purposes.

(2) To seed in storage in, or consigned to, a seed cleaning or processing establishment for cleaning or processing. Provided, that any labeling or other representation which may be made with respect to the unclean seed shall be subject to this Act.

(b) No person shall be subject to the penalties of this Act, for having sold, offered, or exposed for sale in this State any agricultural or vegetable seeds, which were incorrectly labeled or represented as to kind, variety, type, or origin which seeds cannot be identified by examination thereof, unless he has failed to obtain an invoice or grower's declaration giving kind, or kind and variety, or kind and type, and origin, if required.

(c) Providing that nothing in this Act shall be construed as preventing one farmer from selling to another farmer such seed grown on his own farm, as covered by the provisions of this Act without having said seed tested and labeled as provided for herein, when such seed is not advertised in the public press outside of the vendor's home county, and is not shipped by common carrier.

Duties and Authority of the Commissioner of Agriculture

Sec. 6. (a) The duty of enforcing this Act and carrying out its provisions and requirements shall be vested in the Commissioner of Agriculture. It shall be the duty of such officer, who may act through his authorized agents:

(1) To sample, inspect, make analysis of, and test agricultural and vegetable seeds transported, sold, offered, or exposed for sale within this State for sowing purposes, at such time and place and to such extent as he may deem necessary to determine whether said agricultural or vegetable seeds are in compliance with the provisions of this Act, and to notify promptly the person who transported, sold, offered, or exposed the seed for sale of any violation.

(2) To prescribe and, after public hearing following due public notice, to adopt rules and regulations governing the methods of sampling, inspecting, analysis, tests and examination of agricultural and vegetable seed, and the tolerances to be followed in the administration of this Act, which shall be in general accord with officially prescribed practice in interstate commerce, to provide definition of terms, and such other rules and regulations as may be necessary to secure the efficient enforcement of this Act.

(b) Further, for the purpose of carrying out the provisions of this Act, the Commissioner of

Agriculture individually or through his authorized agents is authorized:

(1) To enter upon any public or private premises during regular business hours in order to have access to seeds and the records from personnel authorized by management connected therewith subject to the Act and the rules and regulations thereunder, and any truck or other conveyer by land, water, or air at any time when the conveyer is accessible, for the same purpose.

(2) To issue and enforce a written or printed "stop-sale" order to the owner or custodian of any lot of agricultural or vegetable seed which the Commissioner of Agriculture has reason to believe is in violation of any of the provisions of this Act which shall prohibit further sale of such seed until such officer has evidence that the law has been complied with. Provided, that in respect to seeds which have been denied sale as provided in this paragraph, the owner or custodian of such seeds shall have the right to appeal from such order to a court of competent jurisdiction where the seeds are found, praying for a judgment as to the justification of said order and for the discharge of such seed from the order prohibiting the sale in accordance with the findings of the court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other sections of this Act.

(3) To establish and maintain or make provision for seed testing facilities, to employ qualified persons, and to incur such expenses as may be necessary to comply with these provisions.

(4) To make or provide for making purity and germination tests of seeds for farmers and dealers on request; to prescribe rules and regulations governing such testing; and may fix and collect charges for the tests made.

(5) To cooperate with the United States Department of Agriculture in seed law enforcement.

Inspection Fee; Payment Procedure; Records; Reports;
Rules and Regulations; Failure to Comply;
Cancellation of Permit

Sec. 7. (a) For the purpose of administering the Texas Seed Act, any person who sells, offers for sale or otherwise distributes for sale any agricultural seed within this state for planting purposes shall pay to the Commissioner of Agriculture an inspection fee. Said inspection fee shall be deposited in the State Treasury by the Commissioner, and placed by the State Treasurer in the special Department of Agriculture Fund.

(b) The procedure for paying for inspection fee on agricultural seed shall be either by the use of the Tax Tag (which shall be known as

the Texas Tested Seed Label) or by means of the reporting system but shall not be by means of both such procedures, and shall in addition to such rules and regulations which the Commissioner of Agriculture is herewith authorized to issue, be in compliance with all the provisions of this Act.

(c) When the inspection fee is to be paid by use of the Tax Tag (Texas Tested Seed Label) the person who distributes, sells, offers for sale or exposes for sale agricultural seed shall purchase said Texas Tested Seed Label from the Commissioner of Agriculture at a cost of not to exceed two cents (2¢) for each one hundred pounds or fraction thereof and shall attach said tag to each container of seed sold, offered for sale or otherwise distributed for sale for planting purposes within this state. The Commissioner of Agriculture is hereby empowered to promulgate rules and regulations prescribing the form of said tags, and the manner to show the analysis information required in Section 3 of this Act.

(d) When the inspection fee is paid by means of the reporting system, said fee shall be four cents (4¢) for each 100 pounds of agricultural seed offered for sale, exposed for sale, or otherwise distributed for sale for planting purposes within this state. The Commissioner of Agriculture is authorized at his discretion and under such rules and regulations as he may promulgate, to prescribe and furnish such forms and to require the filing of such reports and shall issue permits bearing a number assigned by the Commissioner on application therefor to any person who sells, offers for sale, exposes or otherwise distributes for sale any agricultural seed. The inspection fee shall be due on the total pounds of first sales or distribution by the originating permittee, except that in cases where a Texas seedsman purchases or receives agricultural seed for planting purposes from a seedsman located outside the State of Texas, the inspection fee may be paid by either seedsman, but final responsibility rests with the Texas seedsman. In cases where a Texas seedsman under the reporting system purchases or receives agricultural seed from another Texas seedsman also using the reporting system, the fee may be paid by either seedsman, provided an agreement in writing specifying this option is on file with each seedsman. In such cases the invoice covering such transaction shall indicate which seedsman is responsible for reporting and paying the inspection fees. In addition to all other provisions of this Act, each person who is issued a permit to sell, offer for sale or otherwise distribute agricultural seed and pay the inspection fee in accordance with the reporting system shall:

(1) Maintain and furnish such records as the Commissioner of Agriculture may require to reflect accurately the total pounds of agricultural seed handled and the portion of such pounds that is sold, offered for sale or distributed for sale as

planting seed and subject to the inspection fee of four cents (4¢) per 100 pounds. The Commissioner of Agriculture or his duly authorized agents shall have permission to examine the records of the permittee during normal working hours.

(2) File with the Commissioner of Agriculture within thirty days after the close of each quarter year ending the last day of November, February, May and August, sworn reports covering the total pounds of all first sales of agricultural seeds sold during the preceding quarter. A penalty of ten per cent (10%) of any inspection fee which is not paid within the time allowed shall be added to the inspection fee.

(3) When located outside of the State of Texas and when distributing agricultural seed in the State of Texas, shall maintain in the State of Texas the records and information required by Section 7(d) of this Act or pay all costs incurred in the auditing of records at a location outside of the state. The Commissioner of Agriculture is authorized and directed to revoke the permit of any person who fails to comply with this requirement. Itemized statements of costs incurred in any such audits shall be furnished the permittee by the Commissioner promptly on completion of any such audit, and he must pay the same within thirty (30) days from the date of the statement.

(4) Affix to each container of agricultural seed sold, offered for sale, or otherwise distributed and to the invoice of each lot of agricultural seed sold, offered for sale, or otherwise distributed in bulk, a plainly printed or written statement giving the information required in Section 3 of this Act.

Any failure of a permittee to observe these regulations, file required reports, or pay fees required shall be grounds for cancellation of the permit.

(e) Any person who sells, offers for sale, exposes for sale or otherwise distributes seed in bulk must use the reporting system and all labeling information required in Section 3 of this Act must be shown on the invoice or such person must furnish to the purchaser one (1) Texas Tested Seed Label with the analysis information required in Section (3) printed thereon for each one hundred (100) pounds and/or fraction thereof sold.

(f) In no case shall the inspection fee be paid more than once on any quantity of seed either by the Tax Tag or reporting system, except that the inspection fee must be paid once during the first and once during any subsequent germination period as required in Section 4(a)(1) of this Act, that said seed remains offered or exposed for sale. For any seed on which the germination test has expired, payment of the inspection fee is the responsibility of the custodian of said seed.

(g) The Commissioner of Agriculture is authorized to prescribe, amend, adopt, and publish after public hearing following due public notice, such rules and regulations as are necessary to carry out and make effective the provisions of this section.

Seizure

Sec. 8. Any lot of agricultural or vegetable seed not in compliance with the provisions of this Act shall be subject to seizure on complaint of the Commissioner of Agriculture to a Court of competent jurisdiction in the area in which the seed is located. In the event that the Court finds the seed to be in such violation of the Act and orders the condemnation of said seed, it shall be denatured, processed, destroyed, re-labeled, or otherwise disposed of in compliance with the laws of this State. Provided, that in no instance shall such disposition of said seed be ordered by the Court without first having given the claimant an opportunity to apply to the Court for the release of said seed or permission to process or re-label it to bring it into compliance with the Act.

Violations and Prosecutions

Sec. 9. Every violation of the provisions of this Act shall be deemed a misdemeanor punishable by a fine not exceeding Fifty Dollars (\$50) for the first offense and not exceeding Two Hundred Dollars (\$200) for each subsequent similar offense.

When the Commissioner of Agriculture shall find that any person has violated any of the provisions of this Act he, or his duly authorized agent or agents, may institute proceedings in the Court of competent jurisdiction in the area in which the violation occurred to have such person convicted therefor; or the Commissioner of Agriculture may file with the County or District Attorney with the view of prosecution such evidence as may be deemed necessary. Provided, however, that no prosecution under this Act shall be instituted without first having given the defendant an opportunity to appear before the Commissioner of Agriculture, or his duly authorized agent, to introduce evidence either in person or by agent or attorney at a private hearing. If, after such hearing, or without such hearing in case the defendant or his agent or attorney fails or refuses to appear, the Commissioner of Agriculture is of the opinion that the evidence warrants prosecution he shall proceed as herein provided.

It shall be the duty of the County or District Attorney or the Attorney General of Texas, as the case may be, to institute proceedings at once against the person charged with such violation if, in his judgment, the information submitted warrants such action.

After judgment by the Court in any case arising under this Act the Commissioner of Agriculture shall publish any information pertinent to the issuance of the judgment by the Court in such media as he may designate from time to time.

Miscellaneous

Sec. 10. All money received by the Commissioner of Agriculture through the administration of this Act shall be paid by him to the State Treasurer who shall deposit said money to the account of the Texas Seed Act, to be known as the Texas Seed Act Fund, which said account shall be a continuing fund and shall be used in the administration of the Texas Seed Act. The entire amount of said Texas Seed Act Fund, or so much thereof as may be necessary, is hereby appropriated to the State Department of Agriculture to be expended for the purposes specified in this Act, including the enforcement of the Act and the cost of collecting the fees. This appropriation shall not affect any other appropriations heretofore or hereafter made to the State Department of Agriculture, but shall be in addition thereto for the biennium ending August 31, 1955. Thereafter, the number of employees and the salaries and travel allowance of each shall be as fixed in the biennial appropriation bill.

Partial Invalidity

Sec. 11. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudicated by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Repeals

Sec. 12. Chapter 304, General and Special Laws, Regular Session of the Forty-first Legislature, and as amended by the Forty-second Legislature, in House Bill No. 375,¹ be and the same is hereby repealed.

[Acts 1941, 47th Leg., p. 893, ch. 551; Acts 1953, 53rd Leg., p. 744, ch. 292, §§ 1, 2, 4; Acts 1955, 54th Leg., p. 1144, ch. 431, §§ 1 to 3; Acts 1957, 55th Leg., p. 139, ch. 60, §§ 2, 3; Acts 1969, 61st Leg., p. 575, ch. 195, §§ 1 to 5, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 991, ch. 178, §§ 1, 2, eff. May 13, 1971.]

¹ Article 93a and Penal Code, Art. 1708a.

Art. 93c. Law Not Applicable to Feed Mixtures

This Act¹ shall not apply or be construed in such manner as to apply to any mixture or mixtures of any feed for livestock, swine or poultry or any other animals, birds, reptiles or fish upon the order or at the direction of an individual or association of individuals for his or their use in feeding any one or more of the aforesaid livestock, swine, poultry, animals, birds, reptiles and fish.

[Acts 1953, 53rd Leg., p. 744, ch. 292, § 3A.]

¹ This article and article 93b, §§ 3, 7, 10.

Art. 93d-1. "Agricultural Seeds"

Agricultural seeds are defined as the seeds of alfalfa, Irish potatoes, sweet potatoes, clovers, corn, cotton, saccharine sorghums, non-saccharine sorghums, broom corn, small grains,

including rice, cowpeas, soybeans, velvet beans, peanuts, vetch, rape, millet, Johnson grass, Bermuda grass, Kentucky blue grass, orchard grass, sudan grass, onion and Rhodes grass, which are to be used for sowing or seeding purposes.

[1925 P.C.]

Art. 93d-2. Label

Agricultural seeds, except as herein otherwise provided, which are offered or exposed for sale within this State for seeding purposes, in lots of ten pounds or more, shall bear a plainly written or printed statement in the English language stating:

(a) Commonly accepted name of agricultural seed.

(b) Correct weight in pounds and ounces.

(c) Name of State where seed was grown, and if unknown, a statement that the locality where grown is unknown.

(d) Approximate percentage of germible seed as determined by germination test and date on which germination test was made.

Name and address of person, firm or party or agency making the germination test, provided however, that the statement shall not be a basis for prosecution under this chapter.

(e) Name and address of vendor.

(f) The approximate percentage, by weight, or purity, meaning, freedom of such agricultural seed from foreign matter and from other seed distinguishable by their appearance.

(g) The approximate total percentage, by weight, of weed seeds or other foreign matter.

(h) The name and the approximate number per pound of each kind of the seed of the following named noxious weeds which are present at the rate of, or in excess of, one such noxious weed seed in five grams of agricultural seed. Such noxious weed seed are defined as seeds of dodder (*Cuscuta*, various species), bind weed or wild morning glory (*Convolvulus*, various species), blue weed, (*Helianthus ciliatus*), wire grass (*Paspalum distichum*). Bermuda grass, Johnson grass, and all other seeds or foreign matter known by science to be noxious are hereby defined as noxious weed seeds.

[1925 P.C.]

Art. 93d-3. Mixture of

Mixtures of seeds offered or exposed for sale within the State for seeding purposes, in lots of ten pounds or more, containing one or more kinds of agricultural seeds defined in the preceding article in excess of five per centum, by weight, of the total mixture, shall bear a plain-

ly written or printed statement in English language, stating:

(a) That such seed is a mixture.

(b) The approximate percentage, by weight of inert matter.

(c) The requirements provided in paragraphs (c), (g) and (h) of the preceding article.

[1925 P.C.]

Art. 93d-4. Exceptions

The provisions of this chapter shall not apply to agricultural seeds, or mixtures of seeds, when plainly labeled "not clean seed," or "not tested seed" nor seeds sold to merchants to be recleaned before being sold or exposed for sale for seeding purposes, or when in storage for the purpose of recleaning.

[1925 P.C.]

Art. 93d-5. Samples

The Commissioner of Agriculture is authorized in person or by his inspectors or assistants to take for analysis, paying the reasonable purchase price, a sample not exceeding four ounces in weight, from any lot of agricultural seeds or "mixtures" offered or exposed for sale. Said sample shall be drawn or taken in the presence of the vendor or parties interested, or his or their agents or representatives, and shall not be less than ten per cent of the whole lot inspected and shall be thoroughly mixed and then divided into two samples and placed in glass or metal vessels or containers, carefully sealed and a label placed on each vessel stating the name of the agricultural seed or mixture sampled, the name of the vendor from whose stock said samples were taken, and the date and place of taking such samples, and said label shall be signed by said Commissioner, or his authorized agent; or said sample may be taken in the presence of the disinterested witnesses if the vendor or party in interest fails or refuses to be present, when notified. One of said duplicate samples shall be left with or on the premises of the vendor or party in interest, and the other retained by the Commissioner for analysis and comparison with the labels required by law.

[1925 P.C.]

Art. 93d-6. Penalty

Whoever offers or exposes for sale within this State any agricultural seed, defined in the first article of this chapter without complying with the requirements of the second and third articles of this chapter, or whoever falsely marks or labels any agricultural seeds under said second article, or mixture under said third article, shall be fined not more than one hundred dollars.

[1925 P.C.]

Art. 93d-7. Preventing Inspection or Sampling

Whoever prevents the Commissioner of Agriculture or his duly authorized agent from in-

specting the seeds described in the preceding articles of this chapter, or from collecting samples as provided in the preceding articles, shall be fined not more than one hundred dollars. [1925 P.C.]

Art. 93d-8. Cotton Seed

Every person who falsely advertises or proclaims himself a "Registered Cotton Seed Breeder" or "Certified Cotton Seed Grower," and every person who sells or offers for sale cotton seed and falsely represents it to be "Registered Cotton Seed" or "Certified Cotton Seed," shall be fined not less than one hundred nor more than one thousand dollars.

[1925 P.C.]

CHAPTER FIVE. COMMERCIAL FERTILIZERS

Article

94 to 108. Repealed.

108a. Texas Commercial Fertilizer Control Act of 1961.

Arts. 94 to 108. Repealed by Acts 1961, 57th Leg., ch. 37, p. 54, § 16, eff. Sept. 1, 1961

Art. 108a. Texas Commercial Fertilizer Control Act of 1961

Short Title

Sec. 1. This Act shall be known and may be cited as the "Texas Commercial Fertilizer Control Act of 1961."

Definitions

Sec. 2. The words and phrases as used in and applicable to this Act, unless a different meaning is plainly required by the context, shall have the following meaning:

(1) The term "Director" means the person appointed by the Board of Directors of the Agricultural and Mechanical College of Texas for the purpose of administering the provisions of this Act, and includes his duly authorized representatives.

(2) The term "person" means an individual of either sex, a firm, broker, jobber, partnership, corporation, company, legal entity, society, organization or association, and every agent, officer or employee of any thereof.

(3) The term "registrant" means the person who registers commercial fertilizer under the provisions of this Act.

(4) The term "commercial fertilizer" includes mixed fertilizer and/or fertilizer materials and any other substances, materials or elements or parts thereof, including but not limited to pesticides, intended for use or used as an ingredient or component of a mixture of materials which is used, designed or represented for use or claimed to have value in promoting plant growth, except unprocessed, unpackaged and unmanipulated lime, limestone, marl and gypsum. The term "commercial fertilizer," anything to the contrary notwith-

standing, shall not include the excreta of animal and plant remains and mixtures of such substances for which no claims of grade are made.

(5) The term "fertilizer material" means any solid or non-solid substance or compound which contains any essential plant nutrient element in a form available to plants and which is used primarily for its essential plant nutrient element content in promoting or stimulating growth of plants or improving the quality of crops or for compounding mixed fertilizers, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product.

(6) The term "mixed fertilizer" means a solid or non-solid product which results from the combination, mixture, or simultaneous application of two or more fertilizer materials by a manufacturer, processor, mixer, or contractor, and shall include specialty fertilizers and manipulated manures, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product.

(7) The term "specialty fertilizer" means a commercial fertilizer distributed primarily for non-farm use, except the excreta of animals and plant remains and mixtures of such substances for which no grade claims are made other than to identify the product, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks, cemeteries, greenhouses and nurseries.

(8) The term "manipulated manures" means substances composed of excreta of animals or plant remains, or mixtures of such substances, for which grade claims are made in addition to the identification of the product.

(9) The term "grade" means the percentages of total nitrogen, available phosphoric acid (P_2O_5) and soluble potash (K_2O) guaranteed in a commercial fertilizer and shall be stated in whole numbers in the same order.

(10) The term "brand" means the term, design, trademark and/or other specific designation under which a commercial fertilizer is distributed in this state.

(11) The terms "label" and "labeling" means a display of written, printed or graphic matter placed upon, affixed to, or accompanying the container in which a commercial fertilizer is distributed, or the invoice or delivery slip with which a commercial fertilizer is distributed in bulk.

(12) The term "percent" or "percentage" means percentage by weight in the avoirdupois system.

(13) The term "unit" means one percent (1%) by weight or twenty (20) pounds per ton of 2,000 pounds.

(14) The term "sell" or "sale" shall include exchange, barter, offering for sale, exposing for sale, consignment for sale and/or any other transfer of title or possession.

(15) The term "distribute" means to sell or otherwise supply commercial fertilizers.

(16) The term "container" means any bag, box, carton, bottle, barrel, tank, package, apparatus, device, appliance or other item of any capacity into which commercial fertilizers are packed, poured, stored, or placed for handling, transporting and/or distributing.

(17) The term "bulk" applies to a lot of any commercial fertilizer which is not in a closed container at the time it passes into possession of the consumer, and shall apply to such commercial fertilizer at all stages of distribution.

(18) The term "official sample" means any sample of commercial fertilizer taken by the Director or his representative and designated as official by the Director.

Administration

Sec. 3. The provisions of this Act shall be administered by the person appointed for such purpose by the Board of Directors of the Agricultural and Mechanical College of Texas, and hereinafter referred to as the "Director." The Board may also appoint a person as State Chemist who may be delegated the responsibility by the Director to make such chemical analyses and tests as may be required under this Act.

Registration

Sec. 4. (a) Each brand and grade of commercial fertilizer shall be registered with the Director before being distributed in this state. All registrations shall be permanent unless new registrations are called for by the Director or unless cancelled by the registrant or Director. The Director is empowered to prescribe and furnish the registration form and is authorized and empowered to refuse the registration of any commercial fertilizer which is not in compliance with all provisions of this Act or regulations issued under this Act and to cancel any registration when it is subsequently found to be in violation of any provision of this Act or when he has satisfactory evidence that the registrant has used fraudulent or deceptive practices in attempted evasion of the provisions of this Act or regulations thereunder.

(b) The registration request shall include the following information:

(1) The name and principal address of the person responsible for distributing the commercial fertilizer.

(2) The brand and grade.

(3) The guaranteed analysis, listing the minimum percentage of plant nutrients claimed in the following order and form:

- Total Nitrogenpercent
- Available Phosphoric Acid (P₂O₅)percent
- Soluble Potash (K₂O)percent

(4) The sources from which the nitrogen, phosphorus and potassium are derived:

(5) Copies of all printed, written, graphic or other matter, material or information of any kind, including symbols, designs, or trademarks which are to be placed upon, packed with, affixed to, or accompany the container of a packaged commercial fertilizer or the invoice covering commercial fertilizer distributed in bulk. Such material shall not be misleading in any particular. It shall not advertise, name, promote, emphasize, or otherwise direct attention to any one or more of the components or ingredients in the product, unless the percentage and common name of such ingredient are clearly and prominently declared, nor to the exclusion of other components or ingredients, or to any constituent or element of any component or any ingredient, or to any product of or otherwise reference in any manner any other manufacturer, firm, organization or other such person, except when specifically authorized or required by provisions of this Act or by regulations which the Director is herewith empowered to issue.

(c) Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphoric acid and the degree of fineness. For bone, tankage, and other organic phosphate materials, the total phosphoric acid shall be guaranteed. Additional plant food elements or other additives, determinable by acceptable methods, may be incorporated in a commercial fertilizer and/or guaranteed only when and in such manner as may be authorized by the Director by regulation which he is authorized to issue, and shall be subject to inspection, analysis and all other provisions of this Act.

(d) A distributor shall not be required to register any brand of commercial fertilizer which has already been registered under this Act by another person.

(e) Any mixed fertilizer in which the sum of the guarantees for nitrogen, phosphorus as available phosphoric acid and/or potassium as potash is less than twenty-four percent (24%), except manipulated manures, specialty fertilizers and commercial fertilizers sold only for their content of secondary components, shall not be registered in the state.

(f) No fertilizer containing an "economic pesticide," as that term is now or hereafter defined in the Insecticide, Fungicide, and Rodenticide Act of Texas,¹ may be registered until after the constituent economic pesticide has been registered in accordance with the provisions of the Insecticide, Fungicide, and Rodenticide Act of Texas.

sions of the Insecticide, Fungicide, and Rodenticide Act of Texas.

Labeling

Sec. 5. The net weight and the information required or authorized by Section 4(a), (b1), (b2), (b3), (b5) when applicable, and (c) of this Act must appear on one side of a label affixed to the container or printed on one side of the container in which a packaged commercial fertilizer is distributed, or attached to or upon the invoice or delivery ticket of a lot of commercial fertilizer which is distributed in bulk.

Inspection Fee

Sec. 6. (a) An inspection fee of Twenty-five Cents (25¢) per ton of commercial fertilizer distributed in this state or a minimum inspection fee of Twenty-five Dollars (\$25.00) for each state fiscal year, whichever is the greater, shall be paid by the registrant of such commercial fertilizer to the Director at his office in College Station, Texas. When more than one person is involved in the distribution of such a commercial fertilizer, the last registrant who distributes to a non-registrant (dealer or consumer) is responsible for reporting the tonnage and for paying the inspection fee. Payment of the inspection fee shall be based upon and shall accompany the quarterly report of distribution of commercial fertilizers required by Section 6(c) of this Act. If payment of the inspection fee is not made within thirty (30) days after the close of each quarter, a collection fee equal to ten percent (10%) of the inspection fee due, or a minimum collection fee of Ten Dollars (\$10.00), whichever is the greatest, shall be assessed against the registrant. If payment of the inspection fee plus the collection fee is not made within ten (10) days following the expiration of the thirty (30) day period, the Director shall cancel the registrations of the delinquent registrant, provided that the Director at his discretion may require additional reports for the purpose of identification and verification of the report.

(b) All fees collected by the Director under Section 6(a) of this Act shall be deposited by the Director in the same manner as other local institutional funds of the Agricultural and Mechanical College of Texas and shall be set apart as a special fund to be known as the Texas Fertilizer Control Fund which shall be used, with the approval and consent of the Board of Directors of the Agricultural and Mechanical College of Texas, for administering and enforcing this Act, including the cost of salaries, equipment and facilities, the cost of registration, publication of bulletins and reports, the cost of inspecting, sampling, and analysis and all other expenses connected with the proper and efficient administration and enforcement of this Act. Any funds collected under the provisions of this Act which, in the judgment of the Board of Directors of the Agricultural and Mechanical College of Texas, are not needed for the proper and efficient administration and enforcement of this Act may, with the ap-

proval and consent of said Board of Directors, be used for research relative to the value of commercial fertilizers.

(c) Every registrant of commercial fertilizers shall file in the office of the Director at College Station, Texas, within thirty (30) days after the close of each quarter year ending with the last day of November, February, May and August, a sworn report, on forms prescribed and furnished by the Director, setting forth the tonnage of each and every commercial fertilizer distributed by him in this state during such quarter, and shall file with that report a remittance in payment of the inspection fee required by Section 6(a) of this Act.

(d) Every registrant of commercial fertilizers shall maintain and, upon request of the Director, furnish such records and additional reports as the Director may require to determine accurately the tonnages of all commercial fertilizers distributed by the registrant in this state which are subject to the inspection fee required by Section 6(a) of this Act. The Director or his duly authorized representative shall have permission to examine the records of the registrant at all reasonable times. All records shall be preserved and retained in usable condition, and shall be available for examination by the Director or his representative for a period of not less than two (2) years unless otherwise authorized by the Director. The Director may require the retention of such records for a period of more than two (2) years in instances when he deems it in the public interest to do so.

(e) Every registrant who is located outside the State of Texas but who distributes commercial fertilizer in the State of Texas shall maintain in the State of Texas the records and information required by Section 6(d) of this Act or shall pay all costs incurred in the auditing of records at a location outside of the state. Itemized statements of costs incurred in any such audits shall be furnished the registrant by the Director promptly upon the completion of any such audit, and the registrant shall pay the same within thirty (30) days from the date of such statement.

(f) Venue of all suits for recovery of inspection and collection fees required by this Section 6 shall be in Brazos County, Texas.

(g) The Director is authorized and directed to cancel all registrations of any registrant who fails to comply with the requirements of this Section 6.

Ratio and Grade Lists

Sec. 7. After due notice has been given and a public hearing open to all interested parties has been held, prior to or as early as practicable after June 30 of each year, the Director shall promulgate and publish a list of ratios and/or minimum grades of mixed fertilizers which he considers adequate to meet the agricultural needs of this state.

Inspection, Sampling, and Analysis

Sec. 8. (a) The Director or his representatives shall have access during regular business hours to all places of business, plants, buildings, vehicles, bins, vats and parcels of whatsoever kind used in the manufacture, transportation, importation, sale or storage of any commercial fertilizer and is authorized and empowered to inspect each such place, plant or vehicle and to open any container, bin or parcel containing or suspected of containing any commercial fertilizer and to take such samples therefrom in the manner prescribed by regulation by the Director as he deems necessary to determine whether such commercial fertilizer is in compliance with the provisions of this Act.

(b) In order that each sample may be properly identified with the lot of commercial fertilizer sampled, the Director or his representative may examine and make copies of any invoice, transportation records or other records pertaining thereto.

(c) Procedures for sampling and analysis shall be promulgated by the Director and shall be in accordance with official methods adopted by the Association of Official Agricultural Chemists of North America or, such other procedures as the Director may deem authentic by research and investigation.

(d) Each sample shall be sealed with a label placed thereon which states the serial number of the sample, the date when the sample was taken, and the signature of the person who took the sample, and shall be sent to the Director or his representative. A report stating the name or brand of the commercial fertilizer sampled, the serial number, the guarantor thereof, the name of the person in possession of the lot of the product from which the sample was taken, the date and place of taking the sample, and the name of the person taking the sample, shall be sent to the Director or his representative.

(e) In the event the Director finds, through chemical analysis or any other method or procedure, that a commercial fertilizer is in violation of any provision of this Act, he shall so notify in writing the manufacturer or other person who caused the fertilizer to be distributed, and to the consignee, if any, giving full details. The manufacturer or the person who causes the fertilizer to be distributed may thereupon, within fifteen (15) days after said notice has been given, request, and the Director shall so direct if requested, that two (2) portions of the sample of such fertilizer be submitted for analysis to two (2) qualified chemists selected by the Director, and the Director shall if so requested within the same fifteen (15) day period direct that one (1) portion of the sample be furnished such manufacturer or other person. Each of said chemists shall certify in duplicate, under oath, his findings to the Director, whereupon one such duplicate from each chemist shall be forwarded by the Director to the manufacturer or other

person including the consignee, if any. The three (3) chemical analyses thus obtained may be considered in determining whether any violation of this Act has occurred. The manufacturer or other person requesting the analyses shall pay the cost of such analyses.

(f) Samples may be submitted by other persons when taken in accordance with rules and regulations which the Director is authorized to promulgate, but the results of such samples shall be for informational purposes only and shall not identify the manufacturer or be published.

False or Misleading Statements and Adulteration

Sec. 9. It shall be unlawful to distribute a misbranded or adulterated commercial fertilizer in this state.

(a) A commercial fertilizer is misbranded if it carries any false or misleading statement upon, attached to or accompanying the container, or if false or misleading statements concerning its agricultural value are made on the container or in any advertising matter accompanying or associated with the commercial fertilizer.

(b) A commercial fertilizer is adulterated when it has been damaged in any way whereby its value is reduced, or when damage or inferiority has been concealed in any manner, or when any substance has been added that reduces its quality to make it appear of greater value than it is.

Detained Commercial Fertilizers

Sec. 10. (a) Whenever the Director shall find a commercial fertilizer which he has reasonable cause to believe is being distributed in violation of any provision of this Act, he shall affix to the container of such commercial fertilizer a written notice stating that such commercial fertilizer has been detained and warning all persons not to dispose of such commercial fertilizer in any manner until permission is given by the Director, or by a court, or until the detainer expires as hereinafter provided. If the Director finds that detained commercial fertilizer is not in violation of any provision of this Act, he shall forthwith remove the detainer notice from such commercial fertilizer. The detainer notice shall expire and shall become a nullity at the expiration of ten (10) days after it is affixed to any commercial fertilizer unless prior to such time the Director has instituted proceedings to condemn such commercial fertilizer pursuant to the provisions of this Section.

(b) If detained commercial fertilizer is found, after examination and analysis, to be in violation of any provision of this Act, the Director shall petition the district or county court in whose jurisdiction the commercial fertilizer is located for an order for condemnation and confiscation of such commercial fertilizer. If it be determined by the court that the commercial fertilizer violates any provisions of this Act, such commercial fertilizer shall be

disposed of by destruction or by sale in accordance with the judgment of the court, and if the commercial fertilizer is sold, the proceeds from such sale, less court costs and charges, shall be paid into the State Treasury. Provided, however, that when the violation of this Act which is found by the court with respect to such commercial fertilizer can be corrected by proper processing or labeling, the court, after entry of the decree and after all costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such commercial fertilizer shall be properly processed or labeled, has been executed, shall make an order directing that such commercial fertilizer be delivered to the registrant thereof for such processing or labeling under the supervision of the Director. The expense of such supervision shall be paid by the registrant of the commercial fertilizer. The bond shall be returned to the registrant when the Director notifies the court that the commercial fertilizer is no longer in violation of this Act, and that the supervision expense aforesaid has been paid.

(c) If the Director deems any violation under this Section to be of minor nature, and if he is of the opinion that the public interest will be served and protected by the issuance of a written warning to the violator, he shall have discretion to forego such detainer action.

Penalties

Sec. 11. (a) Any person who performs any act herein declared to be unlawful, or who causes such act to be performed or who conspires to perform such act, shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Before the Director reports a violation for such prosecution, an opportunity shall be given such person to present his views.

(b) Any person who violates any of the provisions of this Act shall, upon conviction, be guilty of a misdemeanor and shall be subject to a fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00). Each separate violation shall constitute a separate offense.

(c) The venue for any and all criminal prosecutions and civil actions shall be as under General Law except as provided for in Section 6(f).

(d) It shall be the duty of each district attorney, criminal district attorney, or county attorney, to whom the Director reports any violation of this Act, to cause appropriate proceedings to be instituted and prosecuted in the proper courts without delay in the manner provided by law.

(e) The Director is authorized to cancel all registrations of any registrant who fails to comply with any of the provisions of this Act or any rules or regulations issued under authority of this Act, after due opportunity for hearing has been given.

Appeal

Sec. 12. Any person at interest aggrieved by any order or ruling of the Director may appeal from such order or ruling to the District Court of his residence by filing a petition in such District Court within twenty (20) days from the date of such ruling or order. The appeal shall be de novo as that term is known as appealing from the Justice Court, and the burden of proof shall not be on the defendant.

Rules and Regulations

Sec. 13. The Director is hereby authorized to enforce the provisions of this Act and to prescribe, adopt and enforce such rules and regulations relating to the distribution of commercial fertilizers as he may find necessary to carry into full effect the intent and meaning of this Act; provided, however, that prior to the issuance of any such rules and regulations, the Director shall hold public hearings pursuant to not less than fifteen (15) days notice in writing. Each such notice shall set forth the time and place of the hearing and a copy of the proposed rules and regulations shall be mailed to such organizations as may reasonably be expected to be vitally affected by said proposed rules and regulations.

Publications

Sec. 14. The Director shall publish at least annually, in such form as he may deem proper, information concerning the sales of commercial fertilizers, together with such data on their sale as he may consider advisable, a report of the results of the analyses based on official samples of commercial fertilizers sold within the state as compared with the analysis guaranteed, and a financial statement showing funds received and how expended under Section 6 of this Act; provided, however, that the information concerning the sale of commercial fertilizers shall be shown separately for the fall season and spring season of each year, and that no disclosure shall be made of the scope of operations of any person.

Exchanges Among Manufacturers

Sec. 15. Nothing in this Act shall be construed to apply to, restrict or avoid sales or exchanges of commercial fertilizers to each other by importers, manufacturers or manipulators who mix fertilizers for distribution or as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or manipulators who have registered their brand names as required by the provisions of this Act.

Repeal of Prior and Conflicting Laws

Sec. 16. Articles 1709 through 1720, inclusive, of Title 19, Chapter 12 of the Penal Code of the State of Texas, (1925), as amended by Chapter 170, Acts of the 51st Legislature, Regular Session, (1949), and Chapter 9, Acts of the 52nd Legislature, Regular Session (1951), and Articles 94 through 108, inclusive, of Title 4, Chapter 5 of the Revised Civil Statutes of Texas, (1925), as amended by Chapter 170, Acts

of the 51st Legislature, Regular Session (1949), are superseded by this Act and are hereby repealed. All other laws and parts of laws in conflict herewith are hereby repealed insofar as they are in conflict.

Pending Court Cases

Sec. 17. Any court cases which are pending on the effective date of this Act shall not be affected by the passage of this Act, but shall be acted upon in accordance with the provisions of Title 19, Revised Criminal Statutes, 1925, as amended, and Title 4, Revised Civil Statutes, 1925, as amended.

[Acts 1961, 57th Leg., p. 54, ch. 37, eff. Sept. 1, 1961; Acts 1973, 63rd Leg., p. 830, ch. 378, § 1, eff. Aug. 27, 1973.]

CHAPTER SIX. FRUITS AND VEGETABLES

Article

- 109. Standards of Containers.
- 110. Grades and Packs.
- 110a. Inspection of Fruits and Vegetables.
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- 112. Texas Bermuda Onion Grades.
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- 117. Inspection of Fruits Other Than Citrus and Vegetables Other Than Potatoes.
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- 118b. Citrus Fruit Growers Act.
- 118b-1. Coloring Citrus Fruit.
- 118b-2. Identification Signs on Vehicles Hauling Citrus Fruit.
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- 118c. Marketing Citrus Fruit Unfit for Consumption.
- 118c-1. Tomato Standardization and Inspection Act.
- 118c-2. Repealed.
- 118c-3. Sweet Potatoes; Inspection and Classification; Improvement of Marketing Opportunities.
- 118d. Unconstitutional.
- 118e. Vegetable Plant Certification.

Art. 109. Standards of Containers

The following standards of containers for the shipment of fruits and vegetables in this State are hereby established and adopted as State standards.

1. Standard Bushel Basket. The standard bushel basket shall contain not less than 2150.4 cubic inches in the basket proper, regardless of the manner in which the lid is made.

2. Standard Four Basket Crate. The basket in said crates shall hold not less than three quarts dry measure, and the dimensions of such baskets shall be 5x8 inches at the bottom, 6x10 inches at the top, and 4 inches deep, and shall contain not less than 201.6 cubic inches. The heads of the crates holding said baskets shall be 4½ inches wide by 11 inches at the bottom, and 13 inches at the top in length and not less than ⅞ of an inch thick. The veneer or boards for the bottoms, sides and tops shall be not less than 4½, 4 and 5½ inches wide respectively, and not less than ¾ of an inch thick and

22 inches long. Both crates and baskets shall be made of good, substantial material, sufficiently strong to withstand the ordinary strain incident to transportation and handling.

3. Standard Six Basket Crate. Each basket of a six-basket crate shall contain not less than 268.8 cubic inches.

4. Standard Folding Onion Crate. The standard folding onion crate shall not be less than $19\frac{3}{8}$ inches long, $11\frac{1}{16}$ wide and $9\frac{1}{16}$ inches deep, inside measurements, containing not less than 2154.4 cubic inches.

5. Standard Orange Box. The dimensions of the standard orange box shall be 12x12x12 inches for each one-half of box, inside measurement, and the dimensions of a one-half (or strap box) shall be 12x12x6 inches for each one-half box, inside measurement.

6. Standard Berry Box or Crate. The standard quart berry box or crate shall contain not less than 24 quart baskets containing 67.2 cubic inches each, dry measure; and the standard pint berry box or crate shall hold not less than 24 pint baskets, containing not less than 33.6 cubic inches, dry measure.

[Acts 1925, S.B. 84.]

Art. 110. Grades and Packs

The following "grades and packs" are hereby established as State standards for the State of Texas:

(a) Standard Peach Grades and Packs. Standard peach grades are three in number; namely, Fancy, Choice or No. 1, and No. 2.

Fancy peaches shall be medium to large size, good color for the variety named, firm and sound, of proper maturity for shipment to distant markets, carefully picked and closely packed in bushel baskets or crates of four or six basket capacity.

Choice or No. 1 peaches shall be of average size and color for the variety named, sound, firm, practically free from blemishes and defects, or proper maturity for shipment to distant markets, carefully picked and closely packed in bushel baskets or crates of four or six basket capacity.

No. 2 peaches shall be all such sound fruit as is not good enough for No. 1's, such as small, slightly uneven surface, greens, ripens or slight defects of whatever kind, but suitable for market purposes and for reasonably distant shipments. Each and every package of fruits and vegetables offered for sale or shipment shall have plainly stamped on it the grade of such fruits or vegetables and the name and post office address of the person shipping the same, provided that this shall apply only to shipments of such fruits and vegetables as have grades established by law.

Culls. Any and all peaches that are too small in size, ill shaped and poor in general quality to measure up to any of the above grades, shall be known as culls, unfit for market purposes, and shall not be shipped unless

branded "Culls" and shipped in a separate consignment.

Texas Standard Peach Packs. The standard peach packs for six basket crate shall be eight in number; namely, 72's, 96's, 138's, 162's, 180's, 216's, 270's and 324's.

To Pack 72's. (Begin at end of basket.) Place 1 and 2 alternately in 4 rows, two layers high, 6 to the layer on end, blossom end up.

To Pack 96's. Place 2 and 2 alternately in 4 rows, 2 layers high, 8 to the layer on end, blossom end up.

To Pack 138's. Place 2 and 1 alternately in 5 rows, 3 layers high, 8 and 7 alternately to the layer, flat.

To Pack 162's. Place 2 and 1 alternately in 6 rows, 3 layers high, 9 to the layer, flat.

To Pack 180's. Place 2 and 2 alternately in 5 rows, 3 layers high, 10 to the layer, flat.

To Pack 216's. Place 2 and 2 alternately in 6 rows, 3 layers high, 12 to the layer, flat.

To Pack 270's. Place 3 and 3 alternately in 5 rows, 3 layers high, 15 to the layer, flat.

To Pack 324's. Place 3 and 3 alternately in 6 rows, 3 layers high, 18 to the layer, flat.

All packages must be filled tight, in all layers from bottom to top, and extend approximately 1 inch above the top rim or edge of the package, whether it be a bushel basket, crate basket, or box. All peaches in the same crate or package shall be as nearly as possible of a uniform degree of ripeness.

(b) Texas Standard Tomato Grades and Packs. Texas standard tomato grades may be two in number; namely, Fancy and Choice. Texas standard tomato packs shall be seven (7) in number for the six basket crate and nine (9) in number for the four basket crate and the manner in which tomatoes are packed will partly determine their grade.

Texas Standard Six Basket Crate. Fancy. To Pack 72's. Place 2 and 2 alternately in 3 rows, 2 layers high, 6 to layer, blossom end up, 12 to the basket.

To Pack 84's. Place 2 and 2 alternately in 4 rows on edge 8 to the layer for first layer, and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 3 and 3 alternately in 3 rows, on edge, blossom end out; 9 to the layer for the second or last layer; 15 to the basket.

To Pack 108's. Place 3 and 3 alternately in 3 rows, on edge, 9 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

Choice:

To Pack 120's. Place 2 and 2 alternately in 4 rows, on edge, 8 to the layer for the first layer, and 3 and 3 alternately in 4 rows, on edge, blossom end out, 12 to the layer for the second or last layer, 20 to the basket.

To Pack 144's. Place 3 and 3 alternately in 4 rows, on edge, 12 to the layer for the first lay-

er and 3 and 3 in 4 rows, on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket.

To Pack 180's. Place 3 and 3 alternately in 5 rows, on edge, blossom end out, 15 to the layer for the second or last layer, 30 to the basket.

Texas Standard Four Basket Crate: Fancy:

To Pack 48's. Place 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 12 to the basket.

To Pack 56's. Place 2 and 2 alternately in 4 rows, on edge, 8 to the layer for the first layer and 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the second or last layer, 14 to the basket.

To Pack 60's. Place 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 3 and 3 alternately in 3 rows on edge, blossom end out, 9 to the layer for the second or last layer, 15 to the basket.

To Pack 64's. Place 2 and 2 alternately in 3 rows, flat, blossom end up, 6 to the layer for the first layer, and 1 and 2 alternately in 7 rows, on edge, blossom end out, 10 to the layer, 16 to the basket.

To Pack 72's. Place 3 and 3 alternately in 3 rows, on edge, 9 to the layer, for the first layer, and 3 and 3 alternately in 3 rows, on edge, blossom end out, 9 to the layer for the second or last layer, 18 to the basket.

Choice:

To Pack 84's. Place 3 and 3 alternately in 3 rows, on edge, 9 to the layer, for the first layer, and 3 and 3 alternately in 4 rows, on edge, blossom end out, 12 to the layer for the second or last layer, 21 to the basket.

To Pack 88's. Place 3 and 3 alternately in 3 rows, on edge, 9 to the layer for the first layer and 1 and 2 alternately in 9 rows, on edge, blossom end out, 18 to the layer, 22 to the basket.

To Pack 96's. Place 3 and 3 alternately in 4 rows, on edge, 12 to the layer for the first layer, and 3 and 3 alternately in 4 rows, on edge, blossom end out, 12 to the layer for the second or last layer, 24 to the basket.

To Pack 104's. Place 1 and 2 alternately in 9 rows, on edge, 13 to the layer for the first layer, and 1 and 2 alternately in 9 rows, on edge, 13 to the layer, blossom end out, for the second or last layer, 26 to the basket. All tomatoes in the same crate or package shall be as nearly as possible of a uniform degree of ripeness.

All fruit for both fancy and choice grades must be sound and free from undesirable scars, "cat faces", and damage from insects or other causes.

(c) Texas Standard Orange Grades.

Texas orange, satsuma, tangerine and grapefruit grades may be four in number, namely; Fancy Bright, Bright, Fancy Russet and Russet.

Fancy Brights shall be bright color, shapely form, practically free from any skin defects or blemishes, fine texture, reasonably thin, heavy, juicy and free from frost damage.

Brights shall be fairly bright color, texture not as fine or smooth as Fancy Brights, skin thicker, and may have other reasonable skin defects that do not affect the merchantable quality of the fruit.

Fancy Russets shall be of the same general quality as Fancy Brights, except in color which shall be "Golden" russet.

Russets shall be same general quality as Brights, except in color, which may be rusty brown, not "Golden" enough for fancy Russets.

Texas Standard Orange Packs. The Standard orange packs shall be 8 in number; namely, 96's, 126's, 150's, 176's, 200's, 216's, 252's, and 288's.

To Pack 96's. Put 3 and 3 alternately in 4 rows, 4 layers high, 12 to the layer.

To Pack 126's. Put 3 and 2 alternately in 5 rows, 5 layers high, 13 and 12 alternately to the layer.

To Pack 150's. Put 3 and 3 alternately in 5 rows, 5 layers high, 15 to the layer.

To Pack 176's. Put 4 and 3 alternately in 5 rows, 5 layers high, 18 and 17 alternately to the layer.

To Pack 200's. Put 4 and 4 alternately in 5 rows, 5 layers high, 20 to the layer.

To Pack 216's. Put 3 and 3 alternately in 6 rows, 6 layers high, 18 to the layer.

To Pack 252's. Put 4 and 3 alternately in 6 rows, 6 layers high, 21 to the layer.

To Pack 288's. Put 4 and 4 alternately in 6 rows, 6 layers high, 24 to the layer.

The Standard Satsuma and Tangerine packs shall be 7 in number; namely 90's, 106's, 120's, 168's, 196's, 216's and 224's.

To Pack 90's. Put 3 and 3 alternately in 5 rows, 3 layers high, 15 to the layer.

To Pack 106's. Put 4 and 3 alternately in 5 rows, 3 layers high, 18 and 17 alternately to the layer.

To Pack 120's. Put 4 and 4 alternately in 5 rows, 3 layers high, 20 to the layer.

To Pack 168's. Put 4 and 3 alternately in 6 rows, 4 layers high, 21 to the layer.

To Pack 196's. Put 4 and 3 alternately in 7 rows, 4 layers high, 25 and 24 alternately to the layer.

To Pack 216's. Put 5 and 4 alternately in 6 rows, 4 layers high, 27 to the layer.

To Pack 224's. Put 4 and 4 alternately in 7 rows, 4 layers high, 28 to the layer.

All oranges, satsumas and tangerines to conform to this standard must be packed "stem-in, twist" with blossom end down in first layer and stem end down in all other layers.

The standard grapefruit packs shall be 7 in number; namely, 28's, 36's, 46's, 54's, 64's, 80's, 96's.

To Pack 28's. Put 2 and 1 alternately in 3 rows, 3 layers high, 5 and 4 alternately to the layer.

To Pack 36's. Put 2 and 2 alternately in 3 rows, 3 layers high, 6 to the layer.

To Pack 46's. Put 3 and 2 alternately in 3 rows, 3 layers high, 8 and 7 alternately to the layer.

To Pack 54's. Put 3 and 3 alternately in 3 rows, 3 layers high, 9 to the layer.

To Pack 64's. Put 2 and 2 alternately in 4 rows, 4 layers high, 8 to the layer.

To Pack 80's. Put 2 and 2 alternately in 4 rows, 5 layers high, 8 to the layer.

To Pack 96's. Put 3 and 3 alternately in 4 rows, 4 layers high, 12 to the layer.

All grapefruit to conform to this standard must be packed on edge, except the 80 pack, which should be packed flat in the same manner as oranges.

In the enforcement of the above standards of grade and pack, an allowance may be made of not exceeding ten per cent difference in size between the fruit on top and in the interior of the package. A variation of not more than three per cent of actual count may be made in the number of any kind of fruit prescribed for each particular pack.

[Acts 1925, S.B. 84.]

Art. 110a. Inspection of Fruits and Vegetables

Any grower, shipper's agent, packer, or any agent, receiver or representative of any common carrier or transportation company, who shall violate any provision of the laws of this State relating to standards of grades and pack of fruit and vegetables, or who shall refuse to submit any such fruit or vegetables packed or ready for shipment to inspection by any inspector appointed, as authorized by law, by the Commissioner of Agriculture and empowered by such Commissioner to make such inspection, shall be fined not to exceed one hundred dollars.

[1925 P.C.]

Art. 111. Culls

Any and all fruits and vegetables for which standard grades and packs are established in this chapter or for which standard grades and packs may be hereafter promulgated by the Commissioner of Agriculture under the authority of this law, that are too small in size, ill shaped, and too poor in general quality to measure up to the grades herein established, shall be classed as "culls," and shall not be shipped, unless branded "culls" and shipped in a separate consignment.

[Acts 1925, S.B. 84.]

Art. 112. Texas Bermuda Onion Grades

Grade No. 1.—This grade shall consist of onions which are sound, mature, bright, well-shaped, of one variety, free from doubles,

splits, bottle necks, and seed stems, and practically free from damage caused by dirt or other foreign matter, moisture, sunburn, cuts, disease, insects, or mechanical means. The minimum diameter shall be two inches. In order to allow for variation incident to commercial grading and handling, six per centum, by weight, of any lot need not meet the foregoing requirements of this grade. In the case of yellow onions, not more than five per centum, by weight, of any lot may be noticeably pink.

If any lot which meets the requirements of this grade contains more than ten per centum, by weight, of onions with a minimum diameter of three and one-half inches, the grade shall be "Grade No. 1, Large."

Boiler Grade.—This grade shall consist of onions which are sound, mature, bright, well-shaped, of one variety, free from doubles, splits, bottle necks, and seed stems and practically free from damages caused by dirt or other foreign matter, moisture, sunburn, cuts, disease, insects, or mechanical means. The minimum diameter shall be one inch and the maximum diameter shall be two inches. In order to allow for variations incident to commercial grading and handling, six per centum by weight, of any lot need not meet the foregoing requirements of this grade. In case of yellow onions, not more than five per centum, by weight, of any lot may be noticeably pink.

Grade No. 2.—This grade shall consist of onions not meeting the requirements of Grade No. 1, which are sound, of one variety, free from doubles, splits, bottle necks and seed stems, and practically free from damage caused by moisture, sunburn, cuts, disease, insects, or mechanical means. The minimum diameter shall be two inches. In order to allow for variations incident to commercial grading and handling, ten per centum by weight, of any lot need not meet the requirements of this grade. If any lot which meets the requirements of this grade contains more than ten per centum, by weight of onions, with a minimum diameter of three and one-half inches, the grade shall be "Grade No. 2, Large."

Grade No. 3.—This grade shall consist of onions not meeting the requirements of any of the foregoing grades, which are sound, free from doubles, splits, bottle necks, and seed stems, and practically free from damage caused by moisture, sunburn, cuts, disease, insects or mechanical means. The minimum diameter shall be one inch. In order to allow for variations incident to commercial grading and handling, ten per centum, by weight, of any lot, need not meet the foregoing requirements of this grade.

Culls.—Culls shall consist of doubles, splits, bottle necks, and seed stems, or other onions which do not meet the requirements of any of the foregoing grades.

Terms Defined.—"Sound" means free from water-soaked, decayed, sprouted, or otherwise unsound onions.

"Mature" means having reached a state of development at which the onions are firm—not soft or spongy.

"Bright" means having the normal, attractive, pearly luster of Bermuda onions.

"Well-shaped" means the general appearance of being round—not three, four, or five-sided, or badly pinched by dry, hard soil, or thick-necked, but need not be of the exact, typical, flat Bermuda shape.

"One variety" means one variety or type, such as the Crystal Wax (white) or White Bermuda (yellow), or Red Bermuda (red), and not a mixture of different varieties or types.

"Practically free from damage" means that the appearance shall not be injured to an extent readily apparent upon casual examination.

"Sunburn" means discoloration due to exposure to the sun, but does not mean the green color running down the "veins" in the Crystal Wax (white) variety, unless such green color covers the surface between the veins.

"Diameter" means the greatest dimension at right angles to a straight line running from stem to the root.

"Noticeable pink" means the pink color often found in the White Bermuda (yellow) variety which is to be readily apparent upon casual examination.

[Acts 1925, S.B. 84.]

Art. 113. Texas Cabbage Grades

Grade No. 1.—This grade shall consist of sound, green colored, partially trimmed, and reasonably hard heads, weighing not less than one and one-half pounds nor more than eight pounds each; which are free from cracked or over-ripe heads, stem rot and other diseases, and practically free from dirt, worm holes and lice.

In order to allow for variations incident to commercial grading and handling, five per centum by weight, of any lot, may be under prescribed size, and in addition, three per centum, by weight, of any such lot, may be below the remaining requirements of this grade.

Grade No. 2.—This grade shall consist of sound cabbage not meeting the requirements of Grade No. 1.

Terms Defined.—"Over-ripe" means such cabbage as shows signs of going to seed and turning white from age.

"Partially Trimmed" means that not more than three outside leaves shall be left on the head.

[Acts 1925, S.B. 84.]

Art. 114. Snap Beans

Grade No. 1.—This grade shall consist of sound, bright, clean beans of one variety and color, from one-half to full grown; which are free from leaves, stems, spots, insect damage, rust, or other diseases, and over-ripe pods.

In order to allow for variation incident to commercial grading and handling, three per centum, by weight, may be of another variety of the same color.

Grade No. 2.—Any beans not meeting the above requirements shall be classed as No. 2.

All beans are to be packed in hamper weighing, when packed, not less than 17 pounds net weight for one-half bushel hamper, and 34 net weight for one bushel.

Terms Defined.—"Over-ripe" are such pods as will not snap on being broken, and where there is an absence of abundant juice (water) in the pods; also, when the beans in the pod show evidence of maturing.

[Acts 1925, S.B. 84.]

Art. 115. Texas Bartlett Pear Grades

Extra Fancy. Shall consist of Bartlett Pears clean, bright, natural color and shape, sound, free from worms, specks, blemishes, bruises or limb scar red fruit.

Fancy. Shall be the same as "Extra Fancy," except it may contain ten per cent slightly scarred fruit and slight blemishes that do not injure texture of the skin or its keeping qualities.

Choice. Shall be the same as "Fancy," except as it may contain ten per cent of fruit that is misshapen and with worm strings that have healed over.

Culls. Any pears not measuring up to the above specifications shall be branded as "Culls."

Packing.—Fruit shall be tightly packed in clean standard boxes, one end stamped with the grade, number of pears, name of and post office of packer.

Packs Defined.—"Four Tier" shall be packed in four layers. Minimum pack 120 pears to the box.

"Five Tier" shall be packed in six layers. Minimum pack 135, maximum pack 180 pears to box.

"Six Tier" shall be packed in six layers, containing 216 pears to the box, or five layers containing 195 or 210 to the box, but will be considered "six tier."

[Acts 1925, S.B. 84.]

Art. 116. Texas Irish Potato Grades

Grade No. 1.—This grade shall consist of sound potatoes of similar varietal characteristics, which are practically free from dirt or foreign matter, frost injury, sunburn, second growth, cuts, scab, blight, dry rot, and damage caused by disease, insects, or mechanical means. The minimum diameter shall be one and three-fourths inches. In order to allow for variation incident to commercial grading and handling, five per centum, by weight, of any lot, may be under the prescribed size, and, in addition, three per centum by weight of any such lot may be below the remaining requirements for quality of this grade.

Grade No. 2.—This grade shall consist of potatoes of similar varietal characteristics, which are practically free from frost injury and decay, and which are free from serious damage caused by dirt or other foreign matter, sunburn, second growth, cuts, scab, blight, dry rot, or other disease, insects, or mechanical means. The minimum diameter shall be one and one-half inches. In order to allow for variations incident to commercial grading and handling, five per centum, by weight, of any lot, may be under the prescribed size, and, in addition, five per centum, by weight, of any such lot, may be below the remaining requirements for quality of this grade.

Culls. Any potatoes that do not measure up to the requirements for size and general quality in the grades number one and two shall be classed as "Culls," and shall not be shipped unless branded or marked "Culls" and shipped in separate consignments.

Three per centum, by weight, shall be allowed on all Texas grown new potatoes, for natural shrinkage. In instances where dirt adheres to the potatoes a fair and reasonable estimate by weight, of such dirt, shall be made and deducted from the gross weight of the potatoes and dirt, which estimate may be made by removing and weighing the dirt from three or more samples of not less than fifty pounds each, that, when taken together, represents the average conditions of the potatoes.

All potato containers must have some mark or brand showing the name and post-office address of the grower or shipper.

Terms Defined. "Practically Free" means the appearance shall not be injured to an extent readily apparent upon casual examination, and that any damage from the causes mentioned can be removed by the ordinary process of paring without appreciable increase in waste over that which would occur if the potato were perfect. Loss of the outer skin (epidermis) only, shall not be considered as an injury to the appearance.

"Diameter" means the greatest dimensions at right angles to the longitudinal axis.

"Free from serious damage" means the appearance shall not be injured to the extent of more than twenty per centum of the surface and that any damages from the causes mentioned can be removed by the ordinary processes or¹ paring without increase in waste of more than ten per centum, by weight, over that which would occur if the potato were perfect.

[Acts 1925, S.B. 84.]

¹ Probably should be "of."

Art. 117. Inspection of Fruits Other Than Citrus and Vegetables Other Than Potatoes

Sec. 1. The Commissioner of Agriculture shall appoint Inspectors to inspect fruits other than citrus and vegetables other than potatoes at the different shipping or loading stations in this State when called upon by the grower,

shipper, shipper's agent, or by any financially interested party. When one or more of the above mentioned parties are operating at one or more shipping points and inspection is requested, the Commissioner of Agriculture shall appoint an Inspector to make the requested inspection and the party or parties requesting inspection shall contribute his or their pro rata of the expense of inspection.

Sec. 2. Where inspection is requested the Commissioner of Agriculture shall furnish forms or certificates to all appointed Inspectors, to be filled out by said Inspectors to cover each lot of fruits other than citrus, and vegetables other than potatoes.

Sec. 3. The Commissioner of Agriculture is directed and empowered to enter into cooperative agreements with any Texas firm, corporation or association organized for that purpose (which firms, corporations and associations, and all inspectors shall be licensed in accordance with standards and rules prescribed by the Commissioner of Agriculture) and/or the United States Department of Agriculture, for the certification of grades of fruits other than citrus and/or vegetables other than potatoes, and he may adopt the United States Standards for all fruits and/or vegetables grown in the State of Texas in addition to the grades specified in this Act,¹ or he may promulgate additional grades, grading rules, and regulations for fruits other than citrus, and/or vegetables other than potatoes.

Sec. 4. All Certificates of Inspection issued by the Commissioner of Agriculture designating the true grade, classification, pack or other standard requirements of such fruits or vegetables under the provisions of this Act, or other form evidencing that official inspection has been made, shall be issued by the Inspector and delivered to the applicant upon the payment of his contribution of his pro rata share of the cost of inspection. All certificates so issued under the provisions of this Act shall be acceptable in any court of this State as prima facie evidence of the true grade, classification, pack or other standard requirements of such fruit and/or vegetables at the time of inspection, in accordance with the provisions of this Act.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 410, ch. 161; Acts 1955, 54th Leg., p. 880, ch. 335, § 1.]

¹ Seems to mean this chapter.

Art. 117a. Repealed by Acts 1953, 53rd Leg., p. 53, ch. 42, § 1

Art. 118. Commissioner of Agriculture

The Commissioner of Agriculture is hereby authorized and empowered to enforce each provision of this chapter, and he shall promulgate and publish all necessary rules and regulations for the enforcement of this law, and such other information as will aid fruit and truck growers and the manufacturers of containers in complying with the provisions of this chapter. [Acts 1925, S.B. 84.]

Art. 118a. Inspection and Classification of Citrus Fruit

Statement of Purpose

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

Inspection

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

Establish Regulations and Grades

Sec. 3. The Commissioner of Agriculture of the State of Texas is hereby empowered and directed to enter into Co-operative Agreements with any Texas firm, corporation or association organized for that purpose (which firms, corporations, and associations, and all inspectors shall be licensed in accordance with standards and rules prescribed by the Commissioner of Agriculture) and/or the United States Department of Agriculture, providing for the inspection of citrus fruits and under the terms of said agreements the Commissioner of Agriculture shall adopt the official United States Standards for grapefruit and oranges as applied to the State of Texas.

Appeal to Change Regulations

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

after such rules and regulations have been published. If the Commissioner after the hearing of protests refuses to modify such rules and regulations the interested person or parties shall have the right to appeal to the District Court of Travis County.

Power of Regulations

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

Engaging in Trade Prohibited

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

Grading Made Mandatory

Sec. 7. Whenever any grades or classifications and standards for citrus fruit become effective under this Act, no person thereafter shall pack for sale, offer for sale, consign for sale, or sell, except as provided in this Act, any such described citrus fruit grown within the State of Texas, to which such grades or classifications and standards are applicable unless such citrus fruits conform with such grades or classifications and standards.

Notice of Time of Shipment

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

Unlawful Shipments; Inspection; Certificate of Inspection

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

sized. Every grower of citrus fruit in this State may dispose of his own crop of citrus fruit without complying with, or being subject to, the provisions of this Act.

Issuance of Certificate of Inspection

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

Re-use of Containers

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

Law Self-financing; Agreements Regarding Contributions from Dealers and Shippers for Inspection

Sec. 12. It is provided that this law shall be self-financing, and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner of Agriculture is hereby authorized and empowered to enter into agreements with any Texas firm, corporation or association organized for that purpose (which firms, corporations, and associations, and all inspectors shall be licensed in accordance with standards and rules prescribed by the Commissioner of Agriculture) and/or the United States Department of Agriculture, relative to the amounts of contributions to be received from dealers and shippers for inspection and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Co-operative Agreement, provided that the contribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspecting and grading citrus fruits under the provisions and requirements of this Act and the Co-operative Agreement and the issuance of certificates with relation thereto; the amount of contribution for and in the case of each different commodity may be different, and in the case of each different service rendered on each such commodity, but shall in no case exceed the actual cost of the service for inspection and grading service per-

formed in a regular packing house operating under a duly issued permit.

Sec. 13. Repealed by Acts 1947, 50th Leg., p. 770, ch. 380, § 2.

Deceptive Pack

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

Sale Without Grading by Grower Permitted

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

Registration and Use of Brands and/or Trade-marks

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

Responsibility of Carriers

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

and to return to such consignor or hold at the expense and risk of the latter, all citrus fruits which upon inspection, are found to be delivered for shipment in violation of any of the provisions of this Act.

Commodities Designated Under This Act

Sec. 18. From and after the effective date of this Act no person, firm, corporation, association or other organization within the area where this Act applies, namely the citrus zone as described in House Bill 553, Chapter 350, of the Acts of the Regular Session 42nd Legislature of the State of Texas,¹ shall pack for sale, consign for sale, or sell in straight or mixed commercial quantities, that is more than five (5) containers, unless such citrus fruits conform with the provisions of this Act as to minimum grades or classifications as specified in this Act, and with such additional grades, grading rules or regulations applicable thereto as may have theretofore been promulgated by the Commissioner previous to this Act and unless such fruits have been duly inspected as provided in this Act.

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

¹ Article 118b-3.

Public Weighers

Sec. 19. Under the terms of this Act all citrus fruit purchased by weight prior to packing by any buyer or shipper, shall be weighed at the instance and expense of buyer, by a duly elected or appointed public weigher, who shall be governed in his rights and duties by the Statutes of the State of Texas covering public weighers as set out in the 1925 Revised Civil Statutes of the State of Texas, Title 93, Chapter 6, Article 5680, and any amendments thereto; and it shall be the duty of the buyer or shipper to deliver such certificates of weight issued by the public weigher to the seller, prior to any accounting or settlement between the buyer or shipper and the seller, on all citrus fruit purchased by weight prior to packing. Said public weigher shall receive for his services hereunder a fee of Ten (10) Cents when the net load weighs seven thousand (7,000) pounds, or less; a fee of Fifteen (15) Cents when the net load weighs in excess of seven thousand (7,000) pounds and not more than fourteen thousand (14,000) pounds; a fee of Twenty (20) Cents when the net load weighs in excess of fourteen thousand (14,000) pounds, said fees to be in full payment for each completed certificate showing net weight.

Penalty for Violation of Act

Sec. 20. Any person, firm, corporation, association or other organization which violates any provisions of this Act or wilfully interferes with the Commissioner, his agent, inspectors or employees, in the performances or on account of the execution of his or their duties

as provided by this Act shall be deemed guilty of a misdemeanor. Any person convicted under this Act shall be punished by a fine of not more than Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for not more than ninety (90) days, or both such fine and imprisonment in the discretion of the Court.

[Acts 1933, 43rd Leg., p. 550, ch. 180; Acts 1935, 44th Leg., p. 556, ch. 238, § 1; Acts 1943, 48th Leg., p. 200, ch. 119, § 1; Acts 1947, 50th Leg., p. 770, ch. 380, §§ 1, 2; Acts 1953, 53rd Leg., p. 53, ch. 43, § 1; Acts 1955, 54th Leg., p. 567, ch. 184, § 1; Acts 1955, 54th Leg., p. 842, ch. 309, § 1.]

Art. 118b. Citrus Fruit Growers Act

Definitions

Sec. 1. As used in this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas. Commissioner is authorized to utilize all employees of the Department of Agriculture in the enforcement of this Act.

(b) "Citrus fruit," as the term is used in this Act, shall be construed to mean all citrus fruits grown in the State of Texas and bought and/or sold and/or handled in any way either as fresh or natural fruit or in canned and/or processed form.

(c) "Persons" shall mean and include any individual, partnership, group of persons or corporation or business unit handling citrus fruit in the State of Texas.

(d) "Handle" means buying or offering to buy, selling or offering to sell, or shipping for the purpose of selling, whether as owner, agent or otherwise, any citrus fruit within the State of Texas, and persons buying and/or shipping citrus fruit for canning and/or processing are defined as handlers.

(e) "Dealer" means any person who handles fruit, as the word "handle" is defined in (d) of this Section.

(f) "Buying agent" shall mean any person authorized by any licensed dealer to act for him in the handling of citrus fruit as defined in (d) of this Section.

(g) "Transporting agent" shall mean any person authorized by any dealer to act for said dealer in the transporting of citrus fruit.

(h) "Warehouseman" means and includes any person who receives and stores citrus fruit for compensation.

(i) "Packer" means and includes any person who prepares and/or packs citrus fruit or its products for barter, sale, exchange, or shipment.

(j) A "commission merchant" and/or dealer or a "contract dealer," as these terms are used in this Act, shall be construed to mean any "persons," as the word is herein defined, who purchase any citrus fruit on credit, or who take into their pos-

session for consignment or handling, in behalf of the producer or owner thereof, or in any manner whatsoever, or by virtue of any contract whatsoever, which does not require and result in the payment to the producer, seller or consignor thereof the full amount of the purchase price thereof in current money of the United States, at the time of delivery of said citrus fruit to such persons or at the time when the title to such citrus fruit passes from the producer or seller thereof to such "commission merchant" and/or "dealer" or "contract dealer."

License and Bond of Dealer

Sec. 2. No person shall engage in the business of a dealer in citrus fruits as that term is herein defined unless such person shall first have procured a license in accordance with the provisions of this Act.

Application for License

Sec. 3. Any person desiring to engage in business as a dealer in citrus fruits within this State shall, prior to engaging in such business, file with the Commissioner an application for license and receive a license, and said application shall be made under oath and the Commissioner shall provide forms for such applications, and said applications shall set forth the following specific information:

(a) The full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange or association of persons; the full name and the address of the principal business office of the applicant and the address of the principal business office of applicant within the State of Texas; in the event that the applicant be a foreign corporation, the application shall name the state in which such corporation was chartered.

(b) The type of license applied for, whether "dealer," "canner" or "processor."

(c) Foreign corporations filing applications for license under this Act shall indicate clearly in such application the name and address of an agent for service within this State upon whom service of legal process may be had in any suit brought against said corporate applicant within the State of Texas.

(d) How long the applicant has been engaged in business in the State of Texas.

(e) The applicant shall answer the following questions which shall be included in and made a part of any application for license under the terms and provisions of this Act:

(1) "Have you heretofore been licensed in the State of Texas as a dealer in citrus fruits and/or perishable agricultural commodities?"

(2) "If you have answered that you have been so licensed, has any license

so granted you within the State of Texas ever been suspended and/or revoked?"

(3) "If you have answered that a license so issued you within the State of Texas has been suspended and/or revoked, you will state when, where and give a short statement of the reason for such suspension and/or revocation."

License Fees; Surety Bond

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

license fee so tendered with such application to the applicant.

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

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

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

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

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

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

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

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

(e) The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the conditions and terms of all contracts made by said "commission merchant" and/or "dealer" and "contract dealer," pertaining to the handling of citrus fruit under this Act; cause of action may be maintained upon said bond by any person with whom said applicant deals in purchasing, handling, selling and accounting for sales of citrus fruit, as provided in this Act; the aggregate accumulated liability under any such bond shall not exceed the amount of such bond, and each such bond shall continue in full force and effect until notice of the termination thereof is given by registered mail to the Commissioner, which fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued

thereon prior to termination. No license shall be issued to any "commission merchant" or "dealer," or "contract dealer" prior to the delivery to the Commissioner and the approval by him of the bond required under the provisions of this Section. No cooperative association organized pursuant to Chapter 8, Title 93 of the Revised Civil Statutes of Texas, 1925, as amended,¹ that handles fruit only for its members shall be required to furnish bond as required in this Section. Any such cooperative association dealing in citrus fruit other than for its producer members shall be required to furnish bond as any other dealer. It is hereby declared to be the policy of the Legislature to make these exemptions with reference to cooperative associations because of the fact that the producer members pool their fruit for sale rather than immediately selling it. Any "commission merchant" and/or "dealer" or "contract dealer" who at any time deals in citrus fruit in excess of the amounts covered by his or its bond as hereinabove specified shall be deemed guilty of a violation of this Act.

¹ Articles 5737 to 5764.

Sec. 5. Repealed by Acts 1939, 46th Leg., p. 41, § 5.

Hearing on Charge of Violation of Act

Sec. 6. Any license issued under the provisions of this Act shall remain in full force and effect for a period of twelve (12) months from and after the date of issuance thereof unless said permit shall be cancelled in the manner hereinafter provided and pursuant to the proceedings hereinafter required, to wit: any person aggrieved, injured or damaged by virtue of any violation of the terms and provisions of this Act by any licensee or by the transporting or buying agent of any licensee hereunder, may file with the Commissioner or his duly authorized agent or employee a verified complaint, setting out the specific violation complained of; the Commissioner, on receipt of said verified complaint, shall set a date not more than ten (10) days from the receipt of such complaint for the hearing thereof; Commissioner shall, by registered mail to the last known address, notify the person complained of and shall furnish such person with a copy of such complaint; the Commissioner may, at his discretion, recess the hearing provided for in this Section from day to day if in his discretion the ends of justice demand such continuance; for the purpose of said hearings the Commissioner shall have the authority to summon witnesses; to inquire into matters of fact; to administer oaths, and to issue the subpoena duces tecum, for the purpose of obtaining any books, records, instruments of writing, and other papers pertinent to the investigation at hand; upon the conclusion of said hearing and the introduction of all evidence by the respective parties thereto, the Commissioner shall, within a reasonable length of time after studying all evidence, make his decision on the basis of the evidence introduced therein, and shall, if the evidence warrants, issue his order canceling

the license of the person complained of; any licensee, whose license is so cancelled by an order of the Commissioner, shall be notified in writing by registered mail of the cancellation of said license and it shall be unlawful and a violation of this Act for any licensee or buying or transporting agent to operate from and after said notification of cancellation, provided that said licensee or buying or transporting agent whose license has been so cancelled shall have the right of appeal from the order of the Commissioner canceling said license to any court of competent jurisdiction within this State, provided that such appeal shall be filed in said court within ten (10) days from and after receipt by licensee of notice of said cancellation, and provided further that the effect of said appeal by said licensee or licensee's agent shall not act to supersede the order of cancellation issued by the Commissioner, pursuant to final determination of the question of cancellation by said court.

Sec. 7. Repealed by Acts 1939, 46th Leg., p. 41, § 7.

Appeal from Cancellation

Sec. 8. Any applicant for license whose application is rejected or any dealer who has been licensed hereunder and whose license is subsequently cancelled, may have an appeal from the Commissioner's ruling to any Court of competent jurisdiction.

Payment of Purchase Price on Demand

Sec. 9. Any dealer who shall cause a producer or seller or owner, or agent of producer, seller or owner to part with the control or possession of all or any part of his citrus fruit, and who agrees by his contract of purchase to pay the purchase price upon demand following delivery, shall immediately make payment therefor to such owner or seller. Demand for the purchase price may be made upon dealer in writing, and the mailing of a registered letter making such demand, addressed to said dealer at his business address, shall be prima facie evidence that demand was made upon the mailing of said letter.

Written Contract for Handling

Sec. 10. When a dealer causes a producer, seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any portion of his citrus fruit by means of any agreement under which the producer, seller or owner or agent of producer, seller or owner, has waived the right to demand the purchase price, as and when he parts with said control or possession of citrus fruit, such contract for the handling, purchase or sale of citrus fruit by the dealer and the producer, seller or owner, or agent of producer, seller or owner, shall be evidenced in writing in duplicate and shall set out in full the details of such transactions. In the event the contract does not specify the time and manner of settlement, then the dealer shall settle therefor within thirty (30) days from the delivery of the citrus fruit into

the dealer's control, and the dealer shall then directly account to and pay over to the said producer the full amount called for by the contract.

Buying by Weight

Sec. 11. Any dealer who buys citrus fruit by weight and who does not have such fruit weighed on State tested scales shall be deemed guilty of a violation of this Act.

Duration of License; License Unassignable; Identification Cards

Sec. 12. Any license issued hereunder will authorize the licensee, and none other, to engage in the business as a dealer for one year from date of issuance, at which time said license shall expire and become null and void. Any license issued to applicant under the provisions of this Act, which expires by its own terms, may be renewed upon payment to the Commissioner of Agriculture of the proper license fee as provided for the original issuance thereof. Said license and the identification cards hereinafter provided shall not be assignable and any attempt to assign same shall void such license or identification card. Upon application to the Commissioner by any licensed dealer, a reasonable number of "buying agent" and "transporting agent" identification cards may be issued and accredited to such dealer, under such rules and regulations as said Commissioner may prescribe, and said Commissioner is hereby empowered to charge a fee not to exceed One Dollar (\$1) for each card so issued:

(a) Such cards shall bear the name of the licensee, dealer, and the number of his license, also the name of the dealer's agent, and shall state thereon that said licensed dealer, as the principal, has authorized the agent named on the card, the holder thereof, to act for and on behalf of said principal, either as "buying agent" or as "transporting agent" as above defined. "Buying agent" identification cards shall be of a different color from "transporting agent" cards. Such identification cards shall be at all times carried upon the persons of such agents who shall, upon demand, display such cards to the Commissioner or his agents or representatives, or to any person with whom said agent may be transacting business under this Act.

(b) If and when the holder of any identification card ceases to be the agent of the dealer by whom he was employed, it shall be the duty of said agent to return immediately such agent's card to the Commissioner for cancellation and failure to do so shall constitute a violation of this Act.

Regulations as to Purchase

Sec. 13. It shall be unlawful for any dealer, packer, processor or warehouseman to purchase or receive or handle any citrus fruit without requiring the person from whom such citrus fruit is purchased or received, to furnish a statement in writing of (a) the owner of said

citrus fruit, (b) the grower of said citrus fruit, together with the approximate location of the orchard where said fruit was grown, (c) the date said fruit was gathered and by whose authority same was gathered, and such records shall be kept in a permanent book or folder and shall be available to inspection by any interested party.

Commissioner's Power and Authority in Enforcing Act

Sec. 14. For the purpose of enforcing the provisions of this Act, the Commissioner is hereby vested with full power and authority and it shall be his duty, either upon his own initiative or upon the receipt of a properly verified complaint, to investigate all alleged violations of this Act and for the purpose of making such investigation, he shall have, at all times, free and unimpeded access to all books, records, buildings, yards, warehouses, storage, and transportation and other facilities or places in which any citrus fruit is kept, stored, handled, processed or transported, and in furtherance of such investigation either the Commissioner in person or through his authorized representatives, may examine any portion of the ledger, books, accounts, memorandum, documents, scales, measures, and other matters, objects or persons pertinent to such alleged violation under investigation. The Commissioner shall take such action and hold such public hearings as in his judgment are shown to be necessary after such investigations, and shall take the proper action with reference to the cancellation or suspension of the license of any dealer hereunder shown to have been guilty of a violation of the terms of this Act. Such hearings shall be held in the nearest city or town in the county where violations are alleged to have occurred. Any order made by the Commissioner with reference to the revocation or cancellation of any license granted under the provisions of this Act, shall be subject to review by a Court of competent jurisdiction.

Records on Handling Fruit on Consignment or Commission

Sec. 15. Where any citrus fruit is handled by any dealer upon a consignment or commission basis, unless otherwise agreed in written contract between the dealer and owner, then the dealer shall, upon demand of the seller, or owner, his agent or representative, furnish said owner or seller, his agent or representative, a complete and accurate record showing, among other things, date of sale, to whom sold, the grade and selling price of said fruit, together with itemized statement showing what expenses of any kind or character incurred in the sale or handling of said citrus fruit including the commission, if any, to the dealer, and the failure or refusal of such dealer to furnish such information within ten (10) days after such demand by owner or seller, his agent or representative, shall constitute a violation of this Act.

Dealer's Contract to Include Commissions

Sec. 16. If a dealer handles citrus fruit by guaranteeing a producer or an owner a mini-

mum price, but at the same time handles the citrus fruit for the account of the producer or owner, said dealer shall include in his contract with the producer or owner, the maximum amount which he shall charge for commissions and/or service, or both, in connection with said citrus fruit so handled.

Settlements on Grades and Quality Referred to in Contract

Sec. 17. All citrus fruit except that obtained and handled by dealers, solely on a consignment basis without any price guarantee, shall be settled for by every dealer on the basis of the grade and quality which is referred to in the contract pursuant to which the dealer obtained possession or control of such citrus fruit, unless such citrus fruit has been inspected by a State or Federal inspector in the State of Texas and found to be of a different grade or quality than that referred to in said contract, in which event same shall be settled for on the basis of the grade and quality determined by such inspector. But nothing herein shall prevent the parties in lieu of such an inspection, from agreeing in writing only that the grade or quality of any of such citrus fruit was different from that referred to in the contract. Failure of the dealer to settle with a producer or seller on grade and quality in the manner herein provided, shall constitute a violation of this Act and be punishable as hereinafter provided, and in addition shall be cause for revocation of license.

Sec. 18. Repealed by Acts 1939, 46th Leg., p. 41, § 9.

License Fees to Constitute Dealers Fund

Sec. 19. All license fees collected under the provisions of this Act shall be deposited with the Treasurer of the State of Texas, to be held by him in a special fund to be known as "Citrus Dealers Act Fund" and such fund shall be used on the order of the Commissioner when necessary to defray the expenses of the administration of this Act and same is hereby appropriated for said purpose.

Venue of Suits

Sec. 20. The venue of any and all criminal acts and civil suits instituted under the provisions of this Act shall be in the county where the violation occurred or where the citrus fruits were received by the dealer, packer or warehouseman.

Penalty for Violation of Act

Sec. 21. From and after the effective date of this Act any person who shall:

(a) Act as a dealer and/or handler, as the terms "dealer" and/or "handler" are in this Act defined, without first obtaining a license to act as such dealer and/or handler, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any dealer or handler shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(b) Act or assume to act as a transporting agent or buying agent as the terms are herein defined, without first obtaining from the Commissioner of Agriculture of the State of Texas a license or a buying agent's or a transporting agent's card as by the terms and provisions of this Act required, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any buying agent or transporting agent shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(c) Any buying or transporting agent who ceases to be employed by a dealer or handler or the agent of any dealer or handler to whom such buying agent's or transporting agent's card was issued and who fails and refuses on the termination of such employment to turn over to the Commissioner of Agriculture the buying or transporting agent's card issued to such person shall be fined not to exceed Two Hundred Dollars (\$200).

(d) Any person who shall act or assume to act as a commission merchant and/or dealer or a contract dealer, as the terms "commission merchant" and/or "dealer" or "contract dealer" are used in this Act without first filing with the Commissioner of Agriculture of the State of Texas the bond as required by this Act and obtaining a license to act as such commission merchant and/or dealer or contract dealer shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which such person shall act or assume to act as such commission merchant and/or dealer or contract dealer shall constitute a separate offense.

(e) Any licensee or any transporting or buying agent of any licensee under this Act who shall violate any of the terms and provisions of this Act shall be fined not to exceed Two Hundred Dollars (\$200).

Construction as to Application of Act

Sec. 22. The provisions of this Act shall not apply to a retailer of citrus fruit nor to any person shipping less than six (6) standard boxes of citrus fruit in any one separate shipment nor shall this Act apply to noncommercial shipments by express.

License of Dealers Selling Own Crop

Sec. 23. Any citrus grower who handles and markets only citrus fruit grown by him, shall file an application for a license as a dealer in citrus fruit and upon so filing said application with the Commissioner of Agriculture of the State of Texas in the form prescribed, he shall be entitled to a license as a minimum dealer of citrus fruit; i. e., one handling not in excess of one thousand (1000) standard boxes, or the equivalent thereof, per twelve-month period and said license shall be issued to him without the payment of any fee or the posting

of any bond and he shall thereupon be entitled to handle, market, sell, and dispose of his citrus fruit in accordance therewith subject to the pertinent provisions of this Act.

Grapefruit to Show Origin

Sec. 24. All grapefruit transported, marketed or sold in Texas in its original perishable form in accordance with this Act, shall be branded or marked thereon with the name of the State or Foreign Country where produced, in letters at least three-sixteenths ($\frac{3}{16}$) inches in height, but this provision shall be deemed to have been complied with if not more than twenty-five per cent (25%) of any such fruit is improperly or partially marked or branded.

Individual Trade Marks or Trade Names; Copyrighted Trade Marks

Sec. 24A. Provided further, that when individual trade names or copyrighted trade marks are employed which sufficiently identify the state, or country, if foreign, of origin, compliance with this Section shall be deemed effective.

Exemption from Bond; Penalty

Sec. 25. Any person who purchases citrus fruit only from dealers duly qualified as such under this Act and receives said fruit at the dealer's place of business and pays therefor prior to or at the time of delivery or taking possession of such citrus fruit so purchased in current money of the United States shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this Section and thereupon such person shall be entitled to a license as a cash citrus dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealer shall be subject to all the pertinent provisions of this Act. Any violation of this Section shall be deemed a misdemeanor and be punishable, as provided in Section 21 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give a bond.

Sec. 26. Repealed by Acts 1937, 45th Leg., 1st C.S., p. 1776, ch. 16, § 2.

Sec. 27. Repealed by Acts 1963, 58th Leg., p. 312, ch. 117, § 8.

Partial Invalidity

Sec. 28. If any section, sentence, clause, phrase, or portion of this Act shall be held unconstitutional, then such holding shall not affect the validity of the remainder thereof, but same shall remain in full force and effect.

[Acts 1937, 45th Leg., p. 464, ch. 236, § 21; Acts 1937, 45th Leg., 1st C.S., p. 1776, ch. 16, § 2; Acts 1937, 45th Leg., 2nd C.S., p. 1911, ch. 32, § 1; Acts 1939, 46th Leg., p. 41, §§ 1 to 11; Acts 1955, 54th Leg., p.

879, ch. 334, § 1; Acts 1963, 58th Leg., p. 312, ch. 117, §§ 1 to 8, eff. Aug. 23, 1963; Acts 1965, 59th Leg., p. 412, ch. 201, § 1, eff. May 18, 1965.]

Art. 118b-1. Coloring Citrus Fruit

Definitions

Sec. 1. As used in this Act:

(a) The term "citrus fruit" means and includes only the fruits Citrus Grandis, Osbeck, commonly called grapefruit, and Citrus Sinensis, Osbeck, commonly called oranges, and Citrus Nobilis Delicios, commonly called tangerines, or any of them, grown in the State of Texas.

(b) The term "person" shall extend to and include persons, partnerships, associations, and corporations, and any other business unit.

(c) "Coloring matter" means and includes any dye or any liquid or concentrate, or material containing a dye, or materials which react to form a dye, used or intended to be used for the purpose of enhancing the color of citrus fruit by the addition of artificial color to the peel thereof; provided that said term shall not include any process or treatment of fruit which merely brings out or accelerates the natural color of fruit.

(d) "Commissioner" shall mean the Commissioner of Agriculture of the State of Texas.

(e) "Manufacturer" means and includes any person who shall manufacture or sell, or offer for sale, or license or offer to license for use, any coloring matter.

Certification of Dyes as Harmless by United States Department of Agriculture; Temporary Permits

Sec. 2. It shall be unlawful for any manufacturer to use or include, in the manufacture of any coloring matter, any dye or color other than one that has been duly certified, by the United States Department of Agriculture, as harmless and suitable for use in foods; provided, that in the case of a dye or color for which certification is pending, the Commissioner shall issue a temporary permit allowing the use of such dye or color, pending such certification, when upon analysis thereof, made pursuant to regulations promulgated by the Commissioner as hereinafter authorized, the said dye or color shall have been found to contain no amount of antimony, arsenic, barium, lead, copper, mercury, or zinc, or other heavy metals, or other substances known to be injurious to health, in excess of amounts thereof permitted in certified food colors by regulations of the United States Department of Agriculture; and provided further, that the cost of such analysis shall be paid by the manufacturer desiring to use such color.

Formula Furnished Commissioner; Analysis of Formula

Sec. 3. Every manufacturer, before selling or offering for sale, or licensing or offering to

license for use, any coloring matter, shall furnish the Commissioner with the complete formula followed in the manufacture of such coloring matter, (including, in event of the use of a non-certified dye under the provisions of Section 2 hereof, the formula for such dye) together with a sample of such coloring matter in such amount as the Commissioner may direct. The Commissioner shall cause the said formula to be examined, and the said sample to be analyzed, and if there shall be found in either any ingredient prohibited under Section 2 hereof, or any other ingredient known to be dangerous to health under the conditions of its use, or if the said coloring matter shall vary in any material or substantial degree from the formula so furnished, then such coloring matter shall not be used on citrus fruits, and the manufacturer shall be denied the license hereinafter required. If such coloring matter is found suitable for use in food under the provisions of this and Section 2 hereof, then the coloring matter shall be authorized for use on citrus fruits, and the manufacturer shall be licensed as hereinafter provided. Thereafter the Commissioner shall, from time to time, cause sample of coloring matter to be taken at the manufacturer's place of business, and shall cause the same to be analyzed, and if the coloring matter shall be found to contain any ingredient herein prohibited, or if it varies in any material or substantial degree from the formula therefor as filed with the Commissioner, then such coloring matter shall not be used on citrus fruit, and the manufacturer thereof shall be subjected to the penalties of this Act; provided, however, that the formula so filed with the Commissioner shall be held as confidential, and shall only be divulged to the Commissioner or his duly authorized representatives or upon orders of a Court of competent jurisdiction when necessary in the enforcement of this Act.

Licenses to Manufacture, Sell, or Use Formula; Bond; Action on Bond

Sec. 4. Before offering any such coloring matter for sale or use, the manufacturer thereof shall first procure from the Commissioner a license to manufacture and sell or license the use of the same, and shall at the same time execute and deliver to the Commissioner a cash bond or surety bond executed by such manufacturer as principal and by a surety company qualified and authorized to do business in this State, as surety, in the amount of Five Thousand Dollars (\$5,000). Said bond shall be in the form approved by the Commissioner and shall be conditioned to guarantee that such coloring matter is free from any matter or ingredient that is hurtful to the quality of such citrus fruit and is free from any ingredient that is in any way injurious to health. Said bond shall be payable to the Governor of the State of Texas and his successors in office, and the aggregate accumulated liability under any such bond shall not exceed the amount named therein. Any person claiming to be injured by a

breach of any of the conditions of said bond may maintain an action on the same against the principal and surety named in said bond, or either of them, and any judgment against the principal and surety, or either of them, in any such action, shall include costs.

Approval of Commissioner

Sec. 5. It shall be unlawful for any person to treat any citrus fruit with, or apply thereto, any coloring matter which has not first received the approval of the Commissioner as herein provided.

Standards for Fruit to be Colored

Sec. 6. It shall be unlawful for any person to use on citrus fruit, or apply thereto, any coloring matter unless such fruit passes the requirements of the State maturity tests, and in addition thereto, oranges shall pass the following minimum requirements for total soluble solids of the juice thereof and for ratio of total soluble solids of the juice thereof to anhydrous citric acid:

(a) When the total soluble solids of the juice is not less than nine (9) per cent, the minimum ratio of total soluble solids to the anhydrous citric acid shall not be less than nine to one.

(b) When the total soluble solids of the juice is not less than eight and one-half ($8\frac{1}{2}$) per cent, the minimum ratio of total soluble solids to the anhydrous citric acid shall be not less than ten to one.

(c) Coloring matter shall not in any case be applied to any oranges which do not meet the standards set out in subsections (a) and (b) above. Likewise, coloring matter shall not in any case be applied to any oranges unless the juice content thereof shall be at least four and one-half ($4\frac{1}{2}$) gallons to each standard packed box of one and three-fifths ($1\frac{3}{5}$) bushels capacity, the juice to be extracted by hand, without mechanical pressure.

(d) In determining the total soluble solids of citrus fruit within the purpose and meaning of this Act, the Brix hydrometer shall be used, and the reading of the hydrometer corrected for temperatures shall be considered as the per centum of the total soluble solids. Anhydrous citric acid shall be determined by titration of the juice, using standard alkali and phenolphthalein as the indicator, the total acidity being calculated as anhydrous citric acid.

Rules and Regulations

Sec. 7. The Commissioner shall have power to pass, make, and promulgate all needful rules and regulations for the proper enforcement and carrying out of this Act, and such rules or regulations, not inconsistent therewith, shall have the force and effect of law. He is expressly authorized to promulgate such rules as may be necessary to insure that fruit to which

color has been added, shall not unreasonably vary in color from the color of the best ripe fruit of the same variety generally produced in the State of Texas.

Enforcement of Act; Chief of Maturity Division; Additional Salary

Sec. 8. The enforcement of this Act and of the rules and regulations promulgated by the Commissioner shall be under the direction and control of the Commissioner, and shall be entrusted by him to the Chief of the Maturity Division who shall be allowed an additional salary, payable as hereinafter stated, of One Hundred and Twenty-five Dollars (\$125) per month for so doing. All employees, inspectors, and officers of the Commissioner authorized by Chapter 244, Acts of the Regular Session of the Forty-second Legislature, as amended,¹ shall also be charged with such duties hereunder as may be imposed by the Commissioner, or the Chief of the Maturity Division.

¹ Article 118c.

Inspection of Fruit to be Colored; Certificates of Inspection; Notice

Sec. 9. The said Commissioner is hereby authorized and empowered to enter upon and inspect personally, or through his authorized inspectors or agents, any place within the State of Texas where citrus fruit is being prepared or colored under the provisions of this Act, and to inspect any citrus fruit found therein, and he or they shall issue certificates of inspection in the form prescribed by him certifying that such citrus fruit complies with the provisions hereof in the event that he or they shall so find upon such inspection.

Every person before using or permitting the use of any coloring matter on citrus fruit shall notify the Commissioner or the Chief of the Maturity Division of his intention so to do, upon such forms as may be prescribed by and furnished by the Commissioner, and shall from time to time request inspection of all citrus fruit to be so treated. The Commissioner shall cause inspection thereof from time to time in such manner as he may determine necessary and proper. The inspector may designate a time within usual packing hours when all fruit not passing the inspections preceding coloration shall be packed or otherwise disposed of in his presence without being colored.

Assessments and Fees; Disposition of Proceeds

Sec. 10. All citrus fruit treated with coloring matter as provided herein shall be assessed at such rates as may be fixed by the Commissioner within the following limits:

All containers with a capacity of more than one-half bushel shall be assessed at the rate of not to exceed One Cent for each such container.

All containers with a capacity of one-half bushel or less shall be assessed at the rate of not to exceed One-half Cent for each such container.

All such fruit as is sold or transported in bulk shall be assessed at the rate of One Cent for each eighty (80) pounds or fraction thereof.

The amount of the fees referred to in this Section shall be fixed by the Commissioner from time to time, at a figure as near as possible the cost of administering this Act.

Such assessments shall be paid to the Commissioner or his agent by the person applying coloring matter to such citrus fruit, and shall be paid over to the State Treasurer who shall deposit said money to the account of "Special Citrus Fruit Inspecting Fund" created by the above mentioned Chapter 244, Acts, Regular Session of the Forty-second Legislature, as amended, which shall be a continuing fund.

The Commissioner is hereby authorized and empowered to use the moneys in said fund in defraying the expenses of the administration of this Act.

Marking or Branding Colored Fruit

Sec. 11. Each piece of fruit treated with coloring matter as provided herein shall be branded or marked with the words "Color Added" in letters at least three-sixteenths of an inch in height, but this provision shall be deemed to have been complied with if not more than ten (10) per cent of any such fruit is imperfectly or partially marked or branded. In the event such fruit is branded or marked with a trade-mark or name, or brand, by a two-line die in one operation, such words "Color Added" shall be placed above the trade-mark or name or brand.

Each package or container in which is sold, delivered, transported, or delivered for transportation any citrus fruit treated with coloring matter as provided herein, shall be marked, or branded, or have attached thereto securely a tag upon which is marked or branded the words "Color Added" in letters at least three-fourths of an inch in height, provided that the Commissioner may by regulation change the requirements of this Section to conform to any law or regulation promulgated under Federal authority.

Fruit Unfit for Consumption

Sec. 12. All citrus fruit which has been treated with coloring matter but which upon inspection fails to comply with any provision of this Act, and lawful rules and regulations issued thereunder, or that may be found to be otherwise unfit for consumption is hereby declared to be a public nuisance detrimental to the public health and the sale thereof is declared to be a fraud upon the public health and said fruit shall be seized and destroyed by the citrus fruit inspectors or by the sheriff of the county where found. Provided, however, that the owner thereof may be allowed to retain the same under such reasonable regulations as the Commissioner may prescribe for the disposition thereof.

False Certificates of Inspection; Necessity and Requisites of Certificates

Sec. 13. It shall be unlawful for any person to make or issue any false certificate of inspection hereunder, or to ship, sell, deliver, transport, or deliver for transportation, or receive for transportation any citrus fruit which has been treated with coloring matter, unless all of the provisions of this Act in regard to such citrus fruit shall have been previously complied with and unless such fruit is accompanied by a certificate of inspection as provided for in Section 9 of this Act, which certificate shall also show that the assessments or fees prescribed herein in regard to such citrus fruit have been paid.

Penalty

Sec. 14. Any person who violates any of the provisions of this Act, or any of the lawful rules and regulations promulgated by the Commissioner in pursuance hereof and not inconsistent herewith, or who does or commits any act herein declared to be unlawful shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25) nor more than Five Hundred Dollars (\$500), or by imprisonment for not to exceed six (6) months, or by both fine and imprisonment.

Construction of Act; Partial Invalidity

Sec. 15. This Act shall be liberally construed and if any part or portion thereof be declared invalid or the application thereof to any person, thing, or circumstances is declared invalid, the validity of the remainder of this Act or the applicability thereof to any other person, circumstances, or thing shall not be affected thereby, and it is the intention of the Legislature to preserve any and all parts of said Act if possible.

[Acts 1939, 46th Leg., p. 49.]

Art. 118b-2. Identification Signs on Vehicles Hauling Citrus Fruit

Lettering; Location and Size

Sec. 1. It shall be unlawful to operate any truck, tractor, trailer or other motor vehicle hauling citrus fruit in bulk or in unclosed containers, for commercial purposes, on the highways of this State unless said truck, tractor, trailer or other motor vehicle is labeled by lettering not less than three (3) inches in height on both sides, or the rear end and the front end, plainly showing the name of the firm or the name of the corporation or person owning same, or the name of any lessee or other person operating same. If said truck, tractor, trailer, or other motor vehicle is owned or operated by a licensed fruit dealer under Chapter 236, Acts of the Forty-fifth Legislature, Regular Session, 1937, as last amended by Chapter 334, Acts of the Fifty-fourth Legislature, Regular Session, 1955,¹ there shall also appear the words "Licensed Citrus Fruit Dealer" in lettering not less than three (3) inches in height under the name of the owner or oper-

ator of said vehicle. When both a tractor and trailer or when two (2) units are used in the operation of hauling, both of said units shall be so marked; the designation shall be placed upon the vehicle or units in a permanent manner or in a substantial way so as to be not easily removed. Provided, however, that the provisions of this Section shall not apply to any such fruit being hauled from the farm or grove by the producer (including any employee of the producer driving a vehicle owned by producer) of such fruit in his own vehicle to market or place of first processing.

Certificates Concerning Citrus Fruit Being Hauled

Sec. 2. Any person driving any truck, tractor, trailer or other motor vehicle hauling citrus fruit in bulk or in unclosed containers for commercial purposes on the highways of the State shall have on his person when driving such vehicle, a certificate or other paper showing the approximate amount of fruit being hauled, the name of owner and the origin of such fruit, and it shall be unlawful to drive any such vehicle without having such certificate or other paper as aforesaid. Provided, however, that the provisions of this Section shall not apply to any such fruit being hauled from the farm or grove by the producer (including any employee of the producer driving a vehicle owned by producer) of such fruit in his own vehicle to market or place of first processing.

Violations

Sec. 3. Whoever violates or fails to comply with any of the provisions of this Act shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or be confined in jail not less than thirty (30) days nor more than six (6) months, or shall be punished by both such fine and confinement, in the discretion of the court.

[Acts 1963, 58th Leg., p. 591, ch. 214, eff. Sept. 1, 1963.]

¹ Article 118b.

Art. 118b-3. Describing and Declaring a Citrus Zone

Sec. 1. The counties of Cameron, Willacy, Hidalgo, Starr, Zapata, Jim Hogg, Brooks, Kennedy, Kleberg, Nueces, Jim Wells, Duval, Webb, San Patricio, Refugio, Bee, Live Oak, McMullen, La Salle, Dimmit, Maverick, Zavala, Frio, Atascosa, Wilson, Karnes, DeWitt, Victoria, Goliad, Calhoun, and Aransas, are hereby designated and declared to be the Citrus Zone of the State of Texas and shall so be referred to in the future.

Sec. 2. It shall hereby be decreed the policy of the State to recognize the Citrus industry as a valuable asset, and the crop highly susceptible to the ravages of insects, pests, and plant diseases, and to use all measures sanctioned by constitutional means to protect this industry from destruction by any and all pests.

Sec. 3. Scaly bark, Cladosporium herebarum var, citricolm; Withertip of lime, Gloeosporium limeticolm; White fly, Aleyrodes, nu-

bifera; Woolly white fly, Aleurothrixus howardii; Flocculeent white fly; Aleurothrixus floccosa; Guava white fly, Trialeurodes floridensis; Bay white fly, Paraleurodes perseae; Inconspicuous white fly, Bemisia inconspicua; Florida citrus aphid, Aphis spirecola; Citrus root weevil, Pachnaeus litus Germar; Meleanose, Phomopsis Citri; Rufous scale, Selenaspis articulatus; Snow scale, Chionaspis citri; 6-spotted mite, Tetranychus citri; Purple mite, Tetranychus citri; Orange sawyer, Elaphidion inerne; Spiny black fly, Aleurocanthus woglumi; Citrus scab; Black scale, Saissetia oleoe; Citrus mealy bug; Cottony cushion scale; Citrus thrips, Barnacle scale; California red scale; Oyster shell scale; Citrus red spider; Citrus fruit and storage rots, are hereby declared a public nuisance and menace to the citrus industry. The prevention of the transportation of any nursery stock infected with any of the above pests and plant diseases, is hereby declared to be a public necessity.

Sec. 4. That the shipment of any nursery stock infected with any of the above named pests or plant diseases into the above designated Citrus Zone of this State, is hereby prohibited; and any person, firm, association, or corporation knowingly violating any provision of this Act shall be guilty of a misdemeanor and upon conviction therefor shall be fined any sum not less than One Hundred Dollars (\$100.00) or more than One Thousand Dollars (\$1,000.00) or sentenced to imprisonment in the county jail not less than ten (10) days or more than one (1) year, or by both such fine and imprisonment.

[Acts 1931, 42nd Leg., p. 838, ch. 350.]

Art. 118c. Marketing Citrus Fruit Unfit for Consumption

Definitions

Sec. 1. As used in this Act the word "person" shall extend to and include persons, partnerships, associations and corporations; and the word "box" refers to standard size containers now in common use in this State in the packing and shipping of citrus fruit; and the words "Citrus fruit" shall extend and include only the fruits of citrus grandis, osbeck, commonly and hereafter called grapefruit or pomelo, and citrus siensis, osbeck, commonly called sweet or round oranges, and hereinafter called oranges; and the words "packing house" shall extend to and include any structure or place prepared for and used for packing and otherwise preparing citrus fruit for market or transportation; the word "grove" to extend to and include any yard, garden, orchard or any separate or integral unit or area where citrus fruit is grown; and the words "distributing house" shall extend to and include any structure, railroad, car, truck, or place used for carrying, receiving, or distributing citrus fruit shipped from any other State into Texas; and the words "out of State" shall extend to and include any citrus fruit produced outside of Texas and shipped into this State.

Immature Fruit; Period of Marketing Fruit; Certificates

Sec. 2. It shall be unlawful for any person to sell, or offer for sale, any citrus fruit that is immature, unripe, overripe, frozen or frost damaged, or otherwise unfit for consumption, or to transport, prepare, receive or deliver for transportation or market any citrus fruit between the first day of September and the next succeeding December 15th, both dates inclusive, in any year, unless such fruit is accompanied by a stamp or stamps as provided herein to evidence the certificate of inspection and maturity thereof as defined in this Act, issued by a duly authorized citrus fruit inspector, or special citrus fruit inspector, or by a duly authorized inspector of the United States Bureau of Agricultural Economics.

The certificates of inspection and maturity mentioned in this Act shall be of such number, form, size and character as the Commissioner of Agriculture of this State may by rule or regulation prescribe, and shall be used in such manner as to identify the fruit to which they relate. All inspections shall be made in the groves where the fruit is grown. Any person desiring inspection shall be entitled to have such inspection made by the State Inspectors in the grove or such part of a defined area of a grove as desired under such rules and regulations as the Commissioner of Agriculture may prescribe. If upon inspection, as to the citrus fruit in such grove which passes the required test, the owner of such citrus fruit shall be entitled to a clearance certificate permitting him to have the fruit identified in such clearance certificate removed from the trees.

The maturity stamps as mentioned herein shall be delivered to such owner or shipper at the packing house as provided herein upon the payment of the fee as hereinafter provided in accordance with the number of boxes of fruit to be shipped.

Provided, that it shall be unlawful during the remaining period of from December 16th to August 31st, following, both dates inclusive, when inspection is not required by this Act, for any person to sell, offer for sale, transport, deliver or prepare for sale or transportation, any citrus fruit which is immature or otherwise unfit for consumption, or for any person to receive such fruits under a contract of sale, or for the purpose of sale, offering for sale, transportation or delivery for transportation thereof. Provided further, that the provisions of this Act shall not apply to sales of citrus fruits "on the trees," nor to common carriers or their agents when the fruit accepted for transportation or transported by such common carrier is accompanied by a proper certificate of maturity and inspection of such fruits, as hereinafter provided, or when accepted by them for transportation between the 16th day of December in any year and the 31st day of August next thereafter, both dates inclusive, or transportation of the fruit from the grove to the packing house located within this State.

Determination of Maturity

Sec. 3. Within the purpose and meaning of this Act, pomelos (Grapefruit) shall be deemed to be mature only when the ratio of total soluble solids of the juice thereof to anhydrous citric acid is as follows:

(a) When the total soluble solids of the juice is not less than nine per cent (9%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be seven and two-tenths to one (7.2-1).

(b) When the total soluble solids of the juice is not less than ten per cent (10%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be seven to one (7-1).

(c) When the total soluble solids of the juice is not less than eleven per cent (11%) the minimum ratio of total soluble solids to the anhydrous citric acid shall be six and eight-tenths to one (6.8-1).

(d) When the total soluble solids of the juice is not less than eleven and one-half per cent (11.5%), the minimum ratio of total soluble solids to the anhydrous citric acid shall be six and one-half to one (6.5-1).

(e) That within the meaning and purpose of this Act, oranges shall be deemed to be mature when the juice thereof contains not less than eight per centum (8%) of the total soluble solids to each part of the anhydrous citric acid.

(f) In determining the total soluble solids, the Brix hydrometer shall be used and the reading of the hydrometer corrected for temperature shall be considered as the per centum of the total soluble solids. Anhydrous citric acid shall be determined by titration of the juice, using standard alkali and phenolphthalein as the indicator, the total acidity being calculated as anhydrous citric acid.

(g) All citrus fruit not conforming to the above standards shall be deemed and held to be immature within the meaning of this Act.

Additional Requirements

Sec. 3a. It is provided, however, that in addition to the above maturity requirements and standards set out in Section 2 above, the Commissioner of Agriculture may prescribe additional seasonal requirements from time to time to the end that citrus fruit shall at all times be fit for human consumption before being offered for sale.

Registration of Packing Houses; Inspection and Testing of Citrus Fruit Transported into Texas for Marketing and Sale

Sec. 4. (a) The owner, manager, or operator of each packing house or place at which it is intended to pack or prepare citrus fruit for market, or transportation during the then present or next ensuing citrus fruit-shipping season,

shall register annually such packing house and its location, shipping points, and his Postoffice address with the Commissioner of Agriculture of this State not less than ten (10) days before packing or otherwise preparing any citrus fruit for sale or transportation in or at such packing house; and shall, in addition to such registration, give the said Commissioner of Agriculture not less than seven (7) days' written notice of the date on which the packing or other preparation for sale or transportation between October 15th and December 16th, both dates inclusive, of the current or next ensuing season's crop to be begun. It shall be unlawful for any person to operate a citrus fruit packing house or to pack or otherwise prepare for sale or transport any citrus fruit in such packing house without having previously registered said packing house and given notices herein required; provided, that no certificate of inspection and maturity of any fruit shall be issued by any authorized inspector to any packing house or the agents or representatives thereof which has not been registered with the Commissioner of Agriculture of this State during the then current year, or has not given to said Commissioner of Agriculture the notices as required by this Act, nor until after the payment of any inspection fee required by this Act.

(b) When the Commissioner of Agriculture has reason to believe that any citrus fruit transported from any area outside of Texas into Texas to be marketed or sold in Texas fails to comply with the maturity standards and requirements applicable to similar citrus fruit produced in Texas, he is authorized to test such citrus fruit. Such out of State fruit shall be tested upon the same basis and under the same maturity standards and requirements applicable to similar citrus fruit produced in Texas.

Fee Payable by Vendor or Shipper

Sec. 5. Any vendor or shipper of citrus fruit between the dates of September 1st and December 15th, both dates inclusive, each year shall pay the Commissioner of Agriculture of this State a fee of not more than two and one-half (2½) cents for each box of citrus fruit by him or them sold or transported or delivered for transportation; or when such fruit is sold or transported in one-half boxes, baskets or other containers less than half the standard size containers the fee shall be not more than one and one-half (1½) cents for each such basket, container or half box, or when such fruit is sold or transported in bulk, the fee shall be not more than two and one-half (2½) cents for each eighty (80) pounds or fraction thereof of such fruit. The amount of the fees referred to in this Section shall be reduced by the Commissioner to a figure commensurate with the amount of surplus in the fund which shall be taken into consideration by the Commissioner in estimating the amount of fees to be assessed for the administration of this Act for the following shipping season. It is the intention of this section that such fees shall be

fixed as nearly as possible with reference to the cost of the administration of this Act.

Such fee shall be due and payable when the fruit is prepared for market or transportation and payment thereof shall be evidenced by stamps, as hereinafter provided. And it shall be unlawful to sell, deliver, transport, or deliver for transportation, or receive for transportation, any citrus fruit, payment of the fee for which is not evidenced by proper stamps to be provided by the Commissioner of Agriculture. Provided, however, that the provisions of this section shall not apply to the transportation or carriage of fruit from groves to packing houses within this State.

Stamps for Packages

Sec. 6. It shall be the duty of the Commissioner of Agriculture to furnish vendors and shippers of citrus fruits with such stamps to be attached to packages of fruit prepared for sale or delivery for transportation, or to be affixed to the bill of lading where shipment is in bulk.

Attachment of Stamps to Packages

Sec. 7. It shall be the duty of any vendor or shipper of citrus fruit to properly and securely affix and attach to each package of citrus fruit prepared for sale or delivery for transportation, or to the bill of lading or other shipping receipt therefor when shipment is in bulk, the necessary stamp or stamps to evidence payment of the inspection fee herein provided.

False Certificates by Inspectors

Sec. 8. It shall be unlawful for any authorized inspector to make or issue any false certificate as to inspection, maturity, or payment of inspection fees.

Unfit Fruit as Nuisance

Sec. 9. All citrus fruit prepared for sale or transportation, or which is being prepared for such purposes, or is being delivered for sale or transportation, that may be found to be immature or otherwise unfit for consumption upon inspection and testing, is hereby declared to be a public nuisance, detrimental to the public health, and the sale thereof declared to be a fraud upon the public and shall be seized and destroyed by Citrus Fruit Inspectors, or by the Sheriff of the county where found; provided that the owner of such citrus fruit that is immature or otherwise unfit for consumption may be allowed to retain possession of the same, subject to such regulations as the Commissioner of Agriculture may prescribe for the disposition thereof.

Inspectors Appointed; Oath and Bond

Sec. 10. Upon recommendation of the Commissioner of Agriculture, the Governor may in each year appoint and commission as many Citrus Fruit Inspectors for such period or periods, not exceeding one year, as said Commissioner may deem to be necessary for the effective en-

forcement of this Act. Such Inspectors shall make and file in the office of the Secretary of State, the oath required by the Constitution of this State, and shall give a good and sufficient bond in the sum of One Thousand Dollars (\$1,000.00), payable to the Governor of the State of Texas and conditioned for the faithful performance of the duties of such office. All persons authorized under the provisions of this Act to inspect and certify to the maturity of citrus fruit shall be governed in the discharge of their duties as such Inspectors by the provisions of this Act, and by the rules and regulations pursuant thereto prescribed by the Commissioner of Agriculture as herein authorized and shall perform their duties under his direction and supervision.

Inspectors' Salaries

Sec. 11. The salary of each citrus fruit inspector or "Special Citrus Fruit Inspector" shall be at the rate of not more than One Hundred and Fifty Dollars (\$150) per month and in addition thereto shall receive his or her necessary traveling and other expenses incurred by him or her in the discharge of his or her duties as such inspector, which shall be paid upon approval of accounts therefor by the Commissioner of Agriculture. The Commissioner of Agriculture is hereby authorized to employ a Chief of Maturity Division at a salary of not to exceed Two Hundred Dollars (\$200) per month and such additional field and other agents and clerical assistance, at such time and for such periods, and to incur and pay any other expenses including the traveling expenses of the Commissioner of Agriculture during the citrus fruit season, as may be necessary for the effective enforcement of this Act, and to secure the payment of the inspection fees hereby imposed under the authority of this Act.

In cases of emergency or necessity where no citrus fruit inspector is available for the inspection of citrus fruit in any particular locality in this State, the Commissioner of Agriculture may designate some fit and competent individual to inspect, test, and certify as to such fruit offered for sale or transportation in such locality. Certificate made or issued by such designated individual shall be signed by him or her as "Special Citrus Fruit Inspector"; he or she shall not be required to give bond, but shall be subject to the penalties imposed by this Act for violation of any of the provisions thereof.

Method of Inspection

Sec. 12. In the inspection of the citrus fruit in the grove as is provided herein, inspectors shall take samples for analysis from the trees and from such fruit in the area for which inspection is requested, in the presence of the owner or agent or representative of such owner of such grove. Sufficient samples of grapefruit or oranges, each fairly representative of such of the fruit for which clearance certificate is desired shall be drawn by the inspector,

witnessed by the owner, agent, or owner's representative. For such fruit as passes the required test the Commissioner of Agriculture shall issue his certificate of clearance permitting such fruit to be removed and offered for sale; provided, however, that where the Commissioner of Agriculture or State Inspector has reason to believe that immature and green fruit is in fact being offered for sale, such immature or green fruit shall be condemned and it shall be unlawful for any person willfully to substitute green fruit for ripe fruit for which a clearance certificate has been issued; and for the determination of whether any such substitute has in fact taken place the Commissioner of Agriculture shall have the right and is herein fully empowered to test at the packing shed or elsewhere any fruit being offered for sale or for shipment.

Place of Inspection

Sec. 13. No State Inspector or individual designated by the Commissioner of Agriculture as "Special Citrus Fruit Inspector" or duly authorized inspector of the United States Bureau of Economics, shall be authorized to inspect, test, or issue a certificate of inspection and maturity or quality of any fruit, except at a regularly registered packing house or distributing house, or grove, as herein defined.

Obstructing Inspection

Sec. 14. It shall be unlawful for any person to obstruct or resist any authorized Inspector in the performance or discharge of any duty imposed or required by him or her by the provisions of this Act.

Penalty

Sec. 15. Any person who shall violate any of the provisions of this Act, or do, or commit any Act herein declared to be unlawful, shall be guilty of a misdemeanor and upon conviction shall be fined in any sum not less than Twenty-five Dollars (\$25.00) nor more than Five Hundred Dollars (\$500.00) or by imprisonment for not to exceed six (6) months, or both such fine and imprisonment, in the discretion of the Court.

Disposition of Fees

Sec. 16. All money received by the Commissioner of Agriculture for inspection fees and certificates of inspection and maturity shall be paid by him to the State Treasurer, who shall deposit said money to the account of "Special Citrus Fruit Inspecting Fund," which shall be a continuing fund.

The Commissioner is hereby authorized and empowered to use the monies in said fund in defraying the expenses of the administration of this Act.

[Acts 1927, 40th Leg., 1st C.S., p. 240, ch. 88; Acts 1929, 41st Leg., p. 636, ch. 288; Acts 1931, 42nd Leg., p. 406, ch. 244, § 1; Acts 1935, 44th Leg., p. 131, ch. 53, §§ 1 to 4; Acts 1967, 60th Leg., p. 200, ch. 112, § 1, eff. Aug. 28, 1967.]

Art. 118c-1. Tomato Standardization and Inspection Act

Name of Act

This Act shall be known and may be cited as the "Tomato Standardization and Inspection Act."

Preamble

In order to provide a means by which producers and shippers of tomatoes may secure prompt and efficient inspection, classification, and grading of tomatoes at reasonable cost, and because the Legislature of the State of Texas recognizes that the standardization of tomato shipments through the proper grading and classification of tomatoes, by prompt and efficient inspection under competent authority, will confer benefits upon growers, shippers, carriers, receivers, and consumers, in that the certification by competent authority will furnish the grower and shipper of such products with prima facie evidence of the quality, quantity, and condition of pack of the products so certified, and because such certification will guarantee to the carrier and receiver the quality of products carried and received by them and will assure the ultimate consumer of the quality of products delivered to him, this Act is passed.

Seasonal Limitation

The provisions of this Act shall be effective during the Texas tomato marketing season. The phrase "Texas Tomato Marketing Season" as the same is used in this Act shall be construed to mean the period from the first day of April to the fifteenth day of July in each calendar year.

Authority of Commissioner

Sec. 1. The inspection and certification of grade, size, pack, and marketing and the designation of containers of tomatoes shall be under the direction of the Commissioner of Agriculture of the State of Texas, hereinafter called the Commissioner.

Definitions

Sec. 2. For the purposes of this Act the following terms, when used in this Act, or the rules, regulations and orders made pursuant thereto, shall be construed, respectively, to mean:

"Commissioner": The Commissioner of Agriculture of the State of Texas.

"Co-operative Agreement": That certain agreement in regard to shipping point inspection service, effective October 1, 1931, made by and between the Texas Department of Agriculture and the Bureau of Agricultural Economics, United States Department of Agriculture, and all amendments thereto, or any additional and/or supplementary agreements hereafter made by and between the Texas Department of Agriculture and any Texas firm, corporation or association organized for that purpose (which firms, corporations, and associations, and all inspectors shall be licensed in accordance with

standards and rules prescribed by the Commissioner of Agriculture) and/or the Bureau of Agricultural Economics of the United States Department of Agriculture, said agreements being duly authorized by Public Statute Number 717, of the Seventy-first Congress.¹

"Inspector," "Agent," or "Employee": Any employee of the Department of Agriculture of the State of Texas and/or the Department of Agriculture of the United States of America and/or of the Inspection Service of the Federal Bureau of Agricultural Economics duly authorized by either of the agencies aforesaid to inspect, grade, or certify for shipment, tomatoes within the State of Texas.

"Ship": The transportation of tomatoes by rail, water, automobile, truck, trailer, or any other vehicle.

"Grade," "Standard," "Classification": The grades, standards, and classifications as to size, pack and marking of tomatoes adopted and promulgated by the Department of Agriculture of the United States of America and such other and different grades, standards, and classifications as the Commissioner may adopt which are not directly in conflict therewith.

"Co-operative Financing Plan": That system of collecting and financing the expenses and requirements of inspection set out in and made a part of the Co-operative Agreement; it being specifically provided that this Act shall be self-financing and that no appropriation shall be made by the Legislature of the State of Texas for the enforcement thereof.

"Dealer" and "Shipper": Any person, firm, partnership, corporation or association of persons packing and/or delivering for transportation to any transporting medium tomatoes in commercial quantities as the term "commercial quantities" is hereinafter defined.

"Commercial Quantities": More than five hundred (500) pounds of tomatoes packed and/or shipped and/or sold for packing and/or shipment.

"Notice": Any notice provided for in this Act to be given to any person, firm or partnership, corporation, or association of persons shall be in writing, unless hereinafter otherwise specifically provided.

"Person": When used herein, shall be construed to mean any individual, firm, partnership, corporation, or association of persons.

"Inspection Certificate": The joint Federal-State Inspection Certificate, as provided in Section "C" of paragraph 9, of the Cooperative Agreement.

"Deceptive Pack": Any container or subcontainer of tomatoes used within this State having imprinted, inscribed or otherwise placed thereon any marking designating any grade, standard, count, arrangement, and/or pack which does not truly represent the grade, standard and count, arrangement, and/or pack therein contained.

¹ 46 Stat. 1242.

Exclusions

Sec. 3. The following tomatoes are hereby specifically excluded from the terms and provisions of this Act, and no inspection or certification thereof shall be required:

(A) Tomatoes sold or delivered by the grower thereof unpacked and unmarked to any person for packing and resale.

(B) A sale of a crop or any part thereof in bulk by a producer thereof to a packer for grading, packing, processing, or storing.

(C) No provision of this Act shall be construed to prevent a grower or packer from manufacturing tomatoes into any by-product thereof or from selling the same unpacked or unmarked to any person actually engaged in the operation of a commercial by-product plant when the purpose of such sale is the conversion of such agricultural commodity into a by-product for resale.

(C-2) The Commissioner may, in his discretion, issue to any grower of tomatoes who permits his entire crop of tomatoes to ripen on the vine, and markets the same as ripe tomatoes, a permit to personally transport and sell same to retail merchants or consumers, only tomatoes produced by him, provided that the said Commissioner may cancel said permit when in his judgment the same has been abused.

(D) The requirements of this Act shall not be applicable to sales of tomatoes in lots less than commercial quantities, as the term "commercial quantities" is in this Act defined.

Inspection

Sec. 4. When any person within this State has in his possession or control any tomatoes for the purpose of packing for shipment in commercial quantities the said tomatoes, such person shall give due and timely notice (said notice may be oral, written, or by telephone) to the Commissioner, his agent, inspector, or employee, as to the time and place of the packing and shipping of said tomatoes, or shall report his intention to pack and ship the said tomatoes to the Inspection Station nearest the point of loading, whereupon the Commissioner, his inspector or employee, thereto duly authorized, shall proceed to the designated packing and/or shipping point and shall inspect the tomatoes proposed to be shipped, and shall, after due and proper inspection, deliver to said dealer or shipper his certificate of inspection; said inspection certificate so delivered shall in all things conform to the inspection certificate provided for in the cooperative agreement; inspections under this Section, as to size, pack, marking, and type of container used shall be in conformity with the rules and regulations adopted and prescribed by the Commissioner relative thereto.

Certification Required

Sec. 5. From and after the effective date of this Act, it shall be unlawful for any dealer or shipper to deliver to, or for any private, contract or common carrier to accept for ship-

ment, or to transport in commercial quantities, any tomatoes, unless the tomatoes so shipped shall be accompanied by the certificate of inspection provided for in Section 4 of this Act, and any shipper, private, contract or common carrier shall have the right and may reserve the right in any receipt, bill of lading, or other contract of purchase or memoranda of the same, to reject for shipment any tomatoes not accompanied by the certificate of inspection provided for in Section 4 of this Act. It is specifically provided that any private, contract or common carrier shall reject any tender of tomatoes for shipment when the inspection certificate accompanying the same shall show on its face that the tomatoes tendered are not in compliance with this Act.

Minimum Standards Required

Sec. 6. From and after the effective date of this Act, no person within an area in which this Act is operative shall pack for sale, consign for sale, or sell or deliver to any transporting agency within this State in commercial quantities, any tomatoes unless the said tomatoes shall conform to the United States standards, grades, or classifications by this Act required, or the grades or classifications promulgated by the Commissioner pursuant to his authority herein granted.

Additional Grades Authorized

Sec. 7. The Commissioner is hereby authorized, in his discretion and if necessity requires, to adopt, prescribe, and promulgate other, different and additional grades of tomatoes, provided that such other and different standards and grades shall not conflict with the United States grades herein adopted. The Commissioner is further authorized to issue rules and regulations relating to standards, grades, pack and marking of tomatoes, as well as to containers and sub-containers to be used in the packing and shipping thereof.

Publication of Orders, Protest and Appeal

Sec. 8. The Commissioner shall cause to be published in newspapers of general circulation in counties affected by this Act within this State such rules and regulations as he desires to promulgate under the terms of this Act. Any person aggrieved by any rule or regulation of the Commissioner so published, shall, within fifteen (15) days from and after the publication thereof, file his protest with the Commissioner. Such protest shall contain a clear and concise statement of the reasons therefor. The Commissioner shall set a date for a hearing, said date to be not less or not more than ten (10) days from and after the filing of said protest. The Commissioner or his agent or employee thereunto duly authorized, shall hold said hearing; said hearing shall be public in nature, and the Commissioner is authorized to hear testimony on the said protest, whereupon the Commissioner shall make his ruling upon the evidence introduced. Any person aggrieved by ruling of the Commissioner on the hearing of any protest under this Act, may,

within ten (10) days from and after final decision by the Commissioner, have his appeal from the Commissioner's order to any Court of competent jurisdiction within this State; if no appeal is taken from the Commissioner's order within the ten-day period herein stipulated, the order of the Commissioner shall become final; it is specifically provided that no appeal taken from an order of the Commissioner shall operate in effect to suspend this law or any order of the Commissioner issued pursuant thereto, pending final determination of said appeal.

Containers

Sec. 9. The Commissioner is hereby authorized to prescribe containers for use in the shipment of tomatoes and is authorized to promulgate and publish rules and regulations relative to the use of containers for the shipment of tomatoes in the State of Texas; the rules and regulations adopted by the Commissioner shall conform to Article 109, of Chapter 6, Revised Civil Statutes of Texas, 1925; the Commissioner is, however, hereby authorized to provide for and adopt other and different containers, provided that the use of such other and different containers is not prohibited under any Statutes of the United States, the rules of the Interstate Commerce Commission, or the regulations of the United States Department of Agriculture; no container or sub-container used in the packing and/or shipment of tomatoes within this State shall have imprinted or inscribed or otherwise placed thereon any designation of grade, standard, count, arrangement, or pack which is false and misleading; this provision shall be construed to prohibit, from and after the effective date of this Act, the use of any container of tomatoes bearing any markings required by this Act or any designation of brand, trade-mark, quality, standard count arrangement, or grade, unless all markings which do not properly and accurately apply to the products therein packed, shall first be completely removed, erased, or obliterated.

Inspection Contributions

Sec. 10. It is provided that this law shall be self-financing and that the Legislature shall make no appropriation for the enforcement thereof; the Commissioner of Agriculture is hereby authorized and empowered to enter into agreements with any Texas firm, corporation or association organized for that purpose (which firms, corporations, and associations, and all inspectors shall be licensed in accordance with standards and rules prescribed by the Commissioner of Agriculture) and/or the United States Department of Agriculture relative to the amounts of contributions to be received from dealers and shippers for inspecting and grading services under the terms and provisions of this Act; it is further provided that the Commissioner may, in his discretion, adopt rules and regulations relating to such inspection contributions which will, in effect, adopt the financing plan provided under the Co-operative Agreement, provided that the con-

tribution shall be fixed as nearly as possible with reference to the cost of maintaining the expenses of inspection and grading tomatoes under the Co-operative Agreement; the amount of contribution for each different service of an inspection and grading rendered may be different, but in no event shall the contribution for inspection of tomatoes exceed the actual cost of the service for inspection or grading service rendered in a regular packing house, or at a regular loading point, it is specifically provided that any regular inspection or grading service made or performed at a point distant from a packing shed or loading point, shall be for an amount sufficient to cover the actual cost of such inspection and/or grading service; all contributions for inspection or grading services rendered shall be paid and delivered to the inspector by the person packing or making the shipment prior to the delivery of the certificate of inspection; whenever any person so packing and/or shipping tomatoes fails or refuses to pay the contribution prescribed for the services rendered, the inspector shall withhold delivery of the inspection certificate until the prescribed contribution is paid; no inspector, agent or employee shall charge or collect a greater amount than the prescribed contribution for the services rendered, or an amount sufficient to cover the actual cost of such inspection and/or grading service, whichever is the lesser; and all moneys contributed for services of inspection and/or grading under the terms and provisions of this Act shall be handled and disbursed under the terms of the Co-operative Agreement; the State Auditor of any State in which this Act is operative shall have access to the financial records, books, vouchers and reports of the chief inspector at all times, and shall have the authority to make an audit of such books, when, in his judgment, an audit shall be deemed wise, and, upon written request of the Commissioner, said State Auditor shall audit and make a report in writing to the Commissioner regarding the fiscal affairs of the contribution account.

Penalties

Sec. 11. From and after the effective date of this Act, it shall be unlawful for any individual, firm, partnership, corporation, or association of persons to:

(A) Wilfully or knowingly interfere with the Commissioner or any agent, inspector or employee, as these terms are in this Act defined, in the performance of their duties under this Act;

(B) To ship any tomatoes without first obtaining the inspection certificate required under the terms and provisions of this Act;

(C) Knowingly and wilfully deliver to any transporting medium or agency any tomatoes "deceptively packed";

(D) Use any container or sub-container in the packing and/or shipping of toma-

atoes which has imprinted, inscribed or otherwise placed thereon any designation of grade, standard, size, count, or pack which is false and/or misleading;

(E) Use, in the shipment of tomatoes in or from the State of Texas, any container or sub-container, the use of which is not authorized by law and/or the rules, regulations, and orders of the Commissioner;

(F) Falsify, forge, or change any inspection certificate required under the terms and provisions of this Act;

(G) To wilfully and knowingly fail and refuse to obey any order, rule, or regulation issued by the Commissioner pursuant to his authority granted under the terms and provisions of this Act;

(H) It shall be unlawful for any transporting agency or medium or agent of any transporting medium to accept for transportation any tomatoes when the inspection certificate accompanying and relating to such tomatoes shows on its face that the tomatoes so delivered to such transporting medium are not properly certified for transportation;

(I) It shall be unlawful for the Commissioner, his agents, inspectors and/or employees to engage in business as dealers in tomatoes, save and except that this Section shall not be construed to in anywise prohibit the Commissioner, his agents, inspectors and/or employees from selling, in the capacity of producers, of tomatoes grown and produced by them.

Any person violating any of the terms or provisions of this Act shall be guilty of a misdemeanor and on conviction shall be fined not to exceed Two Hundred Dollars (\$200).

Act Cumulative

Sec. 12. This Act shall be cumulative of all laws now operative in the State of Texas relating to the inspection and/or grading and/or standardization of tomatoes, provided that all laws or parts of laws specifically conflicting herewith are hereby repealed.

Saving Clause

Sec. 13. If any section, subsection, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

[Acts 1939, 46th Leg., p. 33; Acts 1953, 53rd Leg., p. 69, ch. 51, § 1; Acts 1955, 54th Leg., p. 905, ch. 356, § 1.]

Art. 118c-2. Repealed by Acts 1957, 55th Leg., p. 49, ch. 26, § 1

Art. 118c-3. Sweet Potatoes; Inspection and Classification; Improvement of Marketing Opportunities

Duties of Commissioner of Agriculture as to Inspection, Grading, Classification, Etc.

Sec. 1. The inspection in the State of Texas of all sweet potatoes, and the grades and classifications thereof, shall be under the direction of the Commissioner of Agriculture of the State of Texas, hereinafter known as the Commissioner, who is hereby directed to:

(a) Adopt standards for the grading, classification, and packing of sweet potatoes;

(b) Issue and promulgate rules and regulations relative to proper marking of sweet potato containers, the issuance of certified tags of inspection, and the tagging of the vehicle of transportation;

(c) Issue and promulgate rules and regulations setting forth the procedures to be followed in administering the inspection and classification services provided by this Act;

(d) Direct inspectors of the State Department of Agriculture to perform the said inspection and classification services;

(e) Fix and collect inspection fees which shall be paid by the person requesting the inspection. Said fees shall be commensurate with the cost of maintaining said inspection and classification services.

Inspection Request; Classification

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

Resident Growers

Sec. 3. Every grower of sweet potatoes in this State may dispose of his own crop of sweet potatoes without complying with, or being subject to, the provisions of this Act.

Fees Collected; Disposition

Sec. 4. Fees collected by the Commissioner in the administration of this Act shall be deposited into the Special Department of Agriculture Fund. The entire amount of fees so collected and deposited, or as much thereof as may be necessary, is hereby appropriated to the State Department of Agriculture for the administration of this Act. This appropriation shall not affect any other appropriations heretofore or hereafter made to the State Department of Agriculture, but shall be in addition thereto for the biennium ending August 31, 1957.

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

Partial Invalidity

Sec. 7. If any section, sub-section, clause, or phrase of this Act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act, and each section, sub-section, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

[Acts 1955, 54th Leg., p. 1170, ch. 451; Acts 1957, 55th Leg., p. 1378, ch. 471, §§ 1, 2.]

Art. 118d. Unconstitutional

This article, Acts 1949, 51st Leg., p. 150, ch. 93, as amended by Acts 1951, 52nd Leg., p. 192, ch. 117, establishing the Texas Citrus Commission and defining certain powers, functions and duties of the Commission, was held unconstitutional in its entirety by the Supreme Court. See *State v. Akin Products Co.*, 155 T. 348, 286 S.W.2d 110; *H. Rouw Co. v. Texas Citrus Commission*, 151 T. 182, 247 S.W.2d 231. See, also, *Calvert v. Texas Citrus Commission*, Civ.App., 254 S.W.2d 232; *State v. Akin Products Co.*, Civ.App., 279 S.W.2d 409, affirmed 155 T. 348, 286 S.W.2d 110.

Art. 118e. Vegetable Plant Certification

Establishment of Procedure; Purpose; Duties of Commissioner; Stamps or Tags

Sec. 1. There is hereby established in this State the following procedure for vegetable plant certification:

The purpose of the vegetable plant certification law is to provide for the purchaser of vegetable plants the benefit of honest and reliable opinion of the freedom from such disease and fungus infection as can be determined by field inspection prior to preparing the plants for shipment—to insure in so far as possible, proper handling and packaging the plants certified.

The Commissioner of Agriculture is charged with the duties of prescribing such rules and regulations as are necessary to the enforcement of the law.¹ The appointment of qualified inspectors, collection of fees, issuance of tags and the actual enforcement of the law.

The firm or individual holding such license and meeting the requirement of inspection are issued such certification stamps or tags as may be deemed necessary, such stamps or tags to be affixed to containers carrying the certified plants.

¹ The period should probably be omitted. This is not the end of the sentence.

Tomato Plants

Sec. 2. The certification of tomato plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	<i>Heterodera marioni</i>
Early blight	<i>Alternaria solani</i>
Collar rot	<i>Alternaria solani</i>
Grey leaf spot	<i>Stemphyllium solani</i>

Late blight	<i>Phytophthora infestans</i>
Fusarium wilt	<i>Fusarium lycopersici</i>
Verticillium wilt	<i>Verticillium albo-atrum</i>
Bacterial wilt	<i>Bacterium solanacearum</i>
Bacterial canker	<i>Coryneil bacterium michiganense</i>
Bacterial spot	<i>Xanthomonas vesicatoria</i>
Southern blight	<i>Sclerotium rolfsii</i>
Mosaic	Virus

INSECTS *

Garden fleahopper	<i>Halticus citri</i>
Thrips	Thrips tabaci and others
Flea beetle	<i>Phyllotreta</i> spp.
Serpentine leaf miner	<i>Liriomyza pusilla</i>

All other diseases and insects that might be found in the future that are at the present unknown to scientists.

* (Free from damaging infestation)

Cabbage and Other Cruciferous Plants; Basis of Certification

Sec. 3. The certification of cabbage, cauliflower, broccoli, collards, or other cruciferous plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	<i>Heterodera marioni</i>
Black rot	<i>Bacterium campestre</i>
Yellows	<i>Fusarium conglutinans</i>
Black-leg	<i>Phoma lingam</i>

INSECTS *

Aphid	<i>Brevicoryne brassicae</i> and <i>Rhopalosiphum pseudo-brassicae</i>
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* (Free from damaging infestation)

Pepper Plants

Sec. 4. The certification of pepper plants shall be based on the fact that the plants are apparently free from the following plant diseases and pests as determined from field inspection prior to the lifting of the plants for sale or shipment, to wit:

DISEASES	SCIENTIFIC NAME OF ORGANISM
Nematode root knot	<i>Heterodera marioni</i>
Southern blight	<i>Sclerotium rolfsii</i>
Bacterial spot	<i>Xanthomonas vesicatoria</i>
Bacterial wilt	<i>Bacterium solanacearum</i>

this inspection shall be a minimum of Five Dollars (\$5) and for acreage of more than five (5) acres the added fee of not less than twenty-five cents (25¢) per acre nor more than One Dollar (\$1) per acre shall be paid. All plants lifted or shipped shall be packaged in bundles of one hundred (100) plants and a label or tag shall be affixed to each bundle. The price of labels or tags shall not be less than one cent (1¢) per label nor more than three cents (3¢) per label.

All such fees as are collected under this Act shall be deposited in the State Treasury in a special fund under the title of the Texas Vegetable Certification Fund. The purpose of the fees being to pay for the enforcement of the law and to provide inspections called for; it further being the purpose to make the law self-supporting.

Out of the fees collected under this Act, the Chief of the Markets and Warehouse Division of the Department of Agriculture shall be paid in addition to the amount of his salary in the general appropriation bill the sum of Four Hundred and Eighty Dollars (\$480) per annum; which amount is hereby appropriated for said purpose.

Penal Clause

Sec. 12. Any person who shall wilfully or negligently violate any of the terms of this Act, or who shall make false representation of the plants by use of the certified tag or stamp shall be fined upon conviction not less than Twenty-five Dollars (\$25) nor more than One Hundred Dollars (\$100) and shall be removed from the certified grower list for a period of twelve (12) months.

[Acts 1949, 51st Leg., p. 1127, ch. 581; Acts 1950, 51st Leg., 1st C.S., p. 119, ch. 48, § 1.]

CHAPTER SEVEN. NURSERY STOCK

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 - 133. Inspection Fees.

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- 134. Repealed.
 - 135. Definitions.
 - 135.1 Definitions.

Art. 119. General

It shall be the duty of the Commissioner of Agriculture to prepare, publish, and enforce suitable rules and regulations for the traffic, growing, shipping, and selling of trees, plants, shrubs, vines, cuttings, grafts, scions, bulbs and grasses grown or kept for, or capable of propagation, distribution or sale, and for such control and inspection as may be required as to cut flowers, potted plants, blooming plants, inside foliage plants, bedding plants, corsage flowers, cut foliage, floral decorations and live decorative material, and he shall also provide such rules and regulations concerning city, private or public parks, avenues of shade trees, shrubbery and ornamentals along the streets of cities, for city residences, and city property generally, as will secure a protection and immunity from insect pests and diseases. He shall inspect, or cause to be inspected at least once each year all nurseries, greenhouses, orchards, gardens, florists or other places growing or offering for sale any or all of the items listed herein, or any other item of plant life of nursery products or cut flower. The inspection or examination shall determine whether or not such item or the premises are infected with diseases or insect pests injurious to human, animal or plant life. If such items and premises are free in all respects from infection or infestation, the Commissioner, upon receipt of inspection fee provided by this Act, and in accordance with this Chapter, shall issue a certificate of inspection. The Commissioner shall enforce the provisions of this Chapter and make and enforce such other rules and regulations not inconsistent herewith as may be deemed necessary to carry the same into effect.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 1, eff. May 27, 1959.]

Art. 119a. Hindering Commissioner

Whoever refuses or prevents entrance upon any premises under his control to the Commissioner of Agriculture, or his representative, seeking such entrance on official duty, shall be fined not less than twenty-five nor more than two hundred dollars.

[1925 P.C.]

Art. 120. Repealed by Acts 1959, 56th Leg., p. 613, ch. 280, § 2, eff. May 27, 1959

Art. 121. Abatement of Nuisance

If it shall be determined by the Commissioner or his representative that any item or premise inspected shall be diseased or infected with diseases or pests, it shall be his duty to abate as a public nuisance as much thereof as may be necessary, within his judgment, to safeguard the public health and welfare affected thereby. For such purpose, he shall have authority to enter upon any premises so affected

for the purpose of legally inspecting and treating or destroying the same, and no damages shall be awarded against the Commissioner or his representative for the exercise of such duties.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 3, eff. May 27, 1959.]

Art. 122. Notice

If it shall be determined by the Commissioner or his representative that any item of nursery product or stock or florist plant, tree, shrub, or other growth is diseased or infected to such an extent that all or any part thereof shall be destroyed, or should treatment be given in a way and manner directed by said Commissioner or his representative, then, and in that event, the Commissioner or his representative shall deliver in person or by registered or certified mail a written notice naming the item or items of nursery product or stock or florist plant, tree, shrub or growth to be destroyed or treated, and such notice shall contain a brief statement of the facts found to exist and the reason whereby it is necessary to destroy or treat same, this notice to be on a form prescribed by the Commissioner and signed by him or his authorized representative.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 4, eff. May 27, 1959.]

Art. 123. Treatment or Destruction

Any person, firm, corporation or partnership receiving such a notice shall within ten (10) days from the receipt thereof remove or cause to be removed and destroyed or treated as directed by the Commissioner or his representative any diseased item, and failure to do so shall be deemed to be in violation of this Act.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 5, eff. May 27, 1959.]

Art. 123a. Diseased Nursery Stock

No person in this State shall knowingly or wilfully keep any peach, almond, apricot, nectarine or other trees, affected with the contagious disease known as yellows; nor keep for sale any apple, peach, plum or other tree affected with nematode galls, crown galls, fire blight, or root rot. No person shall knowingly or wilfully keep any plum, cherry or other trees affected with the contagious disease or fungus known as black knot or plum canker; nor any tree, shrub or plant infested with or by the San Jose scale or other insect pest dangerously injurious to or destructive of trees, shrubs, or other plants; nor any grapefruit, orange, or lemon trees, citrus stocks, cape jasmynes or other trees, plants or shrubs infested with "white fly," Florida red scale, cottony cushion scale, wooly aphid, or other injurious insect pests, or citrus canker, or other contagious diseases of citrus fruits; nor subtropical plants, shrubs, evergreens or ornamentals; nor any china, forest or other trees, shrubs, or plants infested with injurious insect pests or contagious diseases.

[1925 P.C.]

Art. 124. Appeal, Enforcement of Order, Rule or Regulation; Penalty

Any person, firm, corporation or partnership aggrieved by any order, rule, regulation, or notice of the Commissioner or whose property is to be destroyed by any such order, rule, regulation or notice, shall have the right of appeal to any Civil District Court of Travis County, Texas, or to the District Court of the county in which such order, rule, regulation or notice shall affect the applicant, such appeal shall be taken within ten (10) days from and after receipt of such notice or order, and not thereafter. Such appeal shall be heard by said Court in termtime or vacation. If the decision on such appeal shall be against such person, or if such person shall fail or neglect to perfect his appeal in the manner in this Section provided, the order or notice of the Commissioner shall be final and the Commissioner, his agents, or employees, shall summarily execute such notice or order and place such premises in compliance therewith. The sheriff or any constable of any court within this State shall, on request of the Commissioner, his agent, or employee, go upon any premises within this State for the purpose of assisting in the enforcement of such order or notice and placing such premises in compliance therewith. Any person who shall willfully or negligently violate any of the terms and provisions of this Act, or willfully or negligently fail or refuse to comply with any rule, regulation, order, or notice of the Commissioner, issued by said Commissioner pursuant to the duties upon him herein imposed, or the authority to him herein granted, shall, upon conviction, be fined not less than Twenty-five Dollars (\$25) nor more than Two Hundred Dollars (\$200), and each day upon which any person shall maintain any premises within this State in a condition of noncompliance with the provisions of this Act after due notice by registered or certified mail has been given, at the last known address of violator, shall be deemed a separate offense.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 487, ch. 305, § 2; Acts 1959, 56th Leg., p. 613, ch. 280, § 6, eff. May 27, 1959.]

Art. 125. Expense of Treatment

All charges and expenses of such treatment or destruction of diseased, infected or infectious items or premises shall be paid by such owner or person in charge of said items or premises and shall constitute a legal claim against such owner or person in charge, which may be recovered by suit brought by the Commissioner or the County Attorney of the county where such premises are situated, together with all costs, including attorney's fees.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 7, eff. May 27, 1959.]

Art. 126. Examination and Certificate

The Commissioner shall inspect or cause to be inspected at least once each year each and every place offering items of nursery products or stock or ¹ greenhouses, orchards, gardens,

florists or other places growing any or all of the items listed in this Chapter or any other item of plant life or cut flower and selling or offering same for sale, to ascertain whether or not said item or premises are infected with disease or insect pests injurious to human, animal or plant life. If such item and premises are free in all respects from infection or infestation, the Commissioner shall, upon receipt of the inspection fee provided herein, issue to the owner, manager, or person in control of such item or premises, a certificate, which certificate shall show the date of inspection, the name of the person making such inspection, and the fee charged for such inspection. The certificate shall not be negotiable or transferable, and shall bear an expiration date. Any person offering for sale any item of nursery product or stock or florist item without a certificate of inspection as herein provided shall be deemed to be in violation of this Act.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 487, ch. 305, § 3; Acts 1959, 56th Leg., p. 613, ch. 280, § 8, eff. May 27, 1959.]

¹ So in enrolled bill.

Art. 126a. Examination

The Commissioner of Agriculture shall cause to be made at least once each year an examination of each nursery or other place where nursery stock is exposed for sale. If such stock so examined is apparently free in all respects from any contagious or infectious disease or dangerously injurious insect pests, the Commissioner shall issue to the owner or proprietor of such stock a certificate reciting that such stock so examined was at the time of such examination apparently free from any such disease or pest. No such certificate shall be negotiable or transferable, and shall be void if sold or transferred. Any such sale or transference shall be punishable as provided by the succeeding article.

[1925 P.C.]

Art. 126b. Giving False Certificate

If the Commissioner of Agriculture or any of his agents or employes gives a false certificate or a certificate without an actual examination of the nursery stock for which said certificate is given, to any owner, proprietor or lessee of any nursery, or owner of nursery stock, or to any other person, for use under the provisions of this law, he shall be fined not less than five hundred nor more than one thousand dollars.

[1925 P.C.]

Art. 127. Certificate to Accompany Sale or Shipment

All items of nursery products or stock or florist items offered for sale or consigned for shipment, or shipped by freight, express or other means of transportation, shall be accompanied by a copy of the certificate of inspection from the Commissioner of Agriculture attached to each car, box, bale, package or item. When such car, box, bale, package or item shall be delivered to more than one person, firm, corpo-

ration, or partnership, each portion shall also bear a copy of the certificate of inspection issued as provided in this Chapter.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 9, eff. May 27, 1959.]

Art. 127a. Shipment

All nursery stock consigned for shipment, or shipped by freight, express or other means of transportation, shall be accompanied by a copy of said certificate attached to each car, box, bale, bundle or package. When such box, bale, bundle or package contains nursery stock to be delivered to more than one person, partnership or corporation, each portion of such nursery stock to be so delivered shall also bear a copy of such certificate of inspection, and each individual delivery of nursery stock shall be packed in such a manner that the roots will be protected from air and loss of moisture. Whoever sends out or delivers within this State, trees, vines, shrubs, plants, buds or cuttings, commonly known as nursery stock, which are subject to the attacks of insects and diseases enumerated herein, unless he has in his possession a copy of said certificate, dated within a year thereof; or shall deface or destroy such certificate, or wrongfully be in possession of such certificate; or fail to attach proper tags on each shipment, such tags bearing a copy of said certificates, or fails to pack any such shipments in a manner that the roots will be protected from air and loss of moisture, shall be fined not less than Ten (\$10.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

[1925 P.C.; Acts 1953, 53rd Leg., p. 483, ch. 169, § 1.]

Art. 127b. Carrier Not to Receive, When

No transportation company or common carrier shall receive, transport or deliver shipments of nursery stock originating either within or without this State which do not bear shipping tags or labels showing the certificate of inspection of the state in which it originates, together with the permit from this State if it be a shipment from without this State. Any person without this State, or any agent of any transportation company or common carrier, or any person who shall violate any provision of this article, shall be fined not less than fifty nor more than two hundred dollars.

[1925 P.C.]

Art. 127c. Unlawful Delivery

Any agent of any dealer or nurseryman, who shall knowingly deliver to any individual, partnership or corporation, any tree, shrub, or plant infested or diseased, as specified in the provisions of this law, even though such trees, shrubs, or plants are received in a box, bale or package, bearing a certificate of inspection, as provided in this law, shall be fined not less than twenty-five nor more than five hundred dollars for each such delivery to each individual, partnership or corporation.

[1925 P.C.]

Art. 127d. Fraud in Sales

It shall be unlawful to wilfully misrepresent nursery stock which is offered for sale or refuse to state where the same was propagated or the manner of propagation, or to sell, offer for sale, or deliver nursery stock which is untrue to name, dead, or devitalized to such an extent as to be unfit for sale; and whoever knowingly makes any false representation of the name, quality or nature of any nursery product for the purpose of inducing any vendee to buy the same, or who knowingly delivers to any vendee any such product other than that contracted for, shall be fined not less than One Hundred (\$100.00) Dollars nor more than Five Hundred (\$500.00) Dollars, or imprisoned in jail not less than thirty days nor more than six months, or both. The Statute of Limitation shall not begin to run against a prosecution under this Article until such product shall have developed and disclosed the fraud.

[1925 P.C.; Acts 1953, 53rd Leg., p. 437, ch. 125, § 1.]

Art. 128. Nursery Stock Shipped into State

No person, firm, corporation or partnership outside this State shall be permitted to ship nursery products or stock or florist items into this State without having first filed with the Commissioner of Agriculture a certified copy of his, or their, certificate of inspection, issued by the proper authorities in the State from which the shipment originates. Such certificate shall show that the stock to be shipped has been examined by the proper officers of inspection in such State, and that it is apparently free from all dangerous insect pests or contagious diseases, and when fumigation or other special treatment is required by the Commissioner of Agriculture, that the stock has been properly fumigated or treated. Upon receipt of such certificate, and provided that such certificate shall be acceptable to the Commissioner and approved by him, the Commissioner shall issue to such applicant, upon payment of the fee herein provided, a Texas Importation Certificate which shall permit the applicant to ship the nursery products, stock or florist item into the State of Texas. Each car, box, bale or package of nursery products, stock or florist item from outside the State of Texas shall bear a tag on which is printed a copy of the certificate of this State, and also a copy of the certificate of the State in which it originates.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 487, ch. 305, § 4; Acts 1959, 56th Leg., p. 613, ch. 280, § 10, eff. May 27, 1959.]

Art. 128a. Rose Plants, Cuttings and Bushes**Purpose of Act**

Sec. 1. The purpose of this Act is to provide necessary authority for the Commissioner of Agriculture to prescribe rules, regulations and procedures for inspection, grading and labeling of all rose plants, cuttings, bushes and shipments thereof sold or offered to be sold within the State of Texas.

Rules, Regulations and Procedures; Notice; Hearing; Approval

Sec. 2. In addition to all other duties and responsibilities, the Commissioner of Agriculture shall after due notice and public hearing prepare and publish in pamphlet form reasonable rules, regulations and procedures that are necessary to carry out the provisions of this Act and the duties and responsibilities of his office in connection therewith, provided such rules and regulations are approved in writing by the Attorney General of Texas, and such approval shall remain on file in the office of the Commissioner of Agriculture for public inspection.

Grading and Labeling

Sec. 3. From and after the effective date of this Act, no person, firm or corporation shall sell or offer for sale in commercial quantities or as a part of the regular operation of business any rose plants, cuttings, bushes or shipments thereof, unless said rose plants, cuttings, bushes or shipments thereof shall have been graded and labeled in accordance with the grades or classifications promulgated by the Commissioner of Agriculture pursuant to his authority herein granted, and he shall establish as one of such grades or classifications the grade or classification of "ungraded."

Enforcement of Act; Inspection; Verification of Grade; Certificates of Authority

Sec. 4. The Commissioner of Agriculture, or his duly authorized representative under the supervision and control of the Commissioner, shall enforce the provisions of this Act; and any authorized representative of the Commissioner of Agriculture may enter any place of business, farm, shed or other location during ordinary business hours within the state where rose plants, cuttings, bushes or shipments thereof are grown, sold, offered for sale or displayed, and shall inspect and verify the grade, or shall cause to be inspected and graded, such rose plants, cuttings, bushes or shipments thereof as may be offered for sale, and such inspection may include the grading of said rose plants, cuttings, bushes or shipments thereof into one of the grades provided for in his rules and regulations, and the Commissioner of Agriculture shall issue or cause to be issued a certificate of authority to the person, firm or corporation grading, selling or offering for sale the rose plants, cuttings, bushes or shipments thereof. The certificate shall bear a number which shall be used by the certificate holder on all labels attached to rose plants, cuttings, bushes or shipments thereof sold or offered for sale by the holder or under his direction.

Stop Sale Orders

Sec. 4a. The Commissioner of Agriculture, or his duly authorized representative, may, while enforcing the provisions of this Act, issue and enforce a written or printed "Stop Sale Order" on any rose plants, cuttings, bushes or shipments thereof offered for sale which

shall not bear a label showing the proper classification or grade, and such "Stop Sale Order" shall prohibit further sales of such rose plants, cuttings, bushes, or shipments thereof until they shall be properly graded, classified and labeled.

Inspection, Grading and Labeling in Other States

Sec. 5. The Commissioner of Agriculture may accept the inspection, grading and labeling of rose plants, cuttings, bushes or shipments thereof as performed in other states by the duly authorized authority in said state, provided the rose plant, cutting, bush or shipment thereof shall be plainly labeled with the grade indicated, or plainly marked that said rose plant, cutting, bush or shipment thereof is ungraded, but in no event shall a rose plant, cutting, bush or shipment thereof be sold or offered for sale that does not bear a label clearly showing its grade or classification, and such grade or classification must be at least equal to such grade or classification as promulgated by the Texas Department of Agriculture.

License Fees

Sec. 6. The annual license fee for growers, dealers, wholesalers and processors shall be determined according to the actual amount of work done or time consumed by the Commissioner or under his direction and supervision, and the license year shall be twelve (12) months, or any fraction thereof, beginning on January 1 and ending on December 31, and any certificate of authority issued during the said year shall be for the remainder thereof and for no longer period. The annual license fee for the certificate of authority shall in no event be less than the following schedule:

- (a) For growers, dealers, wholesalers or processors handling, selling or offering for sale up to one hundred thousand (100,000) rose plants, cuttings or bushes for the calendar year\$15.00
- (b) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of one hundred thousand (100,000) and less than five hundred thousand (500,000) rose plants, cuttings or bushes for the calendar year\$25.00
- (c) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of five hundred thousand (500,000) and less than one million (1,000,000) rose plants, cuttings or bushes for the calendar year \$50.00
- (d) For growers, dealers, wholesalers or processors handling, selling or offering for sale in excess of one million (1,000,000) rose plants, cuttings or bushes for the calendar year\$100.00

All fees collected hereunder shall be fees of office of the Commissioner of Agriculture and shall be deposited in the General Fund of the State of Texas, subject to appropriation by the Legislature. Persons, firms or corporations

purchasing graded stock and not themselves determining or influencing the grade thereof, shall be exempt from the annual license fee for the certificate of authority.

Penalties

Sec. 7. Any person, firm or corporation advertising for sale, selling or offering for sale rose plants, cuttings, bushes or shipments thereof that are not clearly and distinctly marked with a grade or classification in accordance with the rules and regulations of the Commissioner of Agriculture, and after the effective date of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined not less than Fifty and No/100 (\$50.00) Dollars, nor more than One Hundred and No/100 (\$100.00) Dollars, and each separate sale shall be a separate offense and violation. [Acts 1961, 57th Leg., p. 597, ch. 285, eff. Aug. 28, 1961.]

Art. 129. May Revoke Certificate

The Commissioner may revoke any certificate of inspection issued under this Chapter when he finds that false representations have been made by the party to whom the same was issued, or when such party violates or refuses to comply with any law, instructions or rules given by the Commissioner as authorized by this Chapter.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 11, eff. May 27, 1959.]

Art. 129a. False Representations

Whoever shall make false representations for the purpose of obtaining any such certificate of inspection from the Commissioner of Agriculture, shall be fined not less than twenty-five nor more than two hundred dollars.

[1925 P.C.]

Art. 130. Transportation Companies Not Liable

No transportation company or common carrier shall be liable for damages to the consignee or consignor for refusing to receive for transportation or deliver nursery products, stock, or florist items in packages, bales, bundles or boxes when not accompanied by copies of the certificates provided for in this Chapter. The agent of any such company or carrier shall immediately report to the Commissioner of Agriculture any such shipment not so accompanied.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 12, eff. May 27, 1959.]

Art. 131. Unlawful Shipments

The Commissioner shall inspect shipments of nursery products, stocks or florist items into this State, or originating within this State, and if found without tags or proper certificates as above provided for, the same shall be dealt with as infected stock, and destroyed or disposed of at the direction of the Commissioner or his representative. Any moneys received

from the sale of said items shall be treated as fees of officer and deposited in the State Treasury.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 13, eff. May 27, 1959.]

Art. 131a. Importation of Camellia Plants and Flowers

Sec. 1. No balled or potted camellia plants with soil attached, cut camellia flowers, or camellia plants with flower buds showing color, may be imported into the State of Texas unless such plants or flowers are accompanied by a certificate from the appropriate official of the state of origin certifying that such plants or flowers are free from camellia flower blight (*Sclerotinia camelliae*).

Sec. 1a. The Commissioner of Agriculture shall have authority to prepare and enforce suitable rules and regulations for the sale and shipment of camellias and other products in the control of camellia flower blight (*Sclerotinia camelliae*) within the State of Texas.

Sec. 2. Camellia plants or flowers imported into the State of Texas without a certificate from the appropriate official of the state of origin certifying that such plants or flowers are free of camellia flower blight (*Sclerotinia camelliae*) must be destroyed or returned to the point of origin at the discretion of the Commissioner of Agriculture.

Sec. 3. Any person, firm, association, corporation, or other legal entity, who shall violate Section 1 of this Act shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not more than One Hundred Dollars (\$100), and each separate camellia plant or flower imported into the State of Texas in contravention of Section 1 of this Act shall be considered as a separate offense.

Sec. 4. The provisions of this Act shall be cumulative of all laws relating to this subject. [Acts 1959, 56th Leg., p. 865, ch. 391, eff. May 30, 1959.]

Art. 132. Chief Inspector

The Commissioner shall appoint one person who shall be designated as Chief Inspector who shall act for and on behalf of the Commissioner and under his direction and supervision, and who shall inspect or cause to be inspected, all places growing nursery products, stocks, or florist items, or in any manner handling nursery products, stocks or florist items for sale, and shall inspect or cause to be inspected, the premises or areas where any or all of the products, stocks or items coming within the purview of this Chapter are displayed or offered for sale.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 14, eff. May 27, 1959.]

Art. 133. Inspection Fees

The Commissioner shall collect or cause to be collected all fees of inspection, and he shall fix said fee based upon his knowledge and experience, and shall publish a schedule of said fees in connection with and as a part of the rules

and regulations as provided herein. The fee for each inspection of an installation, premise or area growing, buying, selling, displaying or in any manner handling nursery products or stocks shall be not less than Ten Dollars (\$10) nor more than Twenty-five Dollars (\$25). The fee for each inspection of an installation, premise or area where florist items are bought and sold or offered for sale shall be not less than Five Dollars (\$5) nor more than Fifteen Dollars (\$15). The fee for each inspection of nursery products, stocks or florist items shipped into the State, and requiring an importation certificate may be fixed by the Commissioner. All fees collected shall be accounted for in a manner and method as shall be determined by the State Auditor, and such fees shall be deposited with the State Treasurer in the same manner as other fees of office of the Commissioner of Agriculture.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 15, eff. May 27, 1959.]

Art. 134. Repealed by Acts 1959, 56th Leg., p. 613, ch. 280, § 16, eff. May 27, 1959

Art. 135. Definitions

The following definitions shall apply to the various categories and individuals coming within the provisions of Chapter 7 of the Revised Civil Statutes of Texas, 1925, and the amendments thereto, and shall also be used as the legal definitions of the terms herein defined in the interpretation and application of the laws of this State for all purposes.

1. Nursery Products and Nursery Stock. The terms "nursery products" and "nursery stock" within the meaning of this law shall include all trees, shrubs, vines, cuttings, grafts, scions, grasses, bulbs and buds grown or kept for, or capable of, propagation, distribution or sale, and all such "nursery products" and "nursery stock" are herewith defined to be and shall be considered as "farm products in the hands of the producer" so long as they are in a growing state, and until such "nursery products" and "nursery stock" are sold to the consumer.

2. Nursery Grower. The term "nursery grower" shall be construed to mean any person, firm, partnership or corporation growing nursery products or nursery stock for the purpose of sale, who actually grow more than fifty per cent (50%) of the nursery products and nursery stock sold by or under the direction of said person, firm, partnership or corporation, regardless of the variety of nursery products or nursery stock sold or grown.

3. Nursery Dealer. The term "nursery dealer" shall be construed to mean any person, firm, partnership or corporation who buy and sell or offer for sale nursery products and/or nursery stock and who has facilities that maintain or preserve said nursery products and nursery stock without permitting same to become dry or

infested or diseased, and provided said nursery dealer shall have an established permanent address, which address shall be registered with the Commissioner of Agriculture and which address shall be imprinted upon the certificate and all copies of the certificate issued to said nursery dealer by the Commissioner of Agriculture.

4. Nursery Agent. The term "nursery agent" shall be construed to mean any person, firm, partnership or corporation selling nursery products or nursery stock or taking mail orders or in any manner selling or offering for sale nursery products and nursery stock, either as being entirely under the control of a nursery grower or nursery dealer, with whom the nursery products or nursery stock offered for barter and traffic originates, or some cooperative basis for handling nursery products or nursery stock with the nursery grower or nursery dealer as hereinbefore defined. Any such nursery agent shall have proper credentials from the nursery grower or nursery dealer he represents or cooperates with, and failing in that, any such nursery agent shall be classed as a nursery dealer, and subject to such rules and regulations as may be adopted relative to them, and shall be amenable to the same penalties for violation of any provisions of this law.

5. Florist. The term "florist" shall be construed to mean any person, firm, partnership or corporation who maintains, grows, raises, or buys and offers for sale for profit, cut flowers, potted plants, blooming plants, inside foliage plants, bedding plants, corsage flowers, cut foliage, floral decorations and live decorative material.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 613, ch. 280, § 17; Acts 1963, 58th Leg., p. 858, ch. 323, § 1, eff. Aug. 23, 1963.]

Art. 135.1. Definitions

1. "Nursery stock."—The term "Nursery stock" within the meaning of this law, shall include all fruit trees and vines, shade trees and forest trees, whether such shade or forest trees be especially grown for sale in a nursery, or taken from the forests and offered for sale; all scions, seedlings, roses, evergreens, shrubbery or ornamentals, also such greenhouse plants or propagation stock, all classes of berry plants, cut flowers taken from plants, bushes, shrubs or other trees growing in this State, which may be a medium for disseminating injurious insect pests and contagious diseases.

2. "Nursery."—The term "nursery" shall be construed to mean any grounds or premises on which nursery stock is grown, or exposed for sale. "Being in the nursery business" applies to any individual, partnership or corporation which may either sell or grow, or both grow and sell, nursery stock, regardless of the variety or quantity of nursery stock sold or grown.

3. "Dealer" and "agent."—The term "dealer" shall be construed to apply to any individual, partnership or corporation not growers of nursery stock, but who buy and sell nursery stock for the purpose of reselling and reshipping under their own name or title, independently of any control of those from whom they purchase. An "agent of a nursery or dealer" shall be construed to apply to any individual, partnership or corporation selling nursery stock, either as being entirely under the control of the nursery or dealer with whom the nursery stock offered for barter and traffic originates, or some cooperative basis for handling nursery stock with the grower or dealer, as specified in this article. Any such agent shall have proper credentials from the dealer he represents or cooperates with, and failing in that, any such agent shall be classed as a dealer, and subject to such rules and regulations as may be adopted relative to them, and shall be amenable to the same penalties for violations of any provisions of this law.

[1925 P.C.]

CHAPTER SEVEN A. PLANT DISEASES AND PESTS

Article

135a to 135d. Repealed.

135a-1. Insect Pests and Plant Diseases.

135a-2. Mexican Fruit Fly Control and Eradication.

135a-3. Insect Pests and Plant Diseases Common to Citrus Fruit.

135a-4. Testing Agricultural Products For Aflatoxins.

135b-1 to 135b-3. Repealed.

135b-4. Sale, Use and Transportation of Herbicides.

135b-5. Insecticide, Fungicide, and Rodenticide Act of Texas.

135b-6. Structural Pest Control Act.

135b-7. Fire Ant Eradication and Control Programs.

Arts. 135a to 135d. Repealed by Acts 1929, 41st Leg., 2nd C.S., p. 21, ch. 15, § 13

Art. 135a-1. Insect Pests and Plant Diseases Quarantine Against Areas Outside State

Sec. 1. If the Commissioner of Agriculture of this State, hereinafter called the "Commissioner", determines the fact that any dangerous insect pest or plant disease new to and not heretofore widely distributed in the State exists in any area outside of Texas, he is hereby authorized and it is made his duty to establish, maintain and enforce a quarantine at the boundaries of this State or elsewhere within the State against such infested area and shall prevent the movement from such quarantined area or areas into this State or into any part of it of any plants, plant products, things or substances liable to disseminate the pest or plant diseases under consideration; provided that nothing herein shall be construed to prevent the movement of such plants, plant products, things or substances into this State from a quarantined area under such safeguards as the Commissioner shall deem adequate to prevent the introduction into this State of danger-

ous insect pests or plant diseases quarantined against.

Quarantine Against Areas Within State

Sec. 2. If any dangerous insect pest or plant disease not heretofore widely distributed in this State shall be found within the State, the Commissioner is hereby authorized and it is made his duty to establish a quarantine against such area as may be infested, and he shall prevent the movement of such plants, plant products, things or substances from such quarantined area into any other part of the State as are liable to spread the pest under consideration, except under such safeguards as shall be deemed adequate to prevent the spread of such dangerous insect pests or plant diseases to other parts of the State.

Free Areas; Venue of Actions

Sec. 3. When the Commissioner determines the fact that any insect pest or plant disease of general distribution in the State does not exist in any particular area, he is hereby authorized to publish such fact, and he shall have full power and authority to place a quarantine around such "free area" and prevent the introduction therein of any plants, plant products, things or substances liable to be infested with such insect pest or plant disease. Venue in cases arising under the provisions of this Section shall be in courts of competent jurisdiction in the county in which such "pest-free" zones are established.

Conditions Precedent to Establishing Quarantine

Sec. 4. Before any quarantine shall be established, as provided for in Sections 1, 2 and 3 herein, the said Commissioner shall cause the Chief Entomologist of the Department of Agriculture and, if he deems it advisable, one or more other persons designated and appointed by the said Commissioner, to make an investigation and hold a public hearing at some convenient and accessible point, due notice of which shall have been given at least ten (10) days prior to the day of such hearing by publication in a newspaper of general circulation in the area or areas to be considered; provided that if the quarantine under consideration shall be such as is provided by Section 1 hereof, the notice called for by this Third Section shall be sufficient if published in two newspapers of general circulation within the State of Texas (selection of which shall be made by the Commissioner of Agriculture and his selection to be determinative and final) for the time and in the form as set out in this Section. Such notice shall state the pests or plant diseases and the area to be considered, at which hearing all persons interested shall have the right to be heard. The Chief Entomologist and other persons, if any, appointed to conduct such hearing shall take the Constitutional oath of office and be empowered to administer oaths for the purpose of taking testimony and shall record the proceedings had, and shall investigate whether or not the particular pests or

plant diseases under consideration constitute a menace to any valuable plants or plant products, and shall make a written report to the Commissioner of the findings thereof as to whether or not such pests or plant diseases as may be considered are in fact a menace to any valuable agricultural or horticultural crops and the reasons for such conclusions. Such report shall also indicate whether or not any quarantine action is necessary or desirable; and, if so, the best known means of circumscribing, controlling, preventing spread of or exterminating such pests or plant diseases. After receiving such report, the said Commissioner is authorized to promulgate such quarantine regulations as may be indicated to be necessary for the protection of the agricultural or horticultural interests of this State.

Appeal to Courts by Persons Aggrieved

Sec. 5. Provided, that in the event any person or persons are aggrieved, and will be injuriously affected by the said quarantine, or whose property is to be destroyed by any such quarantine or order of the Commissioner, they shall have the right to appeal such matter to the District Court of any Judicial District in which such quarantine or order is promulgated by giving written notice thereof to the Commissioner, stating to what District Court said application is made, such notice to be by registered mail within ten (10) days from the date of the Commissioner's proclamation. Immediately after receipt of such notice the said Commissioner shall make a certified copy of his order and proclamation in said cause and transmit same to the District Court named in the notice. Upon receipt of said papers by the Clerk of said Court, said cause shall be docketed, "-----, Commissioner of Agriculture vs. -----, defendant", on the Civil docket of said Court, and tried in said Court in the manner provided for the trial of Civil cases, and the judgment of said Court upon final hearing shall be "that the orders and proclamations of the said Commissioner be approved and enforced", or "that said orders and proclamations be and are vacated and held for naught", as the Court or jury may determine.

Emergency Quarantine

Sec. 6. Provided further, that if a public emergency arises at any time in which there is likelihood of the introduction into this State or dissemination within the State of any plant disease or insect pest dangerous to the interests of horticulture and agriculture within this State, the Commissioner of Agriculture is hereby authorized to immediately establish an emergency quarantine at the boundaries of this State, or elsewhere within the State, and immediately make and enforce such rules and regulations as may be deemed necessary to prevent the introduction of any dangerous insect pest or plant disease into this State, and to prevent the carrying of such dangerous insect pest or plant disease from one part of the State into another part of the State, except un-

der safeguards deemed adequate to prevent the dissemination of the pest; provided, however, that this emergency quarantine shall not remain in effect for more than thirty (30) days from date of promulgation, unless repromulgated and perpetuated by the Commissioner after official hearing, as provided herein.

Protection of Carriers from Damages; Penalty
for Violation

Sec. 7. Provided further, that no railway company, steamship, motor-boat, motor-bus, truck or other carrier shall be liable to any consignor or consignee for damages for refusing to receive and transport and/or deliver across and/or into the area or areas protected by the emergency and/or permanent quarantine provided for herein, any fruit, plants, shrubs, or other carrier of insect pests or plant diseases, in violation of any quarantine proclamation or regulation issued by the Commissioner of Agriculture. The transportation and/or delivery of any fruit, plants, shrubs or other carrier of insect pests or plant diseases in violation of any quarantine proclamation and/or regulations issued by the Commissioner of Agriculture as provided for in this Act, by any railroad company, steamship, motor-boat, motor-bus, truck or other carrier (private or common) shall subject such person, persons, association, partnership or corporation so violating, to a penalty in the sum of Five Hundred (\$500.00) Dollars to be recovered in a suit therefor to be instituted by the Attorney General on behalf of the State of Texas. Venue for such action is specifically provided for in Travis County, Texas.

Investigation and Report by Commissioner of Agriculture
to Commissioners' Court; Notice and Hearing

Sec. 8. When so requested by the Commissioners' Court of any county in this State, the Commissioner shall cause an investigation to be made to determine whether or not any certain insect pest or pests or plant disease or diseases exist in such county or in any part thereof, and shall cause a written report to be made to the said Commissioners' Court which shall contain a statement as to the nature of the infestation, if any, the best known means or method of circumscribing, eradicating, controlling or exterminating the same, and shall state therein specifically what treatment or method is necessary to be applied in each case, as the matter may require, with detailed statement or description as to the method of making or procuring and of applying any preparation or treatment so recommended therefor, and the time and duration for such treatment. Upon receipt of such statement, the Commissioners' Court of such county is hereby authorized to cause the same to be published two (2) consecutive weeks in some newspaper of general circulation in the area or areas under consideration, together with notice of hearing to be held by said Commissioners' Court, which hearing shall be held not less than fifteen (15) days after the first notice shall have been published,

at which hearing all persons interested shall have the right to be heard. After such hearing, the said Commissioners' Court shall make a report to the Commissioner, giving its conclusions. If such report approves the recommendations that shall have been made, and the Commissioners' Court of such county believes that such measures as shall have been recommended should be applied in such area or areas that may be under consideration; then the said Commissioners' Court shall, by an order duly entered in its Minutes, request the said Commissioner to establish a "control" or "eradication" zone, as the matter may require, in said area, and the Commissioner shall issue a proclamation creating such area or areas as may be designated an "eradication" zone or "control" zone, as the case may be, and shall prescribe rules and regulations governing the circumscribing, control, eradication or extermination of such pest or disease, and thereafter it shall be unlawful for any person to do any act prohibited by such rules and regulations, or refuse to do anything commanded to be done by such rules and regulations. The Commissioners' Court of the several counties shall have full power and authority to appropriate funds from the general revenue of the county and to employ such aid as may be necessary to carry into effect this provision.

Quarantine; Insect and Plant Disease Control; Penalty

Sec. 9. When rules and regulations, promulgated by the Commissioner of Agriculture pursuant to any quarantine order authorized in this Act, shall provide for the prevention of the selling, moving, transporting of any plants, plant products, things, or substances from any area quarantined or declared infested as provided for herein, or shall provide for the destruction of trees or fruits, or for the cleaning of orchards or treatment of orchards, or methods of storage, or shall provide for the prevention of the entry into any pest-free zone of any plants, plant products, things, or substances found to be dangerous to the agricultural and horticultural interests of such pest-free zone, or shall provide for the maintenance of a host-free period in which certain fruits are not to be allowed to be ripened, or shall provide for any specific treatment of a grove or orchard, any person or persons found guilty of selling, carrying, or transporting such plants or plant products from a quarantined area or areas declared infested or into an area declared to be a pest-free zone, as the case may be, or who shall maintain any ripening fruit during the host-free period on any tree declared to be a nuisance in such quarantine order, or fails or refuses to administer the treatment provided for, including specific methods of spraying, removing diseased parts, removing and destroying fallen or culled fruits, or removing such weeds or plants as may be hosts or carriers of insect pests or plant diseases, or failing to store products in manner as may be required, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not to exceed

One Hundred Dollars (\$100), and each thing, sold or transported, and each act in violation hereof, shall be considered a separate offense; and provided further that any person violating any of the provisions of this Act may be prosecuted therefor in any county of this State where such violation occurs.

**Destruction of Plants for Violation of Quarantine;
Notice and Hearing**

Sec. 10. When any plants, plant products, things or substances are transported or carried from any area (whether within or beyond the boundary of the State of Texas) quarantined, or declared infested under the provisions of this Act, in violation of a quarantine order preventing such transportation or movement, it shall be the duty of the Commissioner to take possession of same and give immediate notice to the owner thereof that such plants, plant products, things or substances as have been transported are a public menace and shall be destroyed, or, if practical, returned to the point of origin; or, if any plants, plant products, things or substances moved into the State or from any part of the State to another part are discovered to be infested with an insect pest dangerous to any agricultural or horticultural product, whether or not such plants, plant products, things or substances came from an area known to be infested, it shall be the duty of the Commissioner to take possession of them and give notice to the owner thereof that same are a public menace and shall be destroyed. It is specially provided that if and whenever the name of the owner of such plants, plant products, things or substances is unknown to said Commissioner of Agriculture, then in such event, the said Commissioner shall give notice that after a certain specified date, not less than ten days after the first publication of said notice, he will proceed to cause to be destroyed such plants, plant products, things or substances. Said notice shall be published once a week for two consecutive weeks in a newspaper of general circulation in the county where such plants, plant products, things or substances were found, and said notice shall describe said Articles. If the owner thereof claims the said Articles prior to the date set by said notice, for destruction thereof, they shall be turned over and delivered to such owner at his own expense. If such claim is not made, the Commissioner, is hereby authorized to destroy and cause to be destroyed such Articles.

Continuation of Previously Established Zones

Sec. 11. All control zones or eradication zones heretofore established in the Counties of Hidalgo, Willacy and Cameron, under the provisions of Chapter 69, Acts of the Regular Session of the 40th Legislature,¹ for the control of the Mexican fruit worm, *Anastrepha ludens*, Loew, are hereby validated and carried forward, and all quarantines, rules and regulations now in effect prohibiting the importation into this State, or dissemination within the State of any fruits, plants or other known car-

riers of dangerous insect pests and plant diseases are hereby validated and shall remain in full force and effect until abrogated by proclamation of the Commissioner of Agriculture, and hereafter all fruit and plants infested or contaminated with dangerous insect pests or plant diseases known to be a menace to agricultural and horticultural products in such control zones shall be destroyed or treated so as to render them free from such infestation, and when an orchard is found to be infested by such pest or diseases in said control zones, no fruit from the infested orchard or any adjoining orchards shall be moved or allowed to be moved until a committee, appointed by the Commissioners' Court of such county, shall have determined the extent of the infestation and shall have effected the destruction or processing of all contaminated fruit, and it shall be unlawful for the variety of citrus known as "sour orange," with ripe or ripening fruit thereon, to be maintained in said control zones between March 1st and October 1st, and such fruit is hereby declared to be a public nuisance, and in like manner all other citrus fruit trees neglected by the owner thereof to the extent that they may have ripe or ripening fruit thereon between the above mentioned dates are public nuisances, and the same shall be destroyed, and provided further, that all other fruit trees known hosts of the Mexican fruit worm having ripe or ripening fruit thereon between March 1st and October 1st in the said control zones are declared to be public nuisances and their destruction a public necessity, and when such trees have ripe or ripening fruit thereon between the dates of March 1st and October 1st, as evidenced by affidavits of three (3) citizens of the county, it shall be the duty of the Commissioner of Agriculture to order such tree or trees and fruit destroyed. And any person or persons who shall sell or move any fruit from any area within the control zones which has been found to be contaminated or infested with the Mexican fruit worm shall be subject to the penalties in the manner as provided in Section 9 hereof.

¹ Articles 135a to 135d, repealed.

Enforcing Destruction on Refusal of Owner

Sec. 12. In the event any person, firm or corporation owning fruit trees or fruit condemned by the Commissioner in accordance with this Act or regulation herein authorized, shall fail or refuse to destroy such trees or fruit immediately after having been instructed to do so by the Commissioner of Agriculture, or his authorized agent, or representative, or any inspector working under the Commissioner of Agriculture; then it shall be the duty of said Commissioner of Agriculture, or his authorized agent or representative, or the inspector working under the Commissioner of Agriculture, to abate the nuisance and to forthwith destroy such trees or fruit, or otherwise render them not a nuisance. And in carrying out this provision, the Commissioner of Agriculture, or his authorized agent or representative, or the

inspector working under the Commissioner of Agriculture, as the case may be, shall call upon the sheriff of the county in which the fruit or fruit trees are located for such assistance in the premises as may be deemed necessary by the person seeking to destroy such fruit or trees, and it shall be the duty of such sheriff to render all necessary assistance in destroying such trees, plants or fruit, and to co-operate with and assist the said Commissioner of Agriculture, or his authorized agent and representative, or the inspector working under the Commissioner of Agriculture, in carrying out the provisions of this Section.

[Acts 1929, 41st Leg., 2nd C.S., p. 21, ch. 15; Acts 1941, 47th Leg., p. 636, ch. 384, § 1.]

Art. 135a-2. Mexican Fruit Fly Control and Eradication

Definitions

Sec. 1. (1) This Act shall be known and may be cited as the Mexican Fruit Fly Control and Eradication Act.

(2) As used in this Act, unless otherwise apparent from the context:

(a) The present tense includes the past and future tenses; and the future, the present.

(b) The masculine gender includes the feminine and neuter.

(c) The singular number includes the plural and the plural, the singular.

(d) "Department" means the Department of Agriculture of the State of Texas.

(e) "Commissioner" means the Commissioner of Agriculture of the State of Texas.

(f) "Section" means the Section of this Act unless some other Act is specifically mentioned.

(g) "Person" includes individual, partnership, firm, corporation, company, or association.

(h) "Sale" includes offer for sale, expose for sale, have in possession for sale, exchange, barter, or trade.

(i) The word "premises" as used in this Act shall mean any grove, orchard, farm, yard, lawn, or tract of land upon which citrus or other host fruit is grown, whether or not the same shall be enclosed, or any barn, storehouse, warehouse, shed, boxcar, truck, or any other building, receptacle, or conveyance whatsoever susceptible of use for the storage, packing, processing, or transportation of citrus or other host fruits.

(j) The words "host-free period," when used in this Act, shall be construed to mean a period of time during which no host fruits in any stage of development shall be produced or permitted to remain upon trees in the quarantined area. The Commissioner is hereby authorized to adopt the host-free period promulgated by

the United States Department of Agriculture in the Citrus Quarantine Regulations governing Mexican fruit fly quarantine in the State of Texas, and this Act shall conform to such period as promulgated by the United States Department of Agriculture as to the beginning, continuance, and end of such host-free period.

(k) The words "host fruit," as used in this Act, shall be construed to mean fruits susceptible to infestation by the Mexican fruit fly, namely, mangoes, sapotas (including sapodillas and the fruit of all members of the family Sapotaceae and of the genus Casimiroa and all other fruits commonly called sapotas or sapotes), peaches, guavas, apples, pears, plums, quinces, apricots, mameys, ciruelas, and such other fruits as may in the future be found to be host to the Mexican fruit fly and are specifically declared to be host fruits by the Commissioner, and all citrus fruits except lemons, sour limes, calamondin, and normal-bloom citrus. The words "normal-bloom citrus," as used in this paragraph, shall be construed to mean that citrus which, because of its stage of development during the host-free period, will mature during the normal harvesting period. The "normal harvest period," as the words are used in this paragraph, shall be construed to mean that period of the year not within the host-free period. It is the intent of the Legislature and it is hereby specifically provided that all old crop fruit be removed from all premises in the quarantined area at the beginning of the annual host-free period.

(l) The words "fruit fly," as used in this Act, shall be construed to mean the insect known as the Mexican fruit fly, or *Anastrepha ludens*, Loew.

(m) The term "infested premises," as used in this Act, shall be construed to mean those premises upon which larvae of the Mexican fruit fly have been found or are known to exist.

(n) The "quarantined area," as the term is used herein, is hereby construed to mean those counties and parts of counties designated for fruit fly eradication or control by the Commissioner and proclaimed by the Governor of the State of Texas, as is herein provided.

(o) The "modified quarantined area" is hereby defined as meaning those counties or parts of counties which shall be designated as such by the Commissioner and proclaimed by the Governor of the State of Texas under the terms of this Act. The "free area" is hereby defined as meaning those counties or parts of counties which have not been designated by the Commissioner and proclaimed by the Governor to be quarantined or modified quarantined area.

Persons Enforcing as Peace Officers

Sec. 2. (1) Any person in whom the enforcement of any provision of this Act is invested has the power of a peace officer as to such enforcement.

(2) The District or County Attorney of any county in which a violation of any provision of this Act occurs shall, upon the request of the Commissioner, his deputies, inspectors, any enforcing officer, or other interested person, prosecute such violation.

(3) Unless a different penalty is expressly provided, a violation of any provision of this Act is a misdemeanor.

(4) Whenever any notice, report, statement, or record is required by this Act, it shall be in writing, unless it is expressly provided that it may be oral.

(5) Whenever any notice, report, statement, or record is required by this Act to be kept or made in writing, it shall be in the English language.

(6) Whenever any power or authority is given by any provision of this Act to any person, it may be exercised by any deputy, inspector, or agent duly authorized by him, unless it is expressly provided that it shall be exercised in person.

(7) As used in this Act, the word "shall" is mandatory and the word "may" is permissive.

(8) The Commissioner may enter upon any premises to inspect the same or any tree, plant, shrub, or fruit growing or stored therein.

(9) The Commissioner is hereby authorized to promulgate and adopt rules and regulations for carrying out those provisions of this Act which he is directed and authorized to administer and enforce.

Commissioner of Agriculture; Powers and Duties

Sec. 3. (1) It shall be the duty of the Commissioner to control and/or eradicate the Mexican fruit fly in the State of Texas and to protect all premises, as defined herein, within the State of Texas from such pest. The Commissioner shall adopt necessary rules and regulations to be proclaimed by the Governor of the State of Texas for carrying out the provisions of this Act.

(2) It shall be the duty of the Commissioner, when advised of the existence of Mexican fruit fly within any county or part of county in this State, to certify such fact to the Governor of Texas who shall then proclaim such county or part of county to be quarantined, and such county or part of county shall thereafter be dealt with by the Commissioner as is herein provided. The following Counties and parts of Counties in the State of Texas are hereby declared to be quarantined area and are hereby quarantined because the Mexican fruit fly is therein known to exist, to wit: the Counties of Cameron, Hidalgo, and Willacy.

(3) The Commissioner is hereby authorized, when, in his judgment, the exigencies of the situation so require, to designate a modified

quarantined area, which designation is to be by the Commissioner certified to the Governor to be proclaimed as such. The Commissioner shall adopt such rules and regulations as are necessary for the regulation of such modified quarantined area.

(4) It shall be the duty of the Commissioners Court of any county in a quarantined or modified quarantined area to appoint a committee of five (5), such committee to be known as the "Citrus Quarantine Advisory Committee," and said committee shall be composed of four (4) growers of citrus fruits, to be nominated and appointed by said Commissioners Court subject to the approval of the Commissioner, and one representative of the Commissioner to be nominated by said Commissioner and appointed by said Court. It shall be the province of said committee, when advised by the Commissioner that an infestation exists within any premises in said county, to determine the extent of such infestation, and when the extent of such infestation shall have been determined by such quarantine advisory committee, such committee shall recommend to the Commissioner the procedure for eliminating such infestation.

(5) Whenever any county, part of county, district, or territory is designated for fruit fly control and/or eradication by the Commissioner and proclaimed by the Governor, as herein provided, said proclamation shall contain a provision quarantining said county, part of county, district, or territory, and the effect of such quarantine shall be to quarantine said county, part of county, district, or territory and all premises therein of each individual, owner, lessee, renter, tenant, and occupant in the designated county, part of county, district, or territory without specifically designating said land or premises. The quarantine of such area shall be considered as continuing until said quarantine has been modified or removed by the Commissioner.

(6) When any premises within the quarantined area are found by an accredited entomologist to be infested, as the term is defined herein, such entomologist shall certify the fact of such infestation to the Commissioner. It shall thereupon be the duty of the Commissioner to satisfy himself as to the existence of such infestation and the extent thereof. The Commissioner may refer the fact of such infestation to the Citrus Quarantine Advisory Committee of the county in which such premises are located, or if such premises be located in more than one county, then to the Citrus Quarantine Advisory Committee of any county in which a portion of such premises lies situate. It shall be the duty of the Commissioner to decide the manner best suited to the control and/or eradication of such infestation, taking into consideration the recommendations of the Citrus Quarantine Advisory Committee as to the procedure to be followed. The findings of the Commissioner, together with the directions of the Commissioner, shall be reduced to writ-

ing and a copy of such instrument in writing shall be served upon the owner of said premises immediately; such directions shall be mandatory and the owner of said premises shall immediately proceed to comply with such order as regards said premises. The failure to obey such mandatory order of the Commissioner and to place such premises in compliance therewith shall, from and after the effective date of this Act, be a misdemeanor and any person disobeying such mandatory order of the Commissioner shall, on conviction, be fined not more than Two Hundred Dollars (\$200).

(7) The maintenance of any premises, as herein defined, within the fruit fly quarantined area in an unhusbandlike or unsanitary condition is hereby declared to be a public nuisance. The words "unhusbandlike and unsanitary," as used herein, shall be construed to mean the maintaining of such premises with host fruit upon trees located on such premises during the host-free period, or the maintaining of such premises with fallen, refuse, or cull fruit upon the ground, such fallen, or refuse, or cull fruit having been permitted to remain upon the ground and/or premises for a period of seven (7) days during the harvest period. It is the intention of the Legislature that the cleaning of such premises once in each seven-day period within such harvest period shall be mandatory and any person who, within the harvest period, as the same is in this Act defined, shall fail to clean the fallen, or refuse, or cull fruit from his premises at least once in each successive seven-day period, and dispose of the same in a manner satisfactory to the Commissioner, or bury the same at a depth of not less than eighteen (18) inches beneath well tamped soil, or who shall maintain any premises with host fruit upon the trees located on such premises during the host-free period, shall be guilty of maintaining a public nuisance and such person shall, on conviction of maintaining such public nuisance, be fined any sum not to exceed Two Hundred Dollars (\$200).

(8) The Commissioner is hereby authorized to direct owners, part owners, and caretakers of premises subject to the terms of this Act, to place such premises in husbandlike and sanitary condition, said direction to be in writing and signed by said Commissioner or his agent, which signature may be written or stamped thereon; the same shall be dated and shall direct said owner, or part owner, or caretaker, whether such owner, part owner, or caretaker be a person, firm, or corporation, to place such premises in a sanitary condition under the supervision of an inspector of said Commissioner. In the event that the owner of said premises be a nonresident of the State of Texas, the direction of the Commissioner as to the placing of such premises in a sanitary condition shall be sufficient if ten (10) days' notice be given to such nonresident owner by registered mail by said Commissioner and/or his agent or inspector.

(9) Whenever the Commissioner shall issue sanitation directions in writing to any owner, part owner, or caretaker of any premises which are located in the quarantined area, it shall be the duty of said owner, part owner, or caretaker to place such premises in a sanitary condition as directed in such written directions. Any owner, part owner, or caretaker of any premises, as herein defined, who fails or refuses, after the expiration of a ten-day period of notice, as provided herein, to place such premises in a sanitary condition, as herein defined, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not more than Two Hundred Dollars (\$200). From and after the effective date of this Act, the maintenance by any person on any premises within the quarantined area of any growing host fruit, as herein defined, within the host-free period, as herein defined, shall be unlawful, and any person convicted of a violation of this provision shall be fined not more than Two Hundred Dollars (\$200).

Appeals from Orders of Commissioner

Sec. 4. (1) Any person, firm, or corporation aggrieved by any order of the Commissioner may appeal to any Court of competent jurisdiction within the county in which such premises lie situate.

(2) Owners and caretakers of premises subject to sanitary directions of the Commissioner under the provisions of this Act, shall furnish all necessary labor at their own expense for placing such premises in a husbandlike and sanitary condition. Administrators, executors, and guardians are hereby declared to be the caretakers of the premises within their jurisdiction and control and shall be held responsible for the execution of all sanitary directions issued by the Commissioner relating in whole or in part to the estate under their control by reason of said administration or guardianship. Husband and wife shall be held jointly and severally liable for the execution of sanitary directions of the Commissioner relating to their community estate, and the husband shall be held liable for the execution of such directions relating to his separate estate, and the wife shall be held liable for the execution of such directions relating to her separate estate, providing that the husband shall be held liable for failure to follow directions of the Commissioner relating to the separate estate of the wife, and the wife shall be held liable for the execution of directions of the Commissioner relating to the separate property of the husband, if either is the caretaker of such premises belonging to the separate estate of the other.

(3) When the Commissioner ascertains that a person, firm, or corporation is the owner, part owner, or caretaker of any premises which are subject to sanitary direction of the Commissioner under the provisions of this Act, and such directions are issued by the Commissioner, as herein provided, it shall be presumed that, at and on the date of the expiration of

the notice period herein provided, said person, firm, or corporation was still the owner, or part owner, or caretaker, as the case may be, of such premises, and it shall only be necessary for the State to allege and prove that at the time of the service of said written sanitary directions, said person, firm, or corporation was the owner, or part owner, or caretaker of such premises subject to the sanitary directions of the Commissioner.

(4) Upon the failure of any owner, part owner, or caretaker to comply with a written sanitary order of the Commissioner, under the terms and provisions of this Act, in the manner and within ten (10) days from and after the receipt of such written sanitary order, it shall be the duty of the Commissioner and/or his agents or inspectors to institute proceedings in a Court of competent jurisdiction in the county in which such premises lie situate to have such premises declared a nuisance by law. No cost bond shall be required of the Commissioner or his agents in the filing of such proceeding. The Commissioner and/or his agents or inspectors may, if the circumstances so warrant, petition the Court to appoint a receiver for such premises. The Court shall hear the petition with regard to such premises in termtime or in vacation, and if heard in vacation the same may be as fully disposed of and all issues determined in vacation the same as in termtime. The owner of such premises shall give such notice as the Court shall deem necessary. If, in the judgment of the Court, such premises are found to be a public nuisance, it shall be the duty of the Commissioner, his agents, or inspectors to go upon such premises with a sufficient number of helpers and to place such premises in compliance with the directions of the Commissioner. The Commissioner, his agents and/or inspectors shall be allowed the sum of not to exceed Twenty-five (25) Cents per man hour for each and every hour actually expended in placing such premises in compliance with the written directions of the Commissioner, together with an additional fee in the sum of Twenty-five Dollars (\$25), which is hereby declared to be a reasonable recompense for the time involved in the execution of such compliance order, and is in no wise to be construed as a penalty. The aforesaid sum of Twenty-five Dollars (\$25) shall be delivered to the Commissioner, who shall place the same in a fund to be known as the "Orchard Sanitation Fund" and the same shall be expended in the enforcement of the provisions of this Act by the Commissioner. A lien is hereby given said Commissioner, his agents, and/or inspectors upon all citrus fruit growing or standing on such premises for the purpose of securing the payment of the aforesaid sums, and said officers are authorized to retain in their possession and sell at public sale to the highest bidder at any time at the courthouse door of said county such citrus fruit as may be found upon said premises for the purpose of paying the fees herein provided,

the residue, if any, to be paid to the owner of said premises or paid to the County Treasurer subject to the order of the owner, provided, however, that if, in the judgment of the Court, a receiver for such premises be named, and such receiver shall be named, then the provisions of this Section as to the sale of fruit found upon said premises shall be executed by said receiver and the fees herein provided for such services as shall be rendered by the Commissioner, his agents, and/or inspectors, shall be paid to the Commissioner by said receiver and the residue, if any, shall be paid by said receiver to the owner of said premises or to the County Treasurer subject to the order of said owner.

(5) In lieu of the sale of said citrus fruit, as provided in the preceding Section, said officer may fix said lien by filing with the County Clerk of the county in which said premises are located, a sworn statement of said indebtedness, together with a description of the property or properties upon which said lien is to be placed. Such lien shall be filed within thirty (30) days after the enforcement of the directions of the Commissioner by said officers, and suit shall be filed in a Court of competent jurisdiction against the owner of said premises within twenty-four (24) months after filing said statement for the collection of said account and the foreclosure of said lien. No cost bond shall be required of said officer filing said suit, nor of any person to whom said account may be assigned. The Court shall enter judgment for said debt with interest and costs of suit and foreclosing said lien on such premises as the Court may deem necessary for defraying said expenses and paying said fees to said officer and Court costs. Said officer may file a separate statement and separate suit covering each necessary compliance with a written direction of the Commissioner, or may wait until a number of them accrue and sue in the aggregate in one suit and a statement may be filed covering all of said necessary compliances with written directions of the Commissioner.

Peace Officers May Perform Acts of Commissioner

Sec. 5. (1) Where, by any provision of the two (2) preceding Sections of this Act, the Commissioner, his agent, and/or inspector is authorized to perform any act, the same shall also include any and all peace officers of this State who may be legally authorized by any law to perform service in such territory.

(2) Any resident or residents of any county or part of county in which fruit fly control and/or eradication is being conducted may bring mandatory injunction to compel owners, part owners, or caretakers to place their premises in sanitary condition under the provisions of this Act after said owner, part owner, or caretaker has failed or refused, or is threatening, or has threatened to refuse or fail to comply with the written directions of the Commissioner, and the Court may, in termtime or vacation, upon notice to the defendant, hear and de-

termine the same, and if the Court finds that said owner, part owner, or caretaker has been served with a written sanitary direction from the Commissioner, and that the defendant's premises are subject to said order, and that the material allegations in plaintiff's petition are true, the Court shall enter its order commanding said owner or caretaker to instantly comply with the written directions of the Commissioner, and upon failure of said person to comply with said written directions of the Commissioner, he shall then be held liable for contempt of Court and punished accordingly.

(3) Whenever the Commissioner ascertains that there are premises in any county in which fruit fly control and/or eradication is being conducted under the provision of this Act for which he can locate no owner or caretaker, said Commissioner is hereby authorized to seize the citrus fruit growing or standing on said premises and to sell the same in the manner and for the purposes heretofore provided.

(4) Any person, firm, or corporation, or transportation company who shall haul, or truck, or otherwise move any citrus fruit from any premises as herein described, or from any county, or part of county, or territory, or district which is under quarantine by virtue of this Act or by any order of the Commissioner of Agriculture of the State of Texas, or by a proclamation of the Governor of the State of Texas because of fruit fly infestation as provided for in this Act, in violation of said quarantine without a written permit or certificate of an inspector of the Department of Agriculture of the State of Texas, or inspector of the Bureau of Entomology and Plant Quarantine of the United States Department of Agriculture, or who shall so move into the State of Texas from any State, nation, territory, or area under quarantine for fruit fly infestation by the said Commissioner of Agriculture of the State of Texas, or by the United States Bureau of Entomology and Plant Quarantine, or by the sanitary authorities of the State, or nation, or territory from which they are moved without a certificate from the Commissioner of Agriculture of the State of Texas, or that having such permit or certificate from said Commissioner shall ship, truck, or in any manner transport such citrus fruit from said quarantined premises to any other place than the place designated by such certificate or permit, shall be fined not more than Two Hundred Dollars (\$200). Any owner, part owner, or caretaker of such premises or citrus fruit, who shall permit or allow such citrus fruit to be shipped or transported, or otherwise moved in violation of this Act without said permit or certificate, shall be deemed guilty of violating this provision the same as if he had personally shipped or transported such citrus fruit.

(5) Any resident of this State may bring injunction suit to compel the compliance with any provisions of this Act or restrain any threatened violation of same. Said injunctions and mandamus proceedings may be heard in

vacation or termtime and if heard in vacation, the same may as fully be disposed of and all issues determined in vacation the same as in termtime. Notice of said hearing to the opposite party may be given under the direction of the Court, if, in the opinion of the Court, the ends of justice require such notice.

Penalty

Sec. 6. The violation of any of the terms or provisions of this Act is hereby declared to be a misdemeanor, and any person found guilty of the violation of any of the terms or provisions of this Act shall, on conviction, be fined not to exceed Two Hundred Dollars (\$200).

Provisions Cumulative

Sec. 7. This Act shall be cumulative of all laws now on the Statutes providing for quarantine regulations and the inspection of plants, fruits, and shrubs to prevent the importation or dissemination of dangerous insect pests and plant diseases in this State.

Severable Construction

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional.

[Acts 1937, 45th Leg., p. 486, ch. 247.]

Art. 135a-3. Insect Pests and Plant Diseases Common to Citrus Fruit

Quarantine

Sec. 1. If the Commissioner of Agriculture of this State, hereinafter called the "Commissioner," determines the fact that any dangerous insect pest or plant disease, new to and not heretofore widely distributed in the State, exists in any area outside of Texas, he is hereby authorized and it is made his duty, to establish, maintain, and enforce a quarantine at the boundaries of this State or elsewhere within the State against such infested area and shall prevent the movement from such quarantined area or areas into this State or into any part of it of any plants, plant products, things or substances liable to disseminate the pests or plant diseases named in Section 2 hereof, provided that nothing herein shall be construed to prevent the movement of such plants, plant products, things or substances into this State from a quarantined area under such safeguards as the Commissioner shall deem adequate to prevent the introduction into this State of dangerous insect pests or plant diseases quarantined against.

Nothing in this Act shall be deemed to authorize the Commissioner or the Department of Agriculture to expend money without the State of Texas, or to send employees without the

State of Texas, or to employ persons without the State of Texas. The provisions of this Act shall apply solely to diseases, pests and infections common to citrus fruit.

**Certain Insect Pests and Plant Diseases Declared
Public Menaces**

Sec. 2. The following named insect pests and plant diseases which are not known to be widely distributed in Texas, are hereby declared public menaces and their introduction into this State is hereby stated to be of serious jeopardy to the citrus industry and horticulture of Texas:

- Black scale, *Saissetia oleae*
- Branch-and-twig borer, *Polycaon confer-tus*
- Long-tailed mealy bug, *Pseudococcus Longispinus*
- Orange-peel miner, *Marmara species*
- Withertip of lime, *Glocosporium Limetti-colum*
- Scaly bark, *Cladosporium herbarum*

It is known that these pests and public nuisances occur in a widely distributed area of the United States, and the unregulated movement of citrus trees and fruits, which are host plants of these pests, into Texas would result in the distribution of the pests throughout the State.

Shipments Into State—Certificate of Inspection

Sec. 3. Provided that no person, partnership, or corporation outside the State shall be permitted to ship citrus nursery stock or citrus fruit into the State of Texas without first having filed with the Commissioner of Agriculture a certified copy of certificate of inspection issued by the proper authorities of the State in which the shipment originates; such certificate must show that the stock or the fruit to be shipped has been produced in a county known to be free of the above-mentioned pests or that the stock or fruit has been fumigated by a method that will render it free of pests infestation and such method must be approved by the Commissioner of Agriculture of this State.

**Shipments of Citrus Fruit or Nursery Stock—
Certificate—Permit**

Sec. 4. No transportation company or common carrier shall receive, transport or deliver shipments of citrus nursery stock or citrus fruit originating without this State which do not bear shipping tags or labels showing the certificate of inspection of the State in which it originates, together with the Commissioner's permit from the State of Texas.

Shipments not Accompanied by Certificate

Sec. 5. No transportation company or common carrier shall be liable for damages to the consignee or consignor for refusing to receive for transportation or deliver such trees or fruit, packages, bales, bundles, or boxes of trees or fruit, when not accompanied by copies of the certificates provided for by this Act.

3 West's Tex. Stats. & Codes—9

The agent of any such company or carrier shall immediately report to the Commissioner of Agriculture any such shipment not so accompanied.

Penalty for Violation

Sec. 6. Any person violating the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200).

[Acts 1939, 46th Leg., p. 55.]

**Art. 135a-4. Testing Agricultural Products
For Aflatoxins**

Sec. 1. The Texas Department of Agriculture is hereby authorized to test any agricultural product for aflatoxins when requested to do so for an individual, company, association or corporation.

Sec. 2. The Texas Department of Agriculture is hereby authorized to charge a fee for the making of a test of an agricultural product for aflatoxins. Such fee shall be in an amount to be determined by the Commissioner of Agriculture of the Texas Department of Agriculture; provided, however, the fee set by the Commissioner of Agriculture shall be not less than Ten Dollars (\$10) nor more than Twenty Dollars (\$20).

Sec. 3. All fees collected by the State Department of Agriculture for making tests for aflatoxins pursuant to the provisions of this Act shall be deposited in the Special Department of Agriculture Fund in the State Treasury.

Sec. 4. If any portion of this Act is declared unconstitutional, it is the intention of the Legislature that the other portions shall remain in full force and effect.

[Acts 1967, 60th Leg., p. 2074, ch. 775, eff. June 18, 1967.]

**Art. 135b-1. Repealed by Acts 1963, 58th
Leg., p. 30, ch. 23, § 13, eff. March 28, 1963**

See, now, article 135b-5.

**Art. 135b-2. Repealed by Acts 1951, 52nd
Leg., p. 681, ch. 394, § 28**

See, now, article 135b-4.

**Art. 135b-3. Repealed by Acts 1953, 53rd Leg.,
p. 858, ch. 349, § 16**

See, now, article 135b-4.

**Art. 135b-4. Sale, Use and Transportation of
Herbicides**

Purpose

Sec. 1. The purpose of this Act is to regulate, through powers of regulation granted the State Department of Agriculture, under the police powers of the State of Texas, the sale, use and transportation of herbicides.

Definitions

Sec. 2. For the purposes of this Act:

- (a) The term "herbicide" shall mean 2, 4-Dichlorophenoxyacetic Acid (2, 4-D), 2,

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

(b) The term "weed" means any plant growing where not wanted.

(c) The term "person" means any individual, firm, partnership, association, corporation, company, joint stock association, or body politic, or any organized group of persons whether incorporated or not; and includes any trustee, receiver, assignee, or other similar representative thereof.

(d) The term "Commissioner" means the Commissioner of Agriculture of the State of Texas, his duly appointed agents, employees, and representatives.

(e) The term "County Herbicide Inspector" means any person or persons appointed by the Commissioners Court of any county or counties to assist the Commissioner of Agriculture, his agents and employees in the enforcement of this Act and any regulations within the area for which such County Herbicide Inspector was appointed.

(f) The term "Dealer" means any person who sells, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away within or into this state any herbicides in containers of a net capacity of more than sixteen (16) fluid ounces, except any container with a net capacity of more than sixteen (16) fluid ounces and not to exceed one (1) gallon but with a concentration of herbicides not to exceed ten per cent (10%) by volume and with a label bearing the statement "for lawn use only."

(g) The term "applier" means any person, his agents or employees, who applies herbicides to any of his land or plants.

(h) The term "custom applier" means any person who, by contract or otherwise, applies herbicides to any land or plants for hire.

(i) The term "equipment" means any device used to apply herbicides.

(j) The term "application" means the spreading of herbicides, by contract or otherwise, by or for any person owning or renting property having a continuous boundary line.

Dealers

Sec. 3. (a) It shall be unlawful for any person to be a dealer of herbicides in this State without first obtaining a license from the State Department of Agriculture.

(b) Upon application for a Dealers License, the applicant must pay a fee of not more than One Hundred Dollars (\$100), the said fee to be determined by regulation of the State Department of Agriculture. Each warehouse or branch of an individual concern must pay a dealer's fee unless one head office keeps and reports satisfactory records for all subsidiary branches.

(c) All dealers must make a record of all sales of herbicides sold in containers having a net capacity of more than sixteen (16) fluid ounces, or its equivalent, and keep a copy of such records for a period of two (2) years. The information to be listed in such records shall be prescribed by regulation of the State Department of Agriculture, and such regulations may direct that a copy of such records be submitted to the Commissioner periodically; failure to submit these records to the State Department of Agriculture for public record shall constitute a violation of this Act and the license shall be revoked in addition to the other penalties provided elsewhere within this Act.

Appliers and Custom Appliers

Sec. 4. (a) It shall be unlawful for any person to apply herbicides to any land or plants before obtaining a permit from the State Department of Agriculture or without complying with this Act or the regulations of the State Department of Agriculture, provided, however, it shall not be necessary for an applier to have a permit if he does not apply herbicides to a total acreage in any one (1) year of more than ten (10) acres. All appliers except those applying to lawns, although a permit is not required, must give notice before spraying, of intent to spray and submit a record of the spraying in accordance with regulations of the State Department of Agriculture.

(b) All appliers, except those applying to lawns, and all custom appliers must make a record of each application of herbicides and must keep such records for a period of two (2) years. The information to be listed in such records must be prescribed by regulation of the State Department of Agriculture and such regulations may direct that copies of such records be submitted to the Commissioner of Agriculture.

(c) Bonds and Crop Damage Insurance. All custom appliers must deposit a surety bond in the penal sum of Twenty Thousand Dollars (\$20,000) with, and to be approved by, the Commissioner of Agriculture. Said bond shall be increased in the amount of Two Thousand Dollars (\$2,000) for each piece of spraying equipment licensed for use by such custom appliers. Compliance with the requirements of this Act and any regulations of the State Department of Agriculture shall be a condition of said bonds, and any failure to perform said condition which results in injury to any crops or valuable plants shall be grounds for a forfeiture of any bond to the person or persons

owning such crops or valuable plants by a suit brought by the Commissioner of Agriculture or any interested party. As an alternative to the bond requirements herein, the custom applicator may subscribe for, and hold, a policy of crop damage insurance in the same amount as required by the bond provisions set forth in this Section. The requirements of such Crop Damage Insurance Policies shall be prescribed by the Commissioner of Agriculture and the policy approved by the Commissioner. Said bonds or Crop Damage Insurance shall not be a limitation on any civil or penal liability incurred by the negligent or unlawful use of herbicides.

Permits

Sec. 5. (a) A permit fee of not more than ten cents (10¢) per acre, the amount of such fee to be determined by the Commissioner, shall be paid upon application for a permit to spray herbicides.

(b) The Commissioner may issue either an individual permit or a blanket permit, provided, however, that as a condition of any applicator or custom applicator holding a valid permit they must submit the record of each application of herbicides within any time prescribed by regulation of the Commissioner. The Commissioner is specifically authorized to grant, refuse to grant, alter, amend or revoke any permit and to exempt, by regulation, any area, body politic, or type of application from the necessity of having a permit or paying the permit fee and to prohibit application in any area during any time that it is found to be hazardous to crops or valuable plants.

(c) When the facts indicate that any type of application does not create a hazard in any particular area, the Commissioner shall exempt by regulation such area from having a permit or paying a permit fee and shall promulgate regulations in accordance with the facts found.

(d) No permit shall be issued for the application of powder or dry type herbicides unless such type is of sufficient size as to conform to the following particle size distribution: minimum of 100% to pass through U.S. Standard 10 Mesh Sieve; maximum of 1% to pass through U.S. Standard 60 Mesh Sieve, and any other application of a powder or dry type herbicides at any time shall be a violation of this Act where a permit has been issued.

Equipment

Sec. 6. (a) All equipment used in the custom application of herbicides must be inspected and licensed before such may be used to apply herbicides. Such equipment must be inspected before each renewal of a license, and in addition all equipment used on any aircraft in the application of herbicides must be inspected every thirty (30) days when installed upon said aircraft and must be inspected before use after reinstallation if a period of more than thirty (30) days has lapsed since the last inspection.

(b) An inspection fee of Ten Dollars (\$10) for each piece of equipment must be paid upon inspection of any equipment.

(c) The Commissioner is authorized to provide by regulation for the requirements of all equipment, whether or not such equipment must be licensed, and the said Commissioner may regulate or prohibit the use of any equipment that may be hazardous in any area of the State and to provide by rules and regulations what constitutes an installation on aircraft.

Terms of Permits and Licenses

Sec. 7. (a) All dealers licenses and equipment licenses shall expire on January 1st of each year except those valid licenses that were issued before the effective date of this Act which shall expire the first day of January next following the expiration date of the license. All licenses issued after the effective date of this Act and prior to January 1, 1954, shall expire March 1, 1955.

(b) All permits shall expire when herbicides have been applied to the area described in the permit or when all the acreage for which the permit was granted has been treated. In the event said acreage is not treated then the permit shall expire one hundred and eighty (180) days after the date of issuance. If in fact herbicides are not applied to acreage to which it was contemplated application would be made, then the person may make application to the Commissioner and shall receive a refund of the fees paid for acreage not actually treated.

Regulations

Sec. 8. (a) All regulations shall be distributed in printed form and a copy delivered to each applicant for a permit or license. Upon written request of any interested person for a revision of the regulations, an exemption from the law or any requirement thereof, or a prohibition of spraying in any area, the Commissioner shall hold a public hearing within twenty (20) days after such request. Each holder of a permit or license in the area affected by the hearing shall be given adequate notice of such hearing by the Commissioner at least ten (10) days prior to such hearing. The Commissioner shall deliver such notice to the holder of the permit or the license and shall publish such notice in a newspaper or newspapers of wide and regular circulation in the area affected. Not more than one (1) hearing shall be held considering the conditions of any one (1) area during a period of ninety (90) days unless more frequent hearings are deemed necessary by the Commissioner. Each revision of the regulations shall be published and distributed in the same manner as the original regulations. A person will have twenty (20) days after the effective date of any regulation or after a change of regulations within which to comply with such new or changed regulation. Such regulations as have been previously issued shall be in force until twenty (20) days after the effective date of any new or changed regulations.

(b) The Commissioner is charged with the duty of enforcing the requirements of this Law and any regulations issued hereunder. In the

event a County or District Attorney refuses to act on behalf of the Commissioner the Attorney General shall so act.

Application

Sec. 9. All herbicides shall be applied according to the rules and regulations as set by the Commissioner and it shall be the joint responsibility of the applier and custom applier to supervise the application of herbicides in compliance with the rules and regulations, as set by the Commissioner.

Inspections of Affected Crops or Sprayed Areas; Notice to Commissioner

Sec. 10. The Commissioner shall have the authority to enter upon and inspect any premises before issuing a permit for spraying and may inspect the surrounding area. He shall inspect all crops reported to him as being affected by herbicides, shall inspect the surrounding area to find possible sources of drift and shall make a report of all findings in connection with such affected crop. In the event a person has crops or plants affected by drift of hormone type herbicides, he must notify the Commissioner of Agriculture of such effect before the crop is harvested or the plants destroyed, whichever fact first occurs. If no notice is given it shall be presumed there was no effect of hormone type herbicides, provided, however, such presumption may be rebutted by proper evidence to the contrary.

Exemptions

Sec. 11. Upon written notice to the Commissioner, and under regulations which he may prescribe, experimental work with herbicides by the State Department of Agriculture, any recognized college or university, the United States Department of Agriculture and any body politic or public organization shall be exempted from obtaining a permit for the use of herbicides and from paying the fee therefor, and the Commissioner may exempt the above from any other requirements of the law or regulations.

Herbicide Fund

Sec. 12. All license and permit fees collected by the Commissioner under the provisions of this Act shall be placed in a special fund of the State Treasury and payable to the State Treasurer to be known as the "Herbicide Fund" which fund, or so much thereof as may be necessary, is hereby appropriated to the Commissioner to pay the expense of the administration of this Act and all expenditures shall be paid by the Treasurer upon warrants drawn by the Comptroller of Public Accounts issued by the Commissioner. The Commissioner may employ such inspectors and other employees as may be necessary for the proper enforcement of the provisions of this Act and the regulations promulgated hereunder.

County Herbicide Inspectors

Sec. 13. The Commissioners Courts of all counties are hereby authorized to appoint and

compensate a person or persons to act as a herbicide inspector for the area designated by such appointment. Such herbicide inspectors shall cooperate with and work under the supervision of the Commissioner of Agriculture and shall have such powers as an employee of the Commissioner of Agriculture.

Penalties

Sec. 14. Any person violating any requirement of this Act or failing to perform any requirement hereof shall be guilty of a misdemeanor. It shall be deemed a violation to spray without a permit; to sell without a license; to operate equipment without a license or to fail to keep and submit records if such are necessary as set forth in this Act or in regulations of the Commissioner of Agriculture. It shall be a violation for any person to act contrary to any requirement of a regulation of the Commissioner of Agriculture or to fail to comply with any such regulations. Said regulations shall have the force and effect of law and any violation thereto shall be a violation of this Act. Upon conviction, a person shall be fined not less than One Hundred Dollars (\$100) nor more than Two Thousand Dollars (\$2,000) or confined to jail not more than thirty (30) days or given both such fine and jail sentence. The penalty provided for herein shall in no way affect any civil liability of the person convicted hereunder.

Application of Act to Certain Counties

Sec. 17. (a) The provisions of this Act relating to appliers and custom appliers shall not be effective at this time in any county in this state, except Dawson County, north and northwest of the southernmost boundaries of Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Callahan, and Eastland Counties, and the easternmost boundary line of a portion of Eastland County, and the counties of Stephens and Young; and the southernmost boundary and the easternmost boundary of Clay County, it being the intention of the Legislature that all of the counties named, except Dawson County, shall be exempted from the provisions of this Act, as herein provided, and all counties of Texas, except Dawson County, north and west of said named counties shall also be exempted from the provisions of this Act; because it is found to be a fact that there is now no crop or vegetation of value susceptible to damage in this area. It is further provided that the following named counties shall be exempt from the provisions of this Act relating to appliers and custom appliers: Coleman, Runnels, Coke, Tom Green, Sterling, Glasscock, Reagan, Upton, Irion, Crane, Sutton, Schleicher, Crockett, Val Verde, Presidio, Pecos, Jeff Davis, Brewster, Terrell, Edwards, Mills, Lampasas, Burnet, Llano, Gillespie, Kerr, Bandera, Kinney, Uvalde, Zavala, Real, Kimble, Mason, Menard, McCulloch, Montague, San Saba, Concho, Brooks, Cameron, Dimmit, Duval, McMullen, Nueces, Starr, Webb, Frio, Hidalgo, Jim Hogg, Jim Wells, Kenedy, Kleberg, La Salle, Willacy,

Zapata, Maverick, and Panola. The provisions of this Act relating to applicers, custom applicers and dealers shall not be effective in Caldwell County or Gonzales County. However, the provisions of this Act relating to dealers apply to every other county in the state.

(b) (1) When any crop or vegetation of value that is susceptible to damage exists in any county, or a portion of a county, exempted by Subsection (a) of this section, which fact shall be determined by the commissioners court of the affected county, evidenced by an appropriate order entered in the minutes of the court, the provisions of this Act relating to applicers and custom applicers shall be in full force and effect in that county or portion of that county immediately upon the entry of said order.

(2) When the commissioners court of any county that has had a county or a portion of a county's exemption removed pursuant to Subdivision (1) of this subsection finds that there is no longer a crop or vegetation of value susceptible to damage in the county or portion of a county, the court may order the exemption created by Subsection (a) of this section to be reinstated, thereby exempting the county or a portion of the county from the provisions of this Act relating to applicers and custom applicers.

(3) Before any order shall be entered pursuant to Subdivision (1) or (2) of this subsection, there shall be a hearing held to determine whether or not such an order should be issued. The hearing may be held only once each year and only in the month of October, November, or December.

(4) Before any such order shall be entered by a commissioners court, the court shall first give notice of the hearing in at least one newspaper in the county 10 days prior to a hearing on this matter. Any interested person may appeal to the district court to test the reasonableness of the fact-finding of the commissioners court within 20 days from entry of the order, in which case the rules and procedure governing appeals from orders of the Railroad Commission of Texas shall be followed, the "substantial evidence rule" shall apply, and appeals may be taken as in other civil cases.

(5) An order issued by the commissioners court changing the status of the county or a portion of the county under the provisions of this section becomes effective on January 1 of the year following the date of the hearing.

(6) If the commissioners court orders a change in the status of the county or a portion of the county under this section, it shall notify the Commissioner of Agriculture of the change.

(c) (1) When the commissioners court of a county subject to this Act finds it to be a fact that there is no crop or vegetation of value susceptible to damage in the county, or in a portion of the county, the commissioners court by order may exempt the county or portion of the county from the provisions of this Act re-

lating to applicers and custom applicers. In finding the fact and entering the order, the commissioners court is governed by the requirements set out in Subsection (b) of this section, insofar as they are applicable.

(2) When a county or a portion of the county has been exempted from the provisions of this Act relating to applicers and custom applicers by legislation or by order of the commissioners court, a subsequent hearing may be held and an order entered which revokes the exemption permitted in Paragraph (1) of this subsection. In finding the fact that there is a crop or vegetation of value susceptible to damage and entering the order, the commissioners court is governed by the requirements set out in Subsection (b) of this section.

Sec. 17a. Repealed by Acts 1967, 60th Leg., p. 1080, ch. 474, § 5, eff. Aug. 28, 1967.

[Acts 1953, 53rd Leg., p. 858, ch. 349; Acts 1957, 55th Leg., p. 1292, ch. 432, § 1; Acts 1965, 59th Leg., p. 427, ch. 213, § 1, eff. Aug. 30, 1965; Acts 1965, 59th Leg., p. 870, ch. 425, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 39, ch. 19, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1080, ch. 474, §§ 1 to 5, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 687, ch. 233, § 1, eff. May 21, 1969; Acts 1969, 61st Leg., p. 1573, ch. 478, § 1, eff. June 10, 1969; Acts 1969, 61st Leg., p. 2546, ch. 849, § 1, eff. June 18, 1969; Acts 1971, 62nd Leg., p. 1111, ch. 242, §§ 1, 2, eff. May 17, 1971; Acts 1973, 63rd Leg., p. 1321, ch. 495, § 1, eff. Aug. 27, 1973.]

Section 15 of the 1953 Act provided that partial invalidity should not affect the validity of the remainder of the Act. Section 16 repealed article 135b-3 and all conflicting laws and parts of laws as of September 1, 1953, and provided that the law should become effective September 1, 1953, that the Herbicide Fund established by article 135b-3 was preserved and the Herbicide Fund provided for in the 1953 Act should be a continuation thereof.

Acts 1969, 61st Leg., p. 1573, ch. 478, and Acts 1969, 61st Leg., p. 2546, ch. 849, amending section 17(a) of this article, each provided in section 2:

"This Act shall not affect the status of any county which has been exempted from or included under the provisions of Article 135b-4, Vernon's Texas Civil Statutes, if the exempt or included status has been declared by a lawful order of the commissioners court of such county."

Art. 135b-5. Insecticide, Fungicide, and Rodenticide Act of Texas

Title

Sec. 1. This Act shall be known as the "Insecticide, Fungicide, and Rodenticide Act of Texas."

Definitions

Sec. 2. For the purpose of this Act:

A. The term "economic pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, nematodes, fungi, weeds, or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the Commissioner shall declare to be a pest, and (2) any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

B. The term "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects

or rodents or destroying, repelling, or mitigating fungi, weeds, nematodes, or such other pests as may be designated by the Commissioner, but not including equipment used for the application of economic pesticides when sold separately therefrom.

C. The term "ingredient statement" means either:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the economic pesticide, and in the case of a liquid economic pesticide, in a one-gallon container or more, an additional statement of the pounds per gallon of each active ingredient; or

(2) A statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients, if any there be, in the economic pesticide (except Option 1 shall apply if the preparation is highly toxic to man, determined as provided in Section 5 of this Act); and, in addition to (1) or (2) in case the economic pesticide contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

D. The term "active ingredient" means:

(1) In the case of an economic pesticide other than a plant regulator, defoliant, or desiccant, an ingredient which will prevent, destroy, repel, or mitigate insects, nematodes, fungi, rodents, weeds, or other pests;

(2) In the case of a plant regulator, an ingredient which, through physiological action, will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

(3) In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant; and

(4) In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

E. The term "person" means any individual, partnership, association, corporation, or organized group of persons whether incorporated or not.

F. The term "Commissioner" means the Texas Commissioner of Agriculture or his duly authorized agent.

Prohibited Acts

Sec. 3. A. It shall be unlawful for any person to distribute, sell, or offer for sale within this State or deliver for transportation or transport in intrastate commerce or between

points within this State through any point outside this State any of the following:

(1) Any economic pesticide which has not been registered pursuant to the provisions of Section 4 of this Act, or any economic pesticide if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic pesticide differs from its composition as represented in connection with its registration. Provided, that, in the discretion of the Commissioner, a change in the labeling or formula of an economic pesticide may be made within a registration period if the economic pesticide is registered in conformity with the requirements of this Act for other economic pesticides.

(2) Any economic pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to such container, and to the outside container or wrapper of the retail package, if there be one through which the required information on the immediate container cannot be clearly read, a label bearing:

(a) The name and address of the manufacturer, registrant, or person for whom manufactured;

(b) The name, brand, or trademark under which said article is sold; and

(c) The net weight or measure of the contents of the container, subject, however, to such reasonable variations as the Commissioner may permit after he consults with the advisory group provided for in Section 5B of this Act. Provided, that in the case of a tank truck used merely to deliver an economic pesticide to the user when the truck does not remain in the user's hands, an invoice with the required labeling information left with the purchaser at the time of delivery of the economic pesticide is permissible in lieu of a label being affixed to the tank.

(d) The ingredient statement as provided for in Section 2C of this Act.

(e) Numbers or other symbols which would identify the lot and batch number of the manufacture of the contents of the package.

(3) Any economic pesticide which contains any substance or substances in quantities highly toxic to man, determined as provided in Section 5 of this Act, unless the label shall bear, in addition to any other matter required by this Act:

(a) The skull and crossbones;

(b) The word "poison" prominently, in red, on a background of distinctly contrasting color; and

(c) A statement of an antidote for the economic pesticide.

(4) Any economic pesticide that is not distinctly colored or discolored in accordance with such rules and regulations as the Commissioner shall issue pursuant to this Act.

(5) Any economic pesticide which is adulterated or misbranded, or any device which is misbranded.

B. It shall be unlawful:

(1) For any person to detach, alter, deface, or destroy, in whole or in part, any label or labeling provided for in this Act or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic pesticide in a manner that may defeat the purpose of this Act;

(2) For any person to use for his own advantage or to reveal, other than to the Commissioner or proper officials or employees of the State or to the courts of this State in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of Section 4 of this Act.

(3) For any person to sell custom mixes without the identification of the purchaser and without an ingredient statement attached as required elsewhere in this Act and so labeled as soon as formulated. The labeling shall be marked with indelible pen or stamp only and may be sold only to those persons whose name appears on the container and shall not be placed on the shelf for resale.

Registration

Sec. 4. A. Every economic pesticide which is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be registered in the office of the Commissioner, and such registration shall expire August 31 of each year and shall be renewed annually. The registrant shall file with the Commissioner a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant;

(2) The name of the economic pesticide;

(3) A complete copy of the labeling accompanying the economic pesticide and a statement of all claims to be made for it including directions for use; and

(4) If requested by the Commissioner a full description of the tests made and the results thereof upon which the claims are based. In the case of renewal of registration, a statement shall be required only

with respect to information which is different from that furnished when the economic pesticide was registered or last re-registered.

B. The registrant shall pay the Commissioner an annual registration of Thirty Dollars (\$30.00) for each economic pesticide registered provided that:

(1) All registration fees collected by the Commissioner under this Act shall be paid into the State Treasury by the Commissioner and placed by the State Treasurer in the Special Department of Agriculture Fund, and shall be used only for administrative and enforcement purposes of this Act;

(2) Any registrant who is located outside the State of Texas but who distributes economic pesticides in the State of Texas shall deposit with the Commissioner an instrument in writing appointing a resident agent within this State upon whom service may be had in actions filed by the State or taken by the Commissioner in the administration or enforcement of this Act.

(3) The Commissioner is authorized to cancel all registrations of any registrant who fails to comply with the requirements of this Act.

C. The Commissioner, whenever he deems it necessary in the administration of this Act, may require the submission of the complete formula of any economic pesticide. If it appears to the Commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of Section 3 of this Act, he shall register the article.

D. The Commissioner may, after notice and hearing, cancel the registration of, or refuse to register any economic pesticide:

(1) Which has demonstrated serious uncontrollable adverse effects, either within or outside the agricultural environment.

(2) The use of which is of less public value or greater detriment to the environment than the benefits received by its use; or

(3) Which, even when properly used, is detrimental to vegetation, except weeds, to domestic animals, to the public health and safety, or

(4) Concerning which any false or misleading statement is made or implied by the registrant or his agent, either verbally or in writing, or in the form of any advertising literature; or

(5) When any registrant of a chemical or pesticide fails to comply with the requirements of the Act or any rule or regulation adopted by the Commissioner.

E. Notwithstanding any other provision of this Act, registration is not required in the case of an economic pesticide shipped from one

plant within this State to another plant within this State operated by the same person.

Pesticide Advisory Committee

Sec. 4a. There is hereby established a pesticide advisory committee composed of the Deans of Agriculture, Texas A&M University, and Texas Tech University, Executive Director of Texas Parks and Wildlife Department, Texas Commissioner of Health, and Texas Commissioner of Agriculture or their designated representatives. The duties of this committee are to advise with the Commissioner of Agriculture to the extent necessary to protect property, animal life and the public health and welfare by recommendation of the best use of pesticides. The Committee would be empowered to call on all State universities and State agencies as well as outside consultants retained by the State entities to assist in developing recommendations to the Commissioner of Agriculture regarding the feasibility of any pesticide program or other such matters which are submitted to them by the Commissioner of Agriculture.

Determinations; Rules and Regulations; Uniformity

Sec. 5. A. The Commissioner is authorized, after opportunity for a hearing:

- (1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles, or substances;
- (2) To determine whether economic pesticides are highly toxic to man; and
- (3) To determine standards of coloring or discoloring for economic pesticides, and to subject economic pesticides to the requirements of Section 3A(4) of this Act.

B. The Commissioner, after consulting with suitable officials of organizations known to be concerned with the manufacture, distribution, and use of economic pesticides, is authorized to make and issue appropriate rules and regulations for carrying out the provisions of this Act, including rules and regulations providing for the collection and examination of samples of economic pesticides and devices and for the labeling of custom mixes.

C. The Commissioner, after such consultation as is prescribed in paragraph B of Section 5 hereof, shall from time to time issue such rules and regulations as are necessary to carry out the purposes of this Act. Such rules and regulations shall be published from time to time and made accessible to those affected by this Act.

D. The Commissioner shall furnish upon request a consolidated annual report of the official economic pesticide sample results. The contents of the report are to be determined in a manner which the Commissioner finds most expedient.

Enforcement

Sec. 6. A. The Commissioner shall have authority to enter into any building or place

owned, controlled or operated by a registrant or dealer where from probable cause it appears that said building or place contains economic pesticides for the purpose of inspection or sampling, and shall have the power to take a sample for official analysis from any package or lot of economic pesticides, including custom mixes, found within this State. The Commissioner shall have the power to issue and enforce a written or printed "stop-sale" order to the owner or custodian of any economic pesticide which he has reason to believe is in violation of any of the provisions of this Act prohibiting further sale of such economic pesticide until he has evidence that the law has been complied with. Provided, that in respect to the economic pesticide which has been denied sale as provided in this paragraph, the owner or custodian of such economic pesticide shall have the right to appeal from such order to a court of competent jurisdiction where the economic pesticide is found, praying for a judgment as to the justification of said order and the discharge of such economic pesticide from the order prohibiting the sale in accordance with the findings of the court; and provided further, that the provisions of this paragraph shall not be construed as limiting the right of the Commissioner to proceed as authorized by other sections of this Act.

B. In addition to the remedies herein provided, the Commissioner is hereby authorized to institute an action in his own name to enjoin any violation of any provision of this Act.

C. The Commissioner is authorized to contract with State colleges, State agencies or commercial laboratories for examination of economic pesticides provided that such contracts to commercial laboratories are let on a competitive bid basis.

D. The Commissioner shall make or provide for service sample tests of economic pesticides on request, and after consulting with the advisory group as provided for in Section 5B of this Act, he shall fix and collect charges for each service sample on a cost basis.

Exemptions

Sec. 7. A. The penalties provided for violation of Section 3A of this Act shall not apply to:

- (1) Any carrier while lawfully engaged in transporting an economic pesticide within this State, if such carrier shall, upon request permit the Commissioner or his designated agent to copy all records showing the transactions in and movement of the articles;
- (2) Public officials of this State and the Federal Government engaged in the performance of their official duties;
- (3) The manufacturer or shipper of an economic pesticide for experimental use only;
- (4) Any person who employs or uses economic pesticides in the sale of a pest extermination or control service;

(a) By or under the supervision of an agency of this State or of the Federal Government authorized by law to conduct research in the field of economic pesticides, or

(b) By others if the economic pesticide is not sold and if the container thereof is plainly and conspicuously marked "FOR EXPERIMENTAL USE ONLY—NOT TO BE SOLD," together with the manufacturer's name and address; provided, however, that if a written permit has been obtained from the Commissioner, economic pesticides may be sold for experiment purposes subject to such restrictions and conditions as may be set forth in the permit.

B. No article shall be deemed in violation of this Act when intended solely for export to a foreign country, and when prepared or packed according to the specifications or directions of the purchaser. If not so exported, all the provisions of this Act shall apply.

Penalties

Sec. 8. A. Any firm, corporation, or person who shall sell or offer for sale any economic pesticide or device without having attached thereto such statements as are required by law or who shall sell or offer for sale any adulterated or misbranded economic pesticide or device within the meaning of this Act, or who shall violate any other provisions of this Act, shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine of not less than Fifty Dollars (\$50), nor more than Two Hundred Dollars (\$200) for each offense.

B. Notwithstanding any other provision of this Section, in case any person, with intent to defraud, uses or reveals information relative to formulas of products acquired under authority of Section 4 of this Act, he shall upon conviction be guilty of a misdemeanor, and he shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or imprisonment for not more than one year, or both.

Appeals

Sec. 8A. In all appeals prosecuted in any of the courts of this State pursuant to the provisions of this Act, such trials shall be de novo as that term is used and understood in appeals from justice of the peace courts to county courts. When such an appeal is filed and the court thereby acquires jurisdiction, all administrative or executive action taken prior thereto shall be null and void and of no force and effect, and the rights of the parties thereto shall be determined by the court upon a trial of the matters in controversy under rules governing the trial of other civil suits in the same manner and to the same extent as though the matter had been committed to the courts in the first instance and there had been no intervening administrative or executive action or deci-

sion. Under no circumstances shall the substantial evidence rule as interpreted and applied by the courts of Texas in other cases ever be used or applied to appeals prosecuted under the provisions of this Act.

Seizures

Sec. 9. A. Any economic pesticide or device that is distributed, sold, or offered for sale within this State or delivered for transportation or transported in intrastate commerce or between points within this State through any point outside this State shall be liable to be proceeded against in any court of competent jurisdiction in any county of the State where it may be found and seized for confiscation by process of libel for condemnation:

(1) In the case of an economic pesticide,

(a) If it is adulterated or misbranded;

(b) If it has not been registered under the provisions of Section 4 of this Act;

(c) If it fails to bear on its label the information required by this Act;

(d) If it is a white powder economic pesticide and is not colored as required under this Act.

(2) In the case of a device, if it is misbranded.

B. If the article is condemned, it shall, after entry of decree, be disposed of by destruction or sale as the court may direct and the proceeds, if such article is sold, less legal costs, shall be paid to the State Treasurer; provided, that the article shall not be sold contrary to the provisions of this Act; and provided further, that upon payment of costs and execution and delivery of a good and sufficient bond conditioned that the article shall not be disposed of unlawfully, the court may direct that said article be delivered to the owner thereof for relabeling or reprocessing as the case may be.

C. When a decree of condemnation is entered against the article, court costs and fees and storage and other proper expenses shall be awarded against the person, if any, intervening as claimant of the article.

Delegation of Duties

Sec. 10. All authority vested in the Commissioner by virtue of the provisions of this Act may with like forces and effect be executed by such employees of the Texas Department of Agriculture as the Commissioner may from time to time designate for said purpose.

Cooperation

Sec. 11. When he deems it necessary, the Commissioner is authorized and empowered to cooperate with, and enter into agreements with any other agency of this State, the United States Department of Agriculture, and any other state or agency thereof for the purpose of carrying out the provisions of this Act and securing uniformity of regulations.

Severability

Sec. 12. If any provision of this Act is declared unconstitutional, or the applicability thereof to any person or circumstance is held invalid, the constitutionality of the remainder of this Act and the applicability thereof to other persons and circumstances shall not be affected thereby.

[Acts 1963, 58th Leg., p. 30, ch. 23, eff. March 28, 1963; Acts 1971, 62nd Leg., pp. 1244 to 1247, ch. 308, §§ 1 to 7, eff. May 24, 1971; Acts 1973, 63rd Leg., p. 830, ch. 378, § 2, eff. June 12, 1973.]

Art. 135b-6. Structural Pest Control Act

Citation of Act

Sec. 1. This Act may be cited as the Texas Structural Pest Control Act.

Definitions

Sec. 2. (a) For purposes of this Act a person shall be deemed to be engaged in the business of structural pest control if he engages in, offers to engage in, advertises for, solicits, or performs any of the following services for compensation:

(1) identifying infestations or making inspections for the purpose of identifying or attempting to identify infestations of arthropods (insects, spiders, mites, ticks, and related pests), wood-infesting organisms, rodents, weeds, nuisance birds, and any other obnoxious or undesirable animals which may infest households, railroad cars, ships, docks, trucks, airplanes, or other structures, or the contents thereof, or the immediate adjacent outside areas;

(2) making inspection reports, recommendations, estimates, or bids, whether oral or written, with respect to such infestations;

(3) making contracts, or submitting bids for, or performing services designed to prevent, control, or eliminate such infestations by the use of insecticides, pesticides, rodenticides, fumigants, or allied chemicals or substances or mechanical devices.

(b) As used in this Act, "person" means an individual, firm, partnership, corporation, association, or other organization, or any combination thereof, or any type of business entity.

Board; Members; Chairman; Bylaws; Expenses;
Executive Director

Sec. 3. (a) The Texas Structural Pest Control Board is created. The board is composed of seven members, four of whom shall be appointed by the Governor with the advice and consent of the Senate for terms of two years. To be eligible for appointment, a person must have been engaged in the business of structural pest control for at least five years. No two members shall be representatives of the same business entity. In addition to the appointed members, the board also consists of the Commissioner of Agriculture, the Commissioner of Health, and the chairman of the Department of Entomology at Texas A&M University, or their

designated representatives, who shall serve in ex officio capacity.

(b) The board shall elect a chairman from its appointed members and shall adopt bylaws governing the conduct of the board's affairs.

(c) Members serve without compensation but are entitled to reimbursement for actual expenses incurred in carrying on the work of the board.

(d) The board shall appoint an executive director who shall administer the provisions of this Act and the rules and regulations promulgated by the board. The executive director shall receive a salary as determined by the board which shall be paid from funds available to the board.

Licensing Standards; Rules and Regulations

Sec. 4. (a) The board shall develop standards and criteria for licensing persons engaged in the business of structural pest control. The board may require applicants to pass an examination demonstrating their competence in the field in order to qualify for a license.

(b) The board shall promulgate rules and regulations governing the methods and practices of structural pest control when it determines that the public's health and welfare necessitates such regulations in order to prevent adverse effects on human life and the environment. The rules and regulations relating to the use of economic poisons shall comply with applicable federal standards governing the use of such substances.

Temporary License

Sec. 5. (a) Except as provided in Subsection (b), no person shall engage in the business of structural pest control after the effective date of this Act unless he meets the standards set by the board and possesses a valid license issued by the board.

(b) A person who has engaged in the business of structural pest control for a period of two years next preceding the effective date of this Act may apply to the board within 90 days after the effective date of this Act and shall be issued a temporary license which shall be valid for a period not to exceed two years upon payment of the required fee and completion of a temporary licensing form as prescribed by the board without further qualifications or examination. All applicants under this subsection shall furnish evidence substantiating their eligibility before a temporary license may be granted.

Application Forms; Expiration and Renewal;
Nontransferability

Sec. 6. (a) All applications for licenses shall be made on forms prescribed and provided by the board, and each applicant shall furnish such information as the board may require for its determination of the applicant's qualifications.

(b) All licenses issued by the board shall expire on March 1 of each calendar year and may

be renewed by submitting an application to the board and paying the required renewal fees.

(c) A license issued by the board is not transferable.

Expiration Dates of Licenses; Proration of License

Sec. 6A. The board by rule may adopt a system under which licenses expire on various dates during the year. For the year in which the expiration date is changed, license fees payable on March 1 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the total license renewal fee is payable.

Fees

Sec. 7. (a) An applicant for an initial or renewal license shall accompany his application with a fee of \$50 for each place of business located in the State and a fee of between \$5 and \$15, as determined by the board, for each employee of the applicant who is engaged in structural pest control services. This is not to apply to those locations serving only as answering services for a licensed business.

(b) A licensee whose license has been lost or destroyed shall be issued a duplicate license after application therefor and the payment of a fee of \$10.

Disposition of Fees

Sec. 8. The proceeds from the collection of the fees provided in this Act shall be deposited in a special fund in the State Treasury to be known as the Structural Pest Control Fund, and shall be used for the administration and enforcement of the provisions of this Act. No expense incurred in implementing the provisions of this Act shall ever be a charge against the general revenue funds of the State of Texas. Any balance in the special fund at the end of each State fiscal biennium in excess of appropriations out of that fund for the succeeding biennium shall be transferred to the general revenue fund. All money deposited in the Structural Pest Control Fund is hereby appropriated to the board for the purpose of carrying out the provisions of this Act for the fiscal biennium ending August 31, 1973.

License Suspension, Revocation and Refusal; Appeal

Sec. 9. (a) The board, after notice and a hearing, may suspend or revoke a license, refuse to examine an applicant, refuse to issue a license, or refuse to renew a license when it finds that the applicant or licensee has substantially failed to comply with the standards and rules and regulations established by the board.

(b) An applicant or licensee may appeal from an order of the board by an action in the district court in which he resides or in the district court of Travis County, and the trial shall be de novo as in the case of an appeal from a justice court to a county court.

Injunction

Sec. 10. The board may request the Attorney General to bring suit to enjoin a person from engaging in the business of structural pest control without a license.

Exceptions

Sec. 11. The provisions of this Act shall not apply to nor shall the following persons be deemed to be engaging in the business of structural pest control:

(1) an officer or employee of a governmental or educational agency who performs pest control services as part of his duties of employment;

(2) a person or his regular employee who performs pest control work upon property which he owns, leases, or rents;

(3) an employee of a person licensed to engage in the business of structural pest control; and

(4) a person or his employee who is engaged in the business of agriculture or aerial application or custom application of pesticides to agricultural lands.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 2363, ch. 726, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 629, ch. 266, § 27, eff. June 11, 1973.]

Art. 135b-7. Fire Ant Eradication and Control Programs

Sec. 1. The commissioners court of any county may establish, implement, and conduct a program for the eradication or control of the imported fire ant. The program may be accomplished solely by the county or may be conducted in conjunction with programs conducted and financed by public or private agencies or any combination of them. The commissioners court may budget for and expend in payment of all or its share of the cost of the program any available county funds, expressly including funds derived from taxation under the 80-cents limitation of Article VIII, Section 9, of the Texas Constitution.

Sec. 2. Before implementing any procedure or method of eradication or control of imported fire ants under this Act in connection with which county funds are to be expended, the commissioners court shall obtain the written approval of the procedure and method of eradication by the Commissioner of Agriculture. Before granting approval in any case, the commissioner shall consult with the pesticide advisory committee established by Section 4a of the Insecticide, Fungicide, and Rodenticide Act of Texas, as amended (Article 135b-5, Vernon's

Texas Civil Statutes). If such approval is not granted or if an alternative to the procedure or method is not given to the commissioners court within 60 days after the date the request for approval is submitted to the commissioner, then the commissioners court may proceed to expend county funds for implementation of the plan proposed.

Sec. 3. Approval under Section 2 of this Act is not required in connection with any program which is financed totally or partially by federal funds and which has the approval of the appropriate federal agencies.

[Acts 1973, 63rd Leg., p. 1297, ch. 487, eff. June 14, 1973.]

CHAPTER SEVEN B. NOXIOUS WEEDS

Art. 135c. Districts for Control and Eradication of Noxious Weeds in Certain Counties

Counties to Which Applicable

Sec. 1. This Act shall apply to the following counties only: Dallam, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmeter, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cochran, Hockley, Lubbock, Crosby, Dickens and Comal.

Legislative Findings; Districts Authorized

Sec. 2. The Legislature hereby finds that noxious weeds are present in the above-named counties to such a degree as to constitute a menace to agriculture and to be deleterious to the proper utilization of the soil and other natural resources of the area; and reclamation of these lands from the damaging effects of noxious weeds is hereby recognized as a public right and duty in the interest of the conservation and development of the natural resources of the State, pursuant to Section 59 of Article XVI of the Constitution of Texas. Districts for the control and eradication of noxious weeds may be formed out of territory situated in the above-named counties in the manner hereinafter prescribed.

Definitions

Sec. 3. As used in this Act, unless the context otherwise requires:

(a) "Noxious weed" means any weed or plant which at the time is defined as a noxious weed by any Statute of this State or which has been declared a noxious weed by the Commissioner of Agriculture of the State of Texas by authority of the Texas Seed Law or any other law of this State.

(b) "Landowner" means any natural person who holds title to lands lying within a district organized under this Act, who has attained the age of twenty-one (21) years, and is a resident of a county, all or any part of which is included in such district.

(c) "Land Occupier" means any person, firm, or corporation holding title to or being in possession of any lands lying within a district organized under the provisions of this Act, whether as owner, lessee, renter, tenant or otherwise.

(d) "Resident property taxpaying voter" means a qualified voter residing within the district who owns taxable property therein and who has duly rendered same to the county tax assessor for taxation.

(e) "District" means a noxious weed control district organized under this Act.

Designation of Districts; Territory Included

Sec. 4. All districts organized under the provisions of this Act shall be known and designated as Noxious Weed Control Districts. Such districts may include the area of any county or counties, or any portion thereof, including towns, villages, or municipal corporations or portions thereof; except that no district shall contain less than thirty-two thousand (32,000) acres nor consist of territory in more than five (5) counties. A district may include any political subdivision of the State or a defined district, or a part or parts of a political subdivision or defined district, but no land shall be included in more than one (1) noxious weed control district. The land composing the district need not be in one (1) body, but may consist of separate bodies of land separated by land not embraced in the district. No district provided for in this Act shall embrace territory situated in more than one county except by a majority vote of the property taxpaying voters residing within the territory in each county sought to be embraced within the district.

Petition for Organization of District; Signatures

Sec. 5. Petition for the organization of a district shall be signed by a majority of the landowners residing within the proposed district, as shown by the county tax rolls, but if the number of landowners is more than fifty (50), the petition shall be sufficient if it is signed by fifty (50) landowners. The petition may be signed and filed in two (2) or more copies.

Presentation of Petition; Money Deposit to Accompany

Sec. 6. The petition shall designate the name of the districts and the area and boundaries thereof. If the proposed district lies wholly within one (1) county, the petition shall be presented to the Commissioners Court of the county; and if the proposed district lies in more than one (1) county, the petition shall be presented to the Commissioners Court of the county in which the largest area lies (hereinafter sometimes referred to as the Commissioners Court of jurisdiction).

The petition shall be accompanied by Five Hundred Dollars (\$500) in cash, which shall be deposited with the county clerk. If the petition is refused or if the result of an election for the creation of the district is against its es-

establishment, the clerk shall pay out of the deposit, upon vouchers signed by the county judge, all costs and expenses pertaining to the proposed district up to and including the election, and shall return the balance, if any, to the petitioners, their agent or attorney. If the result of the election is in favor of the establishment of the district, the clerk shall pay all costs and expenses up to and including the election, as above provided, and shall deliver the balance, if any, to the chairman of the Board of Directors of the District within thirty (30) days after his election; and the Board of Directors shall repay the petitioners the full amount of the deposit out of the first moneys collected by the district.

Order and Notice for Hearing

Sec. 7. When a petition is filed for the organization of a district the Commissioners Court shall make an order setting the date for the hearing thereon. The petition may be considered at a regular or special session of the court. The county clerk shall issue a notice of such hearing by causing it to be published at least twice, with an interval of at least seven (7) days between the two (2) publication dates, in a newspaper of general circulation, published within the county, in each county in which the proposed district lies, or if there is no such newspaper, by causing the notice to be posted for at least two (2) weeks at four (4) public places within the proposed district in each county in which the notice is not published in a newspaper. The notice of hearing shall contain a statement of the nature and purpose thereof, the date and time and place of hearing, and a description of the boundaries of the district, but the boundaries may be described in general terms without the necessity of setting out the full legal description by metes and bounds.

Contest of Creation of District; Adjournment of Hearing

Sec. 8. Upon the day set for hearing, any person whose land is included in or would be affected by the creation of such district may appear and contest the creation thereof and may offer testimony to show that such district is or is not necessary, or would or would not be a benefit to the land included thereon. Such hearing may be adjourned from day to day.

Findings; Effect

Sec. 9. The Commissioners Court shall grant the petition if, after hearing, it finds that the creation of the district would be a public benefit and that a substantial portion of the lands within the proposed district would be benefited by its creation. If the court finds that any lands included within the proposed district would not be benefited by its creation, it shall exclude such lands and shall re-define the boundaries of the district accordingly. If the court should find that the proposed district would not be a public benefit or a benefit to a substantial portion of the land to be included therein, it shall refuse the petition.

Election, Order for; Notice

Sec. 10. After the hearing upon the petition, if the court finds in favor of the petition according to the boundaries as set out in the petition or as changed or modified by the court, the Commissioners Court of jurisdiction shall order an election for the purpose of submitting to the qualified property taxpaying voters residing in the district whether or not the district shall be created. Notice of the election shall be given by the clerk of the court by posting notices thereof in four (4) public places in the proposed district, and one (1) at the courthouse door of the county in which the district is located, and if the district is composed of more than one (1) county then there shall be posted a copy of the notice at the door of the courthouse of each county in which any portion of the proposed district is located, and at four (4) public places within each county in which any portion of the proposed district is located, and within the boundaries of the district. The notices shall be posted for thirty (30) days prior to the date set for the election. The notices shall state the purpose of the election and the time and places of holding the same, and shall contain a description of the boundaries of the proposed district.

Ballots

Sec. 11. The ballots for such election shall have printed thereon the following propositions: "For creation of the district and uniform assessment of benefits not to exceed Three Cents (3¢) per acre" and "Against creation of the district."

Conduct of Election; Persons Entitled to Vote; Voting Precincts; Election Officers

Sec. 12. The manner of conducting the election shall be governed by the election laws of the State, except as herein otherwise provided. None but resident property taxpaying voters of the proposed district shall be entitled to vote at the election. The Commissioners Court shall create and define, by an order of the court, the voting precincts in the proposed district, and shall name a polling place or places within such precincts, taking into consideration the convenience of the voters in the proposed district, and shall also select and appoint the judges and other necessary officers of the election.

Returns of Election; Canvass of Votes; Order Establishing District

Sec. 13. Immediately after the election, the officers holding the same shall make returns of the result thereof to the Commissioners Court of jurisdiction, which shall canvass¹ the vote and return and enter an order declaring the results of the election. If it is found that a majority of votes cast in each county at the election are in favor of the creation of the district, the Commissioners Court shall enter an order declaring the establishment of the district. If the proposed district embraces more than one (1) county, the Commissioners Court shall declare the district established only in the terri-

tory included in each county in which the majority of the votes cast were in favor of its creation. A copy of the order shall be transmitted to the county clerk of each county in which a portion of the district lies, and shall be filed by him as a public record.

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

Board of Directors; Chairman; Vacancy

Sec. 14. The district shall be governed by a Board of Directors composed of five (5) members, each of whom shall be a landowner within the district. The first Board of Directors shall be appointed by the Commissioners Court of jurisdiction. If the district comprises more than one county or parts of more than one county, one (1) member shall be appointed from each county and the remaining members shall be appointed from the district at large. Three (3) of the directors first appointed shall serve until the first annual meeting hereinafter provided for, and two (2) shall serve until the second annual meeting, the term of each to be determined by lot. Thereafter, the directors shall serve for terms of two (2) years.

The Board shall annually elect a chairman and such other officers as it desires. A vacancy during a term shall be filled by the remaining members of the Board.

Annual Meeting of Voters; Proxies

Sec. 15. The chairman shall call an annual meeting of the resident property taxpaying voters in the district, to be held on the fourth Saturday in April, at which meeting the resident property taxpaying voters shall elect successors for the directors whose terms are expiring that year. Each director so elected shall be a resident of the territory from which his predecessor was required to be selected. The chairman shall give written notice of the time and place of the meeting, at least ten (10) days in advance thereof, to each taxpayer in the district as shown by the records of the county tax assessor-collector in each of the counties in which any part of the district lies. Any resident property taxpaying voter may appoint a proxy to represent him at the meeting. The annual meeting shall also be devoted to such other purposes as the Board of Directors think proper.

Powers of Board of Directors

Sec. 16. The Board of Directors shall have the following powers:

(a) To determine which noxious weeds shall be subject to control.

(b) To determine the method or methods of control, either by spraying, cutting, burning, tillage, or any other appropriate method.

(c) To prescribe the specific areas within the district on which the control measures are to be carried out.

(d) To prescribe the period within which the control measures are to be carried out.

(e) To take such other action as is necessary to effectuate the purposes of this Act.

Rules and Regulations

Sec. 17. The Board of Directors is specifically authorized to promulgate rules and regulations requiring the cleaning of farm implements and machinery which is brought into the district or which is moved from one (1) location to another within the district, and prescribing the method of disposition of materials taken from such implements and machinery. Before such rules or regulations are put into effect, notice of their adoption shall be given by posting a copy thereof at four (4) public places in each county within the district at least ten (10) days before the effective date, and by filing a copy with the county clerk of each county within the district. A violation of the rules and regulations shall constitute a misdemeanor and shall be punishable by a fine of not less than Twenty-five Dollars (\$25) nor more than Two Hundred and Fifty Dollars (\$250).

Notice to Land Occupiers of Control Measures; Inspection of Property; Failure to Comply with Order

Sec. 18. The chairman of the Board of Directors shall give written notice to each land occupier informing him of the control measures which are in effect on his land and all other necessary information to enable the land occupier to carry out the measures.

It shall be the duty of each land occupier to comply with the control measures prescribed by the Board of Directors. It shall be the duty of the County Commissioners Court in each county to comply with the control measures on right of ways of all public roads and other public lands within the district.

The Board of Directors or any inspector appointed by the Board shall have the right to enter upon any land within the district to determine whether control measures are necessary and to determine whether control measures prescribed by the Board are being carried out. If it is found that any land occupier is not complying with the Board's directions, the Board shall give him written notice ordering him to comply within a stated time. If he fails to comply with the order, the Board may file a suit for a mandatory injunction in the district court of the county in which the land is situated, to compel him to comply with the order. Any land occupier against whom an injunction is issued shall be liable for all costs of the suit and for a reasonable attorney's fee, to be fixed by the court.

Levy of Uniform Assessments; Assessor-Collector; Bond; Report of Chairman of Board

Sec. 19. The Board of Directors may levy an annual uniform assessment against the land within the district, not to exceed Three Cents (3¢) per acre, for the purpose of paying the expenses of the district. The Board may appoint an assessor-collector to assess and collect the

assessments and may allow him as compensation an amount not to exceed five per cent (5%) of all money collected by him. He may be required to give bond in an amount to be fixed by the Board. If the Board of Directors prefers, it may contract with the county tax assessor-collector to perform these services, and the county tax assessor-collector shall be entitled to retain five per cent (5%) of all money collected by him, which shall be accounted for as other fees of office; or the Board may appoint an assessor and contract with the county assessor-collector for collection of the tax, in which event the district assessor's compensation shall be fixed at an amount not to exceed two and one-half per cent (2½%) of the total assessments and the county assessor-collector may retain two and one-half per cent (2½%) of the amounts which he collects. The moneys collected shall be deposited in the district depository selected by the Board.

The chairman of the Board of Directors shall file an annual report with the county clerk of each county in which the district lies, before the first day of April of each year, showing the total amount received and an itemized statement of the amounts expended during the preceding year, together with the balance remaining on hand.

**Compensation of Directors; Mileage; Inspectors;
Clerical Help**

Sec. 20. Each director shall be entitled to receive Five Dollars (\$5) per day for attending meetings of the Board, not to exceed Sixty Dollars (\$60) per year, and Ten Cents (10¢) per mile for the distance actually traveled between his place of residence and the place of the meeting.

The Board of Directors may employ one or more inspectors for the purpose of inspecting the lands within the districts to determine in what areas control measures are needed and to determine whether control measures are being carried out. The inspectors shall be entitled to receive their actual and necessary traveling expenses and such compensation as the Board may fix. The Board may also employ such clerical help as may be necessary and may incur all other necessary expenses in carrying out the purposes of this Act.

**Petition to Dissolve District; Notice of Election;
Conduct of Election**

Sec. 21. Upon petition presented to the Board of Directors of a district, signed by fifty (50) or by a majority of the landowners residing within the district, whichever is the lesser number, asking for an election upon a proposal to dissolve the district, the Board of Directors shall order an election thereon to be held not more than ninety (90) days from the date the petition is received. Notice of the election shall be given under the hand of the chairman of the Board of Directors by publication at least twice, with an interval of at least seven (7) days between the two (2) publications, in a newspaper of general circulation, published

within the county, in each county in which the district lies, or if there is no such newspaper, by posting the notice for at least two (2) weeks at four (4) public places within the district in each county in which the notice is not published in a newspaper. The notice shall contain a statement of the purpose of the election and the time and place or places of holding the same. The Board of Directors shall designate the polling place or places within the district, taking into consideration the convenience of the voters, and shall also select and appoint the judges and other necessary officers of the election. None but resident property taxpaying voters of the district shall be entitled to vote at the election. The manner of conducting the election shall be governed by the election laws of the State, except as herein otherwise provided.

**Returns, Election to Dissolve District; Order;
Termination of District; Duties of Directors**

Sec. 22. Returns of the election shall be made to the Board of Directors, which shall canvass the returns and enter an order declaring the results of the election. If a majority of the votes cast at the election are against the dissolution of the district, no further election on the proposition shall be held for a period of twelve (12) months thereafter. If a majority of the votes cast are in favor of the dissolution of the district, the Board of Directors shall enter an order declaring the district to be dissolved; and thereafter the Board of Directors shall not exercise any further powers except to terminate the affairs of the district. If there is not on hand sufficient money to pay off all claims against the district and if the annual assessments already levied will not provide sufficient funds for this purpose, the Board of Directors shall have authority to levy and cause to be collected further annual assessments but only in such amount as may be necessary to settle the claims against the district. Any money remaining on hand after all claims have been settled shall be paid over ratably to the county treasurer of each county in which the district lies in the proportion which the territory in each county bears to the total area of the district, and shall be placed by the treasurer in the general fund of the county.

[Acts 1955, 54th Leg., p. 943, ch. 369; Acts 1961, 57th Leg., p. 26, ch. 16, § 1, eff. Aug. 28, 1961.]

**CHAPTER EIGHT. EXPERIMENT
STATIONS**

1. STATE EXPERIMENT STATIONS

Article
136 to 149k. Repealed.

2. COUNTY FARMS AND STATIONS

- 150. Establishment.
- 151. Petition and Election.
- 152. Election Returns.
- 153. Acquisition of Property.
- 154. Location of Station.
- 155. Supervision.
- 156. Director.

Article

- 157. Supplies and Improvements.
- 158. Labor.
- 159. Records.
- 160. Bulletins.
- 161. Information.
- 162. Sale of Products.
- 163. Expenses.
- 163a. Election on Issuance of Bonds or Warrants for Agricultural Experiment Station.
- 164. Demonstration Work.

3. RAILWAY FARMS AND STATIONS

- 165. Powers.

1. STATE EXPERIMENT STATIONS

Arts. 136 to 149k. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, art. 1, § 3, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing these Articles, enacts Title 3 of the Texas Education Code.

See, now, Education Code, §§ 88.201 to 88.212.

2. COUNTY FARMS AND STATIONS

Art. 150. Establishment

The commissioners court of any county shall, under the terms and provisions of this subdivision, establish and maintain an agricultural experiment farm and station within their county. [Acts 1925, S.B. 84.]

Art. 151. Petition and Election

On petition of not less than ten per cent of the legal voters of such county who voted for Governor in the preceding election, the commissioners court shall submit the question of the adoption of the provisions of this subdivision to the qualified voters of said county; and said court shall order an election to be held not less than thirty nor more than sixty days from the date of the election order, which shall be signed by the county judge. Such election shall be held at the usual voting places and by the usual election officers, and as near as may be shall be conducted in accordance with the general election laws of Texas. Notice of such order shall be given by posting copies thereof at all the post offices within such county and at the court house door of such county. At such election those favoring a county experiment farm and station under the provisions of this subdivision shall vote a ticket on which shall be written or printed the words, "For a County Experiment Farm and Station," and those who are opposed shall vote a ticket on which shall be written or printed the words, "Against a County Experiment Farm and Station." Both tickets may be written or printed on the same piece of paper, and the voter may vote by erasing or drawing a line through the one he does not favor.

[Acts 1925, S.B. 84.]

Art. 152. Election Returns

The officers of the election shall make their report to and certify to the commissioners court the number of votes cast for and against such proposition, and if it appear that a major-

ity of the votes cast at such election are in favor of such farm and station, the court shall so declare the result, and shall then proceed to execute the provisions of this law by establishing such farm and station.

[Acts 1925, S.B. 84.]

Art. 153. Acquisition of Property

Said farm and station shall consist of such number of acres of land as might be reasonably expected to produce a revenue sufficient to maintain the same, to be determined by the commissioners court, and shall, with sufficient houses, residences, barns and lots thereon, be donated to the county with good and legal title thereto, free of cost to the county.

[Acts 1925, S.B. 84.]

Art. 154. Location of Station

Said farm shall be located at the county seat or as near thereto as practicable, but if no such donation is offered at or within reasonable distance from the county seat, not to exceed two miles, then such farm may be located elsewhere in the county, having due regard for the benefits to be derived from such farm and station.

[Acts 1925, S.B. 84.]

Art. 155. Supervision

Said experiment farm shall be affiliated with and directed in a manner similar to that of all experiment stations, and shall be under the advisory direction of the Director of State experiment stations.

[Acts 1925, S.B. 84.]

Art. 156. Director

The said station shall be in charge of and under the direction of a director who shall be appointed by the commissioners court. He shall be a practical farmer, and shall pass a satisfactory examination touching his general knowledge, information, education, and his knowledge of farming, stock raising and other affairs incident to successful farm life. Such examination shall be prescribed by and taken under the Director of State Experiment stations or some one designated by him for such purpose. The said director shall be furnished a residence on said farm, free of cost for himself and family, as a part of his compensation, and shall receive such salary as the commissioners court may fix, not less than seventy-five dollars per month. The commissioners shall not rent or lease said farm to any one, nor permit it to be done by any one.

[Acts 1925, S.B. 84.]

Art. 157. Supplies and Improvements

The commissioners court shall supply said farm and station with sufficient houses, barns, lots, machinery, farm utensils, scientific instruments, materials, seeds and such other necessities as may be necessary, and shall make all needed improvements. Said farm shall be supplied with such stock, including work stock

and cattle, both for service and breeding purposes, as may be necessary to promote the improvement of the farm and stock raising industry of such county.

[Acts 1925, S.B. 84.]

Art. 158. Labor

The director of said farm shall conduct the same, and employ the necessary labor with the approval and advice of the commissioners court to conduct said farm. County paupers shall not be maintained or permitted to work upon said farm.

[Acts 1925, S.B. 84.]

Art. 159. Records

The director shall keep a complete and accurate record of rainfall, temperature, the winds, and general climatic conditions; the planting, cultivation and marketing of all crops of every character; of his management and observation, and of his management of the live stock on said farm.

[Acts 1925, S.B. 84.]

Art. 160. Bulletins

He shall make an annual report to the commissioners court showing in detail his methods and results, which report shall be published by the county, with the consent of the commissioners court, and mailed without cost to every person in the county engaged in farming and to others on request, to every experiment station in Texas, and to the State and United States Departments of Agriculture.

[Acts 1925, S.B. 84.]

Art. 161. Information

The director shall at all reasonable times keep said farm open to the inspection of the public, and it shall be his duty to disseminate information, and to explain to all persons his manner and methods of preparation, soil culture, cultivation, gathering, preservation and marketing of the products of said farm.

[Acts 1925, S.B. 84.]

Art. 162. Sale of Products

He shall sell and market the products of said farm, under the rules made therefor by the commissioners court, and shall pay the proceeds thereof to the county treasurer, who shall place the same to the credit of the general fund of the county. The director shall perform such other duties as the commissioners court may prescribe not inconsistent with law.

[Acts 1925, S.B. 84.]

Art. 163. Expenses

The labor necessary for the cultivation and care of said farm, including the salary of the director, and all expenses and expenditures provided for in this chapter, shall be paid by the county out of its general funds upon warrants drawn by the director and approved by the county judge.

[Acts 1925, S.B. 84.]

3 West's Tex. Stats. & Codes—10

Art. 163a. Election on Issuance of Bonds or Warrants for Agricultural Experiment Station

Sec. 1. The Commissioners Court of any county in this State is hereby authorized to call an election for the purpose of issuing bonds or warrants for the purpose of acquiring tracts of land and constructing buildings and improvements thereon for an agricultural experiment station, and is hereby authorized to levy and collect a tax sufficient to pay the annual interest and to provide a sinking fund for the payment of the principal at maturity.

Sec. 2. The election authorized herein shall be held under the provisions set forth in Title 22, Chapters 1 and 2, Revised Civil Statutes of Texas, 1925.¹

Sec. 3. The Commissioners Court of any county in this State which may acquire and construct an agricultural experiment station as authorized by this Act is further authorized to lease same to the State of Texas or to any agency of the Federal Government under terms to be agreed upon by the Commissioners Court and the lessor.

[Acts 1941, 47th Leg., p. 703, ch. 438.]

¹ Article 701 et seq.

Art. 164. Demonstration Work

The Commissioners' Court of any county of this State is authorized to establish and conduct co-operative demonstration work in agriculture and home economics in co-operation with the Agricultural and Mechanical College of Texas, upon such terms and conditions as may be agreed upon by the Commissioners' Court and the agents of the Agricultural and Mechanical College of Texas; and may employ such means, and may appropriate and expend such sums of money as may be necessary to effectively establish and carry on such demonstration work in Agriculture and Home Economics in their respective counties.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 9, ch. 6, § 1.]

3. RAILWAY FARMS AND STATIONS

Art. 165. Powers

Any railway corporation in Texas may acquire by lease or purchase, and maintain and operate, or cause to be operated, demonstration and experimental farms, orchards and gardens, no one of which shall exceed one thousand acres in size, for the purpose of aiding in the development of the agricultural and horticultural resources of Texas. No such corporation shall own or control more than four such farms.

[Acts 1925, S.B. 84.]

CHAPTER NINE. SOIL AND WATER CONSERVATION AND PRESERVATION

Article

165a to 165m. Unconstitutional.

165a-1. Repealed.

165a-2. Wind Erosion Conservation Districts.

Article

- 165a-3. Validation of Districts.
- 165a-4. State Soil and Water Conservation.
- 165a-4a. Watershed Protection and Flood Prevention; Contracts for Work Plans.
- 165a-5. Rental of County Machinery to Landowners in Counties of 290,000 to 320,000.
- 165a-6. Rental of County Machinery to Landowners in Counties of 320,000 to 360,000.
- 165a-7. Rent of County Machinery to Landowners in Counties of 60,000 to 80,000 and Counties of 22,000 to 23,000.
- 165a-8, 165a-9. Repealed.
- 165a-10. Funds; Powers and Duties of Supervisors; Discontinuance of Districts; Conventions.

Arts. 165a to 165m. Unconstitutional

Acts 1931, 42nd Leg., 2nd C.S., p. 2, ch. 2, §§ 1 to 13, constituting these articles, regulating cotton cultivation and making it unlawful to plant cotton on the same land that had been planted in cotton the year preceding, is unconstitutional as taking property without due process of law, as depriving owner of land and tenant of right to contract as to crops to be planted, and as retroactive law impairing the obligation of contracts. *State v. Smith* (Civ.App.1932) 47 S.W.2d 642.

Art. 165a-1. Repealed by Acts 1941, 47th Leg., p. 491, ch. 308, § 5(A)

Art. 165a-2. Wind Erosion Conservation Districts

Creation Authorized

Sec. 1. The creation and incorporation of Wind Erosion Conservation Districts coextensive with the boundaries of any county in this State is hereby authorized under and by virtue of Section 59, Article XVI, of the Constitution. The area of any county may be formed into such a Conservation District when the qualified tax paying voters of such county, voting at an election to be held for such purpose, by majority vote sanction and authorize the creation and incorporation of such District. The creation of such Districts is deemed essential to the accomplishment of the purposes of the above mentioned Section of the Constitution and when any such District is created as herein provided the same shall be a governmental agency and body politic and corporate with the powers of government and with authority to exercise the rights, privileges and functions as are conferred by this Article. Such a District shall bear the name of the county creating same and shall be so designated.

Petition by Tax Paying Voters

Sec. 2. When petitioned by not less than fifty (50) duly qualified property tax paying voters, the Commissioners Court of any county in this State shall call an election to be held throughout such county to determine whether a majority of the legally qualified property tax paying voters of such county favor the creation and incorporation of the area of such county into a Wind Erosion Conservation District. The procedure for holding and declaring the result of such an election shall be in substantial compliance with the requirements for elections to vote bonds for public improvements. All persons who are legally qualified property tax paying voters shall be entitled to vote at

such election. Each voter favoring the creation and incorporation of such District shall have written or printed on his ballot "For the creation and incorporation of the _____ County Wind Erosion Conservation District," and each voter who opposes the creation of such District shall have written or printed on his ballot "Against the creation and incorporation of _____ County Wind Erosion Conservation District."

Canvass of Returns and Order Declaring Creation

Sec. 3. When the returns of the election mentioned in Section 2 have been canvassed by the Commissioners Court, the result of such election shall be declared by order entered on the Minutes of said Court and, if the result is in favor of the creation and incorporation of the District, the County Judge shall issue an order declaring such District to be created and incorporated and such order shall also be entered in the Minutes of the Commissioners Court and a certified copy thereof entered in the Deed Records of the county. Thereupon, the District shall be deemed to be legally created and incorporated with all rights, powers, authority and privileges herein conferred and authorized by Section 59, of Article XVI, of the Constitution, for the purpose of conserving and reclaiming the soil in such District.

Commissioners' Court as Governing Body; County Treasurer as Treasurer; Bond

Sec. 4. When a Wind Erosion Conservation District is created, the County Commissioners and the County Judge will thereupon become the Governing Body of such District. The County Judge shall be Chairman of the Board with authority to vote in case of a tie and charged with the usual and customary duties as presiding officer. The County Treasurer will be the Treasurer of the District and the County Clerk shall become the Clerk of the Governing Body. The Treasurer shall have the care and custody of all funds, obligations and securities of the District and shall dispense and dispose of same in compliance with the orders of the Governing Body. The Treasurer shall execute and deliver to the County Judge a good and sufficient bond in the penal sum of not less than Five Thousand Dollars (\$5,000) nor more than Ten Thousand Dollars (\$10,000), conditioned for the faithful discharge of his duties and the disposition of all funds and obligations of said District as required by law. The bond shall be signed by a solvent Surety Company authorized to do business in this State, and the premium thereon shall be paid by the District. The Clerk shall keep an accurate record of all orders, minutes and resolutions of the Governing Body and shall countersign all vouchers and documents and perform such other acts as may be directed by the Governing Body. The duties herein imposed upon the County Judge and Commissioners, the County Clerk and Treasurer shall be ex-officio duties. By vote the Governing Body may allow the County Clerk and County Treasurer a

monthly compensation of not more than Twenty-five Dollars (\$25), which shall be paid by the District.

Powers of District

Sec. 5. The function of a Wind Erosion Conservation District is to conserve the soil by the prevention of unnecessary erosion caused by winds, and the reclamation of lands that have been depreciated or denuded of soil by reason of winds. Without limitation of the foregoing, such a District shall have and is hereby authorized to exercise the following rights, powers, privileges and authority, viz.:

(a) To prevent or aid in the prevention of damage to lands and the public roads and highways due to the unnecessary movement of sand, dust and soil originating from lands within or without such District.

(b) To construct improvements and maintain any and all facilities to arrest or prevent the erosion of soils or lands within such District by reason of winds.

(c) To have the right to enter upon any lands in the District for the purpose of treating same to prevent the spread of soil erosion and damage to other lands in such District.

(d) To borrow money for the corporate purposes of such District and to pledge any certificates, obligations, or securities held by such District as security therefor, and to pledge and assign any and all revenue or income to secure the repayment thereof. In this connection, any such District may issue its obligations, warrants, bonds and debentures or other evidences of indebtedness, with interest not to exceed five (5) per cent per annum, maturing within ten (10) years and payable out of and secured by the revenues and income of such District, with the reservation or provision that no such obligation shall be paid out of ad valorem taxes.

(e) To accept grants and to borrow money from the United States of America or from any corporation or agency created or designated by the United States of America to loan and/or grant money, and in connection with such grants and/or loans to enter into such agreements as may be required for such purpose.

(f) To sue or be sued in its corporate capacity.

(g) To adopt a corporate seal.

(h) To adopt by-laws and rules and regulations incident to or necessary to the dispatch of business or the discharge of corporate functions.

Governing Body to Consult and Cooperate with Other Agencies

Sec. 6. The Governing Body of each Wind Erosion Conservation District shall consult and advise with the Director of Texas Experiment

Station of A. & M. College, the County Agent, the Department of Agriculture of this State, and the Soil Erosion Service of the Department of Agriculture of the United States of America, and may generally conform to and cooperate in any regional plan determined upon in connection with the application and operation of this Act. Such Districts shall be agencies of the State of Texas charged with the responsibility of conserving the natural resource in soil.

Acceptance of Donations and Gifts

Sec. 7. The Governing Body of such Wind Erosion Conservation Districts shall have authority to accept gifts, grants, donations, advances and services from the United States or any other governmental agency, or agencies, in furtherance of the purposes for which such Wind Erosion Conservation District shall have been created, and shall administer and disburse such funds and all other money and property coming into its hands in the exercise of its sound discretion and in accordance with law. In the expenditure of funds, said Governing Body shall adhere to and be governed by the laws applicable to Commissioners Courts. All accounts shall be audited annually and a copy of such audit filed with the County Clerk for public inspection.

Method of Assessments

Sec. 8. When a program of work shall be determined upon and an assessment against property is contemplated, the Governing Body shall make up an estimate of the cost of such work and tentatively allocate a portion of such cost to the land and the owners thereof that will derive benefit from such work. The Governing Body shall enter an order on its Minutes fixing the date for a hearing to determine whether or not assessments shall be made, and no assessment shall be made until a full and fair hearing shall first have been given to the owners of such property, and in no event shall an assessment be made against any person or property in excess of the actual benefit to such owner in the protection given his property. Notice of the intention to make such assessment shall be given to the owners of all property against which a lien or assessment is contemplated, and such notice may be served in person upon the owner or the same may be published for two (2) weeks in some newspaper of general circulation published in the county, the first publication to be not less than ten (10) days prior to said hearing. The names of the owners, lienholders or interested parties need not be specifically set forth in such notice, but the parcel or parcels of land against which such assessments shall be made shall be briefly described in said notice by survey and block numbers or any other description reasonably identifying the same, but the amount of the proposed assessment shall be stated. Said notice shall command all parties to appear at a hearing to be held at the courthouse in said county and contest any proposed

assessment against any particular piece of property, and at such hearing the Governing Body shall finally determine the amount, if any, of all assessments. If at such hearing it shall be determined that any particular piece of land will derive a benefit equal to or in excess of the amount of the assessment, then in that event the assessment shall be levied by order of the Governing Body. The assessment may be divided into three (3) equal annual installments which shall bear interest at the rate of five (5) per cent and shall be evidenced by certificates issued by the Governing Body, signed by the County Judge as Chairman, and attested by the Clerk under corporate seal. When so executed and levied, such certificate shall constitute a valid and binding first lien upon the property against which the same is made, and shall be recorded in the deed records of the county and, when so recorded, shall constitute notice to all subsequent purchasers.

Assessment Liens; Homesteads

Sec. 9. No assessment shall be made against any property used, claimed or occupied as a homestead, but the Governing Body is authorized to take liens securing such assessments in the manner now provided by law for fixing liens upon homesteads to secure the cost of improvements thereon.

Foreclosure of Liens

Sec. 10. In the event any certificate issued by the Governing Body of any such District is not paid at the maturity thereof, suit may be instituted thereon in any Court of competent jurisdiction and the lien securing same foreclosed, and the property sold in the same manner and under the same procedure as provided for the foreclosure of other liens on real estate.

Percentage of Automobile Registration Fees

Sec. 11. Due to the fact that the highways in many counties are rendered useless by reason of the accumulation of sand, soil and dust from adjoining lands, the Commissioners Court of any county, the area of which comprises a Soil Erosion Conservation District, may, in its discretion, transfer to such District as much as twenty (20) per cent of the automobile registration fees accruing to such county, and the Governing Body of the District may then expend the funds so transferred in defraying the cost of soil erosion work. In like manner the Commissioners Court is hereby authorized to transfer to such District all or any part of any Road and Bridge Special Taxes that may be authorized by vote of the people of such county.

No Tax Obligations

Sec. 12. Wind Erosion Conservation Districts created under and by virtue of this Act shall have no power to levy ad valorem taxes or create any obligation payable out of funds raised by taxation, save and except to the extent herein specifically provided.

Diversion of Percentage of Ad Valorem Taxes

Sec. 13. The fact that unprecedented damage has resulted to the soil of the counties hereinafter named by reason of soil erosion caused by wind, which has been so serious as to drive people from their homes and to render vast areas of valuable land untenable; and the further fact that vast clouds of dust have been carried by winds for hundreds of miles and have caused practically every section of the State to suffer therefrom, and the further fact that such condition has seriously jeopardized the health of a great many people has resulted in a public calamity to the counties hereinafter named; therefore, to aid and facilitate the work to be performed by wind erosion conservation districts, the State ad valorem taxes that will accrue and be due and payable to the State of Texas for the years 1935 and 1936 from all property located in Dallam, Hartley, Oldham, Deaf Smith, Sherman, and Moore Counties, and fifty per cent (50%) of the ad valorem taxes that will accrue and be due and payable to the State of Texas for the years 1935 and 1936 from all property located in Lipscomb, Hansford, and Ochiltree Counties, are hereby diverted to the conservation districts that may be hereafter formed in said counties. And the Governing Bodies of such conservation districts are authorized to use said sums to defray the necessary costs and expenses incident to the purpose for which such conservation districts are formed. As and when taxes from said counties are collected and paid into the State Treasury, the State Treasurer shall transfer and pay over the same to the Governing Body of the conservation districts formed in said counties and shall require such receipt as he may specify to evidence the receipt of said funds, provided that in the event either of said counties fails or refuses to form such conservation district on or before October 1, 1935, then in that event the State Treasurer shall retain the State ad valorem taxes collected from said county as is required by general law. It is distinctly specified that the foregoing provisions shall not in any case apply to the ad valorem taxes collected for school purposes or collected for the payment of Confederate pensions.

[Acts 1935, 44th Leg., p. 771, ch. 337.]

Acts 1941, 47th Leg., p. 491, ch. 308, § 5, subsection C set out in note under article 165a-4, provided that article 165a-2 should not be in anywise affected, impaired, nor impinged by the Act of 1941, amending article 165a-4. A similar provision was contained in section 17 of Acts 1939, 46th Leg., p. 7, which was omitted in the amendment of the Act of 1939 as a whole by the Act of 1941.

Art. 165a-3. Validation of Districts

That all acts and proceedings of both the County Judge and County Commissioners Court in the matter of the creation and incorporation of Wind Erosion Conservation Districts of any county in this State which were created or attempted to be created under the provisions of Chapter 337, Acts Regular Session, Forty-fourth Legislature¹ and all elections, where a majority of legally qualified property taxpayers

ing voters, voting at said elections, favored the formation of such districts, are hereby ratified, approved, and validated.

[Acts 1935, 44th Leg., 2nd C.S., p. 1695, ch. 434, § 1.]

¹ Article 165a-2.

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

Short Title

Sec. 1. This Act may be known and cited as the "State Soil Conservation Law."

Legislative Determinations, and Declaration of Policy

Sec. 2. It is hereby declared, as a matter of Legislative Determination:

(a) The Condition. That the farm and grazing lands of the State of Texas are among the basic assets of the State and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this State by wind and water; that the breaking of natural grass, plant, and forest cover has interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any occupier of land to conserve the soil and control erosion upon such land causes a washing and blowing of soil and water from such lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

(b) The Consequences. That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs, dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by overwash of poor subsoil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a di-

minishing of the underground water reserve, which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall run-off, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming, and grazing.

(c) The Appropriate Corrective Methods. That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion may be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation, seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops, soil stabilization with trees, grasses, legumes, and other thick-growing, soil-holding crops, retardation of runoff by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

(d) Declaration of Policy. It is hereby declared to be the policy of the Legislature to provide for the conservation of soil and soil resources of this State, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this State, and thus to carry out the mandate expressed in Article XVI, Section 59a, of the Constitution of Texas. It is further declared as a matter of Legislative intent and determination of policy that the agencies created, powers conferred and the activities contemplated in this Act for the conservation of soil and water resources and for the reduction of public damage resulting from failure to conserve such natural resources, shall be supplementary and complementary to the work of various river and other authorities now established in the State and to other

State officers, agencies, and districts engaged in closely related projects, and shall not be duplicative thereof nor conflicting therewith.

Definitions

Sec. 3. Wherever used or referred to in this Act, unless a different meaning clearly appears from the context:

(1) "District" or "Soil Conservation District" means a governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this Act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) "State District" means one of the five (5) districts established as provided in Section 4, Subsection A of this Act.

(3) "Supervisor" means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this Act.

(4) "Board" or "State Soil Conservation Board" means the agency created in Section 4 of this Act.

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

(6) "Petition" means a petition filed under the provisions of Subsection A of Section 5 of this Act for the creation of a district.

(7) "State" means the State of Texas.

(8) "Agency of this State" includes the government of this State and any subdivision, agency, or instrumentality, corporate or otherwise, of the government of this State.

(9) "United States" or "Agencies of the United States" includes the United States of America, the Soil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(10) "Government" or "Governmental" includes the Government of this State, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise of either of them.

(11) "Landowner" or "Owner of land" includes any natural person who holds title to farm or ranch lands lying within a soil conservation district organized under the provisions of this Act, who has attained the age of twenty-one years, and is a resident of a county, all or any part of which is included in such Soil Conservation District.

(12) "Board of Adjustment" means the agency appointed in accordance with the provisions of Section 10 of this Act.

(13) "Due Notice" means notice published at least twice, with an interval of at least seven (7) days between the two (2)

publication dates, in a newspaper or other publication of general circulation within the appropriate area, or notice posted for at least two weeks at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs, generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

(14) "Land Occupier" or "Occupiers of Land" includes any person, firm, or corporation who shall hold title to or be in possession of any lands lying within a district organized under the provisions of this Act, whether as owner, lessee, renter, tenant or otherwise.

Supervisor; Change of Name

Sec. 3a. The name "Supervisor," when used in this Chapter to describe a member of the governing body of a Soil and Water Conservation District, is changed to "Director."

State Soil and Water Conservation Board

Sec. 4. A. There is hereby established to serve as an agency of the State and to perform the functions conferred on it in this Act, the State Soil Conservation Board.¹ The Board will consist of five (5) members. The following shall serve in an advisory capacity to the Board: The President of The Agricultural and Mechanical College of Texas, the President of Texas Technological College, the Director of Vocational Agriculture of Texas, the State Commissioner of Agriculture and the State Coordinator of the Soil Conservation Service of the United States Department of Agriculture. The five (5) elective members of the Board shall be selected as follows: The State of Texas is hereby divided into five (5) State Districts for the purpose of selecting five (5) members of the State Soil Conservation Board. These five (5) State Districts shall be composed as follows:

State District No. 1, comprising fifty-one (51) counties: Dallam, Dawson, Sherman, Hansford, Ochiltree, Lipscomb, Hartley, Moore, Hutchinson, Roberts, Hemphill, Oldham, Potter, Carson, Gray, Wheeler, Deaf Smith, Randall, Armstrong, Donley, Collingsworth, Parmar, Castro, Swisher, Briscoe, Hall, Childress, Bailey, Lamb, Hale, Floyd, Motley, Cottle, Hardeman, Cochran, Hockley, Lubbock, Crosby, Dickens, King, Yoakum, Terry, Lynn, Garza, Kent, Stonewall, Gaines, Borden, Scurry, Fisher, Foard.

State District No. 2, comprising fifty-one (51) counties: Andrews, Martin, Howard, Mitchell, Nolan, Taylor, Runnels, Coke, Sterling, Glasscock, Midland, Ector, Winkler, Loving, Reeves, Culberson, Hudspeth, El Paso, Jeff Davis,

Presidio, Brewster, Pecos, Terrell, Ward, Crane, Upton, Reagan, Irion, Tom Green, Concho, McCulloch, San Saba, Mason, Llano, Blanco, Gillespie, Crockett, Schleicher, Menard, Sutton, Kimble, Val Verde, Edwards, Real, Kerr, Kendall, Bandera, Uvalde, Medina, Kinney, Maverick.

State District No. 3, comprising fifty (50) counties: Burleson, Lee, Bastrop, Travis, Hays, Comal, Guadalupe, Caldwell, Fayette, Washington, Austin, Colorado, Lavaca, Gonzales, Wilson, Bexar, DeWitt, Jackson, Wharton, Fort Bend, Brazoria, Matagorda, Calhoun, Refugio, Bee, Karnes, Live Oak, Atascosa, McMullen, La Salle, Frio, Duval, Dimmit, Webb, Zapata, Jim Hogg, Starr, Brooks, Hidalgo, Cameron, Willacy, Kenedy, Kleberg, Nueces, San Patricio, Aransas, Jim Wells, Zavala, Goliad, Victoria.

State District No. 4, comprising fifty-one (51) counties: Lamar, Red River, Bowie, Delta, Hopkins, Franklin, Titus, Morris, Cass, Marion, Camp, Upshur, Wood, Rains, Van Zandt, Smith, Gregg, Harrison, Henderson, Cherokee, Rusk, Panola, Shelby, Nacogdoches, Anderson, Freestone, Leon, Robertson, Brazos, Madison, Grimes, Waller, Houston, Walker, Trinity, Angelina, San Augustine, Sabine, Newton, Jasper, Tyler, Polk, San Jacinto, Montgomery, Harris, Liberty, Hardin, Orange, Jefferson, Chambers, Galveston.

State District No. 5, comprising fifty-one (51) counties: Wilbarger, Wichita, Clay, Montague, Cooke, Grayson, Fannin, Hunt, Collin, Denton, Wise, Jack, Archer, Baylor, Knox, Haskell, Stephens, Throckmorton, Young, Jones, Shackelford, Palo Pinto, Rockwall, Kaufman, Ellis, Parker, Tarrant, Dallas, Johnson, Hood, Somervell, Erath, Eastland, Callahan, Coleman, Brown, Comanche, Mills, Hamilton, Bosque, Hill, Navarro, Limestone, McLennan, Falls, Milam, Bell, Williamson, Burnet, Lampasas, Coryell.

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

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

(b) Board members for Districts 1, 3, and 5, elected under the provisions of House Bill No. 20, Acts, 46th Legislature, Regular Session,

1939, shall hold their offices for the terms for which they were elected, and until their successors are elected and have qualified. On the first Tuesday in May, 1942, at a place within the district to be designated by the State Soil Conservation Board, State District 1 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of two years, and State District 3 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of three years, and State District 5 shall elect a board member as hereinabove provided to serve on the State Soil Conservation Board for a period of four years. Thereafter, board members elected from State Districts 1, 3, and 5 shall be elected for a period of five years or until their successors are elected and have qualified.

(c) Terms of office of all state board members shall begin on the day following their election.

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

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

E. A majority of the elective members of the State Soil Conservation Board shall constitute a quorum and the concurrence of a majority of the elective members in any matter within their duties shall be required for its determination. The State Board shall keep a complete and accurate record of all its official actions, hold such public hearings at such times and places within the State as may be determined by the Board, and shall promulgate such rules and regulations as may be necessary for the performance of the functions of said Board under the provisions of this Act. The Board shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property, which bonds shall be executed by some solvent company authorized to transact a surety business in this State.

F. The State Soil Conservation Board may employ an administrative officer and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties and compensation, according to the terms and amounts as specified in the general appropriation bills. The Board may call upon the Attorney General of the State for such legal services as it may re-

quire, or may employ its own counsel and legal staff. It shall have authority to delegate to its Chairman, to one or more of its members, or to one or more agents, or employees, such powers and duties as it may deem proper. It shall have authority to locate its office at a point to be selected by the Board.

G. In addition to the duties and powers hereinafter conferred upon the State Soil Conservation Board, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of Soil Conservation Districts, organized as provided hereinafter, in the carrying out of any of the powers and programs.

(2) To coordinate the programs of the several Soil Conservation Districts organized hereunder so far as this may be done by advice and consultation.

(3) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this State, in the work of such districts.

(4) To disseminate information throughout the State concerning the activities and programs of the Soil Conservation Districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

H. All moneys, funds, and securities coming into the hands of the State Soil Conservation Board shall be deposited in a State Treasury and placed in the State Treasury to the credit of a special fund to be known as the "State Soil Conservation Fund"; and all such funds, moneys, and securities hereafter deposited or credited to such fund are hereby appropriated to the use and benefit of the State Soil Conservation Board and may be, by said Board, used in the administration of and in compliance with this Act. Such funds when so placed in the State Treasury shall be under the same care and control by the State Treasury as any money belonging to the State. The Board shall provide and furnish a biennial audit by the State Auditor and Efficiency Expert and a report to the Governor of the State.

The Board may, by resolution, authorize the Chairman of the Board or the administrative officer to approve all claims and accounts that are payable by the Board. And any claim presented to the Comptroller of Public Accounts carrying such approval will be sufficient authority for the Comptroller to issue his warrant against any appropriation made for the use of the Board, and shall also be sufficient authority for the State Treasury to honor the payment of such warrant.

¹ Name changed to State Soil and Water Conservation Board by Acts 1955, 59th Leg., p. 370, ch. 176, § 2.

² This article prior to its amendment in 1941.

Creation of Soil and Water Conservation Districts

Sec. 5. A. Any fifty (50) or a majority of the landowners within the limits of that terri-

tory proposed to be organized into a district may file a petition with the State Soil Conservation Board asking that a Soil Conservation District be organized to function in the territory described in the petition. Such petition shall set forth:

(1) The proposed name of said district.

(2) That there is need, in the interest of the public health, safety, and welfare, for a Soil Conservation District to function in the territory described in the petition.

(3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate.

(4) A request that the State Soil Conservation Board duly define the boundaries of such district; that an election be held within the territory so defined on the question of the creation of a Soil Conservation District in such territory; and that the Board determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State Soil Conservation Board may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State Soil Conservation Board, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition and other proceedings taken under this Act, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the Board shall determine, upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the Board shall give due

weight and consideration to the topography of the area considered and of the state, the composition of the soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other Soil Conservation Districts already organized or proposed for organization under the provisions of this Act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in Section 2 of this Act. If the Board shall determine after such hearing, after due consideration of the said relevant facts, that there is no need for a Soil Conservation District to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the Board has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon Soil Conservation Districts in this Act is administratively practicable and feasible. To assist the Board in the determination of such administrative practicability and feasibility, it shall be the duty of the Board, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold an election within the proposed district upon the proposition of the creation of the district, due notice of such election shall be given, which notice shall set forth the boundaries of the proposed district. The question shall be submitted by ballots upon which the words, "For creation of a Soil Conservation District of the lands below described in general terms and lying in the county (ies) of _____ and _____," and, "Against creation of a Soil Conservation District of the lands below described in general terms and lying in the county (ies) of _____ and _____," shall appear. All owners of land within the boundaries of the territory as determined by the State Soil Conservation Board shall be eligible to vote in such election. When a part of a County is included in a district and the voting box of a landowner within the County is not included within the said district, the landowner within the county shall be entitled to vote at the voting box in which his land is located within the district. All elections for creation of districts shall be held in conformity with

the general laws of the State except as herein otherwise provided.

D. The Board shall pay all expenses for the issuance of notices of public hearings and shall supervise the conduct of such hearings. It shall issue appropriate regulations governing the conduct of public hearings and elections, and providing for the registration prior to the date of the election of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such elections. No informalities in the conduct of such elections or any other elections held under this Act or in any manner relating thereto, shall invalidate said election or the result thereof, if notice thereof shall have been given substantially as herein provided, and said election shall have been fairly conducted.

E. The Board shall announce the result of such election and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the Board shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Board shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination the Board shall give due regard to and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of landowners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the landowners of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determinations, having due regard to the legislative determinations set forth in Section 2 of this Act, provided, however, that the Board shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least two-thirds of the votes cast in the election upon the proposition of creating the district shall have been cast in favor of the creation of such district.

F. If the Board shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall divide the district into five (5) subdivisions of approximately equal area, in so far as this may be practicable. The Board shall appoint two (2) supervisors, one each from subdivisions 2 and 4 within the district, to act until at a regular election in subdivisions 2 and 4 their successors are elected and have qualified. Such appointed supervisors,

together with the three (3) supervisors elected in accordance with the provisions of Section 6 of this Act, shall be the governing board of the district. One member of the District Board of Supervisors shall be selected from each of the five subdivisions composing the district. The State Soil Conservation Board, in cooperation with landowners, may change the boundaries of the subdivisions from time to time as may be necessary or desirable because of additions of territory to the district. Such district shall be a governmental subdivision of this State and a public body corporate and politic, upon the taking of the following proceedings:

The two (2) appointed supervisors shall present to the Secretary of State an application signed by them, which shall set forth and such application need contain no detail other than the mere recitals: (1) That a petition for the creation of the district was filed with the State Soil Conservation Board pursuant to the provisions of this Act, and that the proceedings specified in this Act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body corporate and politic under this Act; and that the Board has appointed them as supervisors; (2) The name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) The term of office of each of the supervisors; (4) The name which is proposed for the district; and (5) The location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by laws of this State to take and certify oaths, who shall certify upon the application that he personally knows the supervisors and knows them to be the officers as affirmed in the application and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State Soil Conservation Board, which shall certify (and such statement need contain no detail other than mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; and the Board did duly determine that there is need, in the interest of public health, safety, and welfare, for a Soil Conservation District to function in the proposed territory and did define the boundaries thereof; that notice was given and an election held on the question of the creation of such district, and that the result of such election showed a two-thirds majority of the votes cast in such election to be in favor of the creation of the district; that thereafter the Board did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the Board.

The Secretary of State shall examine the application and statement and, if he finds that the name proposed for the district is not iden-

tical with that of any other Soil Conservation District of this State or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the Secretary of State shall find that the name proposed for the district is identical with that of any other Soil Conservation District in this State, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State Soil Conservation Board, which shall thereupon submit to the Secretary of State a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the Secretary of State shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this State and a public body corporate and politic. The Secretary of State shall make and issue to the said supervisors a certificate under the seal of the State, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State Soil Conservation Board as aforesaid, but in no event shall they include any area included within the boundaries of another Soil Conservation District organized under the provisions of this Act.

G. After six (6) months shall have expired from the date of entry of a determination by the State Soil Conservation Board that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petition may be filed as aforesaid, and action taken thereon in accordance with the provisions of this Act.

H. (a) Petitions for including additional territory within an existing District may be filed with the State Soil Conservation Board, and the proceedings provided for herein in the case of petitions to organize a District shall be observed in the case of petitions for such inclusion. The Board shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this Act for petitions to organize a District. Where the total number of landowners in the area proposed for inclusion shall be less than one hundred (100), the petition may be filed when signed by a two-thirds majority of owners of land in such area and in such case no election need be held. In election upon petitions for such inclusion, all owners of land within the proposed additional area shall be eligible to vote; only such landowners shall be eligible to vote.

(b) The Board of Supervisors of any one or more Districts organized under the provisions of this Act may submit to the State Soil and Water Conservation Board a petition signed by a majority of the members of the Board of Su-

supervisors of each District affected requesting a division of a District, a combination of two or more Districts, or a transfer of land from one District to another. The Board shall make a determination as to the practicality and feasibility of the proposed change. If the Board determines that the proposed change of District boundaries is not administratively practicable and feasible, it shall record such determination and deny the petition. If the Board determines that the proposed change is administratively practicable and feasible, it shall record the determination and reorganize the Districts in the manner set out in the petition.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have been established in accordance with the provisions of this Act upon proof of the issuance of the aforesaid certificate by the Secretary of State. A copy of such certificate duly certified by the Secretary of State shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of filing and contents thereof.

Method of Selection, Qualifications, and Tenure of Soil and Water Conservation District Supervisors

Sec. 6. (a) Within 30 days after the date of issuance by the Secretary of State of a certificate of organization of a soil conservation district, the State Soil Conservation Board shall designate a time and place within the subdivisions wherein supervisors are to be elected, giving due notice of such designation in each subdivision of the district wherein elections are to be held. The owners of land within each subdivision shall meet at the time and place as designated by the State Soil Conservation Board for the purpose of electing from within the subdivision a member to the board of district supervisors. The qualified voters present shall proceed by electing a chairman, secretary, and tally clerks. Nominations shall be in order, and when nominations have ceased, the nominees shall be announced by the secretary. The qualified voters present shall, by a written ballot, cast their vote for their choice from among the nominees. When the votes have been tabulated by the tally clerks, if no candidate has received a majority of the total votes cast, the two candidates receiving the largest number of votes shall be voted on in a second ballot, and the candidate receiving the largest number of votes shall be declared elected.

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

(c) The secretary shall record the proceedings of the meeting, and shall, within five days, certify to the State Soil Conservation

Board the name and the proper address of the person elected.

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

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

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

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

(g) If a vacancy occurs in the office of supervisor, the remaining supervisors, by majority vote, shall appoint a person to fill the unexpired term. Before a person appointed by the remaining supervisors to fill an unexpired term may take office, his appointment must be approved by the State Soil and Water Conservation Board.

(h) A majority of the supervisors shall constitute a quorum and the concurrence of a ma-

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

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

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

(k) The supervisors may invite the legislative body of any municipality or county located within or near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

Powers of Districts and Supervisors

Sec. 7. A Soil Conservation District organized under the provisions of this Act shall constitute a governmental subdivision of this State and a public body corporate and politic

exercising public powers, and such District and the supervisors thereof shall have the following powers, in addition to others granted in other sections of this Act:

(1) To carry out preventive and control measures within the District including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in Subsection c, of Section 2 of this Act, on lands owned or controlled by this State or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the District upon obtaining the consent of the occupiers of such lands or the necessary rights or interests in such lands;

(2) To co-operate or enter into agreements with, and, within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the District, in the carrying on of erosion control and prevention operations within the District, subject to such conditions as the supervisors may deem necessary to advance the purposes of this Act;

(3) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal, or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties, and to expend such income in carrying out the purposes and provisions of this Act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this Act;

(4) To make available, on such terms as it shall prescribe, to land occupiers within the Districts, agricultural and engineering machinery and equipment, fertilizer, seeds and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(5) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this Act;

(6) To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the District, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing

of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the District;

(7) To take over, by purchase, lease, or otherwise, and to administer, any soil conservation, erosion control, or erosion prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this State or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this State or any of its agencies, any soil conservation, erosion control, or erosion prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this State or any of its agencies in connection with the acquisition, construction, operation, or administration of any soil conservation, erosion control, or erosion prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this State or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(8) To sue and be sued in the name of the District; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers, to make, and from time to time amend and repeal, rules and regulations not inconsistent with this Act, to carry into effect its purposes and powers;

(9) As a condition to the extending of any benefits under this Act to, or the performance of work upon, any lands not owned or controlled by this State or any of its agencies, the supervisors may require contributions in the form of services, materials, or otherwise to any operation conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon.

(10) The supervisors shall have no power to levy taxes, and no debts incurred in the name of the District shall create a lien on lands of landowners or land occupiers in the District.

(11) (a) The supervisors may execute notes on the faith and credit of the District payable from current funds or revenues within reasonable contemplation, or both, but none of which moneys shall be derived from the State, for the purpose of making repairs, additions and improvements to any property and equipment owned by the District. Such note shall

mature not later than twelve (12) months from its date, and may bear interest not to exceed six percent (6%) per annum.

(b) Any such note or notes may be secured by a lien on the property or equipment to which such repairs, additions or improvements are to be made, provided such property or equipment was not acquired from the State nor with moneys derived from the State.

Adoption of Land-Use Regulations

Sec. 8. When petitioned by fifty (50) or more landowners within the district, the supervisors of any district shall have the authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have caused due notice to be given of their intention to conduct an election for submission of such regulations to the landowners within the boundaries of the district for their indications of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such election. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for inspection during the period between publication of such notice and the date of the election. The notices of the election shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed Ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed Ordinance No. _____, prescribing land-use regulations for conservation of soil and prevention of erosion," shall appear. The supervisors shall supervise such election, shall prescribe appropriate regulations covering the conduct thereof, and shall announce the result thereof. All owners of land within the district shall be eligible to vote in such election. Only such landowners shall be eligible to vote. The supervisors shall not have authority to enact such proposed ordinance into law unless at least nine-tenths of the votes cast in such election shall have been cast for approval of the said proposed ordinance. The approval of the proposed ordinance by nine-tenths of the votes cast in such election shall be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinance adopted pursuant to the provisions of this Section shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of land within such district.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this Section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provisions of this Section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this Section for adoption of land-use regulations or in accordance with variances authorized in Section 10 of this Act; provided, however, that such suspension or repeal may be effected by a majority vote of the qualified voters voting at such election. Elections on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this Section may include:

(1) Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check dams, dikes, ponds, ditches, and other necessary structures;

(2) Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees, and grasses, forestations, and reforestations;

(3) Specifications of cropping programs and tillage practices to be observed;

(4) Provisions requiring the retirement from cultivation of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

(5) Provisions for such other means, measures, operations, and programs as may assist conservation of soil resources, and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in Section 2 of this Act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened, or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type or class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all owners and occupiers of land lying within the district.

Performance of Work Under the Regulations by
the Supervisors

Sec. 9. The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of Section 8 of this Act are being observed.

Where the supervisors of any district shall find that any of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of Section 8 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to any Court of competent jurisdiction a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the Court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform, the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the occupier of such land. Upon the presentation of such petition, the Court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the Court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the Court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the Court shall be made. The Court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performance within the time specified in the order of the Court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon the lands involved and perform the work or operation or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, from the occupier of such lands, provided further, that in no case shall the total charge for the work done by said supervisors or anyone under them, and to be charged against said lands, ever exceed for any calendar year, ten (10) per cent of the assessed valuation of said lands for State and county purposes. In all cases where the person in possession of lands who shall fail to perform such work, opera-

tions, or avoidances, shall not be the owner, the owner of such lands shall be joined as a party defendant.

The Court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the Court the supervisor may file a petition with the Court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The Court shall have jurisdiction to enter judgment for the amount of such costs and expenses, together with the costs of suit, including reasonable attorney's fee to be fixed by the Court. Such judgments shall be collected in the same manner as that provided for the collection of assessments in Wind Erosion Conservation Districts created by authority of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature of Texas.¹

¹ Article 165a-2.

Board of Adjustment

Sec. 10. A. Where the supervisors of any district organized under the provisions of this Act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of Section 9 hereof, they shall further provide by ordinance for the establishment of a Board of Adjustment. Such Board of Adjustment shall consist of three (3) members, each to be appointed for a term of two (2) years, except that one of the members first appointed shall be appointed for a term of one year, or until his successor is elected and qualified. The members of each such Board of Adjustment shall be appointed by the State Soil Conservation Board, with the advice and approval of the supervisors of the district for which such Board of Adjustment has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly by the State Soil Conservation Board and the supervisors of the district.

Vacancies in the Board of Adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State Soil Conservation Board and the supervisors of the district shall be ineligible to appointment as members of the Board of Adjustment during their tenure of such other office. The members of the Board of Adjustment shall receive compensation for their services at the rate of Three Dollars (\$3) per diem for time spent on the work of the Board, not to exceed ten (10) days each year to be paid by the State Soil Conservation Board from appropriations made for that purpose.

The supervisors shall pay the necessary administrative and other expenses of operation incurred by the Board of Adjustment upon the certificate of the chairman of the said Board.

B. The Board of Adjustment shall adopt rules to govern its procedures which rules shall be in accordance with the provisions of this Act and with the provisions of any ordinance adopted pursuant to this section. The Board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. Any two (2) members of the Board of Adjustment shall constitute a quorum. The chairman, or in his absence such other member of the Board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the Board of Adjustment and shall be a public record.

C. An occupier of land within the district may file a petition with the Board of Adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the Board of Adjustment to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied or owned by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of the supervisors of the district within which his lands are located and upon the Chairman of the State Soil Conservation Board. The Board of Adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State Soil Conservation Board shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the Board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the Board shall determine that there are great practical difficulties or unnecessary hardships in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the Board of Adjustment shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations

shall be observed, the public health, safety, and welfare secured, and substantial justice done.

Cooperation Between Districts

Sec. 11. The supervisors of any two (2) or more districts organized under the provisions of this Act may cooperate with one another in the exercise of any or all powers conferred in this Act.

State Agencies to Cooperate

Sec. 12. Agencies of this State which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the State, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this Act. The supervisors of such district shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to Section 8 of this Act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

Discontinuance of Districts

Sec. 13. At any time after five (5) years after the organization of a District under the provisions of this Act, any fifty (50) or a majority of the landowners within the boundaries of such district may file a petition with the State Soil Conservation Board praying that the operations of the district be terminated and the existence of the district discontinued. The Board may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the Board, it shall give due notice of the holding of an election, and shall supervise such election and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words: "For terminating the existence of the _____ (name of the Soil Conservation District to be here inserted)," and "Against terminating the existence of the _____ (name of the Soil Conservation District to be here inserted)," shall appear.

All owners of land within the boundaries of the district shall be eligible to vote in such election. Only such landowners shall be eligible to vote.

The Board shall publish the result of such election and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practicable and feasible. If the Board shall determine that the continued oper-

ation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the Board shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the Board shall give due regard and weight to the attitudes of the owners of lands lying within the district, the number of landowners eligible to vote in such election who shall have voted, the proportion of the votes cast in such election in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the landowners of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislative findings set forth in Section 2 of this Act; provided however, that the Board shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a majority of the votes cast in the election shall have been cast in favor of the continuance of such district.

Upon receipt from the State Soil Conservation Board of a certification that the Board has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall transfer all property belonging to the district to the State Soil Conservation Board which may either dispose of it at public auction, and pay over the proceeds of such sale to be covered into the State Treasury, or make the property available for use by other districts. The supervisors shall thereupon file an application, duly verified, with the Secretary of State for the discontinuance of such district, and shall transmit with such application the certificate of the State Soil Conservation Board, setting forth the determination of the Board that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of as in this section provided and shall set forth a full accounting of such properties. The Secretary of State shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State Soil Conservation Board

shall be substituted for the district or supervisors as party to such contracts. The Board shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon and to modify or terminate such contracts by mutual consent or otherwise, as the supervisors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of Section 9 of this Act, nor the pendency of any action instituted under the provisions of such Section, and the Board shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State Soil Conservation Board shall not entertain petitions for the discontinuance of any district nor conduct elections upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this Act, more often than once in five (5) years.

[Acts 1939, 46th Leg., p. 7; Acts 1941, 47th Leg., p. 491, ch. 308, § 1; Acts 1959, 56th Leg., p. 743, ch. 337, § 1, eff. May 30, 1959; Acts 1959, 56th Leg., p. 944, ch. 439, § 1, eff. May 30, 1959; Acts 1965, 59th Leg., p. 261, ch. 109, §§ 1, 2, 4, 5, eff. Sept. 1, 1965; Acts 1967, 60th Leg., p. 424, ch. 189, §§ 1, 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 247, ch. 94, § 1, eff. Sept. 1, 1969.]

Change of Names

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

Sections 2 to 5 of the amendatory Act of 1941, read as follows:

"Sec. 2. Preserving action taken under House Bill No. 20, Acts, Forty-sixth Legislature, Regular Session [incorporated in article 165a-4 as amended by section 1 of the repealing act]. House Bill No. 20, Acts Forty-sixth Legislature, Regular Session, is hereby repealed; but nothing in this Act, amending House Bill No. 20, Acts of the Forty-sixth Legislature, Regular Session, shall invalidate any action authorized to be taken under said House Bill No. 20, where said action shall have been taken prior to the effective date of this amendment.

"Sec. 3. Separability Clause. If any provisions of this Act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the Act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

"Sec. 4. Inconsistency with other Acts. In so far as any of the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling, except where otherwise indicated in this Act.

"Sec. 5. Repealing and Affirming Certain Acts. A. Senate Bill No. 227, passed by the Regular Session of the Forty-fourth Legislature, page 504 [Art. 165a-1] is hereby repealed.

"B. This Act shall not in anywise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session, [Article 2372c] but the same is hereby expressly preserved in accordance with terms thereof.

"C. This Act shall not in anywise affect, impair, nor impinge upon the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature, [Art. 165a-2], under which Wind Erosion Conservation Districts have been created or may hereafter be created, but the same is expressly preserved in accordance with the terms thereof; the State Soil Conservation Board shall have authority, working with the governing bodies of the Wind Erosion Conservation Districts, to put into operation in said Wind Erosion Conservation Districts

such provisions of this Act as are not in conflict with the provisions of House Bill No. 978, Acts of the Regular Session of the Forty-fourth Legislature.

"D. This Act shall not in anywise repeal Senate Bill No. 386, Acts of the Forty-fifth Legislature, Regular Session, Title 128, ch. 8 note, but the same is hereby expressly preserved in accordance with terms thereof."

Acts 1965, 59th Leg., p. 261, ch. 109, which amended various sections of this article and which amended article 165a-10, provided in section 5: "Subdivision (5), Section 3, and Subsection B, Section 4, Chapter 3, page 7, General Laws, Acts of the 46th Legislature, Regular Session, 1939, as amended and renumbered by Chapter 308, Acts of the 47th Legislature, Regular Session, 1941 (Article 165a-4, Vernon's Texas Civil Statutes) are repealed."

Art. 165a-4a. Watershed Protection and Flood Prevention; Contracts for Work Plans

The State Soil Conservation Board is hereby authorized to contract with an agency or agencies of the State of Texas, or of the United States, or with private firm or firms, for the development of such plans as may be necessary for securing detailed information for and development of work plans for location, design, installation and construction of structures and other works of improvement for the reduction and prevention of floods in State approved watershed protection and flood prevention projects of 250,000 acres or less.

[Acts 1961, 57th Leg., p. 988, ch. 431, § 1, eff. Aug. 28, 1961.]

Art. 165a-5. Rental of County Machinery to Landowners in Counties of 290,000 to 320,000

The Commissioners' Court in any County having a population of not less than two hundred ninety thousand (290,000) and not more than three hundred twenty thousand (320,000), according to the last United States Census may, by an order duly entered upon the minutes of said court, rent or let, direct to any landowner in said County, any tractor, grader, machinery or equipment belonging to said County, to be used by said landowner exclusively upon land situated in said County, in the construction of terraces, dikes and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; provided that no such tractor, grader, machinery or equipment shall be rented or let at a time when the County is using or in the need of the use of the same, and provided further, that the amount to be paid by the landowner to the County for the use of such tractor, grader, machinery or equipment shall be agreed upon by the Commissioners' Court and the landowner and shall be specified in the order renting or letting the same.

[Acts 1939, 46th Leg., Spec.L., p. 589, § 1.]

Art. 165a-6. Rental of County Machinery to Landowners in Counties of 320,000 to 360,000

The Commissioners Court in any county having a population of not less than three hundred and twenty thousand (320,000) and not more than three hundred and sixty thousand (360,

000), according to the last United States Census may, by an order duly entered upon the minutes of said Court, rent or let, direct to any landowner in said county, any tractor, grader, machinery, or equipment belonging to said county, to be used by said landowner exclusively upon land situated in said county, in the construction of terraces, dikes, and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; provided that no such tractor, grader, machinery, or equipment shall be rented or let at a time when the county is using or in need of the use of the same, and provided further, that the amount to be paid by the landowner to the county for the use of such tractor, grader, machinery, or equipment shall be agreed upon by the Commissioners Court and the landowner and shall be specified in the order renting or letting the same.

[Acts 1941, 47th Leg., p. 435, ch. 268, § 1.]

Art. 165a-7. Rent of County Machinery to Landowners in Counties of 60,000 to 80,000 and Counties of 22,000 to 23,000

Sec. 1. The Commissioners Court in any county having a population of not less than sixty thousand (60,000) and not more than eighty thousand (80,000), according to the last United States Census, may by an order duly entered upon the Minutes of said Court, rent or let, direct to any landowner in said county any tractor, grader, machinery, or equipment belonging to said county, to be used by said landowner exclusively upon land situated in said county, in the construction of terraces, dikes, and ditches for the purpose of soil conservation and soil erosion prevention and for the purpose of constructing water tanks and reservoirs; provided that no such tractor, grader, machinery, or equipment shall be rented or let at a time when the county is using or in need of the use of the same, and provided further, that the amount to be paid by the landowner to the county for the use of such tractor, grader, machinery, or equipment shall be agreed upon by the Commissioners Court and the landowner and shall be specified in the order renting or letting the same.

Sec. 2. The provisions of this Act shall also apply to counties in this State having a population of not less than twenty-two thousand (22,000) or more than twenty-three thousand (23,000) population, according to the last preceding Federal Census.

[Acts 1941, 47th Leg., p. 604, ch. 372.]

Arts. 165a-8, 165a-9. Repealed by Acts 1953, 53rd Leg., p. 823, ch. 332, § 13

Art. 165a-10. Funds; Powers and Duties of Supervisors; Discontinuance of Districts; Conventions

Reappropriation of Unexpended Balances

Sec. 1. In pursuance of the mandate of the Conservation Amendment (Article XVI, Sec-

tion 59A) to the Constitution of this State and of the Soil Conservation Statutes relating to and authorizing the creation and operation of Soil Conservation Districts as bodies politic, and recognizing and declaring the existence of a public calamity resulting from drought and wind and water erosion of soil throughout this State, and for the purpose of carrying out the mandatory Constitutional and Statutory provisions relating to the conservation of soil in this State, there is hereby appropriated all unexpended balances of funds and properties heretofore appropriated or granted to Soil Conservation Districts by Chapter 332, Acts of the Fifty-third Legislature, Regular Session, 1953, to be used and expended as provided for under the Soil Conservation Statutes and by this Act.

Deposit and Withdrawal of Funds

Sec. 2. The Soil Conservation Funds so appropriated to Conservation Districts shall be deposited in State or National Banks and shall be withdrawn upon approval of the Board of Supervisors of a District by checks or orders signed by the Chairman and Secretary of the Board of Supervisors of the District.

Bonds; Accounts and Records; Audits

Sec. 3. (a) The Board of Supervisors of a District shall provide that all officers and employees entrusted with funds or property of a District are bonded in accordance with the State Employee Bonding Act.

(b) The Board shall provide for keeping full and accurate accounts, records of proceedings, resolutions, regulations, and orders issued or adopted.

(c) The Board shall provide for an audit of the District's accounts as of August 31 of every second year by a Registered Public Accountant. The Board shall furnish a copy of the audit to the Governor and to the Legislative Budget Board not later than January 1 of the year following the audit.

(d) The cost for keeping accounts and making audits may be paid out of any funds available to a District.

Purchase and Sale of Machinery, Equipment and Supplies

Sec. 4. The Supervisors of a District shall not purchase any machinery, equipment, seeds, fertilizer, or other supplies except upon demand made in writing to the Board of Supervisors by not less than ten (10) landowners and occupiers within the District, and such Board of Supervisors shall not purchase any machinery, equipment, seeds, fertilizer, or other supplies until they have entered upon the minutes of the Board of Supervisors a finding: (a) A sufficient demand exists for use within the District to justify purchase, (b) the revenue to be derived from said purchased item will be reasonably expected to pay the cost of replacement. Subject to the foregoing rules the Supervisors of a District may purchase and make available to landowners and occupiers seeds, fertilizers and other supplies including ma-

chinery, and equipment when considered to be essential to the purposes of a District Program, and shall provide for maintenance, insurance, storage and repair of such machinery and equipment. From the sale of any fertilizer and seed the District's funds shall be reimbursed for the costs and handling charges thereof. Any machinery or equipment considered obsolete or as having served its purpose may be sold by the Board of Supervisors of a District on open bids. The cash received from the sale of machinery, equipment or any supplies shall be deposited to the District's funds and be used for other operations. Nominal charges may be made small landowners and occupiers for projects benefiting them when considered to be in the interest of the general welfare.

**Purchases Made through Board of Control;
Deposit of Funds**

Sec. 5. The purchase of machinery and equipment shall be made through the State Board of Control under the terms and regulations required by Law governing purchases for the State or political subdivisions thereof. The funds earned or acquired by a District prior to receiving any State funds, or from any operation or sale of machinery and equipment so acquired shall be deposited in a trust fund account of the District and used for any purpose considered for the best interest of the District.

**Information Demonstrated, Publicized or Made
Available**

Sec. 6. Any pertinent information relating to legumes, cover crops, seeding, tillage, land preparation and management of grasses, seeds, legumes, cover crops, including the eradication of noxious growth under good conservation practices, shall be by the Board of Supervisors demonstrated, publicized or otherwise made available to landowners and occupiers.

How Districts Discontinued

Sec. 7. A Soil Conservation District may be discontinued by a majority vote of the qualified voters in the same manner of its creation. The certification by the State Soil Conservation Board to the Secretary of State shall suffice as notice for the discontinuance of a District.

**Disposition of Funds and Equipment on
Discontinuance of District**

Sec. 8. After a discontinuance of a District has been authorized as provided in Section 7 hereof, all machinery, equipment and supplies purchased with State funds shall be sold at public sale by the Supervisors and the cash received, together with any State funds to the credit of the District, shall be by the Secretary of the Board of Supervisors transferred to State's General Fund, unless the dissolution was for the purpose of adjusting the boundary lines and is immediately reorganized by a majority vote of the landowners, whereupon the funds and equipment of the dissolved District

shall pass to the reorganized District. Should more than one District be created under the reorganization, the funds and equipment shall be divided under terms satisfactory to the Board of Supervisors of such reorganized Districts.

Notice of District Convention; Election of Delegates

Sec. 9. It shall be the duty of the Texas Soil Conservation Board to notify the Chairman and Secretary of the Board of Supervisors of each District in the five State Districts, where in such State Districts, the District Conservation Convention will meet, at least (60) days before the date of the Convention. Within ten (10) days after receiving such notice, the Chairman of the Board of Supervisors of each Local District in each State District wherein an election is to be held shall call a meeting of the Board of Supervisors for the purpose of electing a delegate and one alternate to the District Convention. The delegate and the alternate shall be landowners residing in the Local District and actively engaged in farming or ranching. Within ten (10) days after the selection of such delegate and alternate, the Chairman of the Board of Supervisors shall certify the names and addresses of the elected delegate and the alternate to the State Soil Conservation Board.

Transportation and Per Diem Allowances

Sec. 9A. The delegate elected to represent each local soil conservation district at the State District Conservation Convention is entitled to a transportation allowance of eight cents a mile for travel each way between the county seat of his county and the place where the district convention is held. The delegate, or the alternate, if the delegate does not attend, is entitled to a per diem allowance of \$10 a day, for not more than two days. The State Soil Conservation Board shall pay the transportation and per diem allowances.

Election of Members of State Soil Conservation Board

Sec. 10. The delegates of each of the five State District Conventions shall elect from among the qualified delegates by a majority vote, a member of the State Soil Conservation Board. The Chairman of each State Conservation District Convention shall within five (5) days thereafter certify to the Texas State Soil Conservation Board, and to the Secretary of State, the name and address of the person so elected. Each member of the State Soil Conservation Board shall be a qualified delegate to the State District Conservation Convention which elects his successor. A majority of the qualified delegates to the State District Convention shall constitute a quorum.

[Acts 1953, 53rd Leg., p. 823, ch. 332; Acts 1955, 54th Leg., p. 1626, ch. 526, § 1; Acts 1965, 59th Leg., p. 264, ch. 109, § 3, eff. Sept. 1, 1965; Acts 1967, 60th Leg., p. 425, ch. 190, § 1, eff. Aug. 28, 1967.]

Section 11 of the Act of 1953 provided that partial invalidity should not affect the remainder of the act and its application to other persons and circumstances. Section 12 provided that the act should be controlling in cases of conflicts with other laws except where otherwise indicated. Section 13 repealed Arts. 165a-8 and

165a-9. Section 14 provided that the repeal should not invalidate any action authorized to be taken under the repealed laws, and taken prior to the effective date of the Act of 1953.

CHAPTER TEN. MILK PRODUCERS AND DISTRIBUTORS

Article

- 165-1. Expired.
- 165-2. Codes of Fair Competition; Counties of 290,000 to 300,000 and 42,128 to 42,138 Population.
- 165-3. Milk Grading and Pasteurization.
- 165-3a. Texas Equal Health Standard Milk Sanitation Act of 1961.

Art. 165-1. Expired

Art. 165-2. Codes of Fair Competition; Counties of 290,000 to 300,000 and 42,128 to 42,138 Population

Legislative Policy

Sec. 1. It is hereby declared to be the policy of the Legislature of Texas to provide for the general welfare in an emergency hereby declared to exist by cooperating with the Federal Government in making effective the provisions of the National Agricultural Adjustment Act¹ and the National Industrial Recovery Act² within this State with reference to producers and distributors of milk and milk products to the end that disorganization of the dairy industry may be corrected and the value of this specialized agricultural commodity stabilized, such emergency being particularly acute in the larger centers of the State; to set up a code of fair practice as hereafter provided; and to eliminate unfair competition and practices in the production and distribution of milk and milk products.

¹ 7 U.S.C.A. §§ 601 to 620.

² Pertinent provisions incorporated in 15 U.S.C.A. §§ 701 to 712, now obsolete.

Definitions

Sec. 2. (a) The term "person" when used under this Act shall mean any individual, firm, co-partnership, or corporation.

(b) The term "producer" shall mean any person regularly engaged in the production of fluid milk for sale.

(c) "Distributors" mean any of the following persons engaged in the business of handling fluid milk:

1. Pasteurizers, bottlers or other processors of fluid milk.

2. Persons distributing fluid milk at wholesale or retail: To hotels, restaurants, stores or other establishments for consumption on the premises; to stores or other establishments for resale; or to consumers irrespective of whether any such person is also a producer of milk.

(d) The term "processor" shall mean any person who receives or buys milk or milk fats for the purpose of changing its nature or character by physical or chemical means into other forms, such as butter, cheese, ice cream, frozen milk, condensed milk, buttermilk, chocolate, or

other flavored milk, or milk converted into any other form.

(e) The term "fluid milk" when used under the provisions of this Act shall mean the fresh clean lacteal secretion obtained by the milking of one or more healthy cows which secretion has not been soured nor been skimmed or separated; that it has not less than eight and one-half per cent (8½%) of solids not fat, and not less than three and one-fourth per cent (3¼%) milk fat, nor been churned, nor evaporated, or condensed, nor been reduced to powdered form, nor otherwise processed so as to materially change its original condition.

(f) The term "milk industry" when used in this Act shall mean producers, distributors and processors of milk and milk products as defined in this Act.

(g) The term "milk products" when used under this Act shall mean all products of fluid milk, such as sour and sweet cream, skimmed milk, butter, cheese, ice cream, frozen milk, condensed milk, evaporated milk, powdered milk, powdered skim milk, buttermilk, chocolate milk or other flavored milks.

(h) The term "Commissioner" when used in this Act shall mean the Commissioner of Agriculture of the State of Texas.

(i) The term "Board" when used in this Act shall mean the local Milk Industry Board of the county or counties concerned.

(j) The term "members" when used in this Act shall mean the members of the Milk Industry Board.

(k) The term "milk shed" shall include all producers and producer operators who now hold permits from the Health Department to sell milk in any area or areas affected by this Act.

(l) The term "production area" means that area defined by the Milk Industry Board.

(m) The term "due notice" shall mean the mailing of a notice to all of the parties affected, or in lieu thereof, of an advertisement published in a daily newspaper, or in the event there is no daily newspaper then in any other publication of regular issue, said publication to be published in the territory affected. Said advertisement shall be a display advertisement and shall be of a size at least two (2) columns by six (6) inches. Said notice shall be mailed or shall be published at least five (5) days previous to the time of the hearing and it shall contain information as to the time and place of the hearing, and shall state where a copy of the code or a contemplated change in an existing code may be secured.

(n) A "retail outlet" shall be a person who handles milk and/or milk products for resale to people who customarily do not consume them on the premises where sold.

Milk Industry Board; Approval of Code or Agreement for Fair Competition

Sec. 3. Any representative group engaged in the milk industry, in any county having a

population not less than two hundred and ninety thousand (290,000) and not more than three hundred thousand (300,000) and in any county having a population of not less than forty-two thousand one hundred twenty-eight (42,128) and not more than forty-two thousand one hundred thirty-eight (42,138) at such time, may submit to the Board hereinafter authorized a code or agreement of fair competition and trade practices. In each county of the above mentioned class, a local Milk Industry Board of five (5) members shall be elected, as follows: Two (2) members of the Board shall be elected by the contracting producers; two (2) by the contracting distributors; and the fifth member, to represent the consumers, shall be elected by the other four (4). Such fifth member shall be a resident of the sales area and shall have no connection, financially or otherwise, with the distribution of milk or products derived therefrom. The fifth member shall be designated by the Commissioner in the event such member is not elected within five (5) days of the effective date of this agreement by the four (4) members as above provided.

Members representing the contracting producers and contracting distributors, respectively, shall be elected by the respective parties in a manner to be determined by themselves, provided that a vote of producers representing not less than seventy per cent (70%) of the total volume of milk produced within the production area, for distribution as fluid milk during the calendar month next preceding such election which percentage of distribution shall include ten per cent (10%) of the distributors by number, respectively, shall be necessary for such election. Upon election the names of all the members shall be certified by the party or parties conducting such election to the Commissioner for his approval. The Commissioner may require that such certification include a statement of the manner and vote by which the respective members were elected and the percentage of the total production or sales of fluid milk within the area represented by such vote. Members whose names have been certified to the Commissioner and approved by him shall enter upon the discharge of their duties. The certificate of the Commissioner approving such member shall be prima facie evidence that such member has been elected by the required number and percentage of the total volume of milk of the group from which he was elected. If the Commissioner shall not approve a member, there shall be a vacancy on the Milk Industry Board. Any member may be removed with or without cause, by vote of all producers or distributors, as the case may be, representing a volume of milk equal to at least three-fourths ($\frac{3}{4}$) of the volume and number by which he was originally elected. Any vacancies on the Milk Board shall be filled in the same manner and by the same parties as provided for the original election.

The Milk Industry Board shall be organized by the members by the selection of a chairman,

vice-chairman, who shall be members, and a secretary-treasurer who may or may not be a member. The Milk Industry Board shall employ such agents, assistants and clerks as may be necessary to perform its duties. All officers and employees of the Milk Industry Board who handle funds of the Milk Industry Board or who sign or countersign checks upon such funds shall severally give bonds in such amounts and with such sureties as shall be determined by the Milk Industry Board. The cost of such bonds shall be paid by the Milk Board.

The members shall serve without compensation, but shall be entitled to reimbursement for the expenses incurred in the performance of their duties.

Said Board shall then provide for due notice to the parties interested and for a hearing on the proposed code and/or agreement. Said Board shall make such changes and modifications, if any, in such proposed code as in its discretion will tend to effectuate the policies herein declared. Any proposed code and/or agreement that receives the approval on matters affecting the distributors of ten per cent (10%) of their number and sixty per cent (60%) of their volume sold in the milk shed or trade territory affected, and affecting producers of fifty-one per cent (51%) of their number and seventy per cent (70%) of their volume represented in the milk shed affected, shall become a duly constituted code upon receiving the approval of the Board. The Board shall not approve a code or an agreement unless said code contains ample protection for consumers, competitors and tends to effectuate the policies herein declared. Every distributor and every processor and every retail outlet for milk or milk products, as defined in this Act, shall apply to the Board for a certificate of authority following the approval of a code and/or agreement to engage in such milk industry in the territory affected, and no distributor or processor or retail outlet after the effective date of said code, codes or agreements shall engage in or carry on any milk industry in any area where such code, codes or agreements are in effect without such certificate of authority. Every person required to procure a certificate of authority shall pay to the Board One Dollar (\$1.00) for each certificate issued, said certificate to be valid for a period of one year from date issued, unless revoked sooner as herein provided.

Violation of Code as Unfair Competition

Sec. 4. After the Board shall have approved such code, codes, or agreements, the provisions thereof shall be the standard of fair competition for such milk industry within the area defined in such code, codes or agreements, and any violations of such standards in any transaction in or affecting the milk industry in such area shall be deemed to be an unfair method of competition within the meaning of this Act.

District Court to Restrain Violations of Code

Sec. 5. Any District Court in the State of Texas having jurisdiction over the territory or any portion thereof where such code, codes or agreements are made effective is hereby invested with jurisdiction, and it is hereby made the duty of said Courts to prevent and restrain violations of any such code, codes or agreements of fair competition approved under this Act by the Board and/or provision of this Act, and it shall not be necessary in such suit for the plaintiff to allege and prove that such plaintiff will suffer irreparable injury, or any damage; nor that it does not have an adequate and complete remedy at law. It shall be the duty of the several District Attorneys authorized to act in said localities to institute, under the direction of the Board, proceedings in equity to restrain such violations.

Amendment of Code or Agreement

Sec. 6. Any code, codes or agreements approved by the Board under the authority of this Act may be amended, changed, enlarged, modified or suspended upon the Board's own motion and upon the approval on matters affecting distribution of ten per cent (10%) of the distributors affected in numbers and sixty per cent (60%) of the volume of the distributors affected and upon the approval on matters affecting production of fifty-one per cent (51%) of the producers affected and seventy per cent (70%) of the volume affected, or upon the application and approval on matters affecting distribution of ten per cent (10%) of the distributors affected in numbers and sixty per cent (60%) of the volume of the distributors affected, and on matters affecting production of fifty-one per cent (51%) of the producers affected and seventy per cent (70%) of the volume affected. The Board must provide for due notice and public hearing of contemplated changes.

Revocation of Certificate of Authority

Sec. 7. (a) The Board may suspend or revoke such certificate of authority after due notice and opportunity for hearing for violation of the terms and provisions of any code adopted and approved under the authority of this Act.

(b) Any distributor or processor or retail outlet who without such a certificate of authority carries on any transaction in the intrastate handling of milk products for which a certificate of authority is so required shall upon conviction thereof be fined not to exceed Two Hundred Dollars (\$200.00) and each day such violation continues shall be deemed a separate offense.

(c) Any officer, agent or servant of any corporation violating any provision of this Title shall be individually and personally subject to the punishment provided for in Section 7, subsection (b) of this Act whenever any such officer, agent or servant had knowledge of such violation by the corporation at the time same was committed and where it was at the time of

such violation within the power of such officer, agent or servant to prevent same.

Code to Provide for Administration Funds

Sec. 8. Any code, codes or agreements authorized hereunder shall provide for and have authority and power to provide for the necessary funds for the administration thereof. These funds shall include a sum not to exceed two (2) cents per one hundred (100) pounds of milk, or its equivalent, which shall, with all other fees for the certificate of authority, filing of codes or agreements, be paid into the Milk Industry Board, to be used for expenses in the administration of their duties. These funds shall be based on the milk sold as fluid milk and shall be paid by distributors for each calendar month within fifteen (15) days following the last of each month, direct to the Milk Industry Board.

Partial Invalidity

Sec. 9. If any section or provision of this Act shall be declared unconstitutional or invalid for any reason, such decision shall not affect any other provision or portion of this Act, and such other provisions shall remain in full force and effect.

Prima Facie Validity of Acts

Sec. 10. All acts of any such Board shall be prima facie valid.

Anti-trust Laws not Affected

Sec. 11. Provided the provisions of this Act shall not alter, repeal, change, modify or anyway change the purpose of the Anti-trust Laws of the State of Texas.¹

[Acts 1934, 43rd Leg., 3rd C.S., p. 93, ch. 47.]

¹ Article 7426 et seq. (Repealed. See now Business and Commerce Code, § 15.01 et seq.).

Art. 165-3. Milk Grading and Pasteurization

Definitions

Sec. 1. The following definitions shall apply in the interpretation and enforcement of this Act:

A. Milk. Milk is hereby defined to be the lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows, which contains not less than 8¼ percent milk solids-not-fat and not less than 3¼ percent milkfat. (Milkfat or butterfat is the fat of milk.)

A-1. Goat Milk. Goat milk is the lacteal secretion, practically free from colostrum, obtained by the complete milking of healthy goats. The word "milk" shall be interpreted to include goat milk.

B. Cream. Cream is the sweet, fatty liquid separated from milk, with or without the addition of milk or skim milk, which contains not less than 18 percent milkfat.

B-1. Light Cream, Coffee Cream, or Table Cream. Light cream, coffee cream, or table cream is cream which contains not

less than 18 percent but less than 30 percent milkfat.

B-2. Whipping Cream. Whipping cream is cream which contains not less than 30 percent milkfat.

B-3. Light Whipping Cream. Light whipping cream is cream that contains not less than 30 percent but less than 36 percent milkfat.

B-4. Heavy Cream or Heavy Whipping Cream. Heavy cream or heavy whipping cream is cream which contains not less than 36 percent milkfat.

B-5. Whipped Cream. Whipped cream is whipping cream into which air or gas has been incorporated. Optional ingredients as defined in this Section under Definition S may be used in these products.

B-6. Whipped Light Cream, Coffee Cream, or Table Cream. Whipped light cream, coffee cream, or table cream is light cream, coffee cream, or table cream into which air or gas has been incorporated. Optional ingredients as defined in this Section under Definition S may be used in these products.

B-7. Sour Cream or Cultured Sour Cream. Sour cream or cultured sour cream is a fluid or semifluid cream resulting from the souring, by lactic acid producing bacteria or similar culture, of pasteurized cream, which contains not less than 0.20 percent acidity expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in this product.

C. Half-and-Half. Half-and-half is a product consisting of a mixture of milk and cream which contains not less than 10.5 percent milkfat. Optional ingredients as defined in this Section under Definition S may be used in this product.

C-1. Sour Half-and-Half or Cultured Half-and-Half. Sour half-and-half or cultured half-and-half is fluid or semifluid half-and-half derived from the souring, by lactic acid producing bacteria or similar culture, or pasteurized half-and-half, which contains not less than 0.20 percent acidity expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in this product.

D. Reconstituted or Recombined Milk and Milk Products. Reconstituted or recombined milk and/or milk products shall mean milk or milk products defined in this Section which result from the recombining of milk constituents with potable water. Optional ingredients as defined in this Section under Definition S may be used in these products.

E. Concentrated Milk. Concentrated milk is a fluid product, unsterilized and unsweetened, resulting from the removal of a considerable portion of the water

from milk, which, when combined with potable water, results in a product conforming with the standards for milkfat and solids-not-fat of milk as defined above. Optional ingredients as defined in this Section under Definition S may be used in this product.

E-1. Concentrated Milk Products. Concentrated milk products shall be taken to mean and to include homogenized concentrated milk, vitamin D concentrated milk, concentrated skim milk, fortified concentrated skim milk, concentrated lowfat milk, fortified concentrated lowfat milk, concentrated flavored milk, concentrated flavored milk products, and similar concentrated products made from concentrated milk or concentrated skim milk, and which, when combined with potable water in accordance with instructions printed on the container, conform with the definitions of the corresponding milk products in this section. Optional ingredients as defined in this Section under Definition S may be used in these products.

F. Skim Milk or Skimmed Milk. Skim milk or skimmed milk is milk from which sufficient milkfat has been removed to reduce its milkfat content to less than 0.50 percent. Optional ingredients as defined in this Section under Definition S may be used in this product.

G. Lowfat Milk. Lowfat milk is milk from which a sufficient portion of milkfat has been removed to reduce its milkfat content to not less than 0.50 percent and not more than 2.0 percent. Optional ingredients as defined in this Section under Definition S may be used in this product.

H. Vitamin D Milk and Milk Products. Vitamin D milk and milk products are milk and milk products, the vitamin D content of which has been increased by an approved method to at least 400 U.S.P. units per quart. Optional ingredients as defined in this Section under Definition S may be used in these products.

I. Fortified Milk and Milk Products. Fortified milk and milk products are milk and milk products other than vitamin D milk and milk products, the vitamin and/or mineral content of which have been increased by a method and in an amount approved by the health authority. Optional ingredients as defined in this Section under Definition S may be used in these products.

J. Homogenized Milk. Homogenized milk is milk which has been treated to insure breakup of the fat globules to such an extent that, after 48 hours of quiescent storage at 45° F., no visible cream separation occurs on the milk, and the fat percentage of the top 100 milliliters of milk in a quart, or of proportionate volumes in containers of other sizes, does not differ by more than 10 percent from the fat per-

centage of the remaining milk as determined after thorough mixing. The word "milk" shall be interpreted to include homogenized milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

K. Flavored Milk or Milk Products. Flavored milk or milk products shall mean milk and milk products as defined in this Act to which has been added a flavor and/or sweetener. Optional ingredients as defined in this Section under Definition S may be used in these products.

L. Buttermilk. Buttermilk is a fluid product resulting from the manufacture of butter from milk or cream. It contains not less than $8\frac{1}{4}$ percent of milk solids-not-fat. Optional ingredients as defined in this Section under Definition S may be used in this product.

L-1. Cultured Buttermilk. Cultured buttermilk is a fluid product resulting from the souring, by lactic acid producing bacteria of similar culture, of pasteurized skim milk or pasteurized lowfat milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

M. Cultured Milk or Cultured Whole Milk Buttermilk. Cultured milk or cultured whole milk buttermilk is a fluid product resulting from the souring, by lactic acid producing bacteria of similar culture, of pasteurized milk. Optional ingredients as defined in this Section under Definition S may be used in this product.

N. Acidified Milk and Milk Products. Acidified milk and milk products are milk and milk products obtained by the addition of food grade acids to pasteurized cream, half-and-half, milk, lowfat milk, or skim milk, resulting in a product acidity of not less than 0.20 percent expressed as lactic acid. Optional ingredients as defined in this Section under Definition S may be used in these products.

O. Milk Products. Milk products include cream, light cream, coffee cream, table cream, whipping cream, light whipping cream, heavy cream, heavy whipping cream, whipped cream, whipped light cream, whipped coffee cream, whipped table cream, sour cream, cultured sour cream, half-and-half, sour half-and-half, cultured half-and-half, reconstituted or recombined milk and milk products, concentrated milk, concentrated milk products, skim milk, skimmed milk, lowfat milk, fortified milk and milk products, vitamin D milk and milk products, homogenized milk, flavored milk or milk products, buttermilk, cultured buttermilk, cultured milk, cultured whole milk buttermilk, and acidified milk and milk products. Optional ingredients as defined in this Section under Definition S may be used in these products.

This definition is not intended to include such products as sterilized milk and milk products hermetically sealed in a container and so processed, either before or after sealing, as to prevent microbial spoilage, or evaporated milk, condensed milk, ice cream and other frozen desserts, butter, dry milk products (except as defined herein), or cheese except when they are combined with other substances to produce any pasteurized milk or milk product defined herein.

P. Grade "A" Raw Milk or Milk Products. Grade "A" raw milk or milk products are milk or milk products which have been produced and handled in accordance with the specifications and requirements as promulgated by the Commissioner of Health and which grade and grade label has been determined and awarded by a City or County Health Officer or by his representative.

Q. Grade "A" Pasteurized Milk or Milk Products. Grade "A" pasteurized milk or milk products are milk or milk products which have been produced and pasteurized in accordance with the specifications and requirements as promulgated by the Commissioner of Health and which grade and grade label has been determined and awarded by a City or County Health Officer or by his representative; provided, however, that pasteurization of milk shall not constitute any change in the grade thereof and all milk shall be sold after pasteurization as the same grade as classified before pasteurization.

R. Grade "A" Dry Milk Products. Grade "A" dry milk products are milk products which have been produced for use in Grade "A" pasteurized milk products and which have been manufactured under the provisions of Grade "A" Dry Milk Products—Recommended Sanitation Ordinance and Code for Dry Milk Products Used in Grade "A" Pasteurized Milk Products.

S. Optional Ingredients. Optional ingredients shall mean and include Grade "A" dry milk products, concentrated milk, concentrated milk products, flavors, sweeteners, stabilizers, emulsifiers, acidifiers, vitamins, minerals, and similar ingredients.

T. Adulterated Milk and Milk Products. Any milk or milk product shall be deemed to be adulterated (1) if it bears or contains any poisonous or deleterious substance in a quantity which may render it injurious to health; (2) if it bears or contains any added poisonous or deleterious substance for which no safe tolerance has been established by State or Federal regulation, or in excess of such tolerance if one has been established; (3) if it consists, in whole or in part, of any substance unfit for human consumption; (4) if it has been

produced, processed, prepared, packed, or held under insanitary conditions; (5) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (6) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is.

T-1. Misbranded Milk and Milk Products. Milk and milk products are misbranded (1) when their container(s) bear or accompany any false or misleading written, printed or graphic matter; (2) when such milk and milk products do not conform to their definitions as contained in this Act; and (3) when such products are not labeled in accordance with the labeling requirements of the current edition of the United States Public Health Service Milk Ordinance.

U. Pasteurization. The terms "pasteurization," "pasteurized," and similar terms shall mean the process of heating every particle of milk or milk product to at least 145° F., and holding it continuously at or above this temperature for at least 30 minutes, or to at least 161° F., and holding it continuously at or above this temperature for at least 15 seconds, in equipment which is properly operated and approved by the health authority: Provided, that milk products which have a higher milk fat content than milk and/or contain added sweeteners shall be heated to at least 150° F., and held continuously at or above this temperature for at least 30 minutes, or to at least 166° F., and held continuously at or above this temperature for at least 15 seconds: Provided further, that nothing in this definition shall be construed as barring any other pasteurization process which has been recognized by the United States Public Health Service to be equally efficient and which is approved by the State health authority.

V. Sanitization. Sanitization is the application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment shall not adversely affect the equipment, the milk or milk product or the health of consumers, and shall be acceptable to the health authority.

W. Milk Producer. A milk producer is any person who operates a dairy farm and provides, sells, or offers milk for sale to a milk plant, receiving station, or transfer station.

X. Milk Hauler. A milk hauler is any person who transports raw milk and/or raw milk products to or from a milk plant, a receiving or transfer station.

Y. Milk Distributor. A milk distributor is any person who offers for sale or sells to another any milk or milk products.

Z. State Health Officer. The term "State Health Officer" shall mean the Commissioner of Health of the State of Texas.

AA. Health Authority. The health authority shall mean the city or county health officer or his representative. The term "Health Authority", wherever it appears in these specifications and requirements, shall mean the appropriate agency having jurisdiction and control over the matters embraced within these specifications and requirements.

BB. Dairy Farm. A dairy farm is any place or premises where one or more cows or goats are kept, and from which a part or all of the milk or milk product(s) is provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

CC. Milk Plant and/or Receiving Station. A milk plant and/or receiving station is any place, premises, or establishment where milk or milk products are collected, handled, processed, stored, pasteurized, bottled, or prepared for distribution.

DD. Transfer Station. A transfer station is any place, premises, or establishment where milk or milk products are transferred directly from one transport tank to another.

EE. Official Laboratory. An official laboratory is a biological, chemical, or physical laboratory which is under the direct supervision of the State or a local health authority.

FF. Officially Designated Laboratory. An officially designated laboratory is a commercial laboratory authorized to do official work by the supervising agency, or a milk industry laboratory officially designated by the supervising agency for the examination of producer samples of Grade "A" raw milk for pasteurization.

GG. Person. The word "person" shall mean any individual, plant operator, partnership, corporation, company, firm, trustee, or association.

State Health Officer to Fix Specifications

Sec. 2. The State Health Officer is hereby authorized and empowered to define what shall constitute Grade "A" raw milk, Grade "A" raw milk products, Grade "A" pasteurized milk, and Grade "A" pasteurized milk products and to fix specifications, rules or regulations for the production and handling of such milk and milk products, according to the safety and food value of the same and the sanitary conditions under which the same are produced and handled. Such definitions, specifications, rules or regulations shall be based upon and shall be in general harmony with (but need not be identical

to) the definitions, specifications, rules or regulations relating to such milk and milk products set forth in the most recent edition of the United States Public Health Service Grade "A" Pasteurized Milk Ordinance. Such definitions, specifications, rules or regulations shall be set forth in specifications, rules or regulations promulgated by the State Health Officer in accordance with the procedures prescribed by Section 2A hereof.

Any city, county, or other political subdivision, or any Health Officer thereof, adopting any specifications, rules or regulations for any grade of milk or milk products or enforcing and administering the same, shall be governed in adopting, enforcing and administering any such specifications, rules or regulations by the specifications, rules or regulations promulgated hereunder by the State Health Officer and such specifications, rules or regulations adopted by any city, county or other political subdivision shall be in conformity with specifications, rules or regulations promulgated by the State Health Officer.

**Notice and Hearing; Emergency Specifications;
Advice; Filing Copy; Effective Date**

Sec. 2A. Prior to the adoption, amendment, or repeal of any specification, rule or regulation, the State Health Officer shall:

(1) give at least thirty (30) days notice of his intended action. The notice shall include a statement of either the expressed terms or an informative summary of the proposed action, and the time when, the place where, and the manner in which interested persons may present their views thereon. The notice shall be published not less than thirty (30) nor more than sixty (60) days prior to such intended action in a newspaper of general circulation in Travis County and in each of the five most populous counties in Texas, according to the latest U. S. Census. In addition, the notice is to be mailed to all persons who have made timely written requests of the agency for advance notice of its specification, rule or regulation making proceedings; provided, however, that failure to mail such notice shall not invalidate any actions taken or specifications, rules or regulations adopted; and

(2) afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. Opportunity for oral argument must be granted if requested by twenty-five persons, by a governmental subdivision or agency, or by an association having not less than twenty-five members. The State Health Officer shall consider fully all written and oral submissions respecting the proposed specification, rule or regulation. Upon adoption of a specification, rule or regulation, the State Health Officer, is requested to do so by an interested person either prior to adoption or within thirty (30) days thereafter, shall issue a concise statement

of the principal reasons for and against its adoption, incorporating therein its reasons for overruling the considerations urged against its adoption.

(3) If the State Health Officer finds that an imminent peril to the public health, safety, or welfare requires adoption of a specification, rule or regulation upon fewer than thirty (30) days notice and states in writing his reasons for that find, he may proceed without prior notice or hearing or upon any abbreviated notice and hearing that he finds practicable, to adopt an emergency specification, rule or regulation. The specification, rule or regulation may be effective for a period of not longer than one hundred twenty (120) days renewable once for a period not exceeding sixty (60) days, but the adoption of an identical specification, rule or regulation under Subsections (a)(1) and (a)(2) of this section is not precluded.

(4) No specification, rule or regulation hereafter adopted is valid unless adopted in substantial compliance with this section. A proceeding to contest any specification, rule or regulation on the ground of noncompliance with the procedural requirements of this section must be commenced within two (2) years from the effective date of the specification, rule or regulation.

(5) The State Health Officer may use informal conferences and consultations as means of obtaining the viewpoints and advice of interested persons with respect to contemplated specification, rule or regulation making. The State Health Officer is also authorized to appoint committees of experts or interested persons or representatives of the general public to advise him with respect to contemplated specification, rule or regulation making. The powers of such committees shall be advisory only.

(6) The State Health Officer shall file with the Secretary of State a certified copy of each specification, rule or regulation adopted by him and shall mail a printed copy of each specification, rule or regulation adopted by him to all County and City Health Officers.

(7) Each specification, rule or regulation adopted is effective forty-five (45) days after filing except that: (1) a later date specified in the specification, rule or regulation shall be the effective date; and (2) subject to applicable constitutional or statutory provisions, an emergency specification, rule or regulation becomes effective immediately upon filing, or at a stated date after filing, if the State Health Officer finds that this effective date is necessary because of imminent peril to the public health, safety, or welfare.

(8) Specifications, rules or regulations filed with the Secretary of State shall be

made available upon request to any person at prices fixed by the Secretary of State to cover costs of mailing, publication and copying.

Petition

Sec. 2B. Any interested person may petition the State Health Officer requesting the promulgation, amendment, or repeal of a specification, rule or regulation. Within sixty (60) days after submission of a petition, the State Health Officer either shall deny the petition in writing (stating his reasons for the denial) or shall initiate specification, rule or regulation making proceedings in accordance with Section 2A hereof.

Declaratory Judgment

Sec. 2C. The validity or applicability of any specification, rule or regulation including emergency specifications, rules or regulations, may be determined in an action for declaratory judgment in the District Court of Travis County, and not elsewhere, if it is alleged that the specification, rule or regulation, its application, or its threatened application interferes with or impairs or threatens to interfere with or impair, the legal rights or privileges of the plaintiff. The State Health Officer shall be made a party to the action. A declaratory judgment may be rendered whether or not the plaintiff has requested the State Health Officer to pass upon the validity or applicability of the specification, rule or regulation in question.

Permits for Use of Labels in Advertising or Labeling Milk

Sec. 3. Any person, firm, association or corporation desiring to use Grade "A" labels in representing, publishing or advertising any milk or milk products offered for sale or to be sold within this State, shall make application for a permit to the City Health Officer in any incorporated city where the same is to be sold or offered for sale, for a permit to use any such label in advertising, representing, or labeling such milk or milk products; any person, firm, association or corporation that desires to use Grade "A" labels in representing, publishing or advertising any milk or milk products offered for sale or to be sold outside of the limits of any incorporated city or town shall make application to the County Health Officer in any county where the same is to be sold or offered for sale, for a permit to use any such label in advertising, representing, or labeling such milk or milk products; any person, firm, association or corporation desiring to use Grade "A" labels in representing, publishing or advertising any milk or milk products offered for sale or to be sold both within and without the limits of any incorporated city or town, shall make application to both the City Health Officer and the County Health Officer for a permit to use any such label in advertising, representing, or labeling such milk or milk products.

Any city or county health officer receiving such application as provided for in this section

is hereby authorized and empowered to take the necessary steps to determine and award the grade of the milk or milk products offered for sale by such applicant, according to the requirements of this Act for grade labels. He shall report to the State Health Officer the name or names of all applicants to whom he has awarded permission to use Grade "A" labels, and shall notify the State Health Officer of all such permits revoked by him; provided, that the State Health Officer may exempt the City Health Officer from making such reports in cities that have adopted milk ordinances which in his judgment make such reports unnecessary.

Milk to Conform to Marked Grades

Sec. 4. No milk or milk products sold, produced or offered for sale within this State by any person, firm, association or corporation shall carry a label, device or design marked "Grade A", or any other grade, statement, design or device, regarding the safety, sanitary quality or food value of the contents of the container which is misleading or which does not conform to the definitions and requirements of this Act.

No milk or milk products, except those produced or processed by a person, firm, association or corporation having a permit to use a Grade "A" label under the provisions of this Act and which are produced, treated and handled in accordance with the specifications and requirements fixed and promulgated by the State Health Officer for Grade "A" milk and milk products, shall be represented, published, labeled or advertised as being Grade "A" milk or Grade "A" milk products.

Construction as to Resale of Milk in Containers

Sec. 5. Nothing in this Act shall be construed as requiring any person, firm, association or corporation to obtain a permit in order to resell or offer for sale in the same container any milk or milk products, representing or advertising the same as a grade of milk or milk products purchased from any person, firm, association or corporation having a permit to so represent or advertise such milk or milk products.

Regulation of Grading and Labeling by State Health Officer

Sec. 6. The State Health Officer is hereby authorized and empowered to supervise and regulate the grading and labeling of milk and milk products in conformity with the standards, specifications and requirements which he promulgates for such grades, and in conformity with the definitions of this Act; and he and his representatives shall have the power to revoke and re-grade permits issued by any local health officials, when upon examination he or his representative shall find that such permit for the use of any grade label does not conform to the specifications or requirements promulgated by him in conformity to this Act.

Enabling Clause

Sec. 7. The governing body of any city in the State of Texas may make mandatory the grading and labeling of milk and milk products sold or offered for sale under the United States Standard Milk Ordinance within their respective jurisdictions; provided such milk or milk products sold or offered for sale shall be covered by the definitions, specifications and regulations promulgated by the Commissioner of Health under Section 2 for Grade "A" raw milk or milk products, and for Grade "A" pasteurized milk or milk products, by adopting an ordinance to that effect, and by providing the necessary facilities for determining the grade and for the enforcement of this Act; provided, however, the provisions of this section shall apply only to milk or milk products, sold or offered for sale by any person, partnership, or corporation, directly to the consumer of such milk or milk products.

Sampling, Testing and Inspection of Grade "A" Milk and Milk Products

Sec. 7A. It shall be the duty of authorized personnel of any health department, State or municipal, to sample, test, or inspect Grade "A" pasteurized milk and milk products, or Grade "A" raw milk and milk products for pasteurization delivered to any milk plant and/or receiving station, or other place of delivery. Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization which comes from beyond the limits of routine inspection of any municipal health department of this State shall be sampled, tested and/or inspected in order to determine if such Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization meets the standards and requirements of the Texas State Department of Health or municipal ordinances relating to milk and milk products. Such sampling, testing, and inspection of Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization shall include, in addition to any other tests that may be required, the following:

- (1) plate count or direct microscopic count;
- (2) antibiotics;
- (3) sediments;
- (4) phosphatase;
- (5) checks for water or any elements foreign to the natural contents of Grade "A" pasteurized milk or milk products or Grade "A" raw milk or milk products for pasteurization as defined in this Act.

Penalty

Sec. 8. Whoever violates any provision of this Act shall be fined in the sum not less than Twenty-five (\$25.00) Dollars nor more than Two Hundred (\$200.00) Dollars and each separate violation shall constitute a separate offense.

[Acts 1937, 45th Leg., p. 353, ch. 172; Acts 1967, 60th Leg., p. 1974, ch. 734, §§ 1 to 6, eff. June 18, 1967;

Acts 1971, 62nd Leg., pp. 1715 to 1717, ch. 495, §§ 1 to 4, eff. Jan. 1, 1972.]

Art. 165-3a. Texas Equal Health Standard Milk Sanitation Act of 1961

Title

Sec. 1. The name of this Act shall be "Texas Equal Health Standard Milk Sanitation Act of 1961."

Declaration of Purpose

Sec. 2. The purpose of this Act is to utilize effectively existing agencies and departments in regulating, processing, and distributing milk and milk products to the end that Texas consumers will be assured of a full supply of wholesome, high quality milk, cream, and milk products by requiring that all Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization shipped into Texas be produced under rules, regulations, and statutes providing standards as high as or higher than those provided by the Texas Milk Grading and Labeling Law, Chapter 172 (codified as Article 165-3, Vernon's Annotated Civil Statutes), Acts of the 45th Legislature, Regular Session, 1937, as amended, and any other statutes, rules, and regulations governing the production of milk in Texas.

Shipping Grade "A" Milk into State; Standards; Inspections

Sec. 3. From and after the effective date of this Act, no person, officer, or inspector authorized under the laws of this State or any municipality within the State to inspect or regulate the production of fluid milk of whatever quality, shall in anywise approve, grant, or issue a permit, certificate, or other authorization for Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization to be shipped into Texas unless the same is produced in accordance with standards, rules, regulations, and statutes governing the production of milk in the State of Texas; and no such person, officer, or inspector shall in anywise permit, certify, or authorize the shipping of any Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization into this State regardless of the grade, unless such person, officer, or inspector, shall certify that such fluid milk was produced under equivalent rules and regulations required for the production of milk in the State of Texas. Provided, however, inspections to approve, grant, issue or maintain a permit, certificate, or other authorization for the shipping of Grade "A" pasteurized milk and/or Grade "A" raw milk for pasteurization into this State shall have inspections made as frequently as, and in the same manner on dairy farms, transfer stations, milk plants and/or receiving stations shipping into Texas as are made on Texas dairy farms, transfer stations, milk plants and/or receiving stations. Nothing herein shall be construed as requiring any more frequent or different inspections of dairy farms, transfer stations, milk plants and/or receiving stations shipping milk into Texas than

are made of Texas dairy farms, transfer stations, milk plants and/or receiving stations. Provided, further, that any Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization shipped into the State of Texas from any dairy farm, transfer station, milk plant, and/or receiving station shall be accompanied to the point of delivery with a manifest specifically listing each such dairy farm, transfer station, milk plant and/or receiving station permit or certification number issued by the Texas State Department of Health making up each such separate load of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization to be shipped into Texas. Provided further that Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization shipped into Texas shall not have been commingled prior to shipping with any milk not authorized by permit or certificate issued by the Texas State Department of Health to be shipped into the State of Texas. Provided, however, that the provisions of this Section, shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

Grade "A" Milk Products Imported into State

Sec. 3A. The provisions of this Act shall also apply to Grade "A" raw milk products for pasteurization and to Grade "A" pasteurized milk products with the exception of Grade "A" dry milk products produced or processed outside the State of Texas at a point beyond the limits of routine inspection and supervision of the health authority of a Texas municipality or county for shipment into Texas.

Enforcement of Act; Permits to Ship or Deliver Grade A Milk; Application; Fee

Sec. 4. (a) The enforcement of the provisions of this Act, shall be the responsibility of the Texas State Health Department, which Department is hereby charged with the duty of enforcing the provisions of this Act. Said Department is hereby authorized to require the payment of a reasonable fee for any inspection required or made in the enforcement of this Act, such fee to be levied against the out-of-State dairy farm, transfer station, milk plant and/or transfer station receiving a permit, certificate, or other authorization for the shipping and delivering of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas under this Act. The Texas State Department of Health, upon receiving application from such dairy farm, transfer station, milk plant and/or receiving station desiring a permit or other authority for the shipping and delivering of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into this State, shall make or cause to be made, by personnel under its jurisdiction, the necessary inspection(s) to determine that full compliance is being made with all standards, rules, regulations, and statutes governing production,

processing, pasteurization or bottling of Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization in the State of Texas; and in the event it finds such compliance is being made by said applicant(s), it shall issue a permit, certificate, or other authorization, to such applicant(s) upon receipt of the prescribed fee. Provided, however, that the provisions of this Section shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

(b) Beginning on the effective date of this Act, any person, firm, association, or corporation wanting to transport Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas from dairy farms, transfer stations, milk plants and/or receiving stations from outside the State of Texas must apply to the Texas State Health Department for a permit, certificate, or other authorization.

(c) The Texas State Health Department shall issue a permit, certificate, or other authorization referred to in Subsection (b) of this Section provided the applicant:

(1) presents satisfactory proof and evidence that he is in compliance with rules, regulations, standards, and requirements prescribed by the Texas State Health Department relating to production, processing and transportation of Grade "A" pasteurized milk and milk products or Grade "A" raw milk and milk products for pasteurization; and

(2) pays a reasonable fee prescribed by the Texas State Health Department, which shall be limited to actual costs of salary and travel of personnel under its jurisdiction in connection with such inspection.

Violations; Penalties

Sec. 5. (a) Any person, firm, association, or corporation who transports Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into this State from dairy farms, transfer stations, milk plants and/or receiving stations without a permit, certificate, or other authorization issued by the Texas State Health Department under the provisions of Subsections (b) and (c) of Section 4 of this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than Twenty-five (\$25) Dollars nor more than Two Hundred (\$200) Dollars. Provided, however, that the provisions of this Subsection shall not be applicable to a dairy farm, transfer station, milk plant and/or receiving station which is now under the routine inspection(s) and supervision of municipalities of the State of Texas.

(b) Any person, firm, association, or corporation who holds a permit, certificate, or other authorization issued by the Texas State Health Department to transport Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization into the State of Texas and fails to pro-

vide the manifest for each such separate load of milk as required under Section 3 of this Act shall have his permit, certificate, or authorization revoked by the Texas State Health Department.

(c) Any person, firm, association or corporation who receives any Grade "A" pasteurized milk or Grade "A" raw milk for pasteurization from outside the State of Texas from a transporter of milk, dairy farm, transfer station, milk plant and/or receiving station not authorized by permit, certificate, or other authorization issued by the Texas State Health Department as required under Sections 3 and 4 of this Act is guilty of a misdemeanor and upon conviction, is punishable by a fine of not less than Twenty-five (\$25) Dollars nor more than Two Hundred (\$200) Dollars.

Severability

Sec. 6. If any Section, Subsection, sentence, clause, phrase, word, or part of this Act or the applications thereof are for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act and each Section, Subsection, sentence, clause, phrase, word, or part thereof despite the fact that one or more Sections, Subsection, sentence, clause, phrase, word, or parts thereof be declared unconstitutional. The Legislature further declares that this Act shall not be in conflict with or repeal any provisions of the Texas Milk Grading and Labeling Law, Acts of the 45th Legislature, Regular Session, 1937 (codified as Article 165-3, Vernon's Annotated Civil Statutes).

[Acts 1961, 57th Leg., p. 894, ch. 394, eff. Oct. 1, 1961; Acts 1967, 60th Leg., p. 1974, ch. 734, §§ 7 to 10, eff. June 18, 1967; Acts 1969, 61st Leg., p. 1142, ch. 368, § 1, eff. Sept. 1, 1969.]

CHAPTER ELEVEN. COTTON

Article

165-4. Cotton Research Award Fund.

165-4a. Agricultural Agencies to Stress Increased Use and Outlet of Products; Cotton Research Committee.

165-4b. Use of Appropriations; Quorum.

Art. 165-4. Cotton Research Award Fund

Sec. 1. By this Act it is expressly declared to be a State policy that the encouragement and stimulation of new uses for cotton shall be a matter of State-wide importance and concern and that the various agencies of the State Government, and more particularly the various State agricultural departments, agencies, schools, colleges, etc., are hereby directed to take full and sufficient notice and consideration of the policy herein established and set forth, and the activities of all agencies of the State Government, and more particularly those especially mentioned above are hereby directed to be revamped and reorganized so as to conform with the provisions of this Act.

Sec. 2. The Governor of this State is hereby directed as the Chief Executive and Administrative Officer of this State to use his efforts to carry out the policy set forth above.

Sec. 3. In order to assist in carrying out the policy set forth in this Act, there is hereby created the "Cotton Research Award Fund", and there is hereby appropriated to this fund out of any money in the State Treasury not otherwise appropriated the sum of Ten Thousand (\$10,000.00) Dollars. The President of the University of Texas, the President of the A. & M. College, and the President of Texas Technological College are hereby designated as a Board of Trustees of said fund. Said Board of Trustees are hereby appointed and empowered to dispense said fund in keeping with rules and regulations which a majority of said Board may adopt, provided that the same are not in conflict with the provisions of this Act. Said rules and regulations shall be drawn up and published within ninety days from the effective date of this Act, and among other things, they shall provide for:

(a) An award of not less than Five Thousand (\$5,000.00) Dollars, nor more than Ten Thousand (\$10,000.00) Dollars to any resident Texas citizen, who, by chemical research or other invention or device, discovers any process or method which hereafter brings about an increase in the consumption of cotton annually in an amount equal to or greater than three hundred thousand (300,000) bales of five hundred (500) pounds net weight;

(b) The persons mentioned above are to be the sole judges as to whether the required increase in consumption of cotton above mentioned has actually taken place, and the Comptroller of Public Accounts is hereby authorized to pay warrants drawn on the "Cotton Research Award Fund" when said warrants are signed by a majority of the three persons above mentioned.

[Acts 1939, 46th Leg., p. 1.]

Art. 165-4a. Agricultural Agencies to Stress Increased Use and Outlet of Products; Cotton Research Committee

Sec. 1. By this Act it is expressly declared that the policy of all the various agricultural agencies of the State of Texas shall be shaped so that the subject of the increased use and outlet for farm products, especially cotton, wool, mohair, oilseed products and other textile products, shall be stressed as much as the production of said products; and all of the various State Agricultural Agencies, Departments, and State Educational Institutions are hereby directed to take full and sufficient consideration of the policy herein established, and that the activities of the various agencies and institutions mentioned above be revamped, where same has not already been done, so as to conform with the provisions of this Act.

Sec. 2. A Cotton Research Committee, composed of the Chancellor or Successor of the Texas Agricultural and Mechanical College System and the Chancellor or Successor of The University of Texas, the President of the Texas Technological College, and the President of Texas Women's University, is hereby created and established to cause surveys, research and investigations to be made relating to the utilization of the cotton fiber, cottonseed, wool, mohair, oilseed products, other textile products, and other products of the cotton plant, with authority to contract with any and all State and Federal Agricultural Agencies and Departments of the state, and all State Educational Institutions and State Agencies to perform any such services for said Committee and for the use of their respective available facilities, as it may deem proper, and to compensate such Agencies, Departments and Institutions, to be paid from money appropriated by the Legislature for the purposes of this Act, which appropriations of moneys for research of cotton, wool, mohair, oilseed products and other products of the cotton plant or other textile products are hereby authorized; grants and gifts from the United States or private sources may be accepted for such purposes, and shall be subject only to limitations contained in such grants or gifts.

Sec. 2a. The name of the Cotton Research Committee is changed to the Natural Fibers and Food Protein Committee.

Sec. 3. It is the intent of the Legislature that present funds appropriated to the Cotton Research Committee shall be expended for research on cotton and oilseed products. The Legislature may, however, appropriate additional funds and the Cotton Research Committee may spend these funds for research on wool, mohair, or other textile products.

[Acts 1941, 47th Leg., p. 759, ch. 474; Acts 1949, 51st Leg., p. 832, ch. 451, § 1; Acts 1951, 52nd Leg., p. 335, ch. 206, § 1; Acts 1959, 56th Leg., p. 724, ch. 329, § 1, eff. May 30, 1959; Acts 1969, 61st Leg., p. 1218, ch. 387, §§ 1 to 3, eff. May 29, 1969; Acts 1971, 62nd Leg., p. 1681, ch. 478, § 1, eff. May 27, 1971.]

Art. 165-4b. Use of Appropriations; Quorum

All sums of money appropriated for the purposes of this Act¹ shall be used for such purposes under the authority and direction of the Cotton Research Committee and paid by warrants issued by the Comptroller of Public Accounts on claims approved by a majority of said Committee, which may include compensation to necessary employees of such Committee. A majority of said Cotton Research Committee shall constitute a quorum.

[Acts 1949, 51st Leg., p. 832, ch. 451, § 2.]

¹ This article and article 165-4a.

CHAPTER TWELVE. RICE

Art. 165-5. Texas Rice Development Law. Inoperative

CHAPTER THIRTEEN. ANTIFREEZE

Art. 165-6. Sale of Antifreeze Regulated

Definitions

Sec. 1. As used in this Act, the following words and phrases shall have the following meanings:

(a) "Antifreeze" shall mean all substances and preparations intended for use as a cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or to lower its freezing point.

(b) "Person" shall mean individuals, partnerships, corporations, and associations, and shall include the singular and the plural.

(c) "Commissioner" shall mean the Commissioner of Agriculture.

(d) "Manufacturer or distributor" shall mean the initial or original maker, canner or packer of the antifreeze if the antifreeze is made, canned or packed in this State initially or originally, but if the antifreeze is made, canned or packed out of this State, the term shall then be confined to the first consignee or receiver of antifreeze in this State whose function it is to distribute, sell or consign the antifreeze to retailers, wholesalers or consumers in this State; provided, however, that in any case where the antifreeze is made either within or without this State by one person for another person, which other person is the initial or original marketer of the antifreeze under his own name or brand name, the term shall then be confined to such other person.

(e) "Label" means the written, printed or graphic matter on the immediate or outside container of the antifreeze.

(f) "Labeling" means all labels upon any article or any of its containers or wrappers, accompanying such article, to which reference is made on the label or literature accompanying such article, or which relates or refers to the article for the purpose of inducing the sale thereof.

(g) "Adulterated" shall mean, and shall apply to, any antifreeze (1) if it consists in whole or in part of any substance which will render it injurious to the cooling system of an internal combustion engine or will make the operation of the engine dangerous to the user; or (2) if its strength, quality or purity falls below the standard of strength, quality or purity under which it is advertised and sold.

(h) "Misbranded" shall mean, and shall apply to, any antifreeze (1) if its labeling is false or misleading in any particular; or (2) if in package form it does not bear a label containing the name and place of business of the manufacturer, packer, can-

ner, seller, or distributor and an accurate statement of the quantity of the contents in terms of weight or measure on the outside of the package.

Registering of Antifreeze with the Commissioner of Agriculture

Sec. 2. Before any antifreeze may be sold, exposed for sale, or held with intent to sell, within this State, the same must be registered with the Commissioner of Agriculture. Upon the application of the manufacturer or distributor and the payment of the fee prescribed in this Section, the Commissioner of Agriculture shall register any antifreeze not adulterated or misbranded, as those terms are defined in Section 1 of this Act. Such registration shall be valid for one (1) year unless sooner cancelled or a change is made in the name, brand, label, trade-mark or contents of the antifreeze. If the antifreeze does not meet all requirements of this Act, registration shall be refused and its sale shall be unlawful. Application for registration and payment of the fee shall be made annually during the month of December of every year or prior to placing such antifreeze on the market, and said registration shall expire on the 31st day of December of the year next following its issuance. The fee shall be Twenty Dollars (\$20) for each brand of antifreeze sold.

Label Contents

Sec. 3. Every label of every container of antifreeze shall contain the following information, including (1) the name, brand or trade-mark of the product; (2) the name and address of the manufacturer or distributor; (3) the net weight or measure, as the case may be, of the contents of the package or can; and (4) the chemical base, contents or formula of the antifreeze, unless a statement thereof on the label shall be prohibited by any law, rule or regulation of the Federal Government or of any department or agency thereof. Failure to include any of the foregoing information on the label shall be an offense hereunder.

Seizure of Antifreeze by the Commissioner

Sec. 4. The Commissioner may seize all antifreeze, the manufacture, transportation, sale or use of which is prohibited by this Act or which is manufactured, sold, used, transported, kept or offered for sale, use or transportation, or had in possession with intent to sell, use or transport in violation of any provision of this Act or in violation of any rule, regulation, definition or standard promulgated by the Commissioner hereunder. Such seizure may be made without a warrant. For obtaining information regarding the suspected violations of this Act, the Commissioner, his assistants, appointees, agents or employees shall have access to all places where any antifreeze is sold, stored, transported or held for sale, and they may inspect any antifreeze found and take samples for analysis.

Administration by the Commissioner of Agriculture

Sec. 5. The Commissioner of Agriculture shall administer the provisions of this Act, and shall have authority to promulgate rules and regulations to implement its administration and to provide standards for antifreeze. The revenue realized from the collection of fees hereunder shall be used by the Commissioner in the administration of this Act, and it is hereby appropriated to the Commissioner of Agriculture for that purpose.

Alteration or Adulteration of Antifreeze

Sec. 6. Any person who shall alter, adulterate or change the composition of any brand of antifreeze as registered in accordance with the provisions of this Act shall be guilty of an offense hereunder, unless approval of such change by the Commissioner has first been obtained.

Selling Unregistered Antifreeze

Sec. 7. Any person who shall sell or offer for sale any antifreeze which is not duly registered in accordance with the provisions of this Act shall be guilty of an offense hereunder.

Exceptions

Sec. 8. The provisions of this Act shall not apply to (1) finished antifreeze in transit through the State or in storage within the State intended for sale outside the State; (2) antifreeze ingredient materials in transit or in storage intended for manufacturing, processing, mixing, packing or canning within this State; (3) common or private carrier and warehousemen, or any employee thereof, while engaged in lawfully transporting and storing antifreeze; (4) public officers while engaged in the performance of their official duties.

Penalty

Sec. 9. Any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor and upon conviction hereof shall be fined not less than Ten Dollars (\$10) nor more than Five Hundred Dollars (\$500).

Severability

Sec. 10. If any section, subsection or part of this Act shall be held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect the remaining portions hereof, it being hereby expressly stated that the Legislature would have enacted such Act without respect to such section, subsection or part so held to be unconstitutional or invalid.

[Acts 1949, 51st Leg., p. 524, ch. 288.]

CHAPTER FOURTEEN. POULTRY

Art. 165-7. Poultry and Turkey Improvement Plans; State Agency Designated

The Poultry Improvement Board of the Texas Poultry Improvement Association is hereby designated as the official State agency to cooperate with the United States Department of Agriculture in administering the National

Poultry Improvement Plan and National Turkey Improvement Plan, and said Poultry Improvement Board of the Texas Poultry Improvement Association is authorized to establish and promulgate necessary rules and regulations and to supervise and carry out the approved plan.

[Acts 1949, 51st Leg., p. 955, ch. 524, § 1.]

CHAPTER FIFTEEN. CHICKEN EGGS

Art. 165-8. Handling and Sale of Chicken Eggs

Citation of Act; Enforcement

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

"Person" Defined

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

Standards of Quality

Sec. 3. (a) The standards of quality, the grades and the standards of size as determined by weighing shall be the same as the standards and grades promulgated by the United States Department of Agriculture for shell eggs, and such lower grades and sizes as the Egg Marketing Advisory Board shall promulgate.

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

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

Classification of Eggs

Sec. 4. All eggs sold or offered for sale in this state shall be classified into one or more, as applicable, of the two following classifications in accordance with the requirements of such classification:

(a) "Texas Eggs" means eggs which have been produced in Texas.

(b) "Shipped Eggs" means eggs which have been produced in a state in the United States other than Texas or outside the Continental United States and shipped into the state for the purpose of resale within the state.

Inedible Eggs

Sec. 5. It shall be unlawful to sell in bulk or in containers or subcontainers eggs that are or contain inedible eggs and which are not denatured, provided that not to exceed five per cent (5%) by count of inedibles shall be permitted when eggs are going to a dealer for can-

dling and grading or to a breaking plant for breaking purposes. Eggs of the following descriptions are classed as inedible: Leakers, black rots, white rots, mixed rots, addled eggs, incubated eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring stage), and any eggs unfit for human consumption due to causes other than those listed in this section.

Advertising Shell Eggs; Descriptive Words

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

Sanitary Handling; Rules and Regulations

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

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

Grading by Local and Outstate Licensees; Outstate Inspections by Commissioner; Reimbursement of Expenses; Reciprocal Agreements; Use of Prefix "U. S."

Sec. 8. All grades and sizes claimed for eggs sold in the state shall be established by inspection by a person duly licensed hereunder having a place of business within this state at which such inspections are made or by a person licensed hereunder and qualified to do business in this state who makes such inspections at a designated location outside the state. Where such inspections are made at a location outside the state by a licensee hereunder, such location and records relating to eggs graded pursuant to such Texas license shall be subject to inspection by the commissioner or his deputies at such times and intervals as the commissioner may deem necessary for the proper administration of the provisions herein; the expenses for such travel shall be reimbursed to the commissioner by the licensee within ten (10) days from the date of receipt of an invoice therefor. The actual and necessary expenses chargeable to a licensee for each inspection of an out-of-state location shall not exceed Fifty Dollars (\$50.00) per day for food, lodging and local transportation, plus the cost of the least expensive available space round trip air fare from Austin, Texas, to the location to be inspected. The commissioner shall schedule all feasible inspections within an area on each inspection trip, and the expenses shall be divided amongst such licensees inspected on an equitable basis. These expenses are in addition to all other fees hereunder and failure of licensee to pay such expenses as herein re-

quired shall act to automatically cancel the outstanding license of such person and shall be grounds for denial of a license to any person in anywise connected with a person whose license has been cancelled; provided, however, the commissioner is hereby empowered to make reciprocal agreements with the several states providing for the inspections herein required; and it shall be unlawful to use the prefix "U. S." on grades and weight classes of shell eggs unless the egg grading is under official United States Department of Agriculture supervision.

Containers for Eggs; Requirements

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

(a) be labeled according to size and grade in distinctly legible bold-face type not less than one-fourth ($\frac{1}{4}$) inch in height;

(b) not be deceptively labeled, advertised, or invoiced;

(c) state the address and license number of the licensee which established the grade and size of said eggs and the city and state where actually packed in 12 point bold-face type in accordance with such regulations as the commissioner shall prescribe;

(d) not be advertised in a manner which indicates price without also indicating the full, correct and unabbreviated designation of size and grade of eggs therein;

(e) be labeled showing the classification thereof except for shipped eggs which shall meet the requirements therefor as hereinafter set out:

(1) Texas eggs shall be so labeled that such classification is evident and shall be in accordance with such rules as the commissioner may prescribe. Eggs not produced in Texas shall not be labeled or advertised in any manner to infer that they were produced in Texas.

(2) Shipped eggs coming into Texas in cartons ready for retail sale shall be not less than Grade A as established by a Texas licensee. Shipped eggs coming into Texas loose packed shall be inspected and graded by a Texas licensee at his place of business in Texas before being sold at retail. All shipped eggs coming into Texas shall move under refrigeration in accordance with such rules regulating these movements as shall be prescribed by the commissioner.

In the case of eggs offered for sale uncartoned, a sign showing all of the above information must be clearly displayed attached to the container. This sign must be distinctly legible in letters at least one inch high; provided, however, nothing herein shall be construed so as to prevent a retailer of less than 120 dozen

(1440) eggs per week from selling ungraded eggs when such eggs are clearly and distinctly labeled ungraded.

Presumption of Sale for Human Consumption

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

Exemption of Producers

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

Enforcement of Act

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

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

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

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

(e) The Commissioner shall make and enforce such rules and regulations as are necessary to carrying out the provisions of this Act,

provided such rules are approved in writing by the Attorney General of Texas, such approval to remain on file for public inspection.

Egg Marketing Advisory Board

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

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

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

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

License to Resell; Exceptions

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

- (a) Those who sell only eggs produced by their own flocks unless a grade is claimed;
- (b) Hatcheries which buy eggs exclusively for hatching purposes;
- (c) Hotels, restaurants, and other public eating places where all eggs purchased are served by the establishments;
- (d) Food manufacturers purchasing eggs for use and used only in the manufacture of their products, save and except egg processors as defined in Section 15;
- (e) Agents employed and carried on the payroll on a salary basis by persons licensed under this Act.

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

missioner in the administration and enforcement of this Act.

License Fee; Enforcement Fund; Definitions

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

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

(b) Dealer-Wholesaler. A dealer-wholesaler means a person engaged in the business of buying eggs from producers or other persons on his own account and selling or transferring eggs to other dealer-wholesalers, processors, retailers, or other persons and consumers. A dealer-wholesaler further means a person engaged in producing eggs from his own flock and disposing of this production on a fully graded basis.

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

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

Annual License Fees; Amounts; Disposition

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

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

The annual license fees shall be as follows:

- (a) Dealer-Wholesalers at each Plant:
 - 1 case (30 doz. eggs) to and including 9 ----- \$ 7.50
 - 10 cases to and including 49 -- 15.00
 - 50 cases to and including 99 -- 22.50
 - 100 cases to and including 199 -- 37.50
 - 200 cases to and including 499 -- 75.00
 - 500 cases to and including 999 -- 112.50
 - 1,000 cases to and including 1,499 150.00
 - 1,500 cases to and including 2,999 300.00
 - 3,000 cases and up ----- 375.00
- (b) Processors:
 - Less than 250 cases ----- \$ 30.00
 - 250 cases to and including 499 -- 45.00
 - 500 cases to and including 999 -- 60.00
 - 1,000 cases and up ----- 75.00
- (c) Brokers ----- 7.50

The proceeds of such license fees shall be paid into the State Treasury by the Commissioner and placed by the State Treasurer in the Special Department of Agriculture Fund.

Inspection Fees

Sec. 16-A. In addition to the license fees hereunder the licensee which first establishes the grade, size and classification of eggs sold or offered for sale in this state shall collect on their first sale of such eggs in this State an inspection fee of three (\$.03) cents per case (thirty (30) dozen eggs) and all licensed processors in this state shall pay an inspection fee of three (\$.03) cents per case (thirty (30) dozen eggs) upon their first use or change in form in eggs processed by them, such fees shall be remitted by all such licensees monthly in accordance with rules and regulations as promulgated by the commissioner, and all sums so collected shall be placed by him in the general revenue fund of the State of Texas.

Records of Purchases and Sales

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

(b) Every licensed dealer-wholesaler, and processor shall deliver with each transaction, sale or delivery a signed invoice stating the

date, quantity, grade and size of the eggs sold, and shall keep a copy of each invoice for the same period as stated in subdivision (a) of this Section.

Information Concerning Movement and Sale; Reports of Official Inspections

Sec. 17a. The Commissioner shall publish annually, in such form as he may deem proper, information concerning the movement and sale of eggs, and a report of the results of the official inspections of eggs sold, offered for sale, or otherwise distributed within the state; provided, however, that information concerning movement and sale of eggs shall not disclose the scope of operations of any person.

Out-of-State Seller

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

Penalty

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

Effective Dates

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

[Acts 1957, 55th Leg., p. 288, ch. 133; Acts 1959, 56th Leg., p. 741, ch. 335, § 1; Acts 1961, 57th Leg., p. 540, ch. 254, §§ 1 to 6, eff. Aug. 28, 1961; Acts 1969, 61st Leg., p. 2346, ch. 795, §§ 1 to 5, eff. Sept. 1, 1969.]

CHAPTER SIXTEEN. FORESTS

Art. 165-9. Control of Forest Pests

Purpose

Sec. 1. In order to protect forest resources, enhance the growth and maintenance of forests, promote stability of forest-using industries, protect recreational wildlife uses and conserve other values of the forest, it is hereby declared to be the public policy of the State of Texas to control forest pests in or threatening forests in the State of Texas.

Definitions

Sec. 2. (a) "Forest pests" means insects and diseases that are harmful, injurious or destructive to forests and whose damage, if uncontrolled, is of considerable economic importance. These pests include but are not limited to the following: pine bark beetles of the genera *Dendroctonus*, *Ips*, *Pissodes*, and *Hylobius*; sawflies of the genus *Neodiprion*; defoliators

in the genera *Datana*, *Malacosoma*, *Hyphantria*, *Diapheromera*, and *Galerucella*; pine shoot moth of the genus *Rhyacionia*; wilt of the genus *Chalora* and rots of the genera *Fomes* and *Polyporus*.

(b) "Forest land" means lands on which the trees are potentially valuable for timber products, protection of watersheds, wildlife habitat, recreational uses or for other purposes, but shall not include any land within the incorporated limits of any village, town, or city.

(c) "Forest" includes the standing trees on any forest land.

(d) "Person" includes any individual, firm, partnership, corporation, association or other business whether or not incorporated.

(e) "Control" includes prevent, retard, suppress, eradicate or destroy.

(f) "Infestation" includes actual infestation or infection at condition beyond normal proportion causing abnormal epidemic loss to present and/or future commercial timber supply.

(g) "Landowner" and "owner" includes any person who owns forest lands, or who has such forest land under his direction irrespective of ownership.

(h) "Forest owner" means any person who owns the standing trees on any forest land, either by a present right or by a future right under the terms of a valid existing contract.

(i) "Tract" means all contiguous land in common ownership.

(j) The singular and plural number shall each include the other unless the context otherwise requires.

(k) The masculine gender shall include the feminine and neuter.

Public Nuisance

Sec. 3. Forest pests are declared to be a public nuisance.

Landowner Duty

Sec. 4. Each owner of forest land shall control such forest pests on lands owned by him or under his direction as hereinafter provided.

Administrative Responsibility

Sec. 5. The Texas Forest Service shall administer this Act and make all relevant determinations. It shall make surveys and investigations to determine the existence of infestations of forest pests, and means practical for their control by landowners. For this purpose, duly delegated representatives of the Texas Forest Service may enter private lands and public lands, including, if permission is obtained, those held by the United States, for the purpose of conducting such surveys and investigations. All its information shall be available to all interested landowners.

Area Proceedings

Sec. 6. Whenever the Texas Forest Service finds an infestation existent or threatened in the State, it shall determine when control mea-

asures are needed, the nature of such control measures, their availability and the techniques by which the control measures shall be applied. Having determined that an infestation exists, the Texas Forest Service shall give notice of the fact by:

a. Placing a notice in a newspaper or newspapers, if any, in the county or counties in which any infested lands are located, or if no such newspaper exists, then placing a notice in a newspaper or newspapers of general circulation in the county or counties in which any infested lands are located, stating its findings, and setting a time and place for a hearing, not less than ten (10) days from the date of such notice, on the need for the control of the pest.

b. Mailing copies of such notice to owners of forest land known to the Texas Forest Service to have holdings in the affected area.

c. Arranging for publicity on the subject by all news media serving the affected area.

At the hearing, the agent of the Texas Forest Service who presides will describe the conditions that have been found, explain the measures needed to control the pest infestation, hear all suggestions and protests and record the proceedings. As soon as practicable after the hearing, the Texas Forest Service shall promulgate procedures to be followed for the control of the infestation, mailing copy to all appearing at the hearing, to all to whom notices were originally sent and publishing by newspaper circulated in the affected area in manner the same as publication of preliminary notice. Such publication is notice as of its publication date to each landowner within the affected area and as to each tract of land therein.

Specific Proceedings

Sec. 7. If in instances to which Section 6 has not been applied control measures are needed to check the spread of the forest pests on forest land owned or controlled by any person, written notice, signed by a duly authorized representative of the Texas Forest Service, whose mailing address shall be shown on said notice, shall be given to such person informing him of the facts as found to exist, of his responsibilities for the control measures, of the control technique that is recommended, and of the authority of the Texas Forest Service in the event the landowner takes no action toward controlling the pest. The notice may be given by personal service on the landowner, or on the person having control of the forest land, or by registered or certified mail directed to such person at his last known address, or, if such person or his address be unknown, then such notice shall be given by publication in one issue of a newspaper of general circulation in the county in which the land is located, which published notice, in addition to the other mat-

ters contained therein as above provided, shall state the name of the owner, if known, and shall briefly describe the land to which the notice applies; no other notice shall be necessary under the provisions of this law.

Duties after Determination

Sec. 8. (a) Within ten (10) days after the giving of notice, whether under Section 6 or 7, exclusive of the date of the giving of such notice, each affected landowner shall commence diligently to take measures to control the infestation as prescribed, and continue such activity with all practical expedition and efficiency under the direction of the Texas Forest Service. The landowner shall notify the Texas Forest Service of his actions, and the result thereof; and each such landowner may report to and consult with the representative or representatives of the Texas Forest Service as often as may be necessary. The Texas Forest Service may change its prescribed procedures as conditions or new information may require. The Texas Forest Service shall inform itself of what is done and the result thereof, and upon request certify when all reasonably practicable measures to be done by landowners, pursuant to its prescribed procedures, shall have been completed.

(b) Where all or part of the standing trees are owned by someone other than the landowner, either by a present right or by a future right under the terms of a valid existing contract, the landowner shall, within ten (10) days after receiving the notice provided for above from the Texas Forest Service, notify the Texas Forest Service of such facts and furnish the names and addresses of any such forest owner.

Notice to Forest Owner

Sec. 9. Where the landowner has given the Texas Forest Service notice of any interest in the forest upon his land owned by another, as provided for above, then the Texas Forest Service shall furnish the same information to this forest owner that it is required by this Act to give to the landowner.

Appeal

Sec. 10. Any landowner, or person having control of forest land, aggrieved by the notice given by the Texas Forest Service shall have the right to seek relief in the district court of the county in which the land is situated, and at no time while such litigation is pending shall the Texas Forest Service proceed with any control measures, unless permission to do so is given by the court upon a showing of probable harm due to any delay in using such control measures. Proceedings to obtain relief shall be initiated by the aggrieved landowner or other person having control of the forest land, within ten (10) days from and after the giving of such notice, exclusive of the date of the giving of such notice in the manner hereinabove provided, and not thereafter. The district court shall give priority to any such case. If the final judgment in any such action be in fa-

vor of the landowner, then the landowner may be entitled to injunctive relief against the use of any control measures on his forest land by the Texas Forest Service until such time as the court may determine. If the final judgment be against the landowner, or if the landowner shall fail to seek relief in the district court of said county, the notice from the Texas Forest Service shall be final and the Texas Forest Service shall summarily take the measures necessary to control the infestation.

Control Measures by Agency

Sec. 11. In the event pest control measures as prescribed by the Texas Forest Service are not applied by the landowner or any other person within ten (10) days from the giving of the notice herein provided, exclusive of the date of the giving of such notice, representatives of the Texas Forest Service shall enter upon said lands and cause the forest pest to be controlled or destroyed. All charges and expenses of such control or destruction shall be paid for by the owner of the land upon which the infestation occurred. If the control is undertaken by the Texas Forest Service, the cost, not to exceed Ten Dollars (\$10) for each infested acre or part of such an acre on which control measures have been employed, shall constitute a legal claim against such landowner, but shall not constitute a lien on any land owned by such landowner, and may be recovered by suit brought in behalf of the Texas Forest Service by the Attorney General in the county where the infestation occurred, together with all costs incurred in such suit; provided, however, in the event that the tract with respect to which the Texas Forest Service conducted control measures contains fifty (50) acres of forest land or less, and the landowner in whose name the record title to such land stands owns no more than fifty (50) acres of forest land in the county in which the infestation occurred, then the cost of control shall be borne by the Texas Forest Service.

Landowner Reimbursement

Sec. 12. Where the landowner has given the Texas Forest Service notice of any interest owned by another in the forest upon his land, and where the landowner has made expenditures for pest control purposes pursuant to Section 8a, or has paid any legal claim against him because of the provisions of Section 11, then such landowner shall have a right to a reasonable reimbursement for such expenses from the forest owner, such reimbursement to be proportional to the interest owned in the forest by the forest owner.

Cooperative Agreements

Sec. 13. In order to accomplish the control of such forest pests, the Texas Forest Service may enter into cooperative agreements with private landowners or forest owners, the Federal Government, or other public or private agencies.

[Acts 1963, 58th Leg., p. 745, ch. 281, eff. Aug. 23, 1963.]

TITLE 5

ALIENS

Article

166. Repealed.

166a. Ownership of Real and Personal Property.

167 to 177. Repealed.

Art. 166. Repealed by Acts 1965, 59th Leg., p. 146, ch. 61, § 2, eff. Aug. 30, 1965

This article was derived from Acts 1854, p. 98; Acts C.S.1892, p. 6; and Acts 1921, 37th Leg., p. 261, ch. 134, § 1, Vernon's Civ.St.Supp.1922, art. 15. It related to the ownership of land. The subject matter is now covered by article 166a.

Art. 166a. Ownership of Real and Personal Property

Aliens shall have and enjoy in this state such rights as to real and personal property as

are or shall be accorded to citizens of the United States.

[Acts 1965, 59th Leg., p. 146, ch. 61, § 1.]

Arts. 167 to 177. Repealed by Acts 1965, 59th Leg., p. 146, ch. 61, § 2, eff. Aug. 30, 1965

These articles were derived from Acts 1854, p. 98; Acts C.S.1892, p. 6; Acts 1921, 37th Leg., p. 261, ch. 134, § 1; Vernon's Civ.St.Supp.1922, arts. 15 to 21d; Acts 1941, 47th Leg., p. 704, ch. 439, § 1; Acts 1949, 51st Leg., p. 485, ch. 262, § 1; and Acts 1961, 57th Leg., p. 1018, ch. 445, § 1. They related to those aliens who might own real and personal property and the manner under which aliens might or might not hold property. The subject matter is now covered by article 166a.

TITLE 6

AMUSEMENTS—PUBLIC HOUSES OF

Article

- 178. "Public Houses of Amusement."
- 178a. "Public House of Amusement."
- 178b. Discrimination Against Reputable Productions.
- 178c. Exceptions.
- 178d. List of Bookings.
- 179. Leases.
- 179a. Private Investigator Employed to Determine Attendance or Number of Paid Admissions at Motion Picture Theater Performance; Report to Theater Owner.
- 179b. State Law as Governing Contracts for Distribution and Licensing Motion Pictures; Venue.
- 179c. Performing Fees for Broadcasting or Televising Records; Reliance and Discharge Based Upon Information Shown on Labels; Assignments.

Art. 178. "Public Houses of Amusement"

All buildings constructed, fitted and equipped for the purpose of theaters, commonly called theaters, opera houses, play houses, or by whatever name designated, which are and shall hereafter be used for public performances, the production and exhibition of plays, dramas, operas, or other shows of whatever nature, to which admission fees are charged, are hereby declared to be public houses of amusement, and the same shall be subject to regulation by ordinance, statute, or other law. Owners and lessees shall have the right to assign seats to patrons thereof, and to refuse admission to objectionable characters.

[Acts 1925, S.B. 84.]

Art. 178a. "Public House of Amusement"

All buildings constructed, fitted and equipped for the purpose of theaters, commonly called theaters, opera houses, play houses, or by whatever name designated, which are and shall hereafter be used for public performances, the production and exhibition of plays, dramas, operas and other shows of whatever nature to which admission fees are charged, are declared to be public houses of amusement.

[1925 P.C.]

Art. 178b. Discrimination Against Reputable Productions

No owner or lessee, or any manager, agent, employé or representative of the owner or lessee who may be in charge and having the care and management of any house of public amusement, shall discriminate against reputable theaters, operas, shows or other productions by whatever name known. Any owner or lessee, or any manager, agent, employé, or representative of the owner or lessee in charge of such house who shall fail and refuse to rent, lease and let such house of public amusement for one or more performances upon such terms and conditions as shall not be deemed unreason-

able, extortionate or prohibitive to the agent, manager, proprietor or representative, who may in good faith make application therefor, of any reputable theater, opera or show, by whatever name known, shall be fined not less than one hundred nor more than five hundred dollars, one-half of which fine shall be paid to the complainant, the balance to go to the jury fund of the county in which such prosecution is had; and in addition, such person so convicted may be committed to the county jail for not more than ten days. Each violation of any provision of this article is a separate offense. [1925 P.C.]

Art. 178c. Exceptions

If at the time of the application to lease or rent such house of public amusement for said purposes, it shall be shown by the owner, lessee or other person in charge thereof that said house of public amusement has in good faith been already leased, let or rented to other persons or parties, and that other bookings have in good faith been made for the date or dates so applied for, and not with the intention of evading the provisions of this chapter, then the penalties provided by the preceding article shall not be imposed.

[1925 P.C.]

Art. 178d. List of Bookings

Owners, lessees, managers or other persons in charge of such houses of public amusement shall make and keep in convenient form a list of all bookings of shows for such houses, with the dates specifically set out therein, and said list of bookings shall be exhibited upon request, to all persons applying therefor who in good faith desire to lease or rent such house or houses for the purposes indicated in the first article of this chapter. Each owner, lessee or other person in charge of such house who shall fail or refuse to keep and exhibit such list of bookings as required herein, shall be fined not less than ten nor more than twenty dollars. Each such failure or refusal is a separate offense.

[1925 P.C.]

Art. 179. Leases

Upon the failure of ¹ refusal of any lessee, or his assigns, of any such public house of amusement to comply with the law governing such places of amusement, or upon conviction of the violation of any provision of the Penal Code relating to discrimination in the booking of plays, opera shows, or other productions, by whatever name known, which are and shall

hereafter be used for public performances, he shall forfeit his lease and all rights and privileges thereunder.

[Acts 1925, S.B. 84.]

¹So in enrolled bill and R.S.1925. Probably should read "or."

Art. 179a. Private Investigator Employed to Determine Attendance or Number of Paid Admissions at Motion Picture Theater Performance; Report to Theater Owner

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

Sec. 2. No evidence obtained by any investigator, nor testimony of such investigator, shall be admissible as evidence in any court, or proceedings of any kind, unless there is compliance with the provisions of Section 1 of this Act.

[Acts 1957, 55th Leg., p. 476, ch. 227.]

Art. 179b. State Law as Governing Contracts for Distribution and Licensing Motion Pictures; Venue

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

Sec. 2. Venue of suits arising out of such license agreements shall be in the county where such film was licensed to be shown or in the county where the principal office of the exhibitor under such license agreement is located. Any provision of such agreement attempting to fix venue elsewhere shall be void.

[Acts 1957, 55th Leg., p. 1345, ch. 456.]

Art. 179c. Performing Fees for Broadcasting or Televising Records; Reliance and Discharge Based Upon Information Shown on Labels; Assignments

Sec. 1. Any person, corporation or other entity performing, playing, broadcasting or televising any record or recording under circumstances which require the payment of a licensing fee or performing fee shall have the right to rely on the information shown on the label of such recording or record in the payment or accounting for such fees, in the absence of actual written notice to the contrary, as provided in Section 3 hereof, and payment in reliance on such information and in accordance with the licensing or performing agreement applicable to the particular recording or record as shown by such label shall operate as a discharge of the obligation of such person, corporation or other entity in the payment of any and all licensing or performing fees for the performing, playing, broadcasting or televising of such record or recording.

Sec. 2. No assignment or transfer by any means whatsoever of the rights to a licensing or performing fee for any record or recording shall be binding upon any person, corporation or other entity performing, playing, broadcasting or televising any such record or recording, unless actual written notice, as provided in Section 3 hereof, of such assignment or transfer be given to such person, corporation or other entity, and payment in accordance with the last actual notice received and in accordance with the licensing or performing agreement applicable to the particular recording or record shall operate as a discharge of the obligation of such person, corporation or other entity in the payment of any and all licensing or performing fees for the performing, playing, broadcasting or televising of such record or recording.

Sec. 3. Notice of the assignment or transfer hereinabove referred to shall be in writing, identify the record or recording, give the name and address of the assignee or transferee and the effective date of such assignment or transfer.

[Acts 1963, 58th Leg., p. 731, ch. 269, eff. Aug. 23, 1963.]

TITLE 7

ANIMALS

1. CRUELTY TO ANIMALS

Article

- 180. Definitions.
- 181. Cruelty to Fowls.
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- 183. May Take Animal.
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- 185. Enforcing Lien.
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- 190. Buy Poison.
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- 190c. Destruction of Predatory Animals in Counties Having Population of 11,800 to 12,000, Bounties.
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- 190g-4. Bounties on Rattlesnakes and Predatory Animals in Certain Counties.
- 190h. Bounties on Predatory Animals and Rattlesnakes in All Counties.
- 190i. Rabid Foxes and Other Wild Animals; Bounties; State Health Officer's Duties.
- 190j. Bounties on Rabbits in Borden County.
- 191. Prairie Dogs.
- 192. Repealed.
- 192a. Repealed.
- 192b. Cooperation Between State and Federal Agencies in Destruction of Predatory Animals.

3. LIVESTOCK REMEDIES

- 192-1. Repealed.

4. MISCELLANEOUS

- 192-2. Permitting Bad Dog to Run at Large.
- 192-3. Unregistered Dogs Prohibited From Running at Large.

1. CRUELTY TO ANIMALS

Art. 180. Definitions

As used in this subdivision, the word "animal" includes every living dumb creature; the

words "torture" and "cruelty" include every act, omission or neglect whereby unnecessary or unjustifiable pain or suffering is caused, permitted or allowed to continue when there is a reasonable remedy or relief. The words "owner" and "person" include corporations, and the knowledge and acts of agents and employes of corporations in regard to animals transported, owned, used by or in custody of the corporation shall be held to be the knowledge and acts of such corporation.

[Acts 1925, S.B. 84.]

Art. 181. Cruelty to Fowls

Whoever receives live fowls, poultry or other birds for transportation or to be confined on wagons or stands, or by the owners of grocery stores, commission houses or other market houses, or by other persons when to be closely confined, shall place same immediately in coops, crates or cages made of open slats or wire on at least three sides and of such height that the fowls can stand upright without touching the top, have troughs or other receptacle easy of access at all times by the birds confined therein, and so placed that their contents shall not be defiled by them, in which troughs or other receptacles clean water and suitable food shall be constantly kept; keep such coops, crates or cages in a clean and wholesome condition; place only such numbers in each coop, crate or cage as can stand without crowding one another, but have room to move around; not expose same to undue heat or cold, and remove immediately all injured, diseased or dead fowls or other birds.

[Acts 1925, S.B. 84.]

Art. 182. Cruelty to Animals

It shall be unlawful for any person to overdrive, wilfully overload, drive when overloaded, overwork, torture, torment, deprive of necessary sustenance, unnecessarily or cruelly beat, or needlessly mutilate or kill any animal or carry any animal in or upon any vehicle, or otherwise, in a cruel or inhuman manner, or cause or procure the same to be done, or who having the charge or custody of any animal unnecessarily fails to provide it with proper food, drink or cruelly abandons it.

[Acts 1925, S.B. 84.]

Art. 183. May Take Animal

When any person arrested under any provision of this law is, at the time of such arrest, in charge of any vehicle drawn by or containing any animal cruelly treated, any agent of the State Humane Society, having been authorized by the sheriff of the county to make ar-

rests in such cases, may take charge of such animal and such vehicle and its contents, and the animal or animals drawing same, and shall give notice thereof to the owner, if known, and shall care and provide for them until their owner shall take charge of the same; and such agent shall have a lien on said animals and on said vehicle and its contents for the expense of such care and provision, or the said expense or any part thereof remaining unpaid may be recovered by such agent in a civil action.

[Acts 1925, S.B. 84.]

Art. 184. Lien

Any officer or agent of said humane society may lawfully take charge of any animal found abandoned, neglected or cruelly treated and shall thereupon give notice thereof to the owner, if known, and may care and provide for such animal until the owner shall take charge of same, and the expense of such care and provision shall be a charge against the owner of such animal and collectible from such owner by said humane society in an action therefor. When said humane society shall provide neglected abandoned animals with proper food, shelter and care, it may detain such animals until the expense of such food, shelter and care is paid, and shall have a lien upon such animals therefor.

[Acts 1925, S.B. 84.]

Art. 185. Enforcing Lien

Any person or corporation entitled to a lien under any provision of this subdivision may enforce the same by selling the animals and other personal property upon which such lien is given, at public auction, upon giving notice to the owner, if he be known, of the time and place of such sale, at least five days previous thereto, and by posting three notices of the time and place of such sale in three public places within the county, at least five days previous thereto. If the owner be not known, then such notice shall be posted at least ten days previous to such sale.

[Acts 1925, S.B. 84.]

Art. 186. Impound Animal

Every person who under the laws of this State or of any municipality thereof shall impound or cause to be impounded any animal in any pound or corral shall supply it during such confinement with sufficient wholesome food and water. If any animal so impounded shall continue to be without necessary food and water for more than twelve successive hours it shall be lawful for any person as often as necessary to enter into or upon said pound or corral and supply such animal with necessary food and water; the reasonable cost for such food and water may be collected by him from the owner of such animal which shall not be

exempt from levy and sale upon execution issued upon a judgment therefor.

[Acts 1925, S.B. 84.]

Art. 187. May Destroy Animal

Any agent or officer of said humane society may lawfully destroy or cause to be destroyed any animal in his charge when, in the judgment of such agent or officer, and by written certificate of two reputable citizens called to view same in his presence, one of whom may be selected by the owner of said animal if he shall so request, it appears humane to do so, and said citizens shall so certify that said animal appears to be injured to such an extent that it would be humane to destroy it.

[Acts 1925, S.B. 84.]

Art. 188. Badge

Officers and agents of said humane society shall be provided with a certificate by said society stating that they are such officers or agents, or with a badge bearing the name and seal of said society; and shall on request show such certificate or badge when acting officially.

[Acts 1925, S.B. 84.]

Art. 189. Duty of Officers

Any member of said humane society may require any sheriff, constable, marshal, or any policeman of any town or city or any agent of said society authorized by the sheriff to make arrests for the violation of the law relating to cruelty to animals, to arrest any person violating any provision thereof, and to take possession of any animal cruelly treated in their respective counties, cities or towns.

[Acts 1925, S.B. 84.]

2. DESTRUCTION OF ANIMALS

Art. 190. Buy Poison

1. May buy poison.—The commissioners court of each county may purchase the necessary poisons and accessories required by the citizens of such county for the purpose of destroying prairie dogs, wild cats, gophers, ground squirrels, wolves, coyotes, rats, English sparrows and ravens, and pay for the same out of the general fund of the county, and may furnish the same at cost or free to such citizens. If the court shall elect to sell the same, the proceeds shall be turned into the treasury to the credit of the general fund.

2. Notice of putting out poison.—Said court shall designate a certain day or days for putting out poison, giving notice of same by posting up notices in public places, such as school houses, gins and mills, or other public places, and also publishing the same in at least one county newspaper, if there be one, for three successive issues. Said notices shall be given

at least twenty days prior to the first day of the time designated to put out the poison. Said notice shall state the time of putting out poison, and that the poisons can be secured from the commissioners court, and the terms on which it can be had.

3. Commissioner of Agriculture.—The Commissioner of Agriculture shall furnish said court with formulas and instructions for preparing the poisons and plants for using the same, and shall, upon the request of any such court, as soon as practicable after receiving such request, demonstrate and give instructions how to prepare the poison and when and how to apply the same.

4. Duty of land holder.—Every land holder whose premises are infested with any of such pests shall procure poison and apply the same as set forth in the plans furnished by the Commissioner of Agriculture.

5. Duty of lessee or tenant.—Every lessee or tenant holding premises by contract shall secure the poison and destroy all such pests. All such expenses incurred by such tenant or lessee in thus destroying such pests shall be charged against the owner of the land and collectible as other valid debts.

[Acts 1925, S.B. 84.]

Art. 190a. Bounty for Destruction of Predatory Animals in Certain Counties

It shall hereafter be lawful for the Commissioners Court of McCulloch, San Saba, Lampasas, Mills, Erath, Limestone, Jasper, Hood, Bastrop, Brazos, Grimes, Sterling, and Childress Counties to pay out of the General Fund of said Counties, bounties for the destruction of wolves, wild cats, and other predatory animals within said Counties as hereinafter provided.

On the petition of two hundred resident freeholders of any one of said Counties, being presented to the Commissioners Court of such County, the Commissioners Court may, by resolution entered upon its Minutes, provide for the destruction of such animals and the amount of bounty to be paid for the destruction of each of said predatory animals and the method of providing such destruction so as to entitle the person destroying such predatory animals to receive said bounty. Provided, that in the Counties of Sterling and Childress, the Commissioners Court is authorized to act upon a petition of as many as fifty (50) resident freeholders of said County.

The amounts paid as bounties for the destruction of predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with him of such proof as the Commissioners Court may require.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 151, ch. 100, § 1; Acts 1929, 41st Leg., p. 208, ch. 90, § 1; Acts

1929, 41st Leg., 2nd C.S., p. 43, ch. 27, § 1; Acts 1930, 41st Leg., 4th C.S., p. 46, ch. 26, § 1; Acts 1941, 47th Leg., p. 1298, ch. 572, § 1.]

Art. 190a-1. Bounties on Coyote Scalps in McMullen County

The Commissioners' Court of McMullen County, in order to preserve game, is hereby authorized to pay out of the general fund, bounties on the scalps of coyotes, in such sum as they deem necessary not to exceed Fifty (\$50.00) Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one coyote has been killed for each scalp paid for.

[Acts 1939, 46th Leg., Spec.L., p. 515, § 1.]

Art. 190a-2. Bounties for Destruction of Wolves and Predatory Animals in Henderson, Angelina and Trinity Counties

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

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

[Acts 1957, 55th Leg., p. 797, ch. 332, § 1.]

Art. 190b. Bounties for Destruction of Predatory Animals in Certain Counties

Counties to Which Applicable

Sec. 1. It shall hereafter be lawful for the Commissioners' Court of Clay, Archer, Baylor, Young, Wise, Wilbarger, Wichita, Coryell, Calahan, Jackson, Eastland, Wharton, Taylor, and Brazos Counties to pay out of the General Fund of said counties, bounties for the destruction of wolves, wildcats and other predatory animals within said counties, as hereinafter provided.

Amount of Bounty

Sec. 2. On petition of two hundred resident freeholders of any one of said counties, being presented to the Commissioners' Court of such county, the Commissioners' Court may, by resolution entered upon its Minutes, provide that any person who shall kill or catch in any of

the above counties any wolf, coyote, jack-rabbit, panther or wildcat shall be paid not to exceed \$5.00 for each panther, wolf or wildcat scalp, and not to exceed ten cents (10¢) for each jack-rabbit scalp.

Payment of Bounty

Sec. 3. The amounts paid as bounties for the destruction of predatory animals in said counties shall be paid by warrant drawn upon the General Fund of the County Judge of such county on the filing with him of such proof as the Commissioners' Court may require.

[Acts 1929, 41st Leg., p. 69, ch. 35.]

Art. 190c. Destruction of Predatory Animals in Counties Having Population of 11,800 to 12,000, Bounties

Bounty Authorized

Sec. 1. That from and after the passage of this Act it shall be lawful for the Commissioners' Court of any county in this State having a population of not less than 11,800 and not more than 12,000 according to the last 1920 Federal Census, to pay a bounty for the destruction of wolves, wildcats and other predatory animals within said County.

Payment of Bounty

Sec. 2. That the payment of the Bounties herein authorized shall be made from a fund created by the levy of taxes which the Commissioners' Court of said county is hereby authorized to levy, at a rate of not to exceed one-fourth of one mill on the total assessed valuation of the county.

[Acts 1929, 41st Leg., 1st C.S., p. 257, ch. 107.]

Art. 190d. Wolf Bounties in Shackelford County

The Commissioners' Court of Shackelford County, in order to preserve game, is hereby authorized to pay out of the general fund, bounties on the scalps of wolves, in such sum as they deem necessary not to exceed Fifty (\$50.00) Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one wolf has been killed for each scalp paid for.

[Acts 1930, 41st Leg., 5th C.S., p. 191, ch. 48, § 1.]

Art. 190d-1. Wolf Bounties in Panola County

The Commissioners Court of Panola County, in order to preserve game, is hereby authorized to pay out of the General County Fund bounties on wolves killed in the County at not to exceed Twenty-five Dollars (\$25) for each wolf killed. Said Commissioners Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that

one animal has been killed for each wolf paid for.

[Acts 1959, 56th Leg., p. 561, ch. 251, § 1, eff. May 26, 1959.]

Art. 190e. Bounties on Wolf Scalps in Jack and Other Counties

In Wise, Jack and Young Counties the Commissioners' Court of the County, in order to preserve game, is hereby authorized to pay out of the General County Fund bounties on the scalps of wolves killed in the county, not to exceed Fifty Dollars for each scalp. Said Commissioners' Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the county and make assurance that one animal has been killed for each scalp paid for.

[Acts 1930, 41st Leg., 4th C.S., p. 88, ch. 47, § 1.]

Art. 190f. Destruction of Ravens and Predatory Animals in Callahan and Other Counties

It is hereafter lawful for the Commissioners Courts of Callahan, Eastland, and Taylor Counties to pay out of the General Fund of said Counties bounties for the destruction of ravens, rabbits, rattlesnakes, and other predatory animals within said Counties as hereinafter provided.

The Commissioners Courts may by resolution entered upon its minutes provide for the destruction of such ravens, rabbits, rattlesnakes, and other predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of ravens, rabbits, rattlesnakes, and other predatory animals in said Counties shall be paid by warrant drawn upon the General Fund of the Counties by the Judges of such Counties on the filing with them of such proof as the Commissioners Courts may require.

[Acts 1937, 45th Leg., p. 500, ch. 251, § 1.]

Art. 190g. Bounties on Rattlesnakes and Predatory Animals in Bell County

It is hereafter lawful for the Commissioners Court of Bell County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said

County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1937, 45th Leg., 1st C.S., p. 1804, ch. 28, § 1.]

Art. 190g-1. Bounties on Rattlesnakes and Predatory Animals in Burnet County

It is hereafter lawful for the Commissioners Court of Burnet County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1941, 47th Leg., p. 36, ch. 23, § 1.]

Art. 190g-2. Bounties on Rattlesnakes and Predatory Animals in Certain Counties

It is hereafter lawful for the Commissioners Courts of Crockett, Sutton, Menard, Mason, Kimble, Kerr, Bandera, Real, Edwards, Schleicher, Tom Green, Irion, Medina, Webb, and Zapata Counties to pay out of the General Fund of said Counties bounties for the destruction of rattlesnakes and predatory animals within said Counties as hereinafter provided.

The Commissioners Court in each County above named may by resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the methods of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said Counties shall be paid by warrant drawn upon the General Fund by the Judge of such Counties on the filing with them of such proof as the Commissioners Court may require.

[Acts 1941, 47th Leg., p. 671, ch. 413, § 1.]

Art. 190g-3. Bounties on Rattlesnakes and Predatory Animals in Williamson County

It is hereafter lawful for the Commissioners Court of Williamson County to pay out of the General Fund of said County bounties for the destruction of rattlesnakes and predatory animals within said County as hereinafter provided.

The Commissioners Court may by Resolution entered upon its minutes provide for the destruction of such rattlesnakes and predatory animals and the amount of bounty to be paid for the destruction of such, and the method of providing such destruction so as to entitle the person destroying same to receive said bounty. The amount paid as bounty for destruction of rattlesnakes and predatory animals in said County shall be paid by warrant drawn upon the General Fund of the County by the Judge of such County on the filing with them of such proof as the Commissioners Court may require.

[Acts 1945, 49th Leg., p. 47, ch. 29, § 1.]

Art. 190g-4. Bounties on Rattlesnakes and Predatory Animals in Certain Counties

Sec. 1. The Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, in order to preserve game, and to protect the interest of livestock and poultry raisers of said Counties, is hereby authorized to pay out of the general fund of said Counties bounties for the destruction of rattlesnakes, wolves, coyotes, panthers, bobcats, and other predatory animals; said bounty to be set by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, Texas, at an amount not to exceed Five Dollars (\$5) per animal for wolves, coyotes, panthers, and bobcats; Fifty (50) Cents for coons, skunks, opossum, and like animals, and Ten (10) Cents for rattlesnakes; said Commissioners Courts, by resolution entered upon the minutes of the Commissioners Courts, to specify the amount of bounty to be paid for each of the said predatory animals and for rattlesnakes not to exceed the amounts as set forth above; and to prescribe such proof and regulations as are necessary in order to protect the interests of such Counties.

Sec. 2. Such bounties as may be prescribed by the Commissioners Courts of San Patricio, Bee, Aransas, and Refugio Counties, for the destruction of rattlesnakes and predatory animals, shall be paid upon warrant drawn by the County Judge on the general fund of said Counties.

[Acts 1945, 49th Leg., p. 154, ch. 105.]

Art. 190h. Bounties on Predatory Animals and Rattlesnakes in All Counties

Sec. 1. From and after the effective date of this Act all County Commissioners Courts throughout the State of Texas may pay a bounty not to exceed Five Dollars (\$5) out of the General Fund of the County for the killing of all Jaguar, Cougar, Ocelot, Jaguarondi, Bob Cat, Gray Wolf, Red Wolf, Florida Wolf, Coyote, Javelina and Rattlesnake. The Commissioners Courts shall have authority to determine what animals are predatory within said County and said Court may further determine eligibility of persons to whom bounties will be paid.

Sec. 2. The amounts paid as bounties for the destruction of predatory animals in any county shall be paid by a warrant drawn upon the General Fund of the county by the Judge of said county upon the filing with him of such proof as the Commissioners Court may require.

[Acts 1945, 49th Leg., p. 83, ch. 59.]

Art. 190i. Rabid Foxes and Other Wild Animals; Bounties; State Health Officer's Duties

Sec. 1. It shall be the duty of the State Health Officer to determine and define the boundaries of all areas of the State in which foxes or other wild animals infected with rabies exist in sufficient numbers to be a menace to the health of that area. Such determinations shall be based upon a finding of fact by the State Health Officer; providing further that the State Health Officer shall cause to be published in a newspaper within each county within the defined area that a bounty exists in the county concerned.

Sec. 2. When the State Health Officer finds that the health of such area is menaced by rabies because of rabid foxes or other wild animals, and defines the area where such menace exists, he shall pay a bounty of Two Dollars (\$2) for each and every fox or other wild animal destroyed in the defined area. For purposes of such payments the Health Officer shall have the power to require such evidence as proof of the destruction of a fox or other wild animal as he shall deem necessary.

Sec. 3. When the number of rabid foxes or other wild animals in any defined area is reduced to the extent that the destruction of such foxes or other wild animals is no longer necessary then the State Health Officer shall cease payment of the bounties, and shall serve notice to the public in the area concerned through publication in at least one (1) newspaper in each county concerned.

Sec. 4. For purposes of administering the provisions of this Act and for payment of the bounties so provided, there is appropriated out of the General Revenue Fund from moneys, not otherwise appropriated, Fifteen Thousand Dollars (\$15,000) to the State Health Officer, any excess to be returned to the General Revenue Fund after eradication of rabid foxes or other wild animals. A budget for the appropriation herein made shall be submitted to and approved by the Legislative Audit Committee before any funds may be disbursed.

Sec. 5. It shall be lawful for any person to kill, take, hunt, catch or destroy wild foxes or other wild animals at any time in the affected area, as determined by the State Health Officer, and the hides and pelts of any wild foxes or other wild animals so taken within such defined area may be sold during the trapping season.

Sec. 6. All laws or parts of laws in conflict herewith are hereby specifically repealed.

Sec. 7. If it shall be held by any Court of competent jurisdiction that any section, sentence, or part of this Act is invalid, it is nevertheless declared to be the legislative intent that this Act would have been and the same is hereby enacted regardless of any such invalidity of any part thereof.

[Acts 1947, 50th Leg., p. 229, ch. 133.]

Art. 190j. Bounties on Rabbits in Borden County

The Commissioners Court of Borden County, in order to prevent property damage, is hereby authorized to pay out of the General County Fund bounties on wild rabbits killed in the County at not to exceed Ten Cents (10¢) for each wild rabbit killed. Said Commissioners Court may require such proof and adopt such rules and regulations as are necessary in order to protect the interest of the County and make assurance that one (1) animal has been killed for each rabbit paid for.

[Acts 1959, 56th Leg., p. 580, ch. 263, § 1, eff. May 26, 1959.]

Art. 191. Prairie Dogs

Prairie dogs are hereby declared to be a public nuisance.

[Acts 1925, S.B. 84.]

Art. 192. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96, § 14

Art. 192a. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96, § 14

Art. 192b. Cooperation Between State and Federal Agencies in Destruction of Predatory Animals

State to Cooperate

Sec. 1. The State of Texas will cooperate through the Agricultural and Mechanical College System of Texas with the United States Department of the Interior, Fish and Wildlife Service in the control of coyotes, wolves, mountain lions, bobcats, the Russian boar, and other predatory animals and in the control of prairie dogs, pocket gophers, jack rabbits, ground squirrels, rats and other rodent pests for the protection of livestock, food and feed supplies, crops and ranges.

Appropriation

Sec. 2. It is hereby authorized that funds shall be appropriated out of any sum in the State Treasury not otherwise appropriated for the fiscal years ending August 31, 1952, and August 31, 1953, for said purpose, provided that such monies so appropriated shall not be

expended as hereinafter provided unless the Federal Congress shall appropriate adequate funds from the United States Treasury for the same purpose.

Expenditure of Appropriation

Sec. 3. The funds hereby authorized to be appropriated each year shall be expended in amounts as authorized by the Board of Directors of the Agricultural and Mechanical College System of Texas and disbursed by warrants issued by the State Comptroller upon vouchers or payrolls certified by the Director of Extension of the Agricultural and Mechanical College System of Texas. The work of controlling predatory animals and rodent pests is to be carried on under the direction of the Fish and Wildlife Service of the United States Department of the Interior.

Transfer of Appropriation

Sec. 4. There is hereby transferred to the Agricultural and Mechanical College System of Texas all funds appropriated or to be appropriated to the Livestock Sanitary Commission of Texas by the 52nd Legislature for predatory animal control work for the two-year period ending August 31, 1953.

Cooperative Agreement

Sec. 5. The Director of Extension of the Agricultural and Mechanical College System of Texas is hereby authorized and directed to execute a cooperative agreement with the Secretary of the Interior of the United States of America for carrying out such cooperative work in predatory animal and rodent control in such manner and under such regulations as may be stated in such agreement.

Appropriations by Commissioners Court

Sec. 6. The Commissioners Court of any county within the State or the governing body of any incorporated city or town within the State is empowered and authorized at its discretion to appropriate funds for the prosecution of the predatory animal and rodent control work contemplated by this Act and in cooperation with State and Federal authorities to employ labor and to purchase and provide supplies required for the effective prosecution of this work.

Sale of Furs, Skins and Specimens

Sec. 7. All furs, skins and specimens of value taken by hunters or trappers paid from State funds shall be sold under rules prescribed by the Agricultural and Mechanical College System of Texas and the proceeds of such sales shall be credited and added to the fund set up for predatory animal and rodent control; provided that any specimen may be presented free of charge to any State, county or Federal institution for scientific purposes.

Bounty Prohibited

Sec. 8. No bounty is to be collected from any county or other source for animals taken by hunters or trappers operating under this Act. Scalps of all animals taken are to be destroyed and all skins of commercial value sold, and every precaution taken to prohibit the collection of bounty by any person herein mentioned.

Entry on Public or Private Lands

Sec. 9. Any person working under the direction of the Fish and Wildlife Service of the United States Department of the Interior or the Agricultural and Mechanical College System of Texas, shall be authorized to enter upon public or private lands within this State for the purpose of carrying on the work of extermination of predatory animals and injurious rodents named in this Act, provided the same is done without violating the State or Federal Constitution.

Construction with other Acts

Sec. 10. The provisions, restrictions and penalties of Chapter 149, Acts of the Regular Session of the 39th Legislature and of Articles 923r, 1377 and 1378 of the Penal Code shall not be construed as applying to hunters and trappers under this Act, provided they are acting in performance of duties contemplated under the terms of this Act.

Tampering with Traps; Penalty

Sec. 11. Any person who shall maliciously or wilfully tamper with any of said traps, or any part thereof, or remove the same from the position in which the same was placed by the hunter or trapper, shall be fined not less than Fifty (\$50.00) Dollars nor more than Two Hundred (\$200.00) Dollars.

Stealing Traps; Penalty

Sec. 12. Any person who shall steal or fraudulently take any trap belonging to the State of Texas or United States Department of the Interior shall be deemed guilty of a misdemeanor and shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars.

Stealing Animals from Traps; Penalty

Sec. 13. Any person who shall steal or take away from any trap any animal mentioned in this Act that may be therein shall be deemed guilty of a misdemeanor and upon conviction shall be fined not less than One Hundred (\$100.00) Dollars and not more than Two Hundred (\$200.00) Dollars; and such animals shall be regarded as the property of the State of Texas and complaints alleging violations shall allege the ownership of the animal in the State of Texas, and the only proof necessary for establishing ownership shall consist in proving that the animal was taken from a trap which

had been set by a trapper or hunter authorized by this Act.

[Acts 1929, 41st Leg., 1st C.S., p. 235, ch. 96; Acts 1951, 52nd Leg., p. 540, ch. 317, § 1; Acts 1961, 57th Leg., p. 285, ch. 156, § 1, eff. Aug. 28, 1961.]

3. LIVESTOCK REMEDIES

Art. 192-1. Repealed by Acts 1971, 62nd Leg., p. 1805, ch. 534, § 8, eff. June 1, 1971

4. MISCELLANEOUS

Art. 192-2. Permitting Bad Dog to Run at Large

Any owner, keeper, or person in control of any dog accustomed to run, worry or kill goats, sheep or poultry, knowing such dog to be so accustomed who shall permit such dog to run at large shall be fined not to exceed one hundred dollars. Each time such dog runs at large is a separate offense.

[1925 P.C.]

Art. 192-3. Unregistered Dogs Prohibited From Running at Large

Registration; Identification Tag

Sec. 1. From and after the effective date of this Act, it shall be unlawful for the owner or any person, having control of any dog six (6) months or more of age, to permit or allow said dog to run at large, unless such dog shall have been by such owner or person having control of said dog duly registered with the County Treasurer of the county in which said dog runs at large, and shall have securely fastened about its neck a dog identification tag showing its registration and duly assigned to said dog by the County Treasurer of said county in the manner hereinafter set forth. It shall be the duty of the Commissioners Court to furnish the County Treasurer the necessary dog identification tags numbered consecutively from one up and each such identification tag shall, also, have printed or impressed on it the name of the county in which said tag is issued. At the time any dog is registered hereafter under the provisions of this Act, it shall be the duty of the County Treasurer to assign to such dog a registration number and deliver to the owner or person having control of said dog the necessary dog identification tag as herein provided for. The County Treasurer shall, also, issue to the person registering any dog a certificate showing that said dog has been duly registered under this Act.

The County Treasurer shall likewise be furnished with a substantial and well-bound book for registration of dogs which book shall show the age, breed, color, and sex of each dog so registered, together with the date of registration.

3 West's Tex. Stats. & Codes—13

Unmuzzled Dogs Prohibited from Running at Large at Night

Sec. 2. From and after the effective date of this Act it shall be unlawful for the owner of any dog to allow such dog to run at large between sunset and sunrise of the following day, unless such dog has securely fastened about his mouth a leather or metallic muzzle as will effectively prevent such dog from killing or injuring sheep, goats, calves, or other domestic animals or fowls.

Killing of Dogs for Attacking Domestic Animals Authorized

Sec. 3. Any dog, whether registered and tagged or not, when found attacking any sheep, goats, calves, and/or other domestic animals or fowls, or which has recently made, or is about to make such attack on any sheep, goats, calves, and/or other domestic animals and witnessing or having knowledge of such attack and without liability in damage to the owner of such dog. Any dog, whether registered and tagged or not, known or suspected to be a killer of sheep, goats, calves, or other domestic animals or fowls, is hereby declared to be a public nuisance and such dog may be detained or impounded by any person until the owner may be notified, and until all damage done by said dog shall have been determined and paid to the proper parties. Any dog known to have attacked, killed, or injured any sheep, goat, calf, or other domestic animal or fowl, shall be killed by the owner of such dog, and upon failure of such owner so to do, any sheriff, deputy sheriff, constable, police officer, magistrate, or County Commissioner is authorized to kill such dog, and such officer is further authorized to go upon the premises of the owner of such dog for such purpose.

The owner of any sheep, goats, or other domestic animals, subject to the ravages of sheep-killing dogs, may place poison on the premises where such sheep, goats, and other domesticated animals are kept, after posting notices of such poison at each place of entrance to said premises.

Annual Registration Tax; Disposition of Money

Sec. 4. Each dog so registered shall be subject to a tax of One Dollar (\$1) which shall be paid to the County Treasurer at the time of such registration and shall cover the costs of registration and identification tag, and shall be good for the period of one year from date of such registration. Upon the removal of a dog from one county to another, the owner may present his registration certificate to the County Treasurer of the county to which such dog is removed and receive without additional cost a registration certificate effective to the end of the year for which such dog was registered in the other county and likewise in any other county to which such dog may be removed. The tax so collected shall be placed in a special fund and shall be used only for defraying the expenses of administration of this Act in such

county and for reimbursing the owner or owners of sheep, goats, calves, and/or other domestic animals, and/or fowls that may have been killed in such county by dogs not owned by the person seeking reimbursement. Such payment shall be made on order of the Commissioners Court and only on satisfactory proof. Such payment shall be made in the amount, and at such time as the said Commissioners Court may determine, and in the event that such fund shall be insufficient to reimburse all injured parties in full, payment shall be made pro rata. The County Treasurer shall keep an accurate record showing all amounts coming into said fund and disbursements therefrom. Provided, that any dog brought into the county for breeding purposes, trial, or show for a period of not exceeding ten (10) days shall not be required to be registered. Provided further, that upon sale or transfer of ownership of a dog, the registration certificate shall be transferred to the new owner.

Penalty

Sec. 5. The owner of any dog who shall willfully fail or refuse to register such dog, or who shall willfully fail or refuse to allow a dog to be killed when ordered by the proper authorities so to do, or who shall willfully violate any provision of this Act, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined in any sum not exceeding One Hundred Dollars (\$100), or by confinement in the county jail for not more than thirty (30) days, or by both such fine and imprisonment.

Local Option; Election Procedure

Sec. 6. This Act shall not be effective in any county unless and until the qualified property taxpaying voters of such county, by a majority vote at an election held for such purposes, shall have voted therefor. Upon a petition signed by one hundred (100), or a majority of the qualified property taxpaying voters of a county, the Commissioners Court shall order an election to be held throughout such county in not less than ten (10) nor more than twenty (20) days to determine whether or not the registration of and the tax on dogs shall be required in such county. Notice of such election shall be given by the publication of said notice one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in the said county, then such notice shall be posted at the courthouse door for a period of not less than one week before such election. At such elec-

tion those favoring the putting into force of this law in such county shall have written or printed on their ballots the words: "For Registration of and Tax on Dogs" and those opposed to the proposition shall have written or printed on their ballots the words: "Against the Registration of and Tax on Dogs." If a majority of those voting at such election shall be in favor of such registration and tax, then such law shall become effective within ten (10) days from the date on which the result of such election shall have been declared. Returns of such election shall be made by the presiding officers of same within three (3) days after such election, and in duplicate to the County Judge and County Clerk. The Commissioners Court shall canvass such returns and declare the result not later than the first Monday after such returns are made, and if the vote be in favor of the registration of and tax on dogs, then the County Judge shall issue his proclamation declaring the result of said election and putting the same into force and effect in said county, which proclamation shall be published one time in a newspaper of general circulation in the English language in said county. But if there be no newspaper in the English language and of general circulation published in said county, then such proclamation shall be posted at the courthouse door.

When an election under this Section shall have been held and the result of same has been adverse to the registration of and tax on dogs, then no other election shall be held on the same subject for a period of six (6) months. But if the result shall be for the registration of and tax on dogs, then no election for the repeal of same shall be held for a period of two (2) years. The returns of such election shall be preserved for one year after such election.

When an election, under this Act, shall have been held and the results shall be for the registration of and tax on dogs, each owner or person having control of any dog of the age of six (6) months or more in said county shall, within thirty (30) days from the date of the proclamation herein provided for, register said dog with the County Treasurer of said county under the provisions of this law.

Partial Invalidity

Sec. 7. If any provision, paragraph, or sentence of this Act shall be held invalid, such invalidity shall not affect or invalidate the remaining provisions, paragraphs, and sentences of this Act.

[Acts 1937, 45th Leg., p. 1119, ch. 450.]

TITLE 8

APPORTIONMENT

SENATORIAL DISTRICTS

Article

- 193. Repealed.
- 193a. Senatorial Districts.
- 194, 194a. Repealed.

REPRESENTATIVE DISTRICTS

- 195. Repealed.
- 195a. Repealed.
- 195a-1, 195a-2. Repealed.
- 195a-3. Representative Districts.
- 196. Returns Made to Whom.

CONGRESSIONAL DISTRICTS

- 197. Superseded.
- 197a, 197b. Repealed.
- 197c. Repealed.
- 197d. Congressional Districts.

SUPREME JUDICIAL DISTRICTS

- 198. Supreme Judicial Districts.

JUDICIAL DISTRICTS

- 199. Judicial Districts.
- 199a. Judicial Districts Act of 1969.
- 200. Amendments Affecting Judicial Districts.

ADMINISTRATIVE JUDICIAL DISTRICTS

- 200a. Administrative Judicial Districts.
- 200b. Judicial Administration in Certain Counties.

SENATORIAL DISTRICTS

Art. 193. Repealed by Acts 1965, 59th Leg., p. 719, ch. 342, § 35, eff. Aug. 30, 1965

Art. 193a. Senatorial Districts

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

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

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

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

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

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

Sec. 7. District 6 is composed of that part of Harris County included in the following: BEGINNING at the point where U. S. Highway 290 intersects the common line between Harris and Waller Counties;

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

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

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to McKee Street;

THEN north along McKee Street to Lyons Avenue;

THEN east along Lyons Avenue to Hardy Street;

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

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

THEN north along Jensen Drive to Halls Bayou;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THEN northwest along the Gulf Freeway to Pierce Street;

THEN northwest along Pierce Street to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Sims Bayou;

THEN east along Sims Bayou to Telephone Road;

THEN south along Telephone Road to Braniff Street;

THEN east along Braniff Street to Monroe Road;

THEN north along Monroe Road to Airport Boulevard;

THEN east along Airport Boulevard to the Gulf Freeway;

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

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

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

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

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

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

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

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

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

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

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

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN southwest along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

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

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

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

THEN west along Halls Bayou to Jensen Drive;

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

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

THEN south along Hardy Street to Lyons Avenue;

THEN west along Lyons Avenue to McKee Street;

THEN south along McKee Street to Buffalo Bayou;

THEN west along Buffalo Bayou to Main Street;

THEN southwest along Main Street to Pierce Street;

THEN southeast along Pierce Street to the Gulf Freeway;

THEN southeast along the Gulf Freeway to Brays Bayou;

THEN east and northeast along Brays Bayou to the Ship Channel (Buffalo Bayou);

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

THEN north along the San Jacinto River to the H.N.S. Railroad;

THEN north and east along the H.N.S. Railroad to the Crosby-Lynchburg Road;

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

THEN east along the Barbers Hill Road to the point where it intersects the common line between Harris and Chambers Counties;

THEN north and west along the common line between Harris and Chambers Counties to the common line between Harris and Liberty Counties;

THEN north and west along the common line between Harris and Liberty Counties to Atascocita Road, the point of origin.

Sec. 13. District 12 is composed of Bandera, Bosque, Brown, Burnet, Comal, Coman-

che, Concho, Coryell, Ellis, Erath, Gillespie, Hamilton, Hill, Hood, Johnson, Kendall, Kerr, Kimble, Lampasas, Llano, McCulloch, Mason, Menard, Mills, Real, San Saba, and Somervell Counties.

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

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

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

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

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

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

THEN south along Heights Boulevard to Waugh Drive;

THEN south along Waugh Drive to Buffalo Bayou;

THEN east along Buffalo Bayou to Main Street;

THEN southwest along Main Street to Holcombe Boulevard;

THEN east along Holcombe Boulevard to Old Spanish Trail;

THEN east along Old Spanish Trail to Griggs Road;

THEN southeast along Griggs Road to Cullen Boulevard;

THEN southwest along Cullen Boulevard to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

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

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

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

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

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

THEN south along Coit Road to Valley View Lane;

THEN east along Valley View Lane to Central Expressway;

THEN south along Central Expressway to Walnut Hill Lane;

THEN west along Walnut Hill Lane to Hillcrest Avenue;

THEN south along Hillcrest Avenue to Lovers Lane;

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

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

THEN south along the Central Expressway to Goodwin Avenue;

THEN east along Goodwin Avenue to Greenville Avenue;

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

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

THEN north along Abrams Road to Northwest Highway;

THEN east along Northwest Highway to Dixons Branch;

THEN south along Dixons Branch to White Rock Lake;

THEN south along White Rock Lake to Grand Avenue;

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

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

THEN northwest along Beacon Avenue to Junius Street;

THEN southwest along Junius Street to Dumas Street;

THEN northwest along Dumas Street to Gaston Avenue;

THEN southwest along Gaston Avenue to Pacific Avenue;

THEN southwest along Pacific Avenue to Houston Street;

THEN south along Houston Street to Commerce Street;

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

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

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

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

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

THEN northwest along North Mesquite Creek to Belt Line Railroad;

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

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

THEN northwest on Barnes Bridge Road to Oates Drive;

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

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

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

THEN north along First Avenue to Avenue D;

THEN west along Avenue D to Garland Road;

THEN north along Garland Road to Buckingham Road;

THEN east along Buckingham Road to State Highway 78;

THEN northeast along State Highway 78 to the common line between Dallas and Collin County;

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

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

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

THEN northwest along the Gulf Freeway to Airport Boulevard;

THEN west along Airport Boulevard to Monroe Road;

THEN south along Monroe Road to Braniff Street;

THEN west along Braniff Street to Telephone Road;

THEN north along Telephone Road to Sims Bayou;

THEN west along Sims Bayou to Chocolate Bayou Road;

THEN south along Chocolate Bayou Road to Reed Road;

THEN west along Reed Road to Alameda Road;

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

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

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

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

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

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

THEN northwest along Harry Wurzbach Highway to Klaus Street;

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

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

THEN west along Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

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

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

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

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

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

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

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;

THEN south along Zarzamora Street to Southercross Boulevard;

THEN west along Southercross Boulevard to Somerset Road;

THEN southwest along Somerset Road to Palo Alto Road;

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

THEN east along the city limit of San Antonio to the San Antonio River;

THEN southeast along the San Antonio River to the common boundary between Bexar and Wilson Counties;

THEN northeast and northwest along the Bexar County line to U. S. Highway 81, the point of origin.

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

BEGINNING at a point where the western boundary of the Laguna Atascosa National Wildlife Refuge intersects the common bounda-

ry line between Cameron and Willacy Counties;

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

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

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

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

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

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

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

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

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

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

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

THEN north along Sandy Lane to Meadowbrook Drive;

THEN west along Meadowbrook Drive to Weiler Boulevard;

THEN south along Weiler Boulevard to Dallas Avenue;

THEN west along Dallas Avenue to Winnie Street;

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

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

THEN south along Cravens Road to Ramey Avenue;

THEN west along Ramey Avenue to Hughes Avenue;

THEN south along Hughes Avenue to Crenshaw Street;

THEN west along Crenshaw Street to Thrall Street;

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

THEN north along Mitchell Boulevard to Maddox Avenue;

THEN west along Maddox Avenue to Sycamore Creek;

THEN north along Sycamore Creek to Rosedale;

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

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

THEN west along Magnolia Avenue to Juroki;

THEN south along Juroki to Maddox Avenue;

THEN east along Maddox Avenue to Beverly Drive;

THEN south along Beverly Drive to Ramsey Avenue;

THEN west along Ramsey Avenue to Stuart Street;

THEN south along Stuart Street to Capps Street;

THEN west along Capps Street to Hemphill Street;

THEN north along Hemphill Street to Jessamine;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 25. District 24 is composed of Borden, Callahan, Coke, Coleman, Fisher, Garza, Glasscock, Haskell, Howard, Jones, Kent, Mitchell, Nolan, Runnels, Scurry, Shackelford, Sterling, Stonewall, Taylor, Throckmorton and Young Counties.

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

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

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

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

THEN northwest along Harry Wurzbach Highway to Klaus Street;

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

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

THEN west along Basse Road to San Pedro Avenue;

THEN south along San Pedro Avenue to Elmira;

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

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

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

THEN west along Durango Street to the Missouri Pacific Railroad;

THEN north along the Missouri Pacific Railroad to Matamoros Street;

THEN west along Matamoros Street to Comal Street;

THEN south along Comal Street to Durango Street;

THEN west along Durango Street to Brazos Street;

THEN south along Brazos Street to Laredo Street;

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

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

THEN west along Goodwin Street to Missouri Pacific Railroad;

THEN southwest along the Missouri Pacific Railroad to Zarzamora Street;

THEN south along Zarzamora Street to Southcross Boulevard;

THEN west along Southcross Boulevard to Somerset Road;

THEN southwest along Somerset Road to Palo Alto Road;

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

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

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

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

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

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

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

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

Sec. 31. District 30 is composed of Archer, Bailey, Baylor, Briscoe, Castro, Childress, Cottle, Dickens, Floyd, Foard, Hale, Hall, Harde- man, King, Knox, Lamb, Motley, Parmer, Swisher, Wichita and Wilbarger Counties.

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

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

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

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

Sec. 36. All boards, agencies, commissions, committees and governing bodies created or ex- isting under the laws of this state whose mem- bership is based upon the Senatorial Districts of Texas, shall conform their memberships to the Senatorial Districts created hereunder.

[Acts 1965, 59th Leg., p. 719, ch. 342, eff. Aug. 30, 1965.]

Art. 194. Repealed by Acts 1931, 42nd Leg., p. 309, ch. 183, § 1

Art. 194a. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c), eff. Aug. 23, 1963

REPRESENTATIVE DISTRICTS

Art. 195. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, § 121(c); Acts 1965, 59th Leg., p. 753, ch. 351, § 4, eff. Aug. 30, 1965

Art. 195a. Repealed by Acts 1971, 62nd Leg., p. 2980, ch. 981, § 5, eff. Aug. 30, 1971

Arts. 195a-1, 195a-2. Repealed by Acts 1971, 62nd Leg., p. 2980, ch. 981, § 5, eff. Aug. 30, 1971

Art. 195a-3. Representative Districts

Sec. 1. The Representative Districts of the State of Texas shall be composed respectively of the following counties or defined areas, and each district shall be entitled to elect one rep- resentative except as otherwise provided here- in:

1. Bowie County and that part of Red River County included in census enumeration dis- tricts 3, 4, 7, 8, 9, 10, and 11.

2. Cass, Marion, Morris, and Titus counties; that part of Red River County not included in District 1; and that part of Harrison County included in census enumeration districts 9, 11, and 12.

3. Rusk County and that part of Harrison County not included in district 2.

4. Nacogdoches, Panola, and Shelby coun- ties; and that part of San Augustine County included in census enumeration districts 4, 5, 6, and 7.

5. Hardin, Jasper, and Tyler counties; and that part of Newton County not included in district 6.

6. Orange County and that part of Newton County included in census enumeration dis- tricts 10, 11, 12, 13, 14, and 15.

7. That part of Jefferson County not includ- ed in district 9.

Place 1

Place 2

Place 3

8. Rains, Upshur, and Wood counties; that part of Smith County included in census tracts

13, 15, 17, 18, 21, and census enumeration district 148; and that part of Cherokee County included in census enumeration districts 1, 5, 10, 11, 12, 13, 14, 15, 16, 17, and 18.

9. Chambers County, that part of Jefferson County included in census tracts 113, 114, 115, 116, and that part of census tract 3 included in enumeration district 203 and census block groups 4, 5, 6, 7, 8, and 9, and that part of Galveston County included in census tracts 1237, 1238, 1239, 1240, 1249, 1254, and 1255, and that part of census tract 1232 included in census block groups 2, 3, 4, 5, 6, 7, 8, and 9, and that part of Liberty County included in census enumeration districts 1, 2, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, and 35.

10. Camp, Delta, Franklin, Hopkins, and Lamar counties.

11. That part of Smith County not included in district 8.

12. Angelina, Polk, and Sabine counties; and that part of San Augustine County not included in district 4.

13. Gregg County.

14. Fannin County and that part of Grayson County not included in district 60.

15. Hunt County and that part of Kaufman County not included in district 32.

16. Anderson, Henderson and Van Zandt counties.

17. Freestone, Limestone, and Robertson counties and that part of Navarro County not included in district 34 and that part of Falls County included in census enumeration districts 22, 23, 24, 25, 26, and 27.

18. Houston, Trinity and Walker counties; and that part of Cherokee County not included in district 8.

19. Grimes, Montgomery, and San Jacinto counties, and that part of Liberty County not included in district 9.

20. Fort Bend County and that part of Brazoria County included in census enumeration districts 1, 1B, 1C, 2, 2B, 3, 4, 5, 6, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 50, 54, 78, 79, 98, 99, 86, 87, 88, 89, 90, 102, and 100.

21. That part of Harris County included in census tracts 407, 417, 418, 419, 423, 424, 425, 426, 427, 432, 433, 434, 435, 436, 437, 438, 439, 441, 445, 446, 447, 448, 449, 450, 451, 452, 542; that part of census tract 422 included in census block groups 4 and 5; that part of census tract 440 included in census block groups 2, 3, 4, and 5; and that part of census tract 444 included in census block groups 3, 4, and 5.

Place 1

Place 2

Place 3

22. That part of Harris County included in census tracts 308, 314, 316, 318, 319, 320, 323, 324, 325, 326, 327, 328, 331, 332, 333, 334, 335, 336, 337, 338, 340, 341, 342, 343, 344, 345, 346,

348, 371, 372, 375, 408, 409, 410, 411, 412, 413, 414, 415, 416, 428, 429, 430, and 431.

Place 1

Place 2

Place 3

Place 4

23. That part of Harris County included in census tracts 121, 122, 123, 124, 201, 203, 204, 205, 206, 207, 208, 209, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 224, 225, 303, 304, 305, 306, 307, 315, 317, 329, 330, 339, 501, and 502.

Place 1

Place 2

Place 3

Place 4

24. That part of Harris County included in census tracts 125, 126, 401, 402, 403, 404, 405, 406, 420, 421, 442, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 526, 527; that part of census tract 422 included in census block groups 1, 2, 3, 6, and 9; and that part of census tract 440 included in census block groups 1, 6, 7, and 9.

Place 1

Place 2

Place 3

Place 4

25. That part of Harris County included in census tracts 202, 234, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 301, 302, 309, 310, 311, 312, 313, 321, 322, 347, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 373, and 374.

Place 1

Place 2

Place 3

Place 4

26. That part of Harris County included in census tracts 210, 211, 212, 223, 226, 228, 229, 230, 231, 232, 233, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 443, 522, 523, 524, 525, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 553, 554, 555, 556, 557, 558, 559, and that part of census tract 444 included in census block groups 1, 2, 6, and 7.

Place 1

Place 2

Place 3

Place 4

27. That part of Galveston County not included in district 9.

Place 1

Place 2

28. Bastrop, Colorado, Fayette, and Gonzales counties and that part of Wharton County included in census enumeration districts 1, 2, 3, 5, and 13.

29. Austin, Burleson, Lee, Waller, and Washington counties and that part of Harris County included in census tracts 541, 543, 544, 545, 546, 547, 548, 549, 550, 551, and 552.
30. Matagorda County; that part of Wharton County not included in district 28; and that part of Brazoria County included in census enumeration districts 91, 92, 93, 94, 97, 101, 95, 96, 96B, 104, 105, 106, 107, 108, 149, 160, and 160B.
31. That part of Brazoria County not included in districts 20 and 30.
32. Collin and Rockwall counties and that part of Kaufman County included in census enumeration districts 20, 21, 22, and 32.
33. Dallas County.
- Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
 - Place 8
 - Place 9
 - Place 10
 - Place 11
 - Place 12
 - Place 13
 - Place 14
 - Place 15
 - Place 16
 - Place 17
 - Place 18
34. Ellis and Hill counties and that part of Navarro County included in census enumeration districts 3, 4, 5, 30, 31, 32, 33, 34, and 36.
35. That part of McLennan County not included in district 36 or 80.
36. Coryell County and that part of McLennan County included in census tracts 9, 10, 11, 12, 13, 25.01, 25.02, 28, 29, 30, 31, 39, 40, and 41.
37. Milam and Williamson counties and that part of Bell County included in census enumeration districts 27A, 27B, 27C, 28, 29, 36, 37, 38, 78A, 78B, 92, 93, 95, 96, 100, 101, 102, 103, 104, and 105.
38. Brazos, Leon and Madison counties.
39. Travis County.
- Place 1
 - Place 2
 - Place 3
 - Place 4
40. Blanco, Burnet, Caldwell, Gillespie, and Hays counties.
41. Comal, Guadalupe, Kendall, and Wilson counties.
42. Aransas, DeWitt, Goliad, Jackson, Lavaca, and Refugio counties.
43. Calhoun and Victoria counties.
44. Live Oak, San Patricio and that part of Nueces County included in census tracts 35, 36, 37, 50, 58, 59, and 61.
45. That part of Nueces County not included in district 44.
- Place 1
 - Place 2
 - Place 3
46. Cameron County and that part of Willacy County included in census enumeration districts 1, 2, 3, 15, 16, 17, 18, and 19.
- Place 1
 - Place 2
47. Hidalgo, Kenedy and Kleberg counties and that part of Willacy County not included in district 46.
- Place 1
 - Place 2
 - Place 3
48. Brooks, Duval, Jim Hogg, Jim Wells, and Starr counties.
49. Frio, Medina, and Zavala counties; that part of Uvalde County not included in district 65; and that part of Bexar County included in census tracts 1615, 1617, 1618, and 1619.
50. That part of Bell County included in census enumeration districts 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, and 91.
51. Erath, Hood and Parker counties and that part of Tarrant County included in census tracts 57.02, 60.01, 60.03, 108.03, 110.01, 110.02, 112.01, and 112.02.
52. That part of Tarrant County not included in district 51 or 54.
- Place 1
 - Place 2
 - Place 3
 - Place 4
 - Place 5
 - Place 6
 - Place 7
 - Place 8
 - Place 9
53. Callahan, Jack, Palo Pinto, Shackelford, and Stephens counties; that part of Wise County not included in district 60; and that part of Jones County not included in district 63.
54. Bosque, Hamilton, Johnson, and Somervell counties and that part of Tarrant County included in census tracts 113 and 115.03.
55. Bandera, Concho, Kerr, Kimble, Lampasas, Llano, Mason, McCulloch, Menard, Mills, San Saba, and Real counties.
56. That part of Tom Green County not included in district 65 and that part of Runnels

County included in census enumeration districts 7, 16, 17, 18, 19, and 20.

57. That part of Bexar County not included in district 49 or 58.

- Place 1
- Place 2
- Place 3
- Place 4
- Place 5
- Place 6
- Place 7
- Place 8
- Place 9
- Place 10
- Place 11

58. Atascosa, Bee, Dimmit, Karnes, LaSalle, and McMullen counties and that part of Bexar County included in census enumeration districts 129 and 146.

59. Webb and Zapata counties.

60. Cooke and Montague counties; that part of Grayson County included in census tracts 3, 4, 11, 12, 13, 17, and 19; and that part of Wise County included in census enumeration districts 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 13, 14, 15, 16, 17, and 18.

61. Archer, Clay, Throckmorton, and Young counties and that part of Wichita County included in census tracts 119, 120, 121, 122, 123, 124, 125, 128, 129, 130, 131, 136, 137, and 138.

62. That part of Taylor County not included in district 71.

63. Borden, Fisher, Haskell, Howard, Kent, King, Scurry, Stonewall, and that part of Jones County included in census enumeration districts 9, 10, 11, 12, 13, 14, and 15.

64. Brown, Coleman, Comanche, and Eastland counties and that part of Runnels County not included in district 56.

65. Coke, Crockett, Edwards, Irion, Kinney, Maverick, Reagan, Schleicher, Sutton, and Val Verde counties; that part of Uvalde County included in census enumeration districts 6, 7, 8, 10, 17, and 18; and that part of Tom Green County included in census enumeration districts 5 and 6.

66. Brewster, Crane, Pecos, Terrell, and Upton counties and that part of Midland County not included in district 71.

67. El Paso County.

- Place 1
- Place 2
- Place 3
- Place 4
- Place 5

68. That part of Ector County not included in district 69.

69. Culberson, Hudspeth, Jeff Davis, Loving, Presidio, Reeves, Ward, and Winkler counties and that part of Ector County included in census tracts 1, 2, 7, 8, 9, 10, 11, and 26 and

that part of census tract 21 West of U. S. Highway 385 and that part of census tract 22 North of the Texas and Pacific Railroad.

70. That part of Wichita County not included in district 61.

71. Glasscock, Mitchell, Nolan, and Sterling counties; that part of Midland County included in census enumeration districts 1, 2, 21, 22, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 40, 41, 88, 89, and 90; and that part of Taylor County included in census tracts 106, 113, 114, 131, 132, 136, and that part of census tract 126 included in census enumeration district 79.

72. Bailey, Castro, Cochran, Deaf Smith, Lamb, Oldham, and Parmer counties.

73. Andrews, Dawson, Gaines, Lynn, Martin, Terry, and Yoakum counties.

74. Carson, Potter, and Randall counties.

- Place 1
- Place 2

75. That part of Lubbock County not included in district 76.

- Place 1
- Place 2

76. Crosby, Garza, and Hockley counties; that part of Hale County included in census enumeration districts 35, 36, 37, 38, 39, 40, 41, 42, 43, and 45; and that part of Lubbock County included in census enumeration districts 174, 175, 176, 177, 178, 47, 48, 49, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 19, 20, 21, 02, 04, 06, 07, 24, 157, 01, and 03.

77. Dallam, Hansford, Hartley, Hemphill, Hutchinson, Lipscomb, Moore, Ochiltree, Roberts, and Sherman counties.

78. Armstrong, Donley, Gray, Swisher, and Wheeler counties, and that part of Hale County not included in district 76.

79. Denton County.

80. That part of Falls County not included in district 38; that part of Bell County not included in district 37 or 50; and that part of McLennan County included in census tracts 17, 18, 32, 33, 34, 35, 36, 37.01, 37.02, 38, and 42.

81. Baylor, Briscoe, Childress, Collingsworth, Cottle, Dickens, Floyd, Foard, Hall, Hardeman, Knox, Motley, and Wilbarger counties.

Sec. 2. This Act shall become effective for the elections, primary and general, for all representatives from the places herein specified and described to the 63rd Legislature, and continue in effect thereafter for succeeding legislatures; provided specifically that this Act shall not affect the membership, personnel or districts of the 62nd Legislature; and provided further, that in case a vacancy occurs in the office of any representative of the 62nd Legislature by death, resignation, or otherwise, and a special election to fill such vacancy becomes necessary, said election shall be held in the district as it was constituted on January 1, 1971.

Sec. 3. The terms "census tract" and "census enumeration district," as used in this Act, mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Decennial Census of the United States, enumerated as of April 1, 1970. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

Sec. 4. The Texas Legislative Council shall furnish to the Commissioners Court of each county which is divided into two or more districts appropriate maps showing census tract, census enumeration district, or census block group lines to facilitate the identification of district lines.

Sec. 5. When this Act becomes effective, Chapter 351, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 195a, Vernon's Texas Civil Statutes), and Chapters 733 and 808, Acts of the 61st Legislature, Regular Session, 1969 (Articles 195a-1 and 195a-2, Vernon's Texas Civil Statutes), are repealed.

[Acts 1971, 62nd Leg., p. 2974, ch. 981, eff. Aug. 30, 1971.]

Art. 196. Returns Made To Whom

In all districts composed of only one county, the county judge of each county shall receive the returns and issue a certificate of election to the Representative elected, as shown by the highest number of votes cast for any one person; but in the several districts composed of more than one county, the county judge of the following named counties shall receive the returns and issue certificates of election to the Representative elected in their respective districts, to-wit:

Third District—Marion County.
Sixth District—Harrison County.
Eleventh District—San Augustine County.
Twelfth District—Angelina County.
Thirteenth District—Newton County.
Fourteenth District—Liberty County.
Fifteenth District—Jefferson County.
Seventeenth District—Galveston County.
Twentieth District—Fort Bend County.
Twenty-first District—Brazoria County.
Twenty-second District—Wharton County.
Twenty-fifth District—Colorado County.
Twenty-sixth District—Brazos County.
Twenty-seventh District—Montgomery County.
Twenty-eighth District—Polk County.
Twenty-ninth District—Walker County.
Thirty-third District—Gregg County.
Thirty-fourth District—Wood County.
Thirty-fifth District—Titus County.
Forty-second District—Hunt County.
Forty-fifth District—Grayson County.
Fifty-first District—Rockwall County.

Fifty-sixth District—Leon County.
Sixtieth District—Navarro County.
Sixty-fifth District—Burleson County.
Sixty-ninth District—Goliad County.
Seventieth District—Bee County.
Seventy-first District—Nueces County.
Seventy-fourth District—Starr County.
Seventy-fifth District—Webb County.
Seventy-sixth District—Atascosa County.
Seventy-seventh District—Uvalde County.
Seventy-ninth District—Karnes County.
Eightieth District—Guadalupe County.
Eighty-first District—Caldwell County.
Eighty-fourth District—Burnet County.
Eighty-fifth District—Blanco County.
Eighty-sixth District—Kerr County.
Eighty-seventh District—Val Verde County.
Eighty-eighth District—Reeves County.
Ninetieth District—El Paso County.
Ninety-first District—Tom Green County.
Ninety-second District—Runnels County.
Ninety-third District—McCulloch County.
Ninety-fourth District—Coryell County.
Ninety-sixth District—McLennan County.
Ninety-eighth District—Bosque County.
One Hundred and Second District—Denton County.
One Hundred and Fourth District—Comanche County.
One Hundred and Fifth District—Erath County.
One Hundred and Seventh District—Eastland County.
One Hundred and Eighth District—Palo Pinto County.
One Hundred and Ninth District—Young County.
One Hundred and Tenth District—Clay County.
One Hundred and Twelfth District—Wilbarger County.
One Hundred and Thirteenth District—Haskell County.
One Hundred and Fourteenth District—Hardeman County.
One Hundred and Fifteenth District—Jones County.
One Hundred and Seventeenth District—Mitchell County.
One Hundred and Eighteenth District—Scurry County.
One Hundred and Nineteenth District—Lubbock County.
One Hundred and Twentieth District—Hale County.
One Hundred and Twenty-first District—Hall County.
One Hundred and Twenty-second District—Donley County.
One Hundred and Twenty-third District—Potter County.
One Hundred and Twenty-fourth District—Dallam County.
One Hundred and Twenty-fifth District—Brown County.
One Hundred and Twenty-sixth District—Hopkins County.

[Acts 1925, S.B. 84.]

CONGRESSIONAL DISTRICTS

Art. 197. Superseded

Art. 197a. Repealed by Acts 1965, 59th Leg., p. 743, ch. 349, § 26, eff. Aug. 30, 1965

Art. 197b. Repealed by Acts 1967, 60th Leg., p. 817, ch. 342, § 26, eff. Aug. 28, 1967

Art. 197c. Repealed by Acts 1971, 62nd Leg., 1st C.S., p. 41, ch. 12, § 28, eff. Sept. 3, 1971

Art. 197d. Congressional Districts

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

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

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

Sec. 4. District 3 is composed of that part of Dallas County included in census tracts 192.05, 192.06, 192.07, 192.04, 192.03, 192.02, 192.01, 191, 190.02, 190.03, 185.02, 130.02, 130.01, 78.03, 78.02, 136.02, 136.03, 132, 133, 131, 78.01, 76.04, 77, 136.01, 96.04, 134.02, 76.03, 75.02, 137.04, 137.05, 138.01, 96.03, 96.02, 134.01, 135, 76.01, 76.02, 75.01, 74, 73.01, 73.02, 71.02, 4.03, 95, 94, 98, 97, 96.01, 138.02, 137.01, 137.02, 139, 140.01, 72, 6.01, 4.02, 4.01, 6.02, 5, 19, 100, 99, 137.03, 140.02, 142, 148, 147, 146, 145, 152, 149, 150, 151, 198, 143, 101, 102, 103, 104, 69, 68, 43, 44, 42, 20, 105, 106, 190.04, 195.01, 18, 7.01, and 41.

Sec. 5. District 4 is composed of Collin, Grayson, Hunt, Gregg, Kaufman, Rains, Rockwall, Smith, and Van Zandt Counties, and that part of Dallas County included in census tracts 181.01, 181.02, 181.03, 181.04, and 182.

Sec. 6. District 5 is composed of that part of Dallas County included in census tracts 190.01, 190.06, 190.07, 190.05, 189, 188, 185.01, 186, 187, 183, 184, 126, 127, 128, 129, 180, 125, 124, 82, 179, 123, 122.01, 81, 80, 1, 12, 79.01, 193.01, 193.02, 3, 2.02, 2.01, 10, 11.01, 11.02, 14, 15.01, 13.01, 13.02, 15.02, 22.02, 31.02, 30, 33, 34, 29, 35, 36, 28, 23, 24, 25, 26, 27.01, 27.02, 37, 38, 39.01, 39.02, 40, 83, 84, 85, 91.01, 91.02, 93.01, 93.02, 115, 122.02, 178.01, 178.02, 90.01, 90.02, 92.01, 121, 120, 119, 176.02, 176.01, 172, 175, 174, 177, 173.02, 173.01, 170, 194, 195.02, 71.01, 197, 196, 7.02, 9, 8, 16, 22.01, 17.01, 21, 31.01, 32.01, 32.02, 118, 92.02, 79.02, and 17.02.

Sec. 7. District 6 is composed of Brazos, Ellis, Hill, Johnson, Limestone, Navarro and Robertson Counties; that part of Dallas Coun-

ty included in census tracts 164, 165.01, 165.02, 165.03, 165.04, 165.05, 166.04, 166.03, 166.02, 166.01, 109, 108, 61, 110, 111.01, 111.02, 112, 113, 167.01, 167.02, 168, 169.04, 169.01, 169.02, 169.03, 171, 116, and 117; and that part of Tarrant County included in census tracts 108.03, 109, 54.01, 55.01, 54.02, 42.01, 43, 42.02, 48.01, 47, 56, 48.02, 55.02, 57.01, 58, 59, 60.02, 60.01, 110.02, 57.02, 55.03, 55.04, and 110.01.

Sec. 8. District 7 is composed of that part of Harris County included in census tracts 558, 557, 554, 553, 552, 556, 555, 551, 545, 550, 549, 548, 547, 546, 544, 537, 538, 541, 540, 452, 451, 543, 542, 529, 528, 527, 526, 519, 517, 443, 442, 441, 444, 447, 448, 450, 449, 446, 445, 440, 421, 406, 420, 422, 439, 438, 437, 436, 423, 419, 424, 435, 407, 409, 408, 411, 418, 417, 416, 425, 426, 434, 429, 428, 427, 433, 430, 431, 432, 410, and 413, and that part of census tract 405 included in census block group 5.

Sec. 9. District 8 is composed of that part of Harris County included in census tracts 559, 244, 245, 243, 242, 536, 535, 241, 533, 240, 223, 531, 532, 222, 221, 224, 525, 524, 523, 522, 220, 218, 225, 217, 216, 215, 227, 208, 229, 228, 230, 214, 203, 209, 213, 231, 212, 202, 210, 211, 232, 233, 321, 320, 322, 350, 351, 352, 354, 234, 262, 261, 267, 268, 263, 265, 266, 270, 269, 271, 264, 361, 362, 273, 274, 272, 275, 364, 360, 363, 365, 530, 539, and 534.

Sec. 10. District 9 is composed of Chambers, Galveston, and Jefferson Counties and that part of Harris County included in census tracts 250, 249, 247, 238, 251, 248, 246, 252, 253, 237, 236, 254, 256, 255, 257, 258, 235, 259, 260, 226, and 239.

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

Sec. 12. District 11 is composed of Bell, Bosque, Burnet, Coryell, Falls, Hamilton, Hood, Lampasas, McLennan, Milam, Mills, Parker, Somervell, and Williamson Counties.

Sec. 13. District 12 is composed of that part of Tarrant County not included in district 6 or 24.

Sec. 14. District 13 is composed of Archer, Armstrong, Baylor, Briscoe, Carson, Childress, Clay, Collingsworth, Cottle, Dallam, Dickens, Donley, Foard, Gray, Hall, Hansford, Harde- man, Hartley, Hemphill, Hutchinson, King, Knox, Lipscomb, Moore, Motley, Ochiltree, Old- ham, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties.

Sec. 15. District 14 is composed of Aransas, Calhoun, Jackson, Matagorda, Nueces, Re- fugio, San Patricio, Victoria, and Wharton Counties, and that part of Brazoria County in- cluded in enumeration districts 108, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 153B, 158, 159, 160, and 160B.

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

Sec. 17. District 16 is composed of Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Presidio, Reeves, Ward, and Winkler Counties, and that part of Ector County not included in district 19.

Sec. 18. District 17 is composed of Borden, Brown, Callahan, Coleman, Comanche, Cooke, Crosby, Eastland, Erath, Fisher, Floyd, Garza, Haskell, Howard, Jack, Jones, Kent, McCulloch, Mitchell, Montague, Nolan, Palo Pinto, San Saba, Scurry, Shackelford, Stephens, Stonewall, Taylor, Throckmorton, Wise, and Young Counties.

Sec. 19. District 18 is composed of that part of Harris County included in census tracts 219, 521, 520, 510, 518, 509, 207, 511, 513, 512, 507, 508, 206, 204, 205, 503, 506, 516, 514, 515, 505, 504, 502, 501, 201, 121, 401, 126, 121, 123, 402, 125, 403, 404, 124, 303, 302, 301, 311, 310, 312, 309, 313, 304, 306, 305, 316, 307, 308, 314, 315, 317, 330, 318, 328, and that part of census tract 405 not included in census block group 5.

Sec. 20. District 19 is composed of Andrews, Bailey, Castro, Cochran, Dawson, Deaf Smith, Gaines, Hale, Hockley, Lamb, Lubbock, Lynn, Martin, Midland, Parmer, Terry, and Yoakum Counties, and that part of Ector County included in census tracts 3, 4, 5, 6, 7, 24, and 25, and that part of census tract 21 East of U. S. Highway 385 and North of the Texas and Pacific Railroad.

Sec. 21. District 20 is composed of that part of Bexar County not included in district 21 or 23.

Sec. 22. District 21 is composed of Bandera, Coke, Comal, Concho, Crane, Crockett, Edwards, Gillespie, Glasscock, Irion, Kendall, Kerr, Kimble, Kinney, Llano, Mason, Menard, Pecos, Reagan, Real, Runnels, Schleicher, Sterling, Sutton, Terrell, Tom Green, Upton, Uvalde and Val Verde Counties, and that part of Bexar County included in census tracts 1719, 1720, 1816, 1817, 1806, 1807, 1815, 1821, 1820, 1819, 1915, 1916, 1914, 1818, 1814, 1809, 1810, 1811, 1813, 1812, 1911, 1912, 1909, 1913, 1207, 1210, 1209, 1208, 1206, 1203, 1204, 1803, 1808, 1802, 1908, 1718, 1717, 1714, 1805, 1917, 1211, 1212, 1213, 1617, 1219, 1218, and 1215.

Sec. 23. District 22 is composed of Fort Bend County; that part of Brazoria County not included in district 14; and that part of Harris County included in census tracts 412, 414, 415, 331, 329, 332, 333, 334, 339, 340, 335, 338, 336, 337, 341, 343, 342, 319, 325, 326, 324, 334, 353, 355, 356, 349, 357, 358, 366, 348, 359, 347, 346, 345, 370, 367, 369, 368, 373, 374, 371, 372, 375, 327, and 323.

Sec. 24. District 23 is composed of Atascosa, Bee, DeWitt, Dimmit, Frio, Goliad, Gonzales, Guadalupe, Karnes, LaSalle, Lavaca, Maverick, Medina, Webb, Wilson, and Zavala

Counties, and that part of Bexar County included in census tracts 1619, 1620, 1612, 1613, 1610, 1611, 1512, 1520, 1521, 1513, 1511, 1514, 1516, 1518, 1519, 1522, 1416, 1415, 1418, 1417, 1414, 1413, 1419, 1312, 1313, 1314, 1310, 1309, 1315, 1205, 1214, 1217, 1216, 1317, 1316, 1318, 1517, 1615, and 1618.

Sec. 25. District 24 is composed of Denton County; that part of Dallas County included in census tracts 153.01, 153.02, 144, 141.04, 141.03, 141.02, 154, 161, 141.01, 155, 160, 162, 156, 157, 159, 163, 158, 107, 67, 199, 65, 64, 45, 53, 52, 46, 47, 51, 50, 63.02, 62, 48, 54, 56, 49, 89, 55, 88, 86, 114.02, 87.01, 87.02, 57, 59.01, 59.02, 60.01, 63.01, 114.01, and 60.02, and that part of Tarrant County included in census tracts 65.05, 131, 130, 218, 217.02, 217.01, 216.02, 216.01, 65.04, 65.01, 14.01, 65.02, 65.03, 14.03, 13, 216.03, 115.01, 115.02, 222, 223, 225, 224, 221, 220, 219, 229, 228, 227, 226, 115.03, 115.04, 114, 111.02, 60.03, 112.02, 112.01, and 113.

Sec. 26. The terms "census tract" and "census enumeration district," as used in this Act, mean those geographic areas outlined and identified as such on official place, county, and metropolitan map series maps prepared by the United States Department of Commerce Bureau of the Census for the Nineteenth Decennial Census of the United States, enumerated as of April 1, 1970. "Block groups" are subdivisions of census tracts as defined on census metropolitan maps which differentiate block groups by the first digit of the block numbers assigned to city blocks within each tract.

Sec. 27. The Texas Legislative Council shall furnish to the Commissioners Court of each county which is divided into two or more districts appropriate maps showing census tract, census enumeration district, or census block group lines to facilitate the identification of district lines.

Sec. 28. Chapter 342, Acts of the 60th Legislature, Regular Session, 1967 (Article 197c, Vernon's Texas Civil Statutes), is repealed.

Sec. 29. Nothing in this Act affects the tenure in office of the present delegation in Congress, but this Act takes effect for the general election in 1972.

[Acts 1971, 62nd Leg., 1st C.S., p. 38, ch. 12, eff. Sept. 3, 1971.]

SUPREME JUDICIAL DISTRICTS

Art. 198. Supreme Judicial Districts

This state shall be divided into fourteen (14) Supreme Judicial Districts, composed of the following named counties for the purpose of constituting and organizing a Court of Civil Appeals in each of the several Supreme Judicial Districts, as follows, to wit:

First: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

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

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

Fourth: Jim Wells, Val Verde, Guadalupe, Sutton, Edwards, Kinney, Maverick, Menard, Kimble, Kerr, Bandera, Uvalde, Zavala, Dimmit, Webb, LaSalle, Frio, Medina, Duval, McMullen, Atascosa, Bexar, Kendall, Wilson, Zapata, Karnes, Starr, Jim Hogg, Real, Brooks, Gillespie and Mason.

Fifth: Grayson, Collin, Dallas, Rockwall, Hunt, Kaufman and Van Zandt.

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

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

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

Ninth: San Jacinto, Montgomery, Liberty, Jefferson, Orange, Hardin, Newton, Jasper, Tyler, Polk and Angelina.

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

Eleventh: Dawson, Howard, Mitchell, Scurry, Nolan, Fisher, Stonewall, Taylor, Jones, Haskell, Knox, Callahan, Shackelford, Throckmorton, Baylor, Coleman, Brown, Comanche, Eastland, Stephens, Erath, Palo Pinto and Borden.

Twelfth: Kaufman, Van Zandt, Rains, Hopkins, Wood, Upshur, Smith, Henderson, Anderson, Houston, Cherokee, Rusk, Nacogdoches, San Augustine, Sabine, Shelby, Panola and Gregg.

Thirteenth: Lavaca, Wharton, Gonzales, De Witt, Jackson, Matagorda, Victoria, Goliad, Calhoun, Bee, Refugio, Aransas, San Patricio, Nueces, Kleberg, Kenedy, Willacy, Hidalgo, Cameron and Live Oak.

Fourteenth: Trinity, Walker, Grimes, Burleson, Washington, Waller, Harris, Chambers, Austin, Brazoria, Fort Bend, Galveston, Colorado and Brazos.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 378, ch. 255; Acts 1929, 41st Leg., p. 106, ch. 51; Acts 1932, 42nd Leg., 3rd C.S., p. 103, ch. 38; Acts 1934, 43rd Leg., 3rd C.S., p. 54, ch. 31; Acts 1939, 46th Leg., p. 148, § 1; Acts 1941, 47th Leg., p. 1408, ch. 641, § 1; Acts 1963, 58th Leg., p. 539, ch. 198, § 1, eff. Aug. 23,

1963; Acts 1963, 58th Leg., p. 927, ch. 357, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1952, ch. 728, § 1 eff. Sept. 1, 1967.]

JUDICIAL DISTRICTS

Art. 199. Judicial Districts

The judicial districts of the State shall be composed of the following named counties, and the terms of court in said districts shall be held therein each year, as follows:

1.—Newton, Jasper, Sabine and San Augustine

Sec. 1. From and after the passage of this Act, the First Judicial District shall be composed of and confined to the Counties of Newton, Jasper, Sabine and San Augustine.

Sec. 2. The terms of the First Judicial District Court shall be as follows:

In the County of Jasper on the first Monday in January, and the twenty-second Monday after the first Monday in January.

In the County of Newton on the fifth Monday after the first Monday in January, and the thirty-fourth Monday after the first Monday in January.

In the County of San Augustine on the eleventh Monday after the first Monday in January, and the fortieth Monday after the first Monday in January.

In the County of Sabine on the seventeenth Monday after the first Monday in January, and the forty-fifth Monday after the first Monday in January.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1930, 41st Leg., 4th C.S., p. 92, ch. 51, § 1; Acts 1943, 48th Leg., p. 9, ch. 10, § 1; Acts 1947, 50th Leg., p. 198, ch. 116.]

2.—Cherokee

Sec. 1. The 2nd Judicial District is composed of the County of Cherokee.

Sec. 2. The District Court of the 2nd Judicial District shall have two terms each year, which shall begin on the first Mondays of March and September. Each term shall continue until the date for the beginning of the next term. The judge may, in his discretion, hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. The 2nd District Court shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the constitution and laws of Texas to district courts.

Sec. 4. The judge and all district officers of the 2nd Judicial District, as heretofore constituted, shall be the judge and district officers of the 2nd Judicial District as constituted and reorganized by this Act, during the terms for which each was respectively elected.

Sec. 5. The District Clerk of Cherokee County shall be the clerk of the district court of the 2nd Judicial District.

Sec. 6. On the effective date of this Act, the District Clerk of Cherokee County shall transfer all civil and criminal cases pending in the 145th District Court in Cherokee County to the 2nd District Court. All citations and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 2nd District Court or the 145th Judicial District in Cherokee County shall be returnable to the 2nd District Court.

Sec. 7. The Judge of the 2nd District Court may appoint an official court reporter who shall have the qualifications and receive the same compensation as is now, or may hereafter be, fixed by law for court reporters in district court.

Sec. 8. The Judge of the 2nd District Court may take a vacation and not attend Court for four weeks in each year.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 824, ch. 341, § 1; Acts 1939, 46th Leg., p. 150, § 1; Acts 1943, 48th Leg., p. 98, ch. 69, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 157, ch. 23, § 5.005, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 790, ch. 353, § 1, eff. June 12, 1973.]

3.—Anderson, Henderson and Houston

The Third Judicial District of the State of Texas shall be composed of the Counties of Anderson, Henderson and Houston, and the terms of the District Court within said counties shall be held therein each year as follows:

In the County of Anderson on the first Mondays in April, July and December.

In the County of Henderson on the first Mondays in February, June and September.

In the County of Houston on the first Mondays in March, August and October.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 1st C.S., p. 76, ch. 35; Acts 1937, 45th Leg., p. 685, ch. 344, § 1; Acts 1943, 48th Leg., p. 31, ch. 29, § 1.]

4.—Rusk

From and after the passage of this Act, the 4th Judicial District shall be composed of and confined to the County of Rusk only and the terms of the District Court of said Rusk County, Texas, shall be held therein each year as follows: on the first Monday in January, March, May, July, September and November of each year; and each term of said Court shall continue in session until the Saturday before the next succeeding term or until all the business is disposed of; provided, however, that a regular term of said Court shall be and become in session immediately upon final passage of this Act and the appointment and qualification of a Judge as hereinafter provided for.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 471, ch. 220, § 1; Acts 1931, 42nd Leg., p. 873, ch. 369, § 1.]

3 West's Tex.Stats. & Codes—14

5.—Bowie and Cass

(1) The 5th Judicial District of Texas shall be composed of the Counties of Bowie and Cass, and the terms of the District Court within the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Cass County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

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

(2) During each term of said Court in Bowie County, Texas, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the County Seat at Boston, Texas.

(3) The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 5th District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(4) The sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

(5) All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Court of the several Counties as herein fixed respectively as though issued and served for such terms and courts returnable to and drawn for the same.

(6) The Commissioners Court of Bowie County is hereby authorized to provide necessary and suitable quarters for the said Court while sitting at Texarkana, Texas. In its discretion said Commissioners Court of Bowie County is further authorized to make such agreements or agreement with the City of Tex-

arkana, Texas, whereby said City will provide necessary and suitable quarters in Texarkana, Texas, for holding said terms of Court at that place.

(7) The District Court of the 5th Judicial District in Bowie and Cass Counties shall exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law. Said 5th Judicial District Court shall also have concurrent jurisdiction in Bowie County with the 102nd Judicial District Court, and all causes of action of a civil or criminal nature pending in either Court in said County shall, at the adjournment of each term of said Court in which the same is pending, be transferred by operation of law to the other Court; and said Courts, and Judges thereof, either in term time or vacation, may transfer any civil or criminal cause pending in their respective Court to the other District Court in said Bowie County by an order entered upon the minutes of their respective Court.

(8) The Judge and all District Officers of the 5th Judicial District as heretofore constituted, shall be the Judge and District Officers of the 5th Judicial District as constituted and reorganized by this Section during the terms for which they were elected.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 887, ch. 254; Acts 1933, 43rd Leg., Spec.L., p. 147, ch. 104; Acts 1935, 44th Leg., p. 407, ch. 159; Acts 1937, 45th Leg., p. 272, ch. 143, § 1; Acts 1939, 46th Leg., p. 152, § 1; Acts 1943, 48th Leg., p. 420, ch. 287, § 1; Acts 1951, 52nd Leg., p. 344, ch. 216, § 1; Acts 1953, 53rd Leg., p. 913, ch. 376, § 1; Acts 1961, 57th Leg., p. 400, ch. 202, § 1, eff. May 23, 1961; Acts 1969, 61st Leg., p. 1115, ch. 363, § 1, eff. May 27, 1969.]

6.—Fannin, Lamar, and Red River

Sec. 1. The 6th Judicial District of Texas shall be composed of the Counties of Lamar, Fannin, and Red River.

Sec. 2. The District Court of the 6th Judicial District shall have jurisdiction in said counties of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of this State.

Sec. 3. There shall be two (2) terms of the 6th Judicial District Court in each county of the District each year and the first term shall begin on the first Monday in January each year and shall continue until the convening of the next regular term, and the second term shall begin on the first Monday in July of each year and shall continue until the convening of the next regular term.

Sec. 4. The District Courts of the 6th and the 102nd Judicial Districts in Red River County shall have concurrent jurisdiction with each other in said county throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of this State; and the District Courts of the 6th and 62nd Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in

said county throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and laws of this State.

Sec. 5. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

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

Sec. 7. In any of the above said counties in which there are two (2) or more District Courts, the Judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the Judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case or proceeding and any other of said Judges may complete the hearing and render judgment in the same. Any of said Judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceeding and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the Judge acting and the Judge in whose Court the same is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such Judges when acting for any other Judge by exchange of benches or otherwise.

Sec. 8. The Clerk of the District Court of Lamar County shall be the Clerk of both the 6th and 62nd District Courts in said county. The Clerk of the District Court of Red River County shall be the Clerk of both the 6th and 102nd District Courts in said county.

Sec. 9. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

[Acts 1957, 55th Leg., p. 388, ch. 190; Acts 1973, 63rd Leg., p. 1717, ch. 622, § 1, eff. June 15, 1973.]

7.—Smith

(a) The 7th Judicial District of Texas shall be composed of Smith County; the terms of the District Court shall be held therein each year as follows:

In the County of Smith on the first Mondays in January and July.

Each term of court in such county may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of court in such county as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 293, ch. 188, § 1; Acts 1949, 51st Leg., p. 316, ch. 150, § 1; Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.]

8.—Hopkins, Delta, Rains and Franklin

Sec. 1. The 8th Judicial District of Texas shall be composed of the Counties of Hopkins, Delta, Rains, and Franklin.

Sec. 2. (a) The District Court of the 8th Judicial District shall have in each county within its jurisdiction continuous terms, which shall commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

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

(c) In any of the above named counties in which there are two or more District Courts, such District Courts shall have concurrent jurisdiction throughout the limits of each county

in all civil and criminal cases and proceedings of which District Courts are given jurisdiction by the Constitution and Laws of the State; provided, however, that the Judge of the 62nd Judicial District shall never impanel the grand jury in the Court in the Counties of Hopkins, Delta and Franklin, unless in his judgment he deems it necessary.

Sec. 3. (a) In any of the above named counties in which there are two or more District Courts, the Judges of such Courts may, in their discretion, either in term time or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the Judges of the Courts may, in their discretion, exchange benches or districts from time to time.

(b) Whenever a Judge of one of the Courts is disqualified, he may transfer the case, or proceeding, from his Court to one of the other Courts, and any of the Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred, or may sit in any of the other Courts and there hear and determine any case or proceeding there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two or more Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court.

(c) In case of absence, sickness, or disqualification of any of the Judges, any other of the Judges may hold court for him. Any of the Judges may hear any part of any case or proceeding and any other of the Judges may complete the hearing and render judgment.

(d) Any of the Judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters, questions, and proceedings, and may enter judgment or order thereon in the Court in which the case or proceeding is pending without having the matter transferred to the Court of the Judge acting; and the Judge in whose Court the matter is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the Judges of the Courts may issue restraining orders and injunctions returnable to any of the other Courts.

(e) The specific matters mentioned in this section shall not be construed as any limitation on the powers of such Judges when acting for any other Judge by exchange of benches or otherwise.

Sec. 4. The District Clerk and the Sheriff of each of the counties, and their successors in office, shall perform all the duties and functions relative to all District Courts of their

county as is required by law for the District Court thereof.

Sec. 5. All processes, writs, bonds, and recognizances issued or executed, and all grand and petit jurors drawn and selected prior or subsequent to the effective date of this Act shall be valid and returnable to the terms of the District Courts in and for the several counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds, and recognizances taken before or issued by the Courts and officers of the various counties affected by this Act shall be valid as though no change had been made in the length of the terms or the time of the holding thereof of the District Court of the counties affected by this Act.

Sec. 6. The Judge and all District Officers of the 8th Judicial District as heretofore constituted, shall be and continue in office as the Judge and District Officers of the 8th Judicial District as constituted and reorganized by this Act for and during the terms to which each was respectively elected or appointed.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., p. 154, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 161, ch. 23, § 5.009, eff. Sept. 19, 1969; Acts 1971, 62nd Leg., p. 1013, ch. 199, § 1, eff. July 1, 1971.]

9.—Polk, San Jacinto, Waller and Montgomery

The Ninth Judicial District of the State of Texas composed of the counties of Polk, San Jacinto, Waller, and Montgomery, from and after the effective date of this Act the terms of the District Court in and for the several counties constituting said Ninth Judicial District shall be begun and holden therein as follows:

In the County of Polk, on the first Monday in January of each year and may remain in session four weeks, and on the 3rd Monday in July of each year and may remain in session four weeks;

In the County of San Jacinto, on the 7th Monday after the 1st Monday in January of each year and may remain in session three weeks, and on the 9th Monday after the 1st Monday in July of each year and may remain in session three weeks;

In the County of Waller, on the 10th Monday after the 1st Monday in January of each year and may remain in session six weeks, and on the 12th Monday after the 1st Monday in July of each year and may remain in session six weeks;

In the County of Montgomery, on the 16th Monday after the first Monday in January of each year and may remain in session eight weeks, and on the 18th Monday after the 1st Monday of July of each year and may remain in session eight weeks.

[Acts 1939, 46th Leg., p. 157, ch. 6, § 15.]

Second 9th Judicial District Court.—Montgomery, Polk, San Jacinto and Trinity Counties

Sec. 1. From and after the passage of this Act, the Special 9th Judicial District Court of

Texas, composed of Montgomery, Polk, San Jacinto and Trinity Counties, shall be abolished, and the Second 9th Judicial District Court of Montgomery, Polk, San Jacinto and Trinity Counties is created and is hereby constituted a permanent regular District Court.

Sec. 2. From the effective date of this Act, the terms of the Second 9th Judicial District Court shall be as follows:

In the County of Polk, on the eighteenth Monday after the first Monday in January of each year, and on the twentieth Monday after the first Monday in July of each year;

In the County of San Jacinto, on the sixteenth Monday after the first Monday in January of each year, and on the eighteenth Monday after the first Monday in July of each year;

In the County of Montgomery, on the third Monday in January of each year; on the eighth Monday after the first Monday in January of each year; on the third Monday in July of each year; and on the tenth Monday after the first Monday in July of each year;

In the County of Trinity, on the first Monday in January of each year, and on the twenty-third Monday after the first Monday in January of each year.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term thereof.

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

Sec. 3. Immediately upon the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of Texas for District Judge of the Second 9th Judicial District, and he shall hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and laws of this State and he shall receive such compensation as allowed other District Judges under the laws of Texas.

Sec. 4. This Act shall become effective on September 1, 1955.

Sec. 5. The Judge of the Second 9th Judicial District is authorized to appoint an official shorthand reporter of such Court and such reporter shall receive such compensation as allowed other official shorthand reporters under the General Laws of this State.

Sec. 6. The District Attorney of the 9th Judicial District shall act as District Attorney for the Second 9th Judicial District in the Counties of Montgomery, Polk and San Jacinto.

Sec. 7. The District Attorney of the 12th Judicial District shall act as District Attorney for the Second 9th Judicial District in Trinity County.

Sec. 8. The District Clerks of Montgomery, Polk, San Jacinto and Trinity Counties shall also act as District Clerks for the Second 9th Judicial District in their respective counties.

Sec. 9. On the effective date of this Act the District Clerks of each of the counties in the Special 9th Judicial District Court shall transfer all civil and criminal cases to the Second 9th Judicial District Court.

Sec. 10. All processes and writs issued or served and recognizances, bonds and undertakings before this Act takes effect and made returnable to the Special 9th Judicial District Court in the Counties of Montgomery, Polk, San Jacinto and Trinity shall be considered as returnable to the next succeeding term of the Second 9th Judicial District Court; and providing that all grand and petit juries drawn and selected under existing laws in Montgomery, Polk, San Jacinto and Trinity Counties shall be considered as lawfully drawn and selected for the next ensuing term of the Second 9th Judicial District Court in their respective counties.

Sec. 10A. In all counties wherein the Ninth Judicial District of Texas and the Second Ninth Judicial District of Texas have concurrent jurisdiction, either of the Judges of said Courts may, in their discretion, either in term time or vacation, transfer any case or cases, civil or criminal, that may be pending in his court, to the other district court in said county, and the judges of said courts may, in their discretion, exchange benches from time to time; and whenever a judge of one of said courts is disqualified, he shall transfer the case from his court to the other court and either judge may, in his own courtroom, try and determine any case or proceeding pending in either court without having the case transferred, or may sit in the other court and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the court in which the case is pending; and the judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of the other court. In case of absence, sickness, or disqualification of either judge of said courts, the other judge may hold court for him. Either of said judges may hear any part of any case or proceeding pending in either of said courts and determine the same or may hear and determine any question in any case and either judge may complete the hearing and render judgment in said case. In cases transferred to any one of the said courts by order of the judge of one of said courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law and by this Act. And all processes is-

sued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the court to which such transfer may be made.

[Acts 1955, 54th Leg., p. 723, ch. 258; Acts 1965, 59th Leg., p. 292, ch. 125, § 1, eff. May 6, 1965.]

10, 56.—Galveston County

The terms of the 10th and the 56th Judicial Districts, which shall be composed of Galveston County, shall be held therein as follows:

On the first Monday in February, April, June, October and December and may continue until the business is disposed of.

In all suits, actions or proceedings, it shall be sufficient for the address or designation to be merely the "District Court of Galveston County." The District Clerk of Galveston County shall docket successively on the dockets of the District Courts of the 10th, 56th and 122nd Judicial Districts in Galveston County all civil cases, actions, causes, petitions, applications, or other civil proceedings so that the first case or proceeding filed on or after the effective date of this Act and every third such case or proceeding thereafter filed shall be docketed in the 10th Judicial District; and the second case or proceeding filed on or after the effective date of this Act and every third such case or proceeding thereafter filed shall be docketed in the 56th Judicial District; and the third case or proceeding filed on or after the effective date of this Act and every third such case or proceeding thereafter filed shall be docketed in the 122nd Judicial District; and so on seriatim and in this manner all cases or proceedings filed shall be docketed in and divided equally among said three (3) Courts, one third ($\frac{1}{3}$) in each Court. Any case pending in either of said Courts may, at the discretion of the Judge thereof, be transferred from one (1) of said District Courts to the other, and so from time to time.

In event of the absence, sickness or disqualification of a Judge of any of such District Courts, any of the other Judges of the District Courts of Galveston County may act and preside over the Court of said Judge during his said absence, sickness or disqualification.

The Clerk of the District Court of said County, also known as the District Clerk of Galveston County, shall perform the duties of the Clerk of each of said three (3) District Courts. Vacancies in the office of said Clerk shall be filled as provided by general law.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 949, ch. 441, § 1, eff. May 30, 1959.]

11, 55, 61, 80, 113, 125, 127, 129, 133, 151, 152, 157, 164, 165.—Harris

In addition to the Criminal District Courts of Harris County, Texas, Harris County shall constitute the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts.

The two (2) additional District Courts herein created [164th and 165th] shall have and exer-

cise concurrent jurisdiction, coextensive within the limits of Harris County, in all Criminal and Civil Cases, proceedings, and matters over which the other District Courts of Harris County are given jurisdiction by the Constitution and laws of this State.

There shall be two (2) terms of each said fourteen (14) Civil District Courts in Harris County in each year, and the first term shall be known as the January-June term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

In all suits, actions, or proceedings in said Courts, it shall be sufficient for the address or designation to be merely "District Court of Harris County." The Clerk of the Civil District Courts in Harris County shall be known as the "Clerk of the District Court of Harris County, Texas." The Clerk of said fourteen (14) Civil District Courts shall docket alternately on the dockets of the District Courts of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd, 157th, 164th and 165th Judicial Districts in Harris County, all cases, actions, petitions, applications, and other proceedings filed in the District Courts of Harris County so that the first case, or proceeding filed after the effective date of this Act and every fourteenth case or proceeding thereafter filed shall be docketed in the 11th Judicial District Court; and the second case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 55th Judicial District Court; and the third case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 61st Judicial District Court; and the fourth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 80th Judicial District Court; and the fifth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 113th Judicial District Court; and the sixth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 125th Judicial District Court; and the seventh case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 127th Judicial District Court; and the eighth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 129th Judicial District Court; and the ninth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 133rd Judicial District Court; and the tenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 151st Judicial District Court; and the eleventh case or proceeding filed and

every fourteenth case or proceeding thereafter filed shall be docketed in the 152nd Judicial District Court; and the twelfth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 157th Judicial District Court; and the thirteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 164th Judicial District Court; and the fourteenth case or proceeding filed and every fourteenth case or proceeding thereafter filed shall be docketed in the 165th Judicial District Court. All cases or proceedings in this manner shall be docketed in and divided and distributed among said fourteen (14) Civil District Courts, one-fourteenth ($\frac{1}{14}$ th) to each of them when first filed. All suits and proceedings shall be filed by the Clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited. In case of the disqualification of the Judge of any of said fourteen (14) Civil Courts, in any case or proceeding, such case or proceeding, on his suggestion of disqualification, shall be transferred to another of said Courts, and the order of transfer may be made by any Judge of another of said Courts and may be transferred to any other of said Courts, or instead of transferring the case the Judge of any other of said Courts may sit in the Court in which the case is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the Clerk accordingly. The Judges of said fourteen (14) Civil Courts shall sign the minutes of each term of the Courts in Harris County within thirty (30) days after the end of the term, and shall also sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

The Judge of each Court hereby created may take the same vacation provided for the other Judges of the District Courts and Criminal District Courts of Harris County, Texas. During such vacation time the term of Court of which he is Judge shall remain open and the Judge of any other Civil District Court in Harris County may hold such Court during the vacation of the Judges thereof. During the period of such vacation it shall not be lawful for a Special Judge of such Court to be elected by the practicing lawyers of such Court because of the absence of the Judge on his vacation, unless no Judge of said Civil District Courts is in the county. The Judges of said Courts shall, by agreement among themselves, take their vacation alternately so that there shall at all times be at least six (6) of said Judges in the county; and in the event of the absence, sickness or disqualification of the Judge of any of said Civil District Courts any of the other Judges of the said District Courts may act and preside or any regular practicing lawyers of the Bar of Harris County, Texas, may be elected who have the qualifications of a District Judge to act and preside over any of the said

Courts during such absence, sickness or inability of any of the regular judges to act and preside therein; and such Special Judges shall be elected according to Title 40 of the Revised Civil Statutes of the State of Texas of 1925.¹

The Clerk of the District Courts of Harris County, upon the taking effect of this Act, shall prepare promptly dockets for the Courts so created by this Act and shall place on the dockets of said 164th and 165th District Courts, the thirteenth and fourteenth case, respectively, pending on the respective dockets of the 11th, 55th, 61st, 80th, 113th, 125th, 127th, 129th, 133rd, 151st, 152nd and 157th District Courts. The cases so transferred shall bear the same docket numbers as in the Courts from which they are transferred and the Judges of the existing District Courts, respectively, shall make proper orders transferring from such Courts to the 164th and 165th District Courts the cases which have been placed on the docket of the 164th and 165th District Courts in pursuance of this Section.

The respective Judges of the District Courts of Harris County shall, from time to time as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, that no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the Court as evidence thereof and such order on the minutes shall be notice of the transfer to the attorneys of record of all parties to the cause.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 135, ch. 88, § 1; Acts 1930, 41st Leg., 5th C.S., p. 131, ch. 14; Acts 1939, 46th Leg., p. 184, §§ 1 to 6; Acts 1947, 50th Leg., p. 525, ch. 308, §§ 1 to 6; Acts 1949, 51st Leg., p. 1354, ch. 616, § 1; Acts 1951, 52nd Leg., p. 504, ch. 308, § 3; Acts 1954, 53rd Leg., 1st C.S., p. 122, ch. 56, § 3; Acts 1955, 54th Leg., p. 872, ch. 330, § 1; Acts 1957, 55th Leg., p. 1482, ch. 508; Acts 1959, 56th Leg., p. 903, ch. 414, § 1, eff. May 30, 1959; Acts 1963, 58th Leg., p. 1332, ch. 587, § 8(B), eff. Sept. 1, 1963.]

¹ Article 1884 et seq.

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

The Twelfth Judicial District shall be composed of the Counties of Grimes, Walker, Leon, Trinity, and Madison, and the terms of the District Courts are hereby designated and shall be held therein each year as follows:

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

In the County of Walker on the first Mondays in February and July.

In the County of Leon on the first Mondays in March and October.

In the County of Trinity on the first Mondays in April and November.

In the County of Madison on the first Mondays in May and December.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 775, ch. 310; Acts 1933, 43rd Leg., 1st C.S., p. 318, ch. 115, § 1; Acts 1943, 48th Leg., p. 109, ch. 81, § 1.]

13.—Navarro

On the first Mondays in January, April, July and October. The January, April and October terms shall each continue twelve (12) weeks or until all the business be disposed of, and the July term shall continue twelve (12) weeks or until the business be disposed of. Jury trials may be had at each and all of said terms of Court. There shall be organized Grand Juries at the April and October terms of said Court, and at such other terms thereof as may be determined and ordered by the Judge thereof. The County Attorney of Navarro County shall perform all the duties usually performed by a District Attorney.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 336, ch. 216, § 1.]

14, 44, 68, 95, 101, 116, 134.—Dallas; Criminal Judicial District, Criminal Judicial District No. 2; Criminal Judicial District No. 3

There is hereby created and established the Criminal Judicial District of Dallas County, Texas, the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal Judicial District No. 3 of Dallas County, Texas, each to be composed of Dallas County, Texas, alone; and the Criminal District Court of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District of Dallas County, Texas, the Criminal District Court No. 2 of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas, shall have and exercise jurisdiction of the Criminal Judicial District No. 3 of Dallas County, Texas, as is now conferred and to be conferred by law on said Criminal District Courts.

Dallas County shall constitute the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial District, the Criminal Judicial District of Dallas County, Texas, the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal Judicial District No. 3 of Dallas County, Texas. Each of said ten (10) District Courts shall have and exercise civil and criminal jurisdiction in Dallas County. The said District Courts of the 14th, 44th, 68th, 95th, 101st, 116th, 134th Judicial Districts and the Criminal District Court of Dallas County, Texas, of the Criminal Judicial District of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, of the Criminal Judicial District No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas, of the Criminal Judicial District

No. 3 of Dallas County, Texas, shall have and exercise, in addition to the jurisdiction now conferred by law on said Courts, concurrent jurisdiction co-extensive with the limits of Dallas County in all actions, proceedings, matters and causes both civil and criminal of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

The present Judges of said Courts named herein shall continue as Judges of said Courts as constituted and defined by this Act, and the tenure of office of said Judges shall remain the same as is now provided by law.

The terms of the said Courts named herein shall continue and remain the same as now provided by law. The terms of the Criminal District Court No. 3 of Dallas County shall be the same as now provided by law for the Criminal District Court No. 2 of Dallas County. The practice and procedure in said Courts shall be the same as now provided by law, and, in civil actions, as also provided by the Texas Rules of Civil Procedure applicable to District Courts having successive terms.

The letters A, B, C, D, E, F, G, H, I, and J shall be placed on the dockets and Court papers of the respective District Courts of Dallas County to distinguish them: "A" being used in connection with the 14th District Court; "B" being used in connection with the 44th District Court; "C" being used in connection with the 68th District Court; "D" being used in connection with the 95th District Court; "E" being used in connection with the 101st District Court; "F" being used in connection with the 116th District Court; "G" being used in connection with the 134th District Court; "H" being used in connection with the said Criminal District Court; "I" being used in connection with the said Criminal District Court No. 2; and "J" being used in connection with the said Criminal District Court No. 3. All cases in said Criminal District Courts prior to the passage of this Act shall retain the same numbers and letter designations heretofore assigned to said cases.

All indictments shall be returned to the Criminal District Court of Dallas County, Texas, the Criminal District Court No. 2 of Dallas County, Texas, and the Criminal District Court No. 3 of Dallas County, Texas. The District Clerk of Dallas County shall docket successively on the dockets of the District Courts of the 14th, 44th, 68th, 95th, 101st, 116th and 134th Judicial District Courts in Dallas County so that the first case or proceeding filed after the effective date of this Act and every seventh case or proceeding thereafter filed shall be docketed in the 14th District Court; the second case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 44th District Court; the third case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 68th District Court; the fourth case or proceeding filed and every seventh case or pro-

ceeding thereafter filed shall be docketed in the 95th District Court; the fifth case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 101st District Court; the sixth case or proceeding filed and every seventh case or proceeding thereafter shall be docketed in the 116th District Court; the seventh case or proceeding filed and every seventh case or proceeding thereafter filed shall be docketed in the 134th District Court; and so on in rotation, and in this manner all cases or proceedings filed shall be docketed in and divided equally among the 14th, 44th, 68th, 95th, 101st, 116th, and the 134th Judicial District Courts, one-seventh ($\frac{1}{7}$) in each court.

The District Judges of Dallas County, Texas, shall on or before the first day of January and the first day of July of each year elect one of said District Judges as presiding Judge of the Dallas County District Judges. The Presiding Judge of Dallas County District Judges shall, when this Act becomes effective, and from time to time as occasion may require in order to adjust the business and dockets of said court, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes from any one of said Courts to any other of said Courts in order that the business of said Courts shall be continually equalized and distributed among them to the end that each Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred.

In case of a disqualification of the Judge of any one of the said several Courts in any case or proceeding, such case or proceeding may be transferred to any other of said Courts with the consent of the Judge thereof, or the Judge of any other of said Courts may sit in the Court in which the case or proceeding is then pending and try or otherwise dispose of the same. All cases or proceedings transferred shall be properly docketed by the clerk of the Court to which transferred.

All bail bonds, recognizances, or other obligations taken for the appearance of defendants, parties and witnesses in any of the said District Courts or Criminal District Courts of Dallas County, Texas, or any inferior court of Dallas County, Texas, shall be binding on all such defendants, parties, and witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one of said Courts to another, all process, bonds, recognizances, and obligations extant at time of such transfer shall be returned to and filed in the Court to which the cause is transferred and shall be

valid and binding as though originally issued out of the Court to which it is transferred.

The Judges of said District Courts and Criminal District Courts of Dallas County, Texas, shall, by agreement among themselves, take vacations so that there shall at all times be at least three (3) Judges of the said Courts in the county during such vacation period.

During the absence of any of the Judges of the District and Criminal District Courts of Dallas County, Texas, for sickness or for any other reason except disqualification, the practicing lawyers of the said Courts shall not elect a Special Judge for any of said Courts as now provided by law, until said lawyers have first requested the Presiding Judge of the First Administrative Judicial District of Texas to assign a Judge to preside over the Court during such absence; and if said Presiding Judge has not made an assignment within a period of four (4) days from such request, then said practicing lawyers may elect a Special Judge to preside over such Court, as now provided in Title 40, Chapter 1, of the Revised Civil Statutes of the State of Texas, 1925.

The Judges of the said District Courts and Criminal District Courts shall continue to serve for the terms elected or appointed as provided by the Constitution and laws of the State of Texas.

The District Clerk for said Courts shall be elected as provided by the Constitution and laws of the State of Texas and any vacancies in the office of said clerk shall be filled by appointments of the Judges of the several District Courts and Criminal District Courts.

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

The sheriff of Dallas County, either in person or by deputy, shall attend the several courts as required by law or when required by the Judges thereof, and the sheriff and constables of the several counties of this State, when executing process out of said Courts, shall receive fees as provided by General Law for executing process issued out of District Courts.

The clerk of the District Courts of Dallas County shall be clerk of the 14th, 44th, 68th, 95th, 101st, 116th, 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

The Criminal District Attorney of Dallas County shall be District Attorney of the 14th, 44th, 68th, 95th, 101st, 116th, 134th District Courts and Criminal District Courts and shall be compensated as provided by law.

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

The grand jury shall be empaneled by the Judges of the Criminal District Courts of Dallas County, Texas, as is now provided by law.

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

From and after the time this law shall take effect, the District Courts and the Criminal District Courts of Dallas County, Texas, shall have and exercise concurrent jurisdiction with each other in all cases, criminal and civil, and in all matters and proceedings of which jurisdiction is vested in District Courts by the Constitution and laws of the State of Texas. The Judge of any of the said District Courts and the Criminal District Courts may in his discretion try and dispose of any causes, matters and proceedings for any other Judge of said Courts.

[Acts 1925, S.B. 84; Acts 1951, 52nd Leg., p. 663, ch. 383, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 1, § 2; Acts 1955, 54th Leg., p. 711, ch. 256, § 3.]

15, 59.—Grayson and Collin

Grayson County shall constitute the Fifteenth Judicial District, and with Collin County shall constitute the Fifty-ninth Judicial District. The District Courts shall be held therein as follows:

FIFTEENTH DISTRICT: On the first Monday in January and continuing until and including the last Saturday before the first Monday in April; on the first Monday in April and continuing until and including the last Saturday before the first Monday in July; on the first Monday in July and continuing until and including the last Saturday before the first Monday in October; on the first Monday in October and continuing until and including the last Saturday before the first Monday in January.

FIFTY-NINTH DISTRICT: (a) Collin County. On the third Monday in January and continuing until and including the last Saturday before the fourth Monday in April; on the fourth Monday in April and continuing until and including the last Saturday before the second Monday in September; and on the second Monday in September and continuing until and including the last Saturday before the third Monday in January.

FIFTY-NINTH DISTRICT: (b) Grayson County. On the second Monday in March and continuing until and including the last Saturday before the third Monday in June; on the third Monday in June and continuing until and including the last Saturday before the first Monday in December; and on the first Monday in December and continuing until and including the last Saturday before the second Monday in March.

The District Courts of the Fifteenth and Fifty-ninth Judicial Districts, in the County of Grayson, shall have concurrent jurisdiction with each other throughout the limits of Grayson County of all matters civil and criminal of which jurisdiction is given to the District Courts by the Constitution and laws of this State, provided, that the Judge of the Fifty-

ninth Judicial District may impanel the Grand Jury in Grayson County when, in the discretion of said Court, it is deemed by him proper so to do he may draw and impanel such grand jury for any terms of his Court as provided by law for other District Courts for impaneling grand juries. Either of the Judges of District Court of Grayson County, may in his discretion, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in Grayson County, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally in said Court. The Clerk of the District Court of Grayson County, as heretofore constituted, and his successor in office shall be the Clerk of both the Fifteenth and Fifty-ninth District Courts in said Grayson County, and shall perform all the duties pertaining to the clerkship of both of said Courts.

[Acts 1925, S.B. 84; Acts 1934, 43 Leg., 2nd C.S., p. 24, ch. 10, § 1; Acts 1943, 48th Leg., p. 12, ch. 12, § 1.]

16.—Cooke and Denton

(a) The 16th Judicial District of Texas shall be composed of Cooke and Denton Counties, and the terms of the District Court shall be held therein each year as follows:

In the County of Cooke on the first Mondays in January and September, and on the sixteenth Monday after the first Monday in January.

In the County of Denton on the eighth Monday after the first Mondays in January and September, and on the twenty-second Monday after the first Monday in January.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but

thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 100, ch. 71, § 1.]

17, 48, 67, 96.—Tarrant

The district courts of the Seventeenth, Forty-eighth, Sixty-seventh and Ninety-sixth Districts shall have concurrent jurisdiction throughout the limits of Tarrant County of all civil matters of which jurisdiction is given to the district courts by the Constitution and laws of the State. None of said courts shall have nor exercise any criminal jurisdiction. The terms of said district courts shall be as follows:

Seventeenth and Ninety-sixth Districts: On the first Mondays in January, April, July and October and continue until the business is disposed of.

Forty-eighth District: On the first Mondays in February, May, August and November and continue until the business is disposed of.

Sixty-seventh District: On the first Mondays in March, June, September and December and continue until the business is disposed of.

The judges of said four courts shall each have the right, within his discretion, to make transfer of cases from his court to any other of said courts.

The clerk of the district courts of Tarrant County shall make up dockets for each of said Courts. All cases, prosecutions and proceedings filed with the clerk shall by him be entered upon the dockets of said courts alternately, so that the business may be equally distributed between them; provided, that all garnishment cases shall follow the cases in which they are sued out, and that such garnishment cases shall not be estimated by the clerk in dividing business. In all injunctions granted by said judges, the suits wherein granted shall be docketed in the court of the judge who granted such injunctions; and in all cases wherein receivers may be appointed by said judges, the suit wherein such receivers shall be appointed shall be docketed in the court of the judge who appointed such receivers.

[Acts 1925, S.B. 84.]

18.—Somervell and Johnson

(a) The 18th Judicial District of Texas shall be composed of Somervell and Johnson Counties and the terms of the District Court shall be held therein each year as follows:

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

In the County of Johnson on the first Mondays in February and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The judge of said court in his discretion may hold as many sessions of court in any

term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 395, ch. 267, § 2.]

19, 54, 74, 170.—McLennan

Sec. 1. The District Courts of the 19th, 54th, 74th, and 170th Districts shall have concurrent jurisdiction throughout the limits of McLennan County in all civil and criminal cases and proceedings of which district courts are given jurisdiction by the constitution and laws of the state.

Sec. 2. The judges of said courts may exchange districts whenever they deem it expedient, and a judge of either of said courts may sit in any one of the courts, either upon the request of the regular judge thereof or in case of his absence or inability to act.

Sec. 3. Any one of the judges of said courts may in his discretion, either in termtime or vacation, transfer any cause or causes, civil or criminal, that may at any time be pending in either of said courts over which he may be presiding, to any other of said courts, by order or orders entered upon the minutes of his said court; and where such transfer is made, the clerk of said courts shall enter such cause upon the docket of the court to which such transfer is made, and when so entered upon the docket, the judge of said court to which such cause has been transferred, shall try and dispose of said cause in the same manner as if such cause had been filed in said court.

Sec. 4. The terms of said district courts shall be held therein each year as follows:

The terms of the 19th District Court shall begin on the second Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 54th District Court shall begin on the first Monday in January, March, May, July, September and November of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 74th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

The terms of the 170th District Court shall begin on the second Monday in February, April, June, August, October and December of each year, and each of said terms shall continue until and including the Sunday next preceding the date for the beginning of the next succeeding term.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 769, ch. 371; Acts 1947, 50th Leg., p. 725, ch. 361, § 1; Acts 1951, 52nd Leg., p. 386, ch. 248, § 13; Acts 1969, 61st Leg., p. 2005, ch. 684, § 1, eff. Jan. 1, 1971.]

20.—Robertson and Milam

The 20th Judicial District of the State of Texas shall hereafter be composed of the Counties of Robertson and Milam, and the terms of the District Court shall be held therein each year as follows:

In the County of Robertson on the first Monday in January and July, and may continue in session until the date set for the beginning of the next succeeding term therein;

In the County of Milam, on the third Monday in January, May and September of each year, and may continue in session until the date set for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1965, 59th Leg., p. 414, ch. 202, § 1, eff. Sept. 1, 1965.]

21.—Washington, Lee, Bastrop and Burleson

Sec. 1. The Twenty-first Judicial District shall be composed of the Counties of Washington, Lee, Bastrop and Burleson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Washington on the first Tuesdays in March and September;

In the County of Lee on the sixth Tuesdays after the first Tuesdays in March and September;

In the County of Burleson on the tenth Tuesdays after the first Tuesdays in March and September;

In the County of Bastrop on the second Tuesday in January, and the fifteenth Tuesday after the first Tuesday in March.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. Judgments of all such District Courts shall become final on and after the ex-

piration of ten (10) days after the date of judgment, or on and after the day the motion or amended motion for new trial, if any be filed, is overruled, as if the term of court had expired, when execution and all such other writs to enforce such judgment may issue. On and after the day such judgment becomes final, the judgment cannot be set aside except by bill of review for sufficient cause, filed within the time allowed by law for the filing of bills of review in other District Courts.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 176, ch. 101, § 1; Acts 1971, 62nd Leg., p. 1086, c. 236, § 1, eff. May 17, 1971.]

22.—Hayes, Caldwell and Comal

Sec. 1. The 22nd Judicial District shall be composed of the counties of Hayes, Caldwell, and Comal, and the terms of the district court are hereby designated and shall be held there in each year as follows:

In the County of Hayes on the first Mondays in February and September.

In the County of Caldwell on the first Mondays in March and October.

In the County of Comal on the first Mondays in May and December.

Sec. 2. Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 790, ch. 386; Acts 1943, 48th Leg., p. 274, ch. 173, § 1; Acts 1969, 61st Leg., p. 2435, ch. 815, eff. June 14, 1969.]

23.—Brazoria, Matagorda, Fort Bend, and Wharton

There shall be two terms of the 23rd Judicial District Court in each of the Counties of Brazoria, Matagorda, Fort Bend and Wharton, Texas.

In Brazoria County the first term shall be known as the April-September term and shall begin each year on the first Monday in April and shall continue until and including Saturday before the first Monday in October of each year; the second term of said court in Brazoria County, Texas, which shall be known as the October-March term, shall begin each year on the first Monday in October and shall continue until and including Saturday before the first Monday in the following April.

In Fort Bend County the first term shall be known as the May-October term and shall begin each year on the first Monday in May and shall continue until and including Saturday before the first Monday in November; the second term, which shall be known as the November-April term, shall begin each year on the first Monday in November and continue until and including Saturday before the first Monday in the following May.

In Matagorda County the first term shall be known as the June-November term and shall begin each year on the first Monday in June and shall continue until and including Saturday before the first Monday in December; the

second term, which shall be known as the December-May term, shall begin each year on the first Monday in December and shall continue until and including Saturday before the first Monday in the following June.

In Wharton County the first term shall be known as the July-December term and shall begin each year on the first Monday in July and shall continue until and including Saturday next before the first Monday in the following January; and the second term, which shall be known as the January-June term, shall begin each year on the first Monday in January and shall continue until and including Saturday before the first Monday in the following July.

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

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 12, ch. 8, § 1; Acts 1931, 42nd Leg., p. 746, ch. 293, § 1; Acts 1939, 46th Leg., p. 166, § 1; Acts 1947, 50th Leg., p. 291, ch. 179, § 7.]

24.—DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria

The 24th Judicial District shall be composed of the Counties of DeWitt, Goliad, Jackson, Refugio, Calhoun and Victoria, and the terms of the District Court shall be held therein each year as follows:

In the County of DeWitt on the first Mondays in January and June and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Goliad on the first Monday in February and last Monday in August and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Jackson on the fourth Monday in February and third Monday in September and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Refugio on the third Mondays in March and October and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Calhoun on the second Mondays in April and November and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Victoria on the fourth Mondays in April and November and may continue in session until the Saturday immediately preceding the Monday for con-

vening the next regular term of such court in such County.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 348, ch. 163, § 1; Acts 1943, 48th Leg., p. 11, ch. 11.]

25.—Gonzales, Colorado, Lavaca and Guadalupe

The 25th Judicial District shall be composed of the Counties of Gonzales, Colorado, Lavaca and Guadalupe, and the terms of the District Court in each of said counties shall be held therein each year as follows:

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

In the County of Colorado on the first Mondays in February and September.

In the County of Lavaca on the first Mondays in April and November.

In the County of Guadalupe on the first Mondays in March and October.

Each term of court in each of such counties shall continue until 10:00 A.M. of the Monday herein fixed for the beginning of the next succeeding term thereof.

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

All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

If any court in any county of said District shall be in session at the time this Act takes effect, such court shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 396, ch. 182, § 1; Acts 1947, 50th Leg., p. 24, ch. 16, § 1; Acts 1973, 63rd Leg., p. 448, ch. 198, § 1, eff. May 25, 1973.]

Second 25th Judicial District Court.—Gonzales, Colorado, Lavaca and Guadalupe Counties

Sec. 1. The Special 25th Judicial District Court of the Counties of Gonzales, Colorado, Lavaca, and Guadalupe, heretofore established as a temporary District Court in and for such counties under the terms and provisions of Acts of 1954, 53rd Legislature, First Called Session, Chapter 54, page 118, is hereby established as a permanent District Court, the limits of which district shall be coextensive with the limits of said counties. Such court, which shall be known as the Second 25th Judicial District Court, shall have the jurisdiction provided by the Constitution and laws of this State for District Courts; such jurisdiction to be concurrent with that of the 25th Judicial District Court in and for said counties.

Sec. 2. There shall be two terms of the Second 25th Judicial District Court in each of said counties each year as follows:

In the County of Gonzales upon the first Monday in May and December;

In the County of Colorado upon the first Monday in April and November;

In the County of Lavaca upon the first Monday in January and June;

In the County of Guadalupe upon the first Monday in February and September. The Judge of said court in his discretion may hold as many sessions of court during any term of the court in any county as is deemed by him proper and expedient for the dispatch of business. The terms of the District Court in each county shall continue in session until the Saturday immediately preceding the Monday with the convening of the next regular term of court in that particular county.

Sec. 3. The district clerk of the 25th Judicial District shall be the clerk of the Second 25th Judicial District Court in each of the counties.

Sec. 4. The Judge of the Second 25th Judicial District Court or the Judge of the 25th Judicial District Court may hear and dispose of any suit or proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted without the necessity of transferring the action or proceeding from one court to another, and the Judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred. Provided, however, that no case shall be transferred without the consent of the Judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep the minutes of the court in which shall be recorded all the judgments and orders of the respective courts.

Sec. 5. At the expiration date of the Special 25th Judicial District Court on August 31, 1956, the Judge of such court shall continue in office as Judge of the said permanent Second 25th Judicial District Court until the next general election and until his successor shall qualify. The term of the Judge of said court shall thereafter be four (4) years, as provided by law for other District Judges.

Sec. 6. The compensation of the Judge of the Second 25th Judicial District Court shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided by law for District Judges.

Sec. 7. The Judge of the Second 25th Judicial District Court shall appoint a shorthand reporter for such court, who shall hold office and be compensated as provided by law.

Sec. 8. Qualified jurors for service in both the said 25th Judicial District Court and the said Second 25th Judicial District Court in the Counties of Gonzales, Guadalupe, Colorado and

Lavaca, Texas, shall be selected by Jury Commissioners in accordance with the provisions of Article 2104 of the Revised Civil Statutes of Texas, as amended, and succeeding Articles; and the provisions of Senate Bill No. 466, Chapter 467, Acts of the 51st Legislature of Texas (Article 2094 Revised Civil Statutes of Texas, as amended) or any other law providing for the selection of petit jurors by the jury wheel method shall not apply in said District Courts in said counties.

Jurors selected by Jury Commissioners as hereinabove provided for may be summoned and used for the trial of civil and criminal cases interchangeably in either of said courts.

[Acts 1955, 54th Leg., p. 689, ch. 249.]

26.—Williamson

On the first Monday in January and may continue to and including the last Saturday in February; on the first Monday in March and may continue to and including the last Saturday in April; on the first Monday in May and may continue to and including the last Saturday in June; on the first Monday in September and may continue to and including the last Saturday in October; and on the first Monday in November and may continue to and including the last Saturday in December.

Grand juries for said district court shall be organized at the January, May and September terms of said court; provided, that the judge of said court may, when deemed necessary, organize and impanel grand juries at any other term of said court by entering an order therefor.

[Acts 1925, S.B. 84.]

27.—Bell, Lampasas and Mills

(a) The 27th Judicial District shall be composed of the Counties of Bell, Lampasas and Mills, and the terms of the District Court shall be held therein each year as follows:

In the County of Bell on the first Monday in April and may continue in session until the last Saturday in June, on the first Monday in July and may continue in session until the last Saturday in September, on the first Monday in October and may continue in session until the last Saturday in December, and on the first Monday in January and may continue in session until the last Saturday in March.

In the County of Lampasas on the first Mondays in March and September and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County.

In the County of Mills on the first Mondays in May and November and may continue in session until the Saturday night immediately preceding the Monday for convening the next regular term of such court in such County.

(b) The district courts of the 27th, 146th and 169th Districts, in Bell County, shall have

concurrent jurisdiction throughout the limits of Bell County in all civil and criminal cases and proceedings of which district courts are given jurisdiction by the constitution and laws of the state. No grand jury shall be impaneled in the district courts of Bell County except by special order of the presiding judge.

(c) The presiding judge of the district courts in Bell County may, in his discretion, either in term time or vacation, transfer any case or cases, civil or criminal, to any other of the district courts by order entered on the minutes of his court, which orders when made, shall be copied and certified to by the clerk of the courts, together with all orders made in the case, and the certified copies of the orders shall be filed among the papers of any case transferred and the fees therefor shall be taxed as part of the costs of the suit; and where such transfer is made, the clerk of the courts shall enter such cause upon the docket of the court to which such transfer is made, and when so entered upon the docket, the judge of the court to which such cause has been transferred shall try and dispose of the cause in the same manner as if such cause had been filed in his court. Any of the judges may in his own courtroom try and determine any case or proceeding pending in either of the other courts, without having the case transferred, or may sit in any of the other courts and hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the court in which the case is pending with the judge hearing the case indicating on the docket sheet and orders that he is sitting for that district, and two or more judges may try different cases in the same court at the same time, and each may occupy his own courtroom or the room of any other court. In case of absence, sickness or disqualification of any of the judges, any other of the judges may hold court for him.

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

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 766, ch. 305; Acts 1937, 45th Leg., p. 802, ch. 394; Acts 1943, 48th Leg., p. 8, ch. 9, § 1; Acts 1973, 63rd Leg., p. 1283, ch. 476, § 1, eff. June 14, 1973.]

28.—Nueces, Kleberg and Kenedy

From and after the first day of January, A. D. 1947, the 28th Judicial District of Texas shall be composed of the Counties of Nueces,

Kleberg, and Kenedy, and shall be a Court of general jurisdiction, with the jurisdiction conferred upon District Courts by the constitution and laws of the State of Texas; and in the County of Nueces, it shall have concurrent jurisdiction with the 94th and 117th District Courts.

The 28th Judicial District of the State of Texas shall be composed of the Counties of Kenedy, Nueces and Kleberg, and the terms of the District Court shall be held therein as follows:

In Nueces County, a term to be known as the January-July term shall begin on the first Monday in January of each year and shall continue until and including the Sunday preceding the first Monday in July of the same year; in Nueces County a term to be known as the July-January term shall begin on the first Monday in July of each year and continue until and including the Sunday preceding the first Monday in January of the succeeding year.

A term of said Court for Kleberg County shall begin on the first Monday in March of each year and continue until and including the Sunday preceding the first Monday in September of the same year; a term of said Court in Kleberg County shall begin on the first Monday in September of each year and continue until and including the Sunday preceding the first Monday in March of the succeeding year.

A term of said Court for Kenedy County shall begin on the first Monday in April of each year and continue until and including the Sunday preceding the first Monday in October of each year; a term of said Court for Kenedy County shall begin on the first Monday of October of each year and continue until and including the Sunday preceding the first Monday in April of the succeeding year.

The Judge of such Court may devote as much time to the business of said Court in Kleberg County and Kenedy County as may be required by the dockets thereof in said Counties; and the remainder of his time shall be devoted to the business of said Court in Nueces County.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 89, ch. 64, § 1; Acts 1945, 49th Leg., p. 472, ch. 300, § 1; Acts 1947, 50th Leg., p. 776, ch. 385, § 1.]

29.—Hood, Palo Pinto, and Erath

Sec. 1. The Twenty-ninth Judicial District of Texas shall be composed of the Counties of Hood, Palo Pinto, and Erath, and the terms of the District Court shall be held therein each year as follows:

In the County of Erath: On the first Monday in January of each year; on the first Monday after the third Saturday in May of each year; and on the first Monday after the fourth Saturday in August, of each year; and each of which terms of Court may continue in session to and including the Saturday immediately preced-

ing the Monday for convening the next regular term of such Court in such County.

In the County of Palo Pinto: On the first Monday in March of each year; on the first Monday after the third Saturday in June of each year; and on the first Monday after the fourth Saturday in October of each year; and each such terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of Hood: On the first Monday after the third Saturday in April of each year; on the first Monday after the fourth Saturday in July of each year; and on the first Monday after the second Saturday in December of each year; and each such terms of Court may continue in session to and including the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as deemed by him proper and expedient for the dispatch of business.

Sec. 3. All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 70, ch. 46, §§ 1 to 3; Acts 1931, 42nd Leg., p. 807, ch. 331; Acts 1943, 48th Leg., p. 178, ch. 103, § 1.]

30.—Wichita

The Thirtieth Judicial District shall be composed of Wichita County, Texas, and the terms of the said District Court shall be held therein each year as follows:

On the first Mondays of January and July of each year and may continue in session until the Saturday immediately preceding the Monday for convening of the next regular term of such Court in Wichita County, Texas.

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

All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for, and returnable to, the next succeeding

term of the District Court of Wichita County as herein fixed as though issued and served for such term and returnable to and drawn for the same.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 880, ch. 251; Acts 1933, 43rd Leg., Spec.L., p. 139, ch. 100; Acts 1941, 47th Leg., p. 1386, ch. 626, § 1; Acts 1943, 48th Leg., p. 302, ch. 196, § 1.]

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

The 31st Judicial District of the State of Texas shall be composed of the Counties of Gray, Roberts, Hemphill, Lipscomb and Wheeler, and the terms of the District Court shall be held therein each year as follows:

Gray County: Beginning on the first Monday of January of each year; and on the First Monday of July of each year.

Roberts County: Beginning on the Second Monday of March of each year; and on the Fourth Monday of August of each year.

Hemphill County: Beginning on the Second Monday of April of each year; and on the First Monday of November of each year.

Lipscomb County: Beginning on the Fourth Monday of March of each year; and on the Second Monday of September of each year.

Wheeler County: Beginning on the Fourth Monday of April of each year; and on the Fourth Monday of November of each year.

Each term of Court in each of such Counties shall continue until 10:00 a. m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 60, ch. 42; Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1933, 43rd Leg., p. 878, ch. 250, § 1; Acts 1933, 43rd Leg., Spec.L., p. 128, ch. 96; Acts 1943, 48th Leg., p. 23, ch. 20, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 1; Acts 1973, 63rd Leg., p. 683, ch. 289, § 1, eff. June 11, 1973.]

32.—Nolan, Mitchell and Fisher

After the effective date of this Act the 32nd Judicial District shall be composed of and confined to Nolan, Mitchell, and Fisher Counties, and shall be known as the 32nd Judicial District. The 32nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Nolan, Mitchell, and Fisher Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

The terms of the District Court of the 32nd Judicial District shall be as follows:

In Nolan County on the second Monday in January, on the third Monday in April, and on the second Monday in September of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Nolan County.

In Mitchell County on the third Monday in February, May and October of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Mitchell County.

In Fisher County on the second Monday in March, June, and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Fisher County.

[Acts 1951, 52nd Leg., p. 7, ch. 7, §§ 1, 2; Acts 1961, 57th Leg., p. 365, ch. 184, § 1, eff. Jan. 1, 1962.]

33.—Mason, Blanco, Menard, San Saba, Llano and Burnet

The Thirty-third Judicial District shall be composed of the Counties of Mason, Blanco, Menard, San Saba, Llano and Burnet, and the terms of the district court shall be held therein as follows:

In Mason County, beginning on the second Monday in January and June.

In Blanco County, beginning on the first Monday in February and September.

In Menard County, beginning on the fourth Monday in February and September.

In San Saba County, beginning on the second Monday in March and October.

In Llano County, beginning on the first Monday in April and November.

In Burnet County, beginning on the fourth Monday in April and November.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 15, ch. 10; Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11, § 2; Acts 1943, 48th Leg., p. 46, ch. 42, § 1; Acts 1953, 54th Leg., p. 882, ch. 337, § 4.]

34, 41, 65.—El Paso, Hudspeth, and Culberson

El Paso County shall constitute the Forty-first and Sixty-fifth Judicial Districts, and with the Counties of Culberson and Hudspeth, shall constitute the Thirty-fourth Judicial District, and the terms of District Courts therein shall be as follows:

Thirty-fourth District. (a) El Paso County: On the third Monday in September, and may continue four weeks; on the first Monday in November, and may continue until the last Saturday before the 25th day of December; on the first Monday in January, and may continue until the last Saturday before the third Monday in March; on the third Monday in April, and may continue until the last Saturday in June; on the first Monday in July, and may continue until the last Saturday in July.

(b) Culberson County: On the third Monday in October and may continue two weeks; on the first Monday in April, and may continue two weeks.

(c) Hudspeth County: On the third Monday in March, and may continue two weeks; on the first Monday in September, and may continue two weeks.

And the terms of Court in Culberson County and in Hudspeth County may, by order of the Court, entered in the minutes, be continued for such time as may be fixed by said order.

Forty-first District: On the first Monday in January, March, May, September and November, and continue until the last Saturday before the next succeeding term of Court, except the May Term, which shall continue until the last Saturday before the first Monday in July.

Sixty-fifth District: On the first Monday in February, April, June, September, October and December, and continue until the last Saturday before the next succeeding term of Court, except the June Term, which may continue until the last Saturday before the first Monday in August.

The said three District Courts of El Paso County shall have concurrent civil and criminal jurisdiction with each other in said county of matters over which the jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, that no Grand Jury shall be impaneled in the District Courts of said County, other than that of the Thirty-fourth Judicial District, unless by special order of the Judge of either of the other District Courts, a Grand Jury shall be called for either of said Courts.

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

The District Attorney of the Thirty-fourth Judicial District shall also act as District Attorney in and for the Forty-first and Sixty-fifth Judicial Districts, and the Clerk of the District Court of El Paso County shall act as Clerk of the District Court for each of said District Courts.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 211, ch. 92, § 1; Acts 1935, 44th Leg., p. 390, ch. 149, § 1.]

35.—McCulloch, Brown and Coleman

The terms of said District Court shall be held in said counties each year as follows:

In the County of McCulloch on the first Mondays in January, May and October.

In the County of Brown on the first Mondays in February, June and November.

In the County of Coleman on the first Mondays in April and September.

Each term of court in each of such counties may continue in session until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 864, ch. 367, §§ 3, 4; Acts 1931, 42nd Leg., 2nd C.S., p. 17, ch. 9; Acts 1943, 48th Leg., p. 185, ch. 106, § 1.]

36.—Aransas, San Patricio, Bee, Live Oak and McMullen

The Thirty-sixth Judicial District shall be composed of the Counties of Aransas, San Patricio, Bee, Live Oak and McMullen, and the terms of this District Court shall be held therein each year as follows:

In the County of Aransas, beginning on the second Monday in February and on the first Monday in September, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Aransas County.

In the County of San Patricio, beginning on the fourth Monday in February and on the third Monday in September, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in San Patricio County.

In the County of Bee, beginning on the first Monday in April and on the first Monday in November, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Bee County.

In the County of Live Oak, beginning on the third Monday in January and on the fourth Monday in May, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in Live Oak County.

In the County of McMullen beginning on the first Monday in January and on the third Monday in June, and may continue in session until 10:00 a. m. of the Monday for convening the next regular term of such Court in McMullen County.

The Judge of said Court in his discretion may hold as many sessions of Court in any

term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

It is further provided that if any Court in any county of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 80, ch. 63, § 1; Acts 1949, 51st Leg., p. 99, ch. 59, § 1.]

37, 45, 57, 73, 131, 144, 150, 166, 175, 186.—
Bexar

[(A). See subd. 166 of this article].

(B) Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th Judicial Districts of Texas. Each of the ten (10) district courts shall have and exercise civil and criminal jurisdiction in Bexar County. The district courts of Bexar County shall have and exercise, in addition to the jurisdiction now conferred or to be conferred by law on district courts, concurrent jurisdiction coextensive with the limits of Bexar County in all actions, proceedings, matters and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

(C) The present Judges of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, and 175th Judicial Districts of Bexar County, Texas, shall continue as Judges of said Courts as constituted and defined by this Act, and the tenure of office of said Judges shall remain the same as is now provided by law.

(D) There shall be two (2) terms of the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th District Courts in Bexar County, Texas, in each year, and the first term shall begin on the first Monday in January each year and shall continue until and including Sunday next before the first Monday in July of each year; and the second term shall begin on the first Monday in July of each year and shall continue until and including the Sunday next before the first Monday in the following January.

(E) The 144th, 175th, and 186th District Courts of Bexar County shall hold six (6) terms of court each year for the trial of causes

and the disposition of business coming before those courts, one term beginning the first Monday in January; one the first Monday in March; one the first Monday in May; one the first Monday in July; one the first Monday in September; one the first Monday in November; each term to last for two (2) months. Each term shall continue until the business is disposed of.

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

(G) All indictments shall be returned to the 144th, 175th, and 186th District Courts of Bexar County. The district clerk shall docket successively on the dockets of the district courts of the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th Judicial Districts all civil cases, actions, causes, petitions, applications, or other proceedings so that the first case or proceeding filed on or after the effective date of this Act and every eighth case or proceeding thereafter shall be docketed in the 37th Judicial District; and the second case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 45th Judicial District; and the third case or proceeding filed and every eighth case or proceeding thereafter filed shall be docketed in the 57th Judicial District; and the fourth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 73rd Judicial District; and the fifth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 131st Judicial District; and the sixth case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 150th Judicial District; and the seventh case or proceeding and every eighth case or proceeding thereafter filed shall be docketed in the 166th Judicial District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, 150th, and 166th District Courts, one-seventh in each court.

(H) The district judges of Bexar County shall, on or before the first day of January and the first day of July of each year, or at such other times as may be determined by a majority of the district judges, elect one of the district judges to serve as presiding judge of the Bexar County District Courts for a period of time to be set by the judges. The presiding judge of the Bexar County District Judges shall, from time to time as occasion may require in order to adjust the business and dockets of the courts, transfer, or cause to be transferred, causes from any of the courts to any other of the courts in order that the business of the courts will be continually equalized and distributed among them to the end that each judge will at all times be provided with cases or proceedings to try or otherwise consider and that the trial of a cause will not be delayed be-

cause of the disqualification of the judge in whose court it is pending. When a case is transferred, proper order shall be entered upon the minutes of the court as evidence of the transfer. It is the intention of this section that the 144th, 175th, and 186th District Courts give preference to criminal cases, matters, or proceedings, while the other district courts give preference to civil cases, matters, or proceedings. For that purpose the 144th, 175th, and 186th District Courts constitute the criminal district courts of Bexar County, while the other district courts constitute the civil district courts of Bexar County. Each judge shall sign the minutes of each term of his court within thirty (30) days after the end of the term and shall also sign the minutes at the end of each volume of the minutes, and each judge sitting in a court shall sign the minutes of the proceedings that were had before him.

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

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

(K) Each judge of the said District Courts of Bexar County, Texas, may take a vacation at any time during the calendar year, during which time the terms of court of which he is judge shall remain open and the judge of any other district court may hold such court during the vacation of the judge thereof. During the period of such vacation, it shall not be lawful for a special judge of such court to be elected by the practicing lawyers of such court because of the absence of the judge on his vacation, unless no judge of the said district courts is in the county. The judges of the said district courts shall by agreement among themselves take their vacations alternately so that there shall be at all times at least six (6) of

the said judges in the county at all times of the year.

(L) The Judge of each of the several District Courts shall appoint an official court reporter for his Court as provided by the General Law who will be compensated as provided by law.

(M) The sheriff of Bexar County, as herein-after provided, either in person or by deputy, shall attend the several district courts as required by law, or when required by the judges, and the sheriff and constables of the several counties of this state, when executing process out of the district courts of Bexar County, shall receive fees as provided by law for executing process issued out of the district courts. The sheriff of Bexar County shall appoint one deputy to serve as bailiff for each of the district courts; except that the sheriff of Bexar County shall appoint two deputies to serve as bailiffs for each the 144th, and 175th, and the 186th District Courts, each of which courts must give preference to the trial of criminal cases, matters, or proceedings. The persons appointed as deputies must be acceptable to the judge of the court to which they are appointed and the appointments for each court must be approved and confirmed in writing by the judge before the appointments become effective. The appointed deputy sheriffs shall, before assuming their duties, take the oath of office prescribed by the Constitution of the State of Texas; and the sheriff of Bexar County is authorized to require the deputies to furnish bonds in an amount, and conditioned and payable, as may be prescribed by the sheriff or provided by law. The deputies shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the sheriff of Bexar County in person. The deputies shall, from and after their appointments, qualification, and confirmation, as hereinabove provided, continue as deputies at the pleasure of the judge of the court to which they were appointed; and should any of the judges, for any reason, not further desire the services of the deputies appointed to his court, the sheriff of Bexar County shall, upon the request of the judge, appoint another deputy for that court, the appointment to be made in the same manner hereinabove provided. The deputies shall attend all sessions of the district court to which they are appointed and also shall perform and render services in and for the court, and for the judge, as are usually performed and rendered by sheriffs and deputies in and about the several district courts of this state, and including the serving of any and all processes, subpoenas, warrants, and writs of any and all kinds and nature in both civil and criminal cases, matters, and proceedings; and the deputies shall also perform and render any and all other services that may from time to time be assigned to them or to any of them by the judges of the courts. The deputies have, possess, and enjoy the same rights, powers, authority, and privileges that the sheriffs and their deputies throughout this

state may now or hereafter possess and enjoy. The deputies may act for each other, and they shall act for each other when required to do so by any of the judges or by the sheriff; but the deputies acting for each other are not entitled to receive, nor may they receive, any additional compensation. The sheriff of Bexar County shall, in the event of a vacancy caused by any reason, immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be subject to the written approval and confirmation of the judge of that court. The judge of each court shall fix the salary to be paid the deputies for his court, in any sum not less than Three Thousand Nine Hundred Dollars (\$3,900) annually. The annual salaries to be paid to the deputies, when fixed by the judges as herein provided, shall be paid to them either monthly or twice monthly out of a fund of Bexar County as provided by law for the payment of salaries of the several deputies of the sheriff of Bexar County, and the payment of the salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the sheriff of Bexar County from assigning additional deputies to any of the district courts when circumstances require, or when requested to do so by the judge of any of the district courts. Provided that nothing contained in Section 4 of this Act is intended to change the duties of the sheriff of Bexar County except as herein specifically and expressly stated.

(N) The clerk of the district courts of Bexar County shall be the clerk of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th District Courts and shall be compensated as provided by law. The district clerk shall appoint one deputy for each of the district courts; provided that the persons appointed must be acceptable to the judges of the courts, and the appointment for each court must be confirmed in writing by the judge before it becomes effective. The appointed deputy clerks shall, before assuming their duties, take the oath of office prescribed by the Constitution of the State of Texas; and the district clerk of Bexar County is authorized to require the deputies to furnish bonds in an amount, and conditioned and payable, as may be prescribed by the district clerk or provided by law. The deputy district clerks shall act in the name of their principal, and they may perform all official acts as may be lawfully performed by the district clerk in person; and each deputy shall attend all sessions of the court to which he was appointed, and perform the services in and for the court that are usually performed by the district clerk and deputies in the several district courts of this state; and the deputies shall also perform any and all other services that may from time to time be assigned them by the judges of the courts. The deputies may act for each other in any matter pertaining to the clerical business of the courts, and they shall act for each other when requested to do so by the judges or by the district clerk; but the deputies acting for

each other are not entitled to receive, nor may they receive, any additional compensation. The deputies shall, from and after their appointments, confirmations, and qualifications, as herein provided, continue as deputies at the pleasure of the judges; and should any of the judges, for any reason, not further desire the services of the deputy appointed to his court, the district clerk of Bexar County shall, upon request of the judge, appoint another deputy for that court, the appointment to be made in the manner hereinabove provided. In the event of a vacancy, caused by any reason, the district clerk shall immediately appoint another deputy for the court in which the vacancy occurred, the appointment to be subject to the written approval and confirmation of the judge of that court. The respective judges of the district courts of Bexar County shall determine and fix the salary of the deputy district clerk appointed for each district court in an amount not less than Four Thousand Four Hundred Dollars (\$4,400) annually. The annual salaries to be paid to the deputy district clerks shall be paid either in equal monthly or twice monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the district clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. Provided that nothing herein shall be construed as preventing the district court of Bexar County from assigning additional deputies to any of the courts when circumstances require, or when requested to do so by the judge of any of the courts. Provided that nothing contained in Section 4 of this Act is intended to change the duties and powers that heretofore have been and are now being exercised by the district clerk of Bexar County except as herein specifically and expressly stated.

(O) The criminal district attorney of Bexar County shall be the district attorney of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, and 186th District Courts and shall be compensated as provided by law.

(P) Each of the said District Courts shall have an official seal as now provided by law for District Courts.

(Q) The judges of the 144th, 175th, and 186th District Courts shall alternately appoint grand jury commissioners and empanel grand juries; and further, they may appoint grand jury bailiffs, not to exceed five (5). Each judge may appoint one bailiff, and if needed may jointly appoint the fifth bailiff. The bailiffs are subject to removal at the will of the judges who appointed them.

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

(S) The compensation of each Judge shall be the same as the compensation paid the Judges of the other District Courts, including the expenses as now provided by the laws of this State, and the compensation shall be paid

in the manner in which other District Judges of the State are paid.

(T) It is expressly provided that nothing herein shall be construed as repealing any provision of Senate Bill No. 89, Acts, 1961, Fifty-seventh Legislature, page 38, Chapter 24, changing the names and designations of the Criminal District Court of Bexar County, Texas, and the Criminal District Court Number 2 of Bexar County, Texas, to the 144th District Court and the 175th District Court of Bexar County, Texas, respectively. All other laws and parts of laws in conflict with the provisions of this Section are hereby repealed to the extent of such conflict only; as to all other laws or parts of laws, this Section shall be cumulative.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 499, ch. 210, §§ 1 to 4; Acts 1939, 46th Leg., p. 168, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 2, § 3; Acts 1955, 54th Leg., p. 730, ch. 262, § 4; Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(B), eff. Sept. 1, 1963; Acts 1969, 61st Leg., 2nd C.S., pp. 108, 109, 111, 112; ch. 6, §§ 3 to 11, eff. Oct. 1, 1969.]

38.—Medina, Uvalde, Zavala and Real

The Thirty-eighth Judicial District shall be composed of the Counties of Medina, Uvalde, Zavala and Real, and the terms of the district court shall be held therein as follows:

In Medina County, beginning on the first Monday in January and June.

In Uvalde County, beginning on the first Monday in February and September.

In Zavala County, beginning on the first Monday in March and October.

In Real County, beginning on the first Monday in April and November.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 125, ch. 60, § 1; Acts 1937, 45th Leg., p. 484, ch. 246, § 1; Acts 1943, 48th Leg., p. 35, ch. 32, § 1; Acts 1955, 54th Leg., p. 882, ch. 337, § 1.]

Second 38th Judicial District

Acts 1973, 63rd Leg., p. 732, ch. 316, § 6, changed the name of the Second 38th Judicial District to the 216th Judicial District and added Sutton County thereto. See, now, subd. 216 of this article.

39.—Haskell, Stonewall, Kent and Throckmorton

Hereafter the Thirty-ninth Judicial District shall be composed of Haskell, Stonewall, Kent and Throckmorton Counties, Texas, and the terms of the District Court in each of said Counties shall be held therein each year as follows:

Beginning:

In Haskell County, on the first Monday in January; the fifteenth Monday after

the first Monday in January; and on the third Monday after the first Monday in September;

In Stonewall County, on the sixth Monday after the first Monday in January; on the twentieth Monday after the first Monday in January; and on the ninth Monday after the first Monday in September;

In Kent County, on the ninth Monday after the first Monday in January and on the first Monday in September;

In Throckmorton County, on the twelfth Monday after the first Monday in January; on the twenty-third Monday after the first Monday in January; on the twelfth Monday after the first Monday in September;

And each term of Court in each of such counties shall continue until the date set herein for the beginning of the next succeeding term thereof. The Judge of said Court may hold as many sessions in any term of Court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 44, ch. 32, § 1; Acts 1945, 49th Leg., p. 222, ch. 165, § 1.]

40.—Ellis

On the first Mondays in March, June, September and December and continue until the next succeeding term.

[Acts 1925, S.B. 84.]

41.—El Paso. See 34th District

42.—Taylor and Callahan

The 42nd Judicial District of the State of Texas is composed of the Counties of Taylor and Callahan, and the District Courts herein shall hold their terms and sessions as follows:

Said Court shall convene in Taylor County on the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County; and on the 15th Monday after the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County; and on the first Monday in September and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Taylor County.

Said Court shall convene in Callahan County on the 8th Monday after the first Monday in January of each year, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 22nd Monday after the first Monday in January, and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Callahan County; and on the 8th Monday after the first Monday in September, and may continue in session until the date herein fixed for convening of the next regular term of such Court in Callahan County, Texas.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 467, ch. 217, § 1; Acts 1961, 57th Leg., p. 79, ch. 46, § 2, eff. Sept. 1, 1961.]

43.—Parker

(a) The 43rd Judicial District is composed of Parker County.

(b) The District Court for the 43rd Judicial District shall have and exercise all jurisdiction now or hereafter prescribed by the constitution and general laws of this State for district courts. In addition, the 43rd District Court and the judge thereof shall have and exercise original jurisdiction in matters of eminent domain. The 43rd District Court and the judge thereof shall also have and exercise concurrent jurisdiction with the County Court of Parker County over all matters of original civil jurisdiction, exclusive of probate matters and matters of eminent domain, and original criminal jurisdiction in causes in which the punishment that may be assessed includes confinement in the county jail or with the Texas Department of Corrections, over which said matters, by the general laws of this State, the County Court of Parker County would have original jurisdiction. The judge of the 43rd District Court will be the presiding judge, insofar as the district court and the county court are concerned and the district judge may in his discretion, assign to the County Court of Parker County for trial and disposition, cases or portions thereof over which the courts exercise concurrent jurisdiction. Such assignments shall be made by docket notation.

(c) The terms of the 43rd District Court shall begin on the first Monday in January and the first Monday in July each year, provided, however, that the initial term shall be from September 1, 1971, until the first Monday in January, 1972. Each term of court continues until the next succeeding term begins. The judge of the court, in his discretion, may hold as many sessions of court in any term of the court as are deemed by him proper and expedient for the dispatch of business.

(d) The district clerk and sheriff of Parker County shall serve the 43rd District Court. The District Clerk of Parker County shall perform all clerical functions of and for the County Court of Parker County, insofar as all matters and causes over which the district court and county court have concurrent jurisdiction. Insofar as all cases over which the district court and the county court have concurrent jurisdiction, the district clerk shall charge fees at the rate set by law for the county court cases or such other fees as may be permitted by the general laws of this State. The judge of the 43rd District Court shall appoint an official shorthand reporter for the court. The reporter shall be a sworn official of the court, and all provisions of law relating to the appointment, qualifications, and duties of official shorthand reporters in this State shall govern. In addition to transcript fees, fees for statements of facts, and other expenses necessary to the office authorized by law, the official short-

hand reporter for the 43rd District Court shall be paid a salary set by order of the judge of the court as provided by the general law in Chapter 622, Acts of the 62nd Legislature, Regular Session, 1971 (Article 3912k, Vernon's Texas Civil Statutes). Court bailiffs, court clerks, and secretaries, probation officers and probation department employees shall be appointed by the judge of the 43rd District Court, as in his discretion are necessary for the efficient administration of the affairs of the district court, and paid salaries to be set as authorized by the general law of this State.

(e) Nothing in this Act shall affect the office of the District Attorney of the 43rd Judicial District, except that the district attorney may employ secretarial help. The payment of the salary for secretarial assistance employed under authority of this subsection shall be made from the general fund of Parker County in an amount set by the District Judge of the 43rd Judicial District.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 963, ch. 417; Acts 1959, 56th Leg., p. 873, ch. 398, § 1, eff. Sept. 1, 1959; Acts 1971, 62nd Leg., p. 1806, ch. 535, § 1, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1770, ch. 647, § 2, eff. Aug. 27, 1973.]

44.—Dallas. See 14th District

45.—Bexar. See 37th District

46.—Wilbarger, Hardeman and Foard

In the County of Wilbarger

First Term, beginning on the first Monday in January and may continue in session six weeks.

Second Term, beginning on the eleventh Monday after the first Monday in January and may continue in session six weeks.

Third Term, beginning on the twenty-second Monday after the first Monday in January and may continue in session four weeks.

Fourth Term, beginning on the forty-first Monday after the first Monday in January and may continue in session six weeks.

In the County of Foard

First Term, beginning on the sixth Monday after the first Monday in January and may continue in session two weeks.

Second Term, beginning on the seventeenth Monday after the first Monday in January and may continue in session two weeks.

Third Term, beginning on the thirty-sixth Monday after the first Monday in January and may continue in session two weeks.

In the County of Hardeman

First Term, beginning on the eighth Monday after the first Monday in January and may continue in session three weeks.

Second Term, beginning on the nineteenth Monday after the first Monday in January and may continue in session three weeks.

Third Term, beginning on the thirty-eighth Monday after the first Monday in January and may continue in session three weeks.

Fourth Term, beginning on the forty-seventh Monday after the first Monday in January and may continue in session three weeks.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 748, ch. 294.]

47.—Randall, Potter and Armstrong

Sec. 1. The 47th Judicial District shall be composed of the Counties of Randall, Potter, and Armstrong.

Sec. 2. The 47th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 47th District Court shall be concurrent in Randall County with the 181st District Court. The jurisdiction of the 47th District Court shall be concurrent in Potter County with the 108th and 181st District Courts.

Sec. 4. The terms of the 47th District Court shall be as follows:

(a) In the County of Randall, on the first Monday in January; on the sixteenth Monday after the first Monday in January; and on the eighth Monday after the first Monday in August.

(b) In the County of Potter, on the fourth Monday in January; on the fifteenth Monday after the fourth Monday in January; on the first Monday in August; and on the fourteenth Monday after the first Monday in August.

(c) In the County of Armstrong, on the tenth Monday after the fourth Monday in January; and on the eleventh Monday after the first Monday in August.

Each term of court in each county may continue until the date herein fixed for the beginning of the next succeeding term therein. The judge, may in his discretion, hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 47th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 47th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 47th District Court in Potter County; and the district clerk of Randall County shall act as the dis-

trict clerk for the 47th District Court in Randall County; and the district clerk of Armstrong County shall act as the district clerk for the 47th District Court in Armstrong County.

Sec. 7. The sheriff of Potter County shall perform for the 47th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts. The sheriff of Randall County shall perform for the 47th District Court in connection with all its Randall County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts. The sheriff of Armstrong County shall perform for the 47th District Court in connection with all its Armstrong County cases, the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 8. The judge of the 47th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 9. The 47th District Court may hear and determine, in whichever county in the district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held. The District Court for the 47th Judicial District of Texas, may, unless there is some objection filed by a party to the suit, hear, in any county in the district which is convenient for the court, any non-jury case (including but not limited to divorces, adoptions, default judgments, and matters where there has been citation by publication) pending in any county in the district, regardless of whether the cases were filed in the county in which the hearing is held.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 10, ch. 7; Acts 1933, 43rd Leg., p. 873, ch. 248; Acts 1933, 43rd Leg., Spec.L., p. 55, ch. 47; Acts 1941, 47th Leg., p. 743, ch. 464; Acts 1943, 48th Leg., p. 331, ch. 212, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 159, ch. 23, § 5.007, eff. Sept. 19, 1969.]

48.—Tarrant. See 17th District

49.—Dimmit, Webb and Zapata

Sec. 1. The 49th Judicial District is composed of the counties of Dimmit, Webb, and Zapata.

Sec. 2. The 49th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 49th District Court shall be:

In the County of Dimmit on the first Mondays in February and September and on the second Monday in May.

In the County of Zapata on the fourth Mondays in February, May, and September.

In the County of Webb on the third Mondays in March, June, and October.

Each term of court in each county may continue until the date fixed for the beginning of the next succeeding term. The judge of the court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 291, ch. 106; Acts 1943, 48th Leg., p. 37, ch. 34, § 1; Acts 1969, 61st Leg., p. 697, ch. 239, § 1, eff. Sept. 1, 1969.]

50.—Baylor, Knox, King and Cottle

(a) The 50th Judicial District of Texas, shall be composed of Baylor, Knox, King and Cottle Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Baylor on the first Monday in January and September.

In the County of Knox on the first Monday in February and October.

In the County of King on the first Monday in March and November.

In the County of Cottle on the first Monday in April and December.

Each term of said Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion, may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(c) All process issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for, and returnable to, the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby, shall continue in session until the term thereof shall expire under the provisions of existing laws, provided further that the District Court shall convene in the County of Baylor on May 10th, 1943, and continue in session until the next succeeding term as herein provided, and further provided that the District Court shall convene in Knox County, on the first Monday in June, 1943, and shall continue in session until the next succeeding term under the provisions of this Act. Thereafter all Courts in said District shall conform to the general provisions of this Act.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 39, ch. 14, §§ 7, 8; Acts 1943, 48th Leg., p. 117, ch. 86, § 1; Acts 1943, 48th Leg., p. 390, ch. 263, § 1.]

51.—Tom Green, Irion, Schleicher, Coke and Sterling

Sec. 1. The following Counties shall hereafter constitute the Fifty-first (51) Judicial District of the State of Texas, to-wit: Tom Green, Irion, Schleicher, Coke and Sterling.

Sec. 2. The 51st Judicial District of Texas shall continue as it is now to be composed of the Counties of Tom Green, Coke, Irion, Schleicher and Sterling; the terms of the District Court shall be held therein each year as follows:

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

In the County of Coke on the first Mondays in February and August.

In the County of Irion on the first Mondays in March and September.

In the County of Schleicher on the first Mondays in April and October.

In the County of Sterling on the first Mondays in May and November.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected hereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., 1st C.S., p. 22, ch. 12; Acts 1931, 42nd Leg., p. 864, ch. 367, §§ 1, 2; Acts 1939, 46th Leg., p. 171; Acts 1943, 48th Leg., p. 478, ch. 319, § 1; Acts 1949, 51st Leg., p. 492, ch. 268, § 1; Acts 1953, 53rd Leg., p. 525, ch. 189, § 1.]

52.—Coryell, Hamilton, Comanche and Bosque

(a). The 52nd Judicial District of Texas shall be composed of Coryell, Hamilton, Comanche and Bosque Counties and the terms of the District Court shall be held therein each year as follows:

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

In the County of Hamilton on the first Mondays in February and July.

In the County of Comanche on the first Mondays in March and October.

In the County of Bosque on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b). The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

(c). All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

(d). It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., 2nd C.S., p. 1921, ch. 38, § 1; Acts 1943, 48th Leg., p. 395, ch. 267, § 1.]

53, 98, 126.—Travis

Sec. 1. The 53rd Judicial District shall continue as it is now, to be composed of the County of Travis and the terms of said Court shall remain unchanged and shall be as follows: On the first Monday in January and may continue until and including the last Saturday before the first Monday in March; on the first Monday in March and may continue until and including the last Saturday before the first Monday in May; on the first Monday in May and may continue until and including the last Saturday in July; provided, that said May term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; and on the first Monday in October and may continue until the last Saturday before the 25th day of December.

Sec. 2. The 98th District Court of Travis County shall continue to be composed of the County of Travis; and the terms of said Court shall be held as follows: on the first Monday in February and may continue until and including the last Saturday in March; on the first Monday in April and may continue until and including the last Saturday in May; on the first Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order; on the first Monday in October and may continue until and including the last Saturday in November; and on the first Monday in December and may continue until and including the last Saturday in January.

Sec. 3. The 126th Judicial District of Texas is hereby created and said Judicial District shall be composed of the County of Travis, and the terms of said Court shall be convened and held as follows: On the first Monday in September and may continue until and including the last Saturday in October; on the first Monday in November and may continue until and including the Saturday before the third Monday in January; on the third Monday in January and may continue until and including the Saturday before the third Monday in March; on the third Monday in March and may continue until and including the Saturday before the third Monday in June; and on the third Monday in June and may continue until and including the last Saturday in July; provided, that said June term may by order of the Court entered in the minutes be continued for such time as may be fixed by said order.

Sec. 4. The said three District Courts of Travis County shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to District Courts; and said three District Courts shall have concurrent civil and criminal jurisdiction of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and the Laws of the State of Texas.

Sec. 5. All three of said District Courts shall have the right to select Jury Commissioners and empanel Grand Juries. The District Judge of the 53rd District Court shall order drawn a Grand Jury for the January and May terms of said Court; the District Judge of the 98th District Court shall order drawn a Grand Jury for the April and October terms of said Court; and the Judge of the 126th District Court shall order drawn a Grand Jury for the September and June terms of said Court. The respective Judges of said Courts may order both Grand and Petit Juries to be drawn for such other terms of his said Court as in his judgment is necessary, by an order entered in the minutes of the Court.

Sec. 6. The Judge of each of said Courts may, in his discretion, either in term time or in vacation, on motion of any party or an agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket to the docket of one of the other said District Courts; and the Judge of said Courts may, in their discretion, exchange benches of Districts from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to one of the other Courts, and any of said Judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred, or may sit in any of the other said Courts and there hear and determine any case there pending, and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two or more Judges may try different cases in the same

Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said Judges, any other of said Judges may hold Court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may head and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete and determine the case or other matter or any part thereof and render final judgment, thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other Judges or Courts.

Sec. 7. The District Clerk of Travis County shall be the clerk of the District Courts of the 53rd Judicial District, of the 98th District Court and of the 126th Judicial District and shall perform all the duties of clerk of said three Courts; and the District Attorney for the 53rd Judicial District shall represent the State in all criminal cases in the 98th District Court and in the 126th District Court, as well as in the 53rd District Court, and perform such other duties as are, or may be provided by law governing District Attorneys.

Sec. 9. The Judges of each of said three District Courts, each for his own Court, shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now, or may hereafter be, fixed by law, for Court Reporters in District Courts.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 379, ch. 172; Acts 1931, 42nd Leg., 1st C.S., p. 13, ch. S.]

54.—McLennan. See 19th District

55.—Harris. See 11th District

56.—Galveston. See 10th District

57.—Bexar. See 37th District

58, 60.—Jefferson

Jefferson County shall constitute the Fifty-eighth Judicial District as well as the Sixtieth Judicial District. Neither of said two district courts shall have or exercise any criminal jurisdiction in Jefferson County, such criminal jurisdiction having been by law vested exclusively in a criminal district court. Said district courts of the Fifty-eighth and Sixtieth Judicial Districts shall have and exercise concurrent jurisdiction coextensive within the lim-

its of Jefferson County in all civil cases, proceedings and matters of which district courts are given jurisdiction by the Constitution and laws of this State. There shall be two terms of each of said two civil district courts in Jefferson County in each year, and the first term, which shall be known as the January-June term, shall be begun in each of said courts on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin in each of said courts on the first Monday in July, and shall continue until and including Sunday next before the first Monday in the following January.

The Clerk of the district court of Jefferson County shall perform the duties of the clerk of the courts of both the Fifty-eighth and Sixtieth Judicial Districts, and in case of vacancy in said office of said clerk, the same shall be filled by appointment by the judge of the Fifty-eighth Judicial District.

In all suits, actions or proceedings it shall be sufficient for the address and designation to be merely the "District Court of Jefferson County," and the clerk of said court shall file and docket the even numbers thereof in the court of the Fifty-eighth Judicial District, and the odd numbers thereof in the court of the Sixtieth Judicial District, but any cases pending in either of said courts may, in the discretion of the judge thereof, be transferred from one of said district courts to the other, and so on from time to time. In case of the disqualification of the judge of either of said courts, in any case, such case on the suggestion of such judge of this disqualification entered on the docket, shall stand transferred to the other of said courts, and be docketed by the clerk accordingly.

(a) During each term of said Courts, said Courts may sit at any time in Port Arthur, Texas, to try, hear and determine any civil non-jury cases over which they have jurisdiction, and may hear and determine motions, arguments and such other non-jury civil matters which said Courts may have jurisdiction over; provided further, that nothing herein shall be construed to deprive the Courts of jurisdiction to try non-jury civil cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

The District Clerk of Jefferson County or his deputy shall wait upon the said Courts when sitting at Port Arthur, Texas, and shall be permitted to transfer all necessary books, minutes, records, and papers to Port Arthur, Texas, while the Courts are in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas, to Beaumont, Texas, at the end of each session in Port Arthur, Texas.

The Sheriff of Jefferson County or his deputy shall be in attendance upon the Courts while sitting at Port Arthur, Texas, and perform such

duties as he may be directed to perform, either as required by law or under the order of the Courts.

The official court reporter of said Courts shall be in attendance upon the Courts while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Courts.

The Commissioners Court of Jefferson County, Texas, is hereby authorized to provide suitable quarters for said Courts while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-courthouse in Port Arthur, Jefferson County, Texas.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 2nd C.S., p. 166, ch. 84; Acts 1955, 54th Leg., p. 601, ch. 208, § 1.]

59.—Collin. See 15th District

60.—Jefferson. See 58th District

61.—Harris. See 11th District

62.—Lamar, Delta, Franklin and Hopkins

Sec. 1. (a) The Sixty-second Judicial District of Texas shall be composed of the Counties of Lamar, Delta, Franklin, and Hopkins.

(b) There shall be two (2) terms of each District Court in each County of the district each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and the other beginning on the first Monday in July and continuing until the convening of the next regular term.

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

(d) The judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(e) In any of the above said Counties in which there are two (2) or more District Courts, the judges of such Courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case, or proceeding, civil or criminal, on their dockets to the docket of one of the other said District Courts; and the judges of said Courts may, in their discretion, exchange benches or districts from time to time; and whenever a judge of one of said Courts is disqualified, he shall transfer the case, or proceeding, from his Court to one of the other Courts, and any of said judges may in his own courtroom try and determine any case or proceeding pending in either of the other Courts, without having the case transferred or may sit in any of the other said Courts and there hear and determine any case, or proceeding, there pending, and each

judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness or disqualification of any of said judges, any other of said judges may hold Court for him. Any of said judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case or proceeding and any other of said judges may complete the hearing and render judgment in the same. Any of said judges may hear and determine demurrers, motions, petitions for injunction, application for appointment of receivers, interventions, pleas of privilege, pleas in abatement and all dilatory pleas, motions for new trials and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case or proceeding is pending, without having the same transferred to the Court of the judge acting and the judge in whose Court the same is pending may thereafter proceed to hear, complete and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of Courts.

The specific matters mentioned in this Section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

(f) The judge of the Sixty-second Judicial District shall never impanel the grand jury in said court in the Counties of Lamar, Delta, Franklin, and Hopkins, unless in his judgment he thinks it necessary.

(g) The district clerk and the sheriff of each County shall perform all the duties and functions relative to all District Courts of their County as is required by law for the District Court thereof.

Sec. 2. The District Courts of the Sixth and Sixty-second Judicial Districts in Lamar County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the District Courts of the Sixth and Sixty-second Judicial Districts in Delta County shall have concurrent jurisdiction with each other in said County throughout the limits thereof, of all matters, civil and criminal, of which jurisdiction is given to the District Court by the Constitution and Laws of the State; and the Seventy-sixth and Sixty-second Judicial District Courts in Franklin County shall have concurrent jurisdiction with each other in said County throughout the limits thereof of all matters, civil and criminal of which jurisdiction is given to the District

Court by the Constitution and Laws of the State.

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

Sec. 4. Either of the Judges of the District Court of Lamar County, may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Lamar, by or for orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of said Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Delta County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Delta, by order or orders entered upon the minutes of the Court making such transfer; and where such transfer or transfers are made, the Clerk of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court. Either of the Judges of the District Court of Franklin County may, in his discretion, either in termtime or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said County of Franklin, by order or orders entered upon the minutes of the Court making such transfer; and, where such transfer or transfers are made, and when so entered upon the docket, the Judge of said Court shall try and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 5. All processes, writs issued out of, and bonds and recognizances entered into, and all grand and petit jurors drawn and selected before this Act shall take effect shall be valid and returnable to the next succeeding term of the District Court in and for the several Counties, as herein fixed, as though issued and served for such terms, and returnable to and drawn for the same, and all such processes, writs, bonds and recognizances taken before or issued by the Courts and officers of the various Counties affected by this Act shall be as valid as though no change had been made in the length of the terms or the time of the holding thereof of the District Court in the Counties affected by this Act.

Sec. 6. The Clerk of the District Court of Delta County shall be the Clerk of both the Eighth and Sixty-second District Courts in said county. The clerk of the District Court of Lamar County, as heretofore constituted, and his successors in office shall be the Clerk of both the Sixth and Sixty-second District Courts in said County respectively. The clerk of the District Court of Franklin County, as heretofore constituted, and his successors in office shall be the clerk of both the Seventy-sixth and Sixty-second District Courts in said county, respectively.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 348, ch. 170, §§ 1 to 7; Acts 1947, 50th Leg., p. 793, ch. 394, § 1; Acts 1955, 54th Leg., p. 1198, ch. 473, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 162, ch. 23, § 5.010, eff. Sept 19, 1969.]

63.—Val Verde, Terrell, Maverick, Kinney and Edwards

Sec. 1. The Sixty-third Judicial District shall be composed of the Counties of Val Verde, Terrell, Maverick, Kinney and Edwards, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of Val Verde on the first Monday in January and the first Monday in June;

In the County of Terrell on the first Monday in February and the third Monday in August;

In the County of Maverick on the first Monday in March and the second Monday in September;

In the County of Kinney on the first Monday in April and the first Monday in October; and

In the County of Edwards on the first Monday in May and the fourth Monday in October.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The judge of said Court, in his discretion, may hold as many sessions of Court in any term of the Court in any county as is deemed by him proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 397, ch. 183, § 1; Acts 1935, 44th Leg., p. 281, ch. 101; Acts 1945, 49th Leg., p. 197, ch. 150, § 1; Acts 1945, 49th Leg., p. 516, ch. 314, §§ 1, 2; Acts 1951, 52nd Leg., p. 3, ch. 3, § 1.]

64.—Hale, Swisher and Castro

Sec. 2. From and after the effective date of this Act, the 64th Judicial District shall be composed of the Counties of Hale, Swisher and Castro.

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

In the County of Hale beginning the first Mondays in January and July of each

year designated as the January and July Terms, respectively.

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

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

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

[Acts 1957, 55th Leg., p. 1476, ch. 506.]

65.—El Paso. See 34th District

66.—Hill

On the first Mondays in January, March, May, July, September and November, and each term may continue in session for eight (8) weeks.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., 1st C.S., p. 112, ch. 35, § 1.]

67.—Tarrant. See 17th District

68.—Dallas. See 14th District

69.—Deaf Smith, Oldham, Moore, Hartley, Sherman and Dallam

The 69th Judicial District shall be composed of the Counties of Deaf Smith, Oldham, Moore, Hartley, Sherman, and Dallam and the terms of the District Court as hereby designated and shall be held therein each year as follows:

In the County of Deaf Smith on the Third Monday after the Second Monday in January and July;

In the County of Oldham on the Eighth Monday after the Second Monday in January and July;

In the County of Moore on the Tenth Monday after the Second Monday in January and July;

In the County of Hartley on the Twelfth Monday after the Second Monday in January and July;

In the County of Sherman, on the Fourteenth Monday after the Second Monday in January and July;

In the County of Dallam on the Sixteenth Monday after the Second Monday in January and July.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 226, ch. 155; Acts 1943, 48th Leg., p. 101, ch. 72, § 1; Acts 1947, 50th Leg., p. 259, ch. 154, § 3.]

70.—Midland and Ector

Sec. 1. From and after the passage of this Act, the 70th Judicial District of Texas shall be composed of and confined to the Counties of Midland and Ector.

Sec. 2. The terms of the 70th Judicial Court shall be as follows:

In the County of Midland on the first Monday in February, April, June, September, and November.

In the County of Ector on the first Monday in January, March, May, July, October, and December.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 134, ch. 87, § 1; Acts 1929, 41st Leg., p. 50, ch. 19, § 1; Acts 1933, 43rd Leg., p. 371, ch. 145, § 2; Acts 1935, 44th Leg., p. 150, ch. 63; Acts 1941, 47th Leg., p. 417, ch. 247, § 1; Acts 1943, 48th Leg., p. 44, ch. 41, § 1; Acts 1949, 51st Leg., p. 620, ch. 330.]

71.—Harrison

The 71st Judicial District shall be composed of the County of Harrison, and the terms of the District Court are hereby designated and shall be held therein each year as follows: On the first Monday in January, March, May, July, September, and November of each year and each term of the court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 380, ch. 254, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.001, eff. Sept. 19, 1969.]

72.—Crosby and Lubbock

The 72nd Judicial District of Texas shall be composed of the Counties of Crosby and Lubbock. The terms of the District Court shall be held therein each year as follows:

In the County of Crosby, beginning on the second Monday in May and the second Monday in November.

In the County of Lubbock, beginning on the second Monday in February and the second Monday in August.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., 1st C.S., p. 72, ch. 22, §§ 1, 4; Acts 1929, 41st Leg., p. 104, ch. 49, § 1; Acts 1943, 48th Leg., p. 3, ch. 4, § 1; Acts 1959, 56th Leg., p. 425, ch. 190, § 2, eff. Sept. 1, 1959.]

73.—Bexar. See 37th District

74.—McLennan. See 19th District

75.—Liberty and Chambers

Sec. 1. The 75th Judicial District shall be composed of and confined to Liberty and Chambers Counties, and shall be known as the District Court of the 75th Judicial District. The District Court of the 75th Judicial District shall have and exercise civil and criminal ju-

jurisdiction coextensive with the limits of Liberty and Chambers Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 2. There shall be two (2) terms of the District Court of the 75th Judicial District, composed of the Counties of Liberty and Chambers, in each of said Counties each year, as follows:

In Liberty County beginning on the first Mondays of April and October of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Liberty County.

In Chambers County beginning on the first Mondays of June and December of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Chambers County.

Sec. 5. The Judge of the District Court of the 75th Judicial District now serving as such, shall continue to serve as Judge of the 75th Judicial District in and for Liberty and Chambers Counties until the term for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 8. The District Attorney of the 75th Judicial District and the 88th Judicial District now serving as such, shall continue to serve as District Attorney of the 75th Judicial District in and for Liberty and Chambers Counties until the term for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 9. The District Clerks of Liberty and Chambers Counties shall continue to serve as Clerks of the 75th Judicial District in and for Liberty and Chambers Counties, respectively, until the terms for which elected have expired and until their successors are duly elected and qualified. Such clerks shall be compensated as provided by law for District Clerks.

Sec. 11. The official shorthand reporter of the District Court of the 75th Judicial District, shall continue to serve as official shorthand reporter for the District Court of the 75th Judicial District in and for Liberty and Chambers Counties at the pleasure of the Judge of said Court, and shall be compensated as provided by law.

Sec. 13. All processes and writs issued or served and recognizances, bonds and undertakings entered prior to the effective date of this Act, returnable to the District Court of Liberty or Chambers Counties shall be considered as returnable to the District Court of the 75th Judicial District in accordance with the provisions of this Act; and all processes and writs issued or served and recognizances, bonds and undertakings entered prior to the effective date of this Act, returnable to the District Court of Hardin or Tyler Counties shall be considered as returnable to the District Court of the 88th Judicial District in accordance with

the provisions of this Act; and all such processes are hereby validated and all grand petit juries drawn and selected under existing law in the District Court of Liberty, Chambers, Hardin or Tyler Counties, shall be considered lawfully drawn or selected for the next term of the District Court of the respective Counties after this Act becomes effective; provided that if the District Court shall be in session in any of such Counties at the time this Act takes effect, such Court shall continue in session until the term thereof shall have expired under the provisions of the existing law, but thereafter, the District Court in and for such County or Counties, shall conform to the provisions of this Act.

Sec. 14. Upon the effective date of this Act, all cases, proceedings, and matters then pending on the docket of the District Court of the 88th Judicial District in Liberty and Chambers Counties, respectively, shall be deemed as pending in the 75th Judicial District Court of said Counties, and the District Clerks of Liberty and Chambers Counties, respectively, shall make record transfers to effect this purpose. Upon the effective date of this Act, all cases, proceedings, and matters then pending on the docket of the District Court of the 75th Judicial District in Hardin and Tyler Counties, respectively, shall be deemed as pending in the 88th Judicial District Court of said Counties, and the District Clerks of Hardin and Tyler Counties, respectively, shall make record transfers to effect this purpose.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 319, ch. 152, §§ 1 to 4; Acts 1955, 54th Leg., p. 1056, ch. 399.]

76.—Titus, Camp, Morris and Marion

Sec. 1. (a) The 76th Judicial District of Texas shall be composed of the Counties of Titus, Camp, Morris, and Marion, and the terms of the District Court within those Counties shall be held as follows:

In Titus County, beginning on the first Monday in January of each year and may continue in session until the convening of the next regular term; on the sixteenth Monday after the first Monday in January of each year, and may continue in session until the convening of the next regular term; on the thirty-seventh Monday after the first Monday in January in each year and may continue in session until the convening of the next regular term.

In Camp County, beginning on the eighth Monday after the first Monday in January and may continue in session until the convening of the next regular term; on the thirty-third Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

In Morris County, beginning on the twelfth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term; on the forty-second Monday

after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

In Marion County, beginning on the twentieth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term; on the forty-sixth Monday after the first Monday in January in each year, and may continue in session until the convening of the next regular term.

(b) The Judge of the Court, in his discretion, may hold as many sessions of court in any term of the Court in any county as may be deemed by him proper and expedient for the dispatch of business.

Sec. 2. The Clerk of the District Court in each of the Counties, and his successors in office, shall be the Clerk of the 76th Judicial District Court in the Counties, and shall perform all duties pertaining to the Clerkship of the Court.

Sec. 3. The Judge and all District Officers of the 76th Judicial District, as heretofore constituted, shall be the Judge and District Officers of the 76th Judicial District as constituted and reorganized by this Act, during the terms for which each was respectively elected.

Sec. 4. All processes, writs and bonds, civil and criminal, issue or executed prior or subsequent to the taking effect of this Act and returnable to the terms of the Court as heretofore fixed by law in the several Counties composing the 76th Judicial District as well as all grand and petit jurors, are made returnable to the terms of the Court, as the terms are fixed by this Act, and in conformity with the changes made herein. All bonds executed and recognizances entered into in the Court shall bind the parties for their appearances, or to fulfill the obligations of the bonds and recognizances at the terms of the Court as they are here fixed by this Act. All processes of any kind heretofore issued or returned, as well as all bonds and recognizances heretofore or hereafter taken or entered into in any of the Courts of the District shall be as valid and as binding as if no change had been made in the time of holding the Courts.

Sec. 5. (a) The District Court of the 76th Judicial District in Titus, Camp, Morris, and Marion Counties shall exercise general jurisdiction over civil and criminal matters as is now, or may hereafter be provided by law.

(b) The 76th Judicial District Court in Marion County shall have concurrent jurisdiction with the 115th Judicial District Court in the county. The Judges of the 76th and 115th District Courts in Marion County may transfer on their dockets any case to be tried in Marion County with the consent of the Court to which transferred, and each may sit in the other Court to hear cases without transferring the case.

(c) All writs and processes issued and bonds and recognizances made in cases transferred

are returnable to the Court to which transferred, as if originally issued there. The officers serving the 76th District Court in Marion County shall serve in the same manner the 115th Judicial District Court in Marion County.

Sec. 6. The Judge of the 76th Judicial District Court in Titus County shall have summoned and empaneled a Grand Jury for the terms beginning in that County on the first Monday in January of each year and the thirty-seventh Monday after the first Monday in January of each year; and for the term beginning on the sixteenth Monday after the first Monday in January of each year the Judge of that Court in his discretion may have a Grand Jury summoned and empaneled. In the event a Grand Jury is not had for the term, all bonds, processes issued, recognizances made, and all writs of any nature whatsoever, shall be valid and returnable to the next succeeding term of Court in Titus County as though issued and served for each term.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 270, ch. 142, § 1; Acts 1939, 46th Leg., p. 173, § 1; Acts 1949, 51st Leg., p. 210, ch. 115, § 1; Acts 1971, 62nd Leg., p. 1015, ch. 199, § 2, eff. July 1, 1971.]

77, 87.—Limestone and Freestone

The terms of the 77th District Court shall be as follows:

1. Limestone County: On the first Mondays in December, March, June and September of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Freestone County: On the first Mondays in February, May, August and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

The said district courts shall have concurrent jurisdiction of all cases, civil and criminal and appellate, over which the district courts of this State have jurisdiction under the Constitution and laws of this State, co-extensive with the limits of Limestone County and Freestone County, respectively, and grand juries shall be drawn for the Eighty-seventh District Court in Limestone County at the May and November terms and grand juries shall be drawn for said court in Freestone County for the January and July terms, and at such other terms of said court, both in Limestone and Freestone Counties, as the judge of said court may, from time to time, so order. There shall be organized grand juries at the March and September terms of the Seventy-seventh District Court in Limestone County, and at the May and November terms of said court in Freestone County, and at such other terms of said court in each county, as may be determined and ordered by the judge thereof.

The judges of the Seventy-seventh and Eighty-seventh Districts for the counties of Limestone and Freestone shall each, in his discretion, either in term time or vacation, on mo-

tion of any party, or on agreement of the parties, or in his own motion, where he thinks the administration of justice may be facilitated thereby, or for the purpose of equalizing the dockets of said court, transfer any cause, civil or criminal, from the dockets of their respective courts to the docket of the other district court of said county, and shall cause said transfer to be entered of record upon the minutes of his court, whereupon the clerk of the district court to which said cause has been transferred shall docket same and the same shall be tried and disposed of as if it had been originally filed in said court, and no transcript of the record shall be necessary to the jurisdiction of the court to which such case has been transferred and no formal proceedings shall be necessary to such transfer; provided that in any cause pending on any of the dockets of said district courts in either of said counties in which the judge of said court may be disqualified, recused or otherwise unable to try, he shall transfer said cause as above provided, to the other district court in the county where such cause is pending.

The clerks of the said district courts shall make up the dockets of the district courts of said counties, respectively, and shall file the new cases in the courts to which he may be directed to file same by the party filing them; and all criminal cases shall be originally filed in the court to which the indictment or information is returned, and all appeals in probate cases shall be to the court beginning the first term after such appeal is filed. The clerks of said courts shall respectively prepare civil, divorce, criminal and tax dockets as may now be customary or provided by law for the Seventy-seventh and the Eighty-seventh District Courts in their respective counties, and shall place letters on the envelope containing the file papers in each case after the number of said case, designating by the letter "A" causes pending in the Seventy-seventh District Court, and by the letter "B" causes pending in the Eighty-seventh District Court.

The clerk of the Seventy-seventh District Court in Limestone County and the clerk of the Seventy-seventh District Court in Freestone County shall be the clerk of the Eighty-seventh District Court of said counties, respectively; and the district attorney of the Seventy-seventh Judicial District shall be district attorney of said district in both Limestone and Freestone Counties and shall represent the State in all criminal causes in said court in said counties. The office of district attorney for the Eighty-seventh District is hereby abolished, and the duties enjoined by law upon said attorney shall be performed by the respective county attorneys of said district.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 685, ch. 357, § 1.]

78.—Wichita

The Seventy-eighth Judicial District of Texas shall be composed of Wichita County as now constituted, and the District Court and terms

thereof shall be held therein as follows: Beginning the First Mondays in March, June, September and December, in each year, and each of said terms shall continue until, and close at midnight of the Saturday preceding the Monday for the opening of the new and succeeding term, but nothing herein shall prevent the judge of said court from adjourning the same prior to the end of the term if the work of the court has been finished.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 405, ch. 186, §§ 1, 2.]

79.—Jim Wells and Brooks

Sec. 1. The 79th Judicial District shall be composed of the counties of Jim Wells and Brooks.

Sec. 2. The 79th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 79th District Court shall be:

In the County of Brooks, beginning at 10 a. m. on the first Monday in February and at 10 a. m. on the first Monday in September and may continue in session until 10 a. m. of the Monday for convening the next regular term of such court in Brooks County.

In the County of Jim Wells, beginning at 10 a. m. on the first Monday in March and at 10 a. m. on the first Monday in October and may continue in session until 10 a. m. of the Monday for convening the next regular term of such court in Jim Wells County.

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

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 876, ch. 370; Acts 1933, 43rd Leg., 1st C.S., p. 131, ch. 38; Acts 1950, 51st Leg., 1st C.S., p. 90, ch. 27, § 1; Acts 1969, 61st Leg., p. 697, ch. 239, § 2, eff. Sept. 1, 1969.]

80.—Harris County

The Eightieth District shall be composed of Harris County.

Sec. 1. There shall be two terms of the district court of the Eightieth Judicial District in each year, and the first term in each year, which shall be known as the January-June term, shall be begun on the first Monday in January in each year and shall continue until and including Sunday next before the first Monday in July of the same year, and the second term in each year, which shall be known as the July-December term, shall be begun on the first Monday in July in each year and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 2. All cases and proceedings pending in the district court of Waller County when this law takes effect, shall be and are hereby transferred from the Eightieth Judicial Dis-

trict as now constituted by said county, to the Ninth Judicial District Court as constituted by this Act; and all cases and proceedings pending in the district court of the Seventy-fifth Judicial District in Montgomery County when this law takes effect, shall be and are hereby transferred from the docket of the Seventy-fifth Judicial District Court as the same is now constituted in said county, to the docket of the Ninth Judicial District Court as the same is constituted by this Act; and all cases and proceedings pending on the docket of the Ninth Judicial District Courts in the counties of Hardin and Liberty when this Act takes effect, shall be and the same are hereby transferred from the Ninth Judicial District as now constituted in said counties, to the dockets of the Seventy-fifth Judicial District Courts of said Hardin and Liberty Counties as the same are constituted by this Act, and the judges of said Ninth and Seventy-fifth Judicial Districts as created by this Act shall carry into effect these provisions.

Sec. 3. The present judges of the Ninth and Seventy-fifth Judicial Districts as the same now exists, shall remain the district judges of their respective districts as reorganized under the provisions of this Act, and shall hold their offices until the next general election and until their successors are appointed or elected and duly qualified, and they shall receive the same compensation as is now, or may hereafter be provided by law for district judges, and a vacancy in either of said offices shall be filled as is now, or may hereafter be provided by law, and the present judge of the district court for the Eightieth Judicial District shall hold his office until his term expires and until his successor is elected and qualified, and a judge of said court shall hereafter be elected at the time and in the manner provided by law by the qualified voters of Harris County.

Sec. 4. The district attorneys of the Ninth and Seventy-fifth Judicial Districts as the same now exists, shall be and continue to remain as the district attorneys of said Ninth and Seventy-fifth Judicial Districts as the same are hereby reorganized, unless disqualified under the law to hold such offices hereunder, in which event the Governor shall appoint a district attorney for one or both of said districts with the qualifications required by law and he shall receive the salary as provided by law for such officers.

Sec. 5. All process and writs issued out of the district courts of the Seventy-fifth Judicial District in Montgomery County and out of the district court of the Ninth Judicial District in Hardin and Liberty Counties, and out of the district court of the Eightieth Judicial District in Waller County and all jurors selected prior to the taking effect of this Act are hereby made returnable to the terms of the Ninth Judicial District Court in Waller County and Montgomery County and the Seventy-fifth Judicial District Courts in Hardin and Liberty Counties, as said terms are fixed by this Act;

and all bonds executed and recognizances entered in said courts shall bind the parties for their appearances or to fulfill the obligations of such bonds and recognizances at the terms of said courts as they are fixed by this Act; and all processes heretofore returned, as well as all bonds and recognizances heretofore taken in any of the district courts of said counties shall be as valid as though no change had been made in said districts and the times of holding courts therein.

Sec. 6. Should a district court be in session under the existing law in any county affected by this Act, the same shall continue and end its term under such existing law as if no change in the district had been made, and all process writs, judgments and decrees issued and rendered therein shall be valid and shall not be affected by the change of said districts and the time of holding courts therein made by this Act.

[Acts 1925, S.B. 84.]

81.—Karnes, Frio, LaSalle, Atascosa and Wilson

The Eighty-first Judicial District shall be composed of the Counties of Karnes, Frio, LaSalle, Atascosa, and Wilson, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

In the County of LaSalle on the first Monday in March, and the first Monday in September.

In the County of Atascosa on the third Monday in March, and the third Monday in September.

In the County of Wilson on the second Monday in April, and the second Monday in October.

In the County of Karnes on the first Monday in May, and the first Monday in November.

In the County of Frio on the fourth Monday in May, and the fourth Monday in November.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

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

All processes issued, bonds and recognizances made, and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect, such Court or Courts affected thereby shall continue in ses-

sion until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 22, ch. 19, § 1.]

82.—Falls County

On the first Monday in the months of January, March, May, September and November and each term may continue until and including the Saturday next preceding the beginning of the next succeeding term. Grand juries shall be organized at the May and November terms of said court, and at such other terms as the judge of said district may determine and order.

[Acts 1925, S.B. 84.]

83.—Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan

The terms of the District Court of the 83rd Judicial District of this State composed of the Counties of Jeff Davis, Presidio, Brewster, Pecos, Upton and Reagan shall be held as follows:

Jeff Davis County: On the second Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening of the next regular term of said Court in Jeff Davis County.

Presidio County: On the third Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Presidio County.

Brewster County: On the sixth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Brewster County.

Pecos County: On the ninth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Pecos County.

Upton County: On the twelfth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upton County.

Reagan County: On the fourteenth Monday after the first Monday in January and July of each year and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Reagan County.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11, § 3; Acts 1953, 53rd Leg., p. 393, ch. 109, § 1.]

84.—Hutchinson, Hansford and Ochiltree

The 84th Judicial District of the State of Texas, shall be composed of the Counties of Hutchinson, Hansford and Ochiltree, and the terms of the District Court shall be held therein each year as follows:

Hutchinson County: Beginning on the First Monday of June of each year; and on the Fourth Monday of November of each year.

Hansford County: Beginning on the Third Monday of March of each year; and on the Second Monday of September of each year.

Ochiltree County: Beginning on the Fourth Monday of April of each year; and on the Second Monday of October of each year.

Each term of court in each of such counties shall continue until 10:00 a. m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

The judge of said court, in his discretion, may hold as many sessions of court in any term of the court in any county in said district as is deemed by him proper and expedient for the dispatch of business.

[Acts 1927, 40th Leg., p. 60, ch. 42; Acts 1929, 41st Leg., p. 11, ch. 6; Acts 1931, 42nd Leg., p. 826, ch. 342, § 1; Acts 1933, 43rd Leg., p. 875, ch. 249, § 1; Acts 1933, 43rd Leg., Spec.L., p. 103, ch. 79; Acts 1937, 45th Leg., p. 688, ch. 346, § 1; Acts 1943, 48th Leg., p. 102, ch. 73, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 2; Acts 1963, 58th Leg., p. 82, ch. 51, § 1, eff. April 12, 1963.]

85.—Brazos

The 85th Judicial District of the State of Texas shall hereafter be composed of the County of Brazos. The terms of the District Court shall be held therein on the first Monday in April and October and may continue until the date herein fixed for the beginning of the next succeeding term therein.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 39, ch. 36, § 1; Acts 1949, 51st Leg., p. 76, ch. 44, § 1; Acts 1965, 59th Leg., p. 414, ch. 202, § 2, eff. Sept. 1, 1965.]

86.—Kaufman, Van Zandt and Rockwall

Sec. 1. The Eighty-sixth Judicial District of Texas shall be composed of the Counties of Kaufman, Van Zandt and Rockwall, and the terms of the District Court are hereby designated and shall be held therein each year as follows:

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

In the County of Kaufman on the first Mondays in February and July.

In the County of Rockwall on the first Mondays in April and October.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. All process issued and returnable to a succeeding term of Court and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed as though issued and served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 4. It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 145, ch. 59, § 1; Acts 1941, 47th Leg., p. 394, ch. 226, § 1; Acts 1943, 48th Leg., p. 59, ch. 53, § 1.]

87.—Anderson, Limestone, Freestone and Leon

Sec. 1. The terms of the 87th District Court shall be as follows:

1. Anderson County: On the first Mondays in February and August of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

2. Limestone County: On the first Mondays in May and November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

3. Freestone County: On the first Mondays in January, April, July and October of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

4. Leon County: On the fifth Monday after the first Monday in May, and on the fifth Monday after the first Monday in November of each year; and each term of said court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

Sec. 2. The Judge of the 87th Judicial District now elected and acting as such, shall, after the passage of this Act, continue to hold the office of District Judge until the time for which he has been elected expires, and until his successor is duly elected and qualified.

Sec. 3. The Clerk of the District Court of each of the Counties of Anderson, Limestone,

Freestone and Leon, and his successor in office, shall be the Clerk of the 87th Judicial District Court from and after the passage of this Act, in his respective county, until the time for which he has been elected expires, and until his successor is duly elected and qualified.

Sec. 4. The District Attorney of the 12th Judicial District now elected and acting, shall represent the State in all criminal and civil actions in which the State is interested, arising in the 87th Judicial District of Leon County, Texas.

In Anderson County, the District Attorney of the Third Judicial District now elected and acting, shall continue to represent the State in all criminal and civil actions in which the State is interested, arising in the 87th District Court of said County. In Freestone and Limestone Counties, the County Attorney of each county shall continue to represent the State in all criminal and civil actions in which the State is interested, arising in the 87th Judicial District in said counties respectively.

Sec. 5. That the District Court of the 87th Judicial District, shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas, and as shall be hereafter given by law.

Sec. 6. The Judge of the 12th Judicial District of Texas, may, in his discretion, either in term time or in vacation, by order entered upon the minutes of the District Court of Leon County, transfer any case or cases that may at that time be pending in said 12th Judicial District Court of that county, to the District Court of the 87th Judicial District, reorganized by this Act, and holding session in that county, and said 87th District Court shall have the same power and authority to try and finally dispose of such case or cases so transferred as the Court possessed from which the same were transferred; and the Judge of the 87th District Court may, in his discretion, either in term time or in vacation by order or orders entered upon the minutes of his Court, in Leon County, transfer any case or cases pending upon his docket to the District Court of the 12th Judicial District, holding sessions in Leon County, and when such case or cases are transferred, the Court in which the transfer is made shall have the same right and authority to try and finally dispose of same as was originally had by said 87th District Court. In all counties wherein there are two separate District Courts, under the provisions of this Act, either of the Judges of said Courts may in their discretion, either in term time, or vacation, transfer any case or cases, civil or criminal, that may at any time be pending in his Court, to the other District Court in said county, by order or orders entered upon the minutes of the Court making such transfer; and, when such transfer or transfers are made, the clerks of said Court shall enter such case or cases upon the dockets of the Court to which such transfer or transfers are made, and when so entered upon the docket the Judge of said Court shall try

and dispose of said cases in the same manner as if such cases were originally filed in said Court.

Sec. 7. Any party or persons desiring to bring a civil suit over which the District Court of the 12th Judicial District has jurisdiction in Leon County, shall have the right to file same either in said Court or in the 87th District Court, hereby reorganized, subject to the rights of the Judges of said Courts to transfer the same as herein provided.

Sec. 8. The District Clerk of Leon County shall, immediately upon taking effect of this Act, secure a seal having engraved thereon a star of five points in the center and the words, "87th District Court of Leon County, Texas," and the imprints of which shall be attached to all processes, issued out of said 87th District Court, except subpoenas out of said 87th District Court in said county, and shall be kept by said Clerk and used to authenticate his official acts as Clerk of said Court.

[Acts 1939, 46th Leg., p. 176; Acts 1939, 46th Leg., p. 181, § 1; Acts 1949, 51st Leg., p. 686, ch. 358, § 1.]

88.—Hardin and Tyler

Sec. 3. The 88th Judicial District shall be composed of and confined to Hardin and Tyler Counties, and shall be known as the District Court of the 88th Judicial District. The District Court of the 88th Judicial District shall have and exercise civil and criminal jurisdiction co-extensive with the limits of Hardin and Tyler Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 4. There shall be two (2) terms of the District Court of the 88th Judicial District, composed of the Counties of Hardin and Tyler, in each of said Counties each year, as follows:

In Hardin County beginning on the first Mondays of April and October of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Hardin County.

In Tyler County beginning on the first Mondays of June and December of each year, each of said terms to continue until the beginning of the next succeeding term of said Court in Tyler County.

Sec. 6. The Judge of the District Court of the 88th Judicial District now serving as such, shall continue to serve as Judge of the 88th Judicial District in and for Hardin and Tyler Counties until the term for which he has been elected expires and until his successor is duly elected and qualified.

Sec. 7. The Governor of the State of Texas shall, with the advice and consent of the Senate of Texas, immediately at the time this Act takes effect, appoint a suitable person having the qualifications required of District Attorneys, as District Attorney for the 88th Judicial District, who shall hold office until the next

general election and until his successor is duly elected and qualified, and shall be compensated as provided by law.

Sec. 10. The District Clerks of Hardin and Tyler Counties shall continue to serve as Clerks of the 88th Judicial District in and for Hardin and Tyler Counties, respectively, until the terms for which elected have expired and until their successors are duly elected and qualified. Such clerks shall be compensated as provided by law for District Clerks.

Sec. 12. The official shorthand reporter of the District Court of the 88th Judicial District shall continue to serve as official shorthand reporter for the District Court of the 88th Judicial District in and for Hardin and Tyler Counties at the pleasure of the Judge of said Court, and shall be compensated as provided by law.

[Acts 1951, 52nd Leg., p. 287, ch. 170; Acts 1955, 54th Leg., p. 1056, ch. 399.]

89.—Wichita. See 30th District

90.—Stephens, Shackelford and Young

The Counties of Stephens, Shackelford and Young shall hereafter constitute and be the 90th Judicial District of the State of Texas and the terms of the District Courts shall be held therein each as follows:

In the County of Stephens, on the first Monday in January, April, July and October of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Stephens County.

In the County of Shackelford on the first Monday in February, May, August and November of each year and may continue in session until the date herein fixed for the convening of the next regular term of such Court in Shackelford County.

In the County of Young, on the first Monday in March, June, September and December of each year and may continue in session until the date herein fixed for convening the next regular term of such Court in Young County.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 1386, ch. 626, § 2; Acts 1961, 57th Leg., p. 79, § 1, eff. Sept. 1, 1961.]

91.—Eastland

On the first Mondays in February, April, June, August, October and December, and may continue until the business of the court is disposed of.

The District Courts of Eastland County shall have concurrent civil and criminal jurisdiction with each other in said county in matters over which the jurisdiction is given or shall be given by the Constitution and laws of Texas to district courts; provided, that no grand jury shall be impaneled in the Ninety-first District Court, except that by the special order of the judge of said court, a grand jury shall be called for said court.

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

The district clerk of Eastland County shall be the clerk of the district court of said Ninety-first Judicial District, sitting in Eastland County.

The county attorney of Eastland County shall perform all the duties of county attorney and district attorney in both of said district courts and shall receive the same compensation for his services as is or may be fixed by law for a district attorney acting in judicial districts composed of two or more counties.

The clerk of the District Court of Eastland County shall file all suits in his office alternately in said Eighty-eighth and Ninety-first District Courts.

[Acts 1925, S.B. 84.]

92.—Hidalgo

Sec. 2. This act shall be in effect from and after January 1, 1932; provided, that upon the taking effect of this act there shall be, and there is, created the Ninety-second Judicial District, the limits of which shall be co-extensive with limits of Hidalgo County.

(a) The district court of the Ninety-second Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general, and the judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of district courts. Its jurisdiction shall be concurrent with that of the district court of Hidalgo county for the Ninety-first Judicial District.¹ From and after the effective date of this act the county attorney of Hidalgo county shall act as and perform the duties of district attorney for

the Ninety-second and Ninety-third Judicial Districts.

(b) The terms of the district court, Ninety-second Judicial District, shall begin on the first Mondays, respectively, in January, 1932; March, 1932; May, 1932; September, 1932; November, 1932; and thereafter on the first Mondays of January, March, May, September and November of each year; and each term of said court may continue in session for eight weeks.

(c) In addition to the jurisdiction vested in the district court for the Ninety-second Judicial District under the Constitution and general laws of this State, said court shall have and exercise jurisdiction over all civil matters over which, by general law, the county court of Hidalgo county would have original jurisdiction, except as in this act otherwise specially provided.

(d) From and after the taking effect of this act, the county court of Hidalgo county shall cease to have or exercise any civil jurisdiction, except as hereinafter specified and enumerated, nor shall the judge thereof be restricted or deprived of any duties, rights or powers now vested in him or required of him by the general laws except the civil jurisdiction by this act transferred from said court to the district court of the Ninety-second Judicial District.

The county court of Hidalgo county, shall have and retain jurisdiction of all cases appealed from the justice courts, and the general jurisdiction of a probate court as provided by the Constitution and laws of this State, and the county court or the judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said court in all matters the jurisdiction of which, by this act, is not transferred from said court to the district court of the Ninety-second Judicial District.

(e) The clerk of the district courts of Hidalgo county shall, upon the taking effect of this act assume the duties of clerk of the Ninety-second District Court, and shall thereafter perform the duties of such, as though the court had existed at the time of his election. He shall promptly prepare a docket for the Ninety-second District Court, placing thereon all cases then on file in the Seventy-ninth District Court, such cases as may be filed in the Ninety-second District Court, and such cases as may be transferred to said court.

(f) The letters "A" and "B" shall be placed upon the docket and court papers in the respective district courts of Hidalgo county to distinguish them; "A" being used in connection with the Ninety-second District Court, and "B" being used in connection with the Ninety-third District Court.

(g) All suits and proceedings hereafter instituted in the district courts of Hidalgo county shall be numbered consecutively beginning with the next number after the last file number on the docket of any existing court, and shall be entered upon the dockets of said courts in

the same manner as provided in paragraph (f) of this section.

(j) The respective judges of the Ninety-third and Ninety-second Judicial Districts shall, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other in order that business may be equally distributed between them, that the judges of both said courts may at all times be provided with cases, or other proceedings to be tried or otherwise considered, and that the trial of no case or other proceedings need be delayed because of the disqualifications of the judge in whose court it is pending; and the judges of such courts may, in their discretion, exchange benches or districts from time to time, and either of them may in his own court room try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in the other court and there hear and determine any case pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending, and at the time the judgment or order is rendered. The judge of either of said courts may issue restraining orders and injunctions returnable to the other judge or court.

[Acts 1931, 42nd Leg., p. 876, ch. 370.]

¹ Probably means 93rd District.

93.—Hidalgo

On the first Monday in January and may continue nine weeks; on the ninth Monday after the first Monday in January and may continue twelve weeks; on the twenty-first Monday after the first Monday in January, and may continue eight weeks; on the first Monday in September and may continue eight weeks; and on the eighth Monday after the first Monday in September and may continue to and including the last Saturday in December.

[Acts 1925, S.B. 84.]

94.—Nueces

Sec. 1. There is hereby created for and within Nueces County the 94th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be co-extensive with the limits of Nueces County.

Sec. 2. The District Court for the 94th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the Laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District and District Court of Nueces County for the 117th Judicial District.

Sec. 3. The terms of the 94th District Court shall be held as follows: a term to be known as the January-July term shall begin on the first Monday in January of each year and shall continue to and including the Sunday preced-

ing the first Monday in July of the same year, and a term to be known as the July-January term shall begin on the first Monday in July of each year and continue until and including the Sunday preceding the first Monday in January of the succeeding year.

Sec. 4. The Clerk of the District Courts of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 94th District Court, and shall thereafter perform the duties of such, as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 94th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided that no case then on trial in the 28th District Court of Nueces County or the 117th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 5. The letters "A", "B", and "C" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them, "A" being used in connection with the 28th District Court, "B" the 117th District Court, and "C" the 94th District Court.

Sec. 6. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Courts, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 5 of this Act.

Sec. 7. The respective Judges of the 28th, 117th, and 94th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to another in order that the business may be equally distributed among them, that the Judges of all of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 8. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County nor the Judge or District Attorney thereof.

Sec. 9. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 94th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have

been elected and qualified, and thereafter the Judge of the District Court of the 94th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges.

[Acts 1941, 47th Leg., p. 104, ch. 84; Acts 1945, 49th Leg., p. 45, ch. 28, § 1; Acts 1947, 50th Leg., p. 776, ch. 385, § 3.]

95.—Dallas. See 14th District

96.—Tarrant. See 17th District

97.—Archer, Clay and Montague

Sec. 1. The Counties of Archer, Clay and Montague shall hereafter constitute and be the Ninety-seventh Judicial District of the State of Texas, and the terms of the District Courts shall be held in said District as follows:

In Archer County on the first Monday in January; on the first Monday in April; on the first Monday in July; on the first Monday in October.

In Clay County on the first Monday in February; on the first Monday in May; on the first Monday in August; on the first Monday in November.

In Montague County on the first Monday in March; on the first Monday in June; on the first Monday in September; on the first Monday in December.

Each term of Court in each of such Counties shall continue until the date herein fixed for the beginning of the next succeeding term therein.

It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all Courts in said District shall conform to the requirements of this Act.

Sec. 2. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 1386, ch. 626, § 3; Acts 1943, 48th Leg., p. 454, ch. 302; Acts 1945, 49th Leg., p. 107, ch. 75.]

98.—Travis. See 53rd Judicial District

99.—Lubbock

The terms of the District Court for the 99th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said 99th District Court in Lubbock County, Texas.

[Acts 1927, 40th Leg., p. 85, ch. 61, §§ 1, 2; Acts 1927, 40th Leg., 1st C.S., p. 72, ch. 22, § 2; Acts 1945, 49th Leg., p. 200, ch. 153, § 1.]

100.—Carson, Hall, Donley, Collingsworth and Childress

The 100th Judicial District of the State of Texas, shall be composed of the Counties of Carson, Hall, Donley, Collingsworth, and Childress, and the terms of the District Court shall be held therein each year as follows:

Carson County: Beginning on the First Monday of January of each year; and on the First Monday of August of each year.

Hall County: Beginning on the First Monday of February of each year; and on the First Monday of September of each year.

Donley County: Beginning on the First Monday of March of each year; and on the First Monday of October of each year.

Collingsworth County: Beginning on the First Monday of April of each year; and on the First Monday of November of each year.

Childress County: Beginning on the First Monday of May of each year; and on the First Monday of December of each year.

Each term of Court in each of such Counties shall continue until 10:00 a. m. of the Monday herein fixed for the beginning of the next succeeding term thereof.

[Acts 1925, S.B. 84; Acts 1934, 43rd Leg., 4th C.S., p. 42, ch. 13; Acts 1935, 44th Leg., p. 548, ch. 234, § 1; Acts 1943, 48th Leg., p. 30, ch. 28, § 1; Acts 1947, 50th Leg., p. 494, ch. 290, § 3.]

101.—Dallas

Sec. 1. An additional district court is hereby created in and for Dallas County, the limits of which shall be coextensive with the limits of the county. The district shall be known as the One Hundred and First Judicial District.

Sec. 2. The One Hundred and First District Court shall not have or exercise any criminal jurisdiction, but in all other respects it shall have and exercise the jurisdiction prescribed by the Constitution and laws of the State for district courts in general, and the judge thereof shall have and exercise the powers conferred by the Constitution and laws of the State on the judges of district courts. Its jurisdiction shall be concurrent with that of the existing district courts of Dallas County.

Sec. 3. The terms of the One Hundred and First District Court shall begin on the first Mondays, respectively, in March _____ June _____, September _____ and December _____ of each year, and each term shall continue until the Sunday immediately preceding the date set for the beginning of the next term thereof.

Sec. 4. The Governor shall appoint a suitable person as judge for said One Hundred and First District Court, who shall hold his office until the next general election until his successor shall have been elected and qualified. Thereafter the judge of said court shall be elected as provided by the Constitution and

laws of the State for the election of district judges.

Sec. 5. The clerk of the district courts of Dallas County shall, upon the taking effect of this Act, assume the duties of clerk of the One Hundred and First District Court and shall thereafter perform the duties of such position as if the court had existed at the time of his election. He shall promptly prepare a docket for the One Hundred and First District Court, placing thereon every fifth pending case on the respective dockets of the Fourteenth, Forty-fourth, Sixty-eighth and Ninety-fifth District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the five courts are equalized as near as may be; provided, that no case then on trial in any of the existing district courts nor any case pending on appeal therefrom shall be transferred to the docket of the court created hereby. The cases so transferred shall bear the same docket numbers as in the court from which they are transferred, and the judges of the existing district courts, respectively, shall make proper orders transferring from said courts to the One Hundred and First District Court the cases which shall have been placed upon the docket of the latter court in pursuance of this Act.

Sec. 6. The letters A, B, C, D, and E shall be placed on the dockets and court papers in the respective district courts of Dallas County to distinguish them, A being used in connection with the Fourteenth District Court, B the Forty-fourth District Court, C the Sixty-eighth District Court, D the Ninety-fifth District Court and E the One Hundred and First District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the district courts of Dallas County shall be numbered consecutively, beginning with the next number after the last file number on the dockets of the existing courts, and shall be entered by the district clerk upon the dockets of said courts alternately, beginning with the Fourteenth District Court; next, the Forty-fourth District Court, third, the Sixty-eighth District Court, fourth, the Ninety-fifth District Court and fifth, the One Hundred and First District Court.

Sec. 8. The respective judges of the district courts of Dallas County shall from time to time, as occasion may require, transfer cases from any one of such courts to any other such court in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, no case shall be transferred from one court to another without the consent of the judge of the court to which it is transferred. When any transfer is made, proper order shall be entered on the minutes of the court as evidence thereof and no-

tice of the transfer shall be given in writing by the clerk to the attorneys of record of all parties to the cause.

[Acts 1925, S.B. 84.]

102.—Bowie and Red River

(1) The 102nd Judicial District of Texas shall be composed of the Counties of Bowie and Red River, Texas, and the terms of District Court in each of the Counties shall be as follows:

(a) In Bowie County on the first Monday in January, April, July, and October, and each term shall continue until the beginning of the next succeeding term.

(b) In Red River County on the first Monday in February, May, August, and November, and each term shall continue until the beginning of the next succeeding term.

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

(2) During each term of the Court in Bowie County, the Court may sit at any time in Texarkana, Texas, to try, hear and determine any civil and criminal nonjury case, and may hear and determine motions, arguments and such other nonjury civil and criminal matters as may come before the Court; provided further, that nothing herein shall be construed to deprive the Court of jurisdiction to try nonjury civil and criminal cases and hear and determine motions, arguments and such other nonjury civil and criminal matters at the county seat at Boston, Texas.

(3) The Clerk of the District Court in each of said Counties and his successors in office shall be the Clerk of the 102nd Judicial District Court in said Counties and shall perform all duties pertaining to the Clerkship of said Court; provided that the District Clerk of Bowie County or his deputy shall wait upon said Court when sitting at Texarkana, Texas, and shall be permitted to transfer all necessary books, minutes, records and papers to Texarkana, Texas, while the Court is in session there; and likewise to transfer all necessary books, minutes, records and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(4) The Sheriff of Bowie County or his deputy shall be in attendance upon the Court while sitting at Texarkana, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the Court.

(5) The 102nd Judicial District Court when sitting at Texarkana, Texas, as herein authorized, shall be authorized to use the facilities in Texarkana, Texas, furnished and provided for the use of the 5th Judicial District Court while sitting there.

(6) The District Court of the 102nd Judicial District in Bowie and Red River Counties shall

exercise general jurisdiction over civil and criminal matters as is now or may hereafter be conferred by law.

(7) Said 102nd District Court shall also have concurrent jurisdiction in Bowie County with the 5th Judicial District Court, and all causes of action of a civil nature pending in either Court in said County shall, at the end of each term of such Court in which the same is pending, be transferred by operation of law to the other Court except where the next succeeding term of the 5th District Court will convene before the next term of the 102nd District Court in said County; and said Courts, and the judges thereof, either in termtime or vacation, may transfer any civil or criminal cause pending in their respective Courts to the other District Court in said County by an order entered upon the minutes of their respective Courts.

(8) All processes issued, bonds and recognizances made, and all grand and petit jurors drawn before this Act takes effect shall be valid and returnable to the next succeeding terms of the District Courts of the several Counties as herein fixed respectively as though issued and served for such terms and Courts and returnable to and drawn from the same.

(9) The Judge and all District Officers of the 102nd Judicial District as heretofore constituted shall be the Judge and District Officers of the 102nd Judicial District as constituted and reorganized by this Section during the terms for which they each respectively were elected.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 885, ch. 253, § 1; Acts 1933, 43rd Leg., Spec.L., p. 145, ch. 103; Acts 1935, 44th Leg., p. 406, ch. 158, § 1; Acts 1937, 45th Leg., p. 268, ch. 141, § 1; Acts 1953, 53rd Leg., p. 727, ch. 284, § 1; Acts 1955, 54th Leg., p. 505, ch. 147, § 1; Acts 1961, 57th Leg., p. 398, ch. 201, § 1, eff. May 23, 1961; Acts 1969, 61st Leg., p. 1116, ch. 363, § 2, eff. May 27, 1969.]

103.—Cameron and Willacy

(a) The One Hundred and Third Judicial District of Texas shall be composed of Willacy and Cameron Counties; the terms of the District Court shall be held therein each year as follows:

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

In the County of Cameron on the first Mondays in February and July.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all Grand and Petit Juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the Counties as herein fixed as though issued and served for

such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any County of said District shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said District shall conform to the requirements of this Act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 296, ch. 191, § 1.]

104.—Jones and Taylor

Composition of District

Sec. 1. The 104th Judicial District of Texas is composed of the counties of Jones and Taylor.

Terms of Court

Sec. 2. (a) The 104th District Court shall convene in Jones County on the first Monday in January of each year, and on the fifteenth Monday after the first Monday in January of each year and on the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of court in said County.

(b) Said Court shall convene in Taylor County on the eleventh Monday after the first Monday in January of each year, and on the twenty-fourth Monday after the first Monday in January of each year and on the ninth Monday after the first Monday in September of each year, and each of said terms of Court in said County shall continue until the convening of the next succeeding term of Court in said County.

Quarters for Court

Sec. 3. It shall be the duty of the Commissioners Court of Taylor County to provide in the county courthouse of said County suitable quarters for holding the terms of Court of said 104th Judicial District of Texas, in Taylor County, as well as suitable quarters for the officers of said Court.

District Clerk

Sec. 4. The District Clerk of Taylor County shall act as Clerk of the reorganized 104th Judicial District of Texas, in Taylor County, as well as the 42nd Judicial District of Texas, and in filing civil suits, said Clerk shall file same alternately in said two (2) District Courts and in numbering all suits in each of said Courts, said Clerk shall place after all numbers of all suits which are filed after this Act takes effect the letters A or B, so as to distinguish causes pending in said two (2) Courts, placing after the number of all suits filed in said 42nd District Court the capital letter A, and placing after the number of all suits filed in said 104th District Court the capital letter B.

Concurrent Jurisdiction

Sec. 5. The 42nd Judicial District of Texas and the 104th Judicial District of Texas, and

the Courts of said Judicial Districts in and for Taylor County, shall have concurrent civil and criminal jurisdiction with each other in said County in all matters over which jurisdiction is given or shall be hereafter given by the Constitution and laws of this State to district courts. Either of the Judges of said District Courts for Taylor County may in their discretion, in term-time or vacation, transfer any case or cases, civil or criminal, to said other District Court by order entered on the minutes of his Court from which said case is transferred or minutes or orders made in chambers as the case may be, which orders, when made, shall be copied and certified to by the District Clerk of Taylor County together with all orders made in said case and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred, and the fees thereof shall be taxed as a part of the costs of said suit, and the Clerk of said Court shall docket any such case in the court to which it shall have been transferred, and when so entered the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally brought in said Court, and the same shall be dropped from the docket of the said Court from which it was transferred.

Sec. 6. [Codified as article 326k-62.]

[Acts 1927, 40th Leg., p. 44, ch. 32, §§ 2, 5, 7 to 9; Acts 1929, 41st Leg., p. 467, ch. 217, § 2; Acts 1939, 46th Leg., p. 182, § 1; Acts 1961, 54th Leg., p. 365, ch. 184, § 2, eff. Jan. 1, 1962; Acts 1967, 60th Leg., p. 1201, ch. 538, § 1 (1 to 5), eff. Aug. 28, 1967.]

105.—Nueces, Kleberg and Kenedy

Sec. 1. An additional Judicial District is hereby created, the limits of which district shall be coextensive with the limits of the Counties of Nueces, Kleberg, and Kenedy, to be known as the 105th Judicial District, and an additional Judicial District Court is hereby created in and for the Counties of Nueces, Kleberg and Kenedy which shall be known as the 105th District Court. The 105th District Court shall have such jurisdiction as is provided by the Constitution and General Laws of this State for District Courts and in addition in the County of Nueces, it shall have and exercise jurisdiction in civil matters over which, by General Law, the County Court of Nueces County would have original jurisdiction, except that jurisdiction which is now exercised by the County Court of Nueces County; this added jurisdiction shall be concurrent with the jurisdiction of the District Court for the 117th Judicial District in Nueces County.

Sec. 2. Immediately upon the enactment of this Law, the Governor shall appoint a suitable person, having the qualifications provided by the Constitution and Laws of the State of Texas for District Judges, as Judge of the 105th District Court. He shall hold office as such Judge until the next general election, and until his successor shall be duly elected and qualified; thereafter such Judge shall be elected as provided by the Constitution and Laws of the

State of Texas. The 105th District Court shall give preference to criminal cases, and the Judges of the District Courts for the 28th, 94th and 117th Judicial Districts may transfer to the docket of the 105th District Court any and all criminal cases on the dockets of said Courts and the Judge of said 105th District Court shall thereafter have power, authority and jurisdiction to try and determine such cases so transferred to such Court, and in addition, to approve all statements of fact, bills of exceptions and to make any and all orders, decrees, and judgments proper and necessary in any criminal case theretofore tried and so transferred, subject to the same rules and regulations and other provisions of law which would have governed the Judge of the Court from which such case or cases were transferred; provided, however, that said actions be taken within the period of time prescribed by law, within which same would have been done in the court from which such case or cases were transferred, returnable to any of the Courts from which same were transferred, shall be considered as returnable to the 105th District Court herein created; and all such processes and writs are hereby legalized and validated as if the same had been made returnable to the 105th District Court herein created and at the time herein prescribed; and all bail bonds, bonds and recognizances in criminal cases pending in said named courts from which any such case or cases are transferred to the 105th District Court, binding any person or persons to appear in any of said Courts in any of the Counties named in this Act, shall have the authority to require such person or persons to appear at the first term of the 105th District Court held respectively in the Counties of Nueces, Kleberg and Kenedy, where said bail bonds, bond and recognizances have heretofore been given and taken in any of such Courts so transferring any case or cases, and there to remain in said 105th District Court in said respective Counties from day to day and from term to term until fully discharged under the same penalties as provided by law in such cases and to the same effect as if the case or matter was still pending in the District Court in which said bail bond, bond or recognizance was originally given or taken. Civil cases may be transferred from the District Courts of the 28th, 94th and 117th Judicial Districts to the 105th District Court in the same manner as cases are now transferred from the 28th or 94th or 117th District Courts to any of the other of said Courts, and the provisions of Section 4, of House Bill No. 694, Chapter 385, Acts of the Regular Session of the Fiftieth Legislature, 1947,¹ shall apply to the functioning of said named Courts and the 105th District in Nueces County and the Judge of the 105th District Court shall participate in the election of a presiding Judge in said county under the terms of said Act, last above referred to, and the Assignment Clerk therein provided for shall serve the 105th District Court in the same manner as

such Clerk now serves said other named Courts.

Sec. 3. In the Counties of Nueces, Kleberg and Kenedy, the Judges of the 28th and 105th Judicial District Courts may sit for each other and dispose of all matters in each of said Courts without the necessity of transferring cases from one docket to another, and in the County of Nueces, the Judge of the 105th District Court shall have all of the powers, privileges and duties as do the Judges of the 28th, 94th and 117th District Courts in said counties; and the terms and provisions of Section 4, of House Bill No. 694, Acts of the Regular Session of the Fiftieth Legislature, 1947, are hereby expressly adopted by reference and applied to the 105th District Court in the same manner as same now apply to the other three (3) named Courts in said Counties.

Sec. 4. There shall be two (2) terms of the 105th District Court in each of the Counties within said District each year as follows:

In the County of Nueces, on the first Mondays in February and August, and shall continue until the convening of the next succeeding term; in the County of Kleberg, on the first Mondays in April and October, and shall continue until the convening of the next succeeding term; and in the County of Kenedy, on the first Mondays in June and December, and shall continue until the convening of the next succeeding term.

The Judge of the 105th District Court, at his discretion, may hold as many sessions of court in any term of court in any county in his district as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof. All existing laws relative to juries and grand juries in the counties comprising the 105th Judicial District shall apply to Juries and Grand Juries selected and impaneled by the 105th District Court.

Sec. 5. The Sheriff and Clerk of the District Courts of Nueces County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Nueces County; and the Sheriff and Clerk of the District Courts of Kleberg County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kleberg County; and the Sheriff and Clerk of the District Courts of Kenedy County, as now provided by law, shall be the Sheriff and Clerk respectively of the 105th District Court in Kenedy County; and the District Attorney of the 28th Judicial District, elected or appointed, and as now acting for such District in accordance with the provisions of law, shall be the District Attorney for the 105th Judicial District Court in the Counties of Nueces, Kleberg and Kenedy; and shall hold his office until the time for which he has been elected or appointed, or otherwise qualified and acting as such District Attorney for the 28th Judicial

District shall expire and until his successor is duly elected and qualified; and there shall be elected for a term of two (2) years beginning with the next general election after the effective date of this Act, a District Attorney for the 105th Judicial District of Texas whose powers and duties shall be the same as other District Attorneys and who shall serve all of the District Courts of Nueces, Kleberg and Kenedy Counties; and said Sheriffs and Clerks and District Attorney shall respectively receive such fees and salaries and expenses as are now or may hereafter be prescribed by law for such offices in the District Courts of the State of Texas, to be paid in the same manner.

Sec. 5a. The District Judge of the 105th Judicial District shall appoint an officer of the court in Nueces County of the 105th Judicial District to act as bailiff and probation officer for said court. The bailiff and probation officer shall be paid a salary out of the General Fund of said county of not more than Four Hundred (\$400.00) Dollars per month, and shall be set by the District Judge of said district with the approval of the Commissioners Court. The bailiff and probation officer shall perform any and all duties imposed upon other bailiffs and probation officers in this State under the General Laws. In addition thereto, he shall contact the employment offices within his district and assist those persons placed upon probation in obtaining employment.

Sec. 5b. The District Judge of the 105th Judicial District is authorized to appoint with the approval of the Commissioners Court an official interpreter of the Court in Nueces County. The said Commissioners Court shall by resolution fix the salary of said official interpreter not to exceed Three Hundred and Fifty Dollars (\$350) per month nor less than Three Hundred Dollars (\$300) per month, said salary to be paid out of the General Fund of Nueces County.

The District Judge of the 105th Judicial District shall have authority to terminate such employment of such interpreter at any time.

The official interpreter so appointed by the said District Judge shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony in said District Court, and which oath shall suffice for his service as official interpreter of such Court in said County in all cases before such Court during his term of office.

The official interpreter may be assigned by said District Judge to assist the Probation Officer of said Court in the discharge of his, the said Probation Officer's, official duties in addition to the duties heretofore enumerated.

Sec. 6. Said 105th District Court hereby created shall have a seal in like design as now prescribed by law for District Courts.

Sec. 7. The Judge of the 105th District Court, after his appointment, shall appoint an official Court Reporter to serve said Court in

accordance with existing law, who shall receive the same fees and salary as is now provided by law for the official Court Reporters of the 28th, 94th and 117th District Courts.

[Acts 1949, 51st Leg., p. 556, ch. 305; Acts 1949, 51st Leg., p. 669, ch. 343, § 1; Acts 1950, 51st Leg., 1st C.S., p. 92, ch. 29, § 1; Acts 1951, 52nd Leg., p. 594, ch. 349, § 1.]

¹ 28th district of this article.

106.—Lynn, Garza, Dawson and Gaines

The 106th Judicial District of Texas shall be composed of the Counties of Lynn, Garza, Dawson and Gaines. The terms of the District Court shall begin therein each year as follows:

In the County of Lynn, beginning on the first Monday in February and on the third Monday in September.

In the County of Garza, beginning on the first Monday in March and on the fourth Monday in September.

In the County of Dawson, beginning on the third Monday in February and on the second Monday in September.

In the County of Gaines, beginning on the first Monday in April and on the first Monday in October.

Each term of court shall continue until the beginning of the next succeeding term of said court.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 529, ch. 325, § 1; Acts 1959, 56th Leg., p. 425, ch. 190, § 3, eff. Sept. 1, 1959.]

107.—Willacy and Cameron

Sec. 1. On the effective date of this Act, the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall become a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas for District Courts, and shall be composed of the Counties of Willacy and Cameron, and thenceforth be known as the 107th Judicial District of Texas; and shall have concurrent jurisdiction with the 103rd Judicial District Court within said two Counties; provided that the 107th District Court shall give preference to criminal cases. The 103rd Judicial District Court shall be a Court of general jurisdiction, with the jurisdiction provided by the Constitution and Laws of the State of Texas, and shall continue to be composed of the Counties of Willacy and Cameron, but shall give preference to civil cases and shall not, except in cases of emergency, be required to empanel Grand Juries.

Sec. 2. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties, in the Counties of Nueces, Kleberg and Kenedy, shall, on the effective date of this Act, be transferred by the District Clerks of said Counties to the docket of the 28th District Court, and the Judge of said 28th District Court to which said cases shall be transferred, shall thereafter have power, authority, and jurisdiction to try such cases so transferred to such Court, and in addition to approve all statements of fact, bills

of exception, and to make any and all orders, decrees and judgments proper and necessary in any case theretofore tried by the said Criminal District Court above named, within said Counties; provided that any such action or actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes were transferred.

Sec. 3. All cases upon the docket of the Criminal District Court of Nueces, Kleberg, Kenedy, Willacy and Cameron Counties in the Counties of Cameron and Willacy, shall, on the effective date of this Act, be considered as on file in the 107th District Court, as herein denominated, and the Judge of said 107th District Court, as herein denominated shall have power, authority, and jurisdiction to try all such cases, and in addition, to approve all statements of fact, bills of exception, and to make any and all orders, decrees, and judgments proper and necessary in any cases theretofore tried by the said Criminal District Court, hereinabove named, within said two Counties; provided, that any such action or actions be taken within the same time limits that would have governed the Judge of the Court from which said cause or causes were transferred.

Sec. 4. After the effective date of this Act, the District Attorney for the Criminal District Court for Nueces, Kleberg, Kenedy, Willacy and Cameron Counties shall serve the 28th Judicial District Court as designated by this Act, and shall thenceforth be known as the District Attorney for the 28th Judicial District of Texas, and at the next general election such office shall be filled by the election of a District Attorney for the 28th Judicial District of Texas for the Counties of Nueces, Kleberg and Kenedy, said office to be voted upon by the qualified voters of said three named Counties only.

The County Attorneys of Willacy and Cameron Counties shall, respectively, from and after the effective date of this Act, represent the State of Texas in all matters now handled by the above mentioned District Attorney for the above mentioned Criminal District Court within said respective Counties.

Sec. 5. Each term of Court within the 107th Judicial District shall begin on the first Mondays of January and July of each year, respectively, and may continue until the beginning of the succeeding term. The Judge of the 107th Judicial District Court, at his discretion, may hold as many sessions of Court in any term of the Court in either County in his district as may be deemed by him proper and expedient for the disposition of the Court's business, and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 5a. Repealed by Acts 1965, 59th Leg., p. 999, ch. 486, § 2, eff. Aug. 30, 1965.

Sec. 6. Nothing contained in this Act shall affect the present terms of the 28th and the

103rd Judicial District Courts but said terms shall continue as now provided by law for said respective Courts.

Sec. 7. In any County which is situated within two (2) Judicial Districts and in which the County Attorney of such County is performing the duties of a District Attorney, as well as those of a County Attorney, and in which Counties the office of District Attorney, or the office of Criminal District Attorney has been abolished since the enactment of Section 13, Article 3912-e, Revised Civil Statutes of Texas, Acts 1939, 46th Legislature, Special Laws, page 608, Section 1, the Commissioners Court of any such County is hereby authorized, at their discretion, to pay such County Attorney so performing such duties of District Attorney, as compensation, over and above the salary which such County Attorney draws as County Attorney, a sum not to exceed the amount of Three Thousand, Six Hundred Dollars (\$3,600) per annum, such additional compensation to be paid in twelve (12) equal monthly installments.

[Acts 1945, 49th Leg., p. 472, ch. 300, § 1; Acts 1949, 51st Leg., p. 678, ch. 351, § 1; Acts 1950, 51st Leg., 1st C.S., p. 96, ch. 33, § 1; Acts 1965, 59th Leg., p. 425, ch. 211, § 1, eff. May 18, 1965; Acts 1965, 59th Leg., p. 999, ch. 486, § 2, eff. Aug. 30, 1965.]

108.—Potter

Sec. 1. The 108th Judicial District is composed of the County of Potter.

Sec. 2. The 108th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The jurisdiction of the 108th District Court shall be concurrent in Potter County with the 47th and 181st District Courts for the 47th and 181st Judicial Districts.

Sec. 4. The terms of the 108th District Court shall begin on the first Mondays in January, May, and September of each year. Each term of said court may continue until the date herein fixed for the beginning of the next succeeding term thereof. The judge of said court may, in his discretion, hold as many sessions of said court as is deemed by him proper and expedient for the dispatch of business.

Sec. 5. (a) The judge of the 108th District Court may transfer cases to the docket of any district court which has jurisdiction over the case with the approval of the judge of the court to which the case is transferred. The judge of the 108th District Court may sit for the judge of any other district court without transferring the case on the dockets.

(b) All process and writs issued out of the district court from which any transfer is made shall be returnable to the court to which the transfer is made. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at

the terms of the courts to which the transfer is made as the terms are fixed by this Act.

Sec. 6. The district clerk of Potter County shall act as the district clerk for the 108th Judicial District Court in Potter County.

Sec. 7. The district attorney of the 47th Judicial District shall act as the district attorney for the 108th Judicial District.

Sec. 8. The sheriff of Potter County shall perform for the 108th District Court in connection with all of its cases in Potter County, all of the duties in connection with the court as provided by law for sheriffs to perform in connection with district courts.

Sec. 9. The judge of the 108th District Court shall appoint an official shorthand reporter for the court who shall be well-skilled in his profession. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

[Acts 1927, 40th Leg., p. 10, ch. 7, § 2; Acts 1934, 43rd Leg., 2nd C.S., p. 98, ch. 42, § 1; Acts 1943, 48th Leg., p. 330, ch. 211, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 160, ch. 23, §§ 5.008, 5.011, eff. Sept. 19, 1969.]

109.—Andrews, Crane and Winkler

Sec. 1. The terms of the District Court of the 109th Judicial District heretofore created, composed of the counties of Andrews, Crane and Winkler shall, after the effective date of this Act, be as follows:

In the County of Andrews beginning on the second Monday in January and the first Monday in July and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such court in Andrews County.

In the County of Crane beginning on the first Monday in February and the first Monday in August and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of said Court in Crane County.

In the County of Winkler beginning on the first Monday in March and the second Monday in September and may continue in session until 10:00 A.M. on the Monday for convening the next regular term of such Court in Winkler County.

Sec. 2. The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. In any of the counties of the 109th Judicial District, the grand jury may be convened on the first or any subsequent day of the term. The judge shall designate the day on which the grand jury is to be impaneled.

Sec. 4. All process issued and returnable to a succeeding term of court, and all bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding terms of the 109th District Court of the several counties as herein fixed as though issued and

served for such terms and returnable to and drawn for the same. All process issued and made returnable on or before Monday next after the expiration of twenty (20) days from the date of service thereof shall be valid, and unaffected by this Act.

Sec. 5. It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect, such court or courts affected thereby shall continue in session until the time for the beginning of the next succeeding term therein, as provided for herein, but thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1929, 41st Leg., p. 50, ch. 19, § 2; Acts 1933, 43rd Leg., p. 371, ch. 145, § 3; Acts 1943, 48th Leg., p. 43, ch. 40, § 1; Acts 1955, 54th Leg., p. 974, ch. 379, § 7; Acts 1961, 57th Leg., p. 897, ch. 395, eff. Aug. 28, 1961.]

110.—Briscoe, Floyd, Motley and Dickens

(a) The One Hundred and Tenth Judicial District of Texas shall be composed of Briscoe, Floyd, Motley and Dickens Counties; the terms of the District Court shall be held therein each year as follows:

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

In the County of Floyd on the first Mondays in February and July.

In the County of Motley on the first Mondays in March and August.

In the County of Dickens on the first Mondays in April and November.

Each term of Court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court in any county as is deemed proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any Court in any county of said district shall be in session at the time this Act takes effect such Court or Courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all Courts in said district shall conform to the requirements of this Act.

[Acts 1929, 41st Leg., p. 39, ch. 14; Acts 1929, 41st Leg., p. 385, ch. 175, § 1; Acts 1943, 48th Leg., p. 121, ch. 91, § 1.]

111.—Webb

Sec. 1. The 111th Judicial District of Texas is hereby created to be composed of the County of Webb in the State of Texas, and a District

Court is established therein to be known as the District Court of Webb County, Texas, in and for the 111th Judicial District of Texas.

Sec. 2. The District Court hereby created shall have jurisdiction over all matters, both Civil and Criminal, over which the District Courts of this State are given jurisdiction by the Constitution and laws of this State, and shall have concurrent jurisdiction in Webb County, Texas, with the District Court of Webb County, Texas, in and for the 49th Judicial District of Texas in all Civil and Criminal matters over which the said 49th District Court now has jurisdiction under the Constitution and laws of this State; provided that the Judge of the 111th District Court shall never impanel a grand jury unless in his judgment he thinks it necessary to do so.

Sec. 3. The terms of the 111th District Court hereby created shall begin on the first Mondays, respectively, in January, March, May, July, September and November of each year, and each term may continue in session until the Sunday immediately preceding the date for the beginning of the next term thereof as provided in this Section.

Sec. 4. The Clerk of the District Court of Webb County in and for the 49th Judicial District shall, upon the taking effect of this Act, in addition to the duties now performed by him as Clerk of said 49th District Court, assume the duties of Clerk of said 111th District Court and said Clerk shall thereafter be known and designated as Clerk of the District Courts of Webb County, Texas, and shall perform the duties of Clerk of said 49th District Court and said 111th District Court, and said Clerk shall thereupon promptly prepare a docket for the 111th District Court, placing upon said docket all Civil cases, except tax suits, pending on the docket of said 49th District Court up to and including No. 8000, and also place on the docket of said 111th District Court all Civil cases pending in said 49th District Court in which the Judge of said latter Court shall have entered his disqualification, and also place on said docket every odd numbered Civil case, except tax suits, then pending on the docket of said 49th District Court following Cause No. 8000 on docket thereof; provided, however, that no case then on trial in said 49th District Court nor any case pending on appeal from said latter Court shall be transferred to the docket of the said 111th District Court. The cases to be so transferred shall bear the same docket numbers in the 111th District Court as they now bear in the 49th District Court, and the Judge of the 49th District Court shall make proper orders transferring the said cases from said latter Court to the 111th District Court.

Sec. 5. After the organization of the 111th District Court and the transfers of cases have been made as herein provided, then all Civil cases, except tax suits, thereafter be¹ filed with the Clerk of said District Courts shall be noted and listed upon one file docket to be kept by said Clerk to be known as the Clerk's Civil

File Docket and such cases shall be numbered consecutively, and each Civil case, except tax suits, so filed shall be assigned to and docketed in the Court designated by the attorney filing the same. The Clerk shall keep a separate file docket for Criminal cases, to be known as the Clerk's Criminal File Docket and a separate file docket for tax suits to be known as the Clerk's Tax Suit Docket, and all Criminal cases and tax suits shall be by the Clerk filed and docketed in the 49th District Court. The cases on the Clerk's Tax Suit File Docket shall bear a separate series of numbers and shall be numbered consecutively. The cases on the Clerk's Criminal File Docket shall bear a separate series of numbers and shall be numbered consecutively.

¹ The word "be" should be omitted.

Sec. 6. The sheriff of Webb County, Texas, and all other officers shall, in addition to the duties now performed by them, perform the duties in connection with the 111th District Court as provided by law for sheriffs and other officers to perform in connection with District Courts, and the Judge of the 111th District Court shall appoint some legally qualified person as official shorthand reporter for said Court and such person shall hold his office at the pleasure of the Court and shall be entitled to the same fees and salary and perform the same duties and take the same oath as now or may hereafter be provided by the General Laws of this State relating to stenographers for District Courts in this State.

Sec. 7. The District Attorney of the 49th Judicial District of Texas shall, in addition to the duties now performed by him, prosecute all Criminal cases that may be filed in or transferred to the 111th District Court, and he shall also represent the State in said latter Court in all matters where the State is a party and he shall receive such fees for his services as are now or may hereafter be provided for district attorneys by the General Laws of the State of Texas.

Sec. 9. The Judge of the 49th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer any Civil or Criminal case pending in Webb County on the dockets of the 49th District Court to the 111th District Court, and in like manner the Judge of the 111th District Court in his discretion is hereby authorized upon his own motion or upon the motion of any party, either in term time or vacation, to transfer to the 49th District Court any Civil or Criminal case pending on the dockets of the 111th District Court, and when any such transfer is made, proper orders shall be entered on the Minutes of the Court from which the case is transferred as evidence of such transfer and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to said cause, and in all cases pending on the dockets of either of said Courts, in which the Judge of said Court has entered

or may enter his disqualification, the Judge of the other of said Courts may sit in the Court in which said cause is pending for the purpose of ordering the transfer of all such cases.

Sec. 10. The Governor of this State shall, upon the taking effect of this Act, appoint a Judge of the 111th District Court who shall hold the office of Judge of said Court until the next general election and until his successor shall have been elected and qualified, and thereafter the Judge of said 111th District Court shall be elected as provided by the Constitution and Laws of this State for the election of District Judges.

[Acts 1929, 41st Leg., p. 73, ch. 39.]

112.—Pecos, Upton, Sutton and Crockett

Sec. 1. The One Hundred and Twelfth Judicial District shall be composed of the Counties of Pecos, Upton, Sutton and Crockett, and the terms of the district court shall be held therein as follows:

In Pecos County, beginning on the first Monday in January, May and November and second Monday in July.

In Upton County, beginning on the first Monday in February and the second Monday in June.

In Sutton County, beginning on the third Monday in March and the first Monday in September.

In Crockett County, beginning on the first Monday in April and the third Monday in September.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

Sec. 6. The said Thirty-third, Eighty-third and One Hundred Twelfth Judicial Districts of Texas, as herein constituted shall each respectively elect a District Attorney at the next general election and each two years thereafter.

Sec. 10. It shall hereafter be sufficient to address a petition or other pleading to be filed in the District Court of said Pecos County, TO THE DISTRICT COURT OF PECOS COUNTY, TEXAS, or if to be filed in the District Court of said Upton County, TO THE DISTRICT COURT OF UPTON COUNTY, TEXAS, without giving the number of the District Court in such address.

Sec. 11. The District Courts of the Eighty-Third Judicial District and the One Hundred and Twelfth Judicial Districts herein created in Pecos and Upton Counties shall have concurrent jurisdiction with each other throughout the limits of each of said counties of all matters civil and criminal of which jurisdiction is given to the District Courts by the Constitution and laws of this State. The Clerk of the District Court of Pecos County, Texas, as hereto-

fore constituted and his successors in office shall be the clerk of both the Eighty-Third and the One Hundred Twelfth District Courts of said Pecos County and shall perform all the duties pertaining to the clerkship of both of said Courts. The Clerk of the District Court of Upton County, Texas, as heretofore constituted and his successors in office shall be the clerk of both the Eighty-Third and One Hundred Twelfth District Courts of said Upton County and shall perform all the duties pertaining to the clerkship of both of said Courts.

Sec. 12. There shall be elected at the next general election and every four years thereafter, a Judge of the One Hundred Twelfth Judicial Districts of Texas.

[Acts 1929, 41st Leg., 3rd C.S., p. 245, ch. 11; Acts 1945, 49th Leg., p. 10, ch. 6, § 1; Acts 1955, 54th Leg., p. 882, ch. 337, § 3.]

113.—Harris. See 11th District

114.—Smith and Wood

(a) The Special District Court of Smith and Wood Counties and now existing by virtue of Acts 1945, 49th Legislature, page 284, Chapter 206, is hereby continued as a permanent, regular District Court. The District Court created and provided for by this Act shall be designated the 114th Judicial District Court and composed of Smith and Wood Counties, and the terms of said District Court shall be held therein as follows:

In Smith County on the first Mondays in January, April, July and October.

In Wood County on the first Mondays in March, June, September and December.

Each term of court in each county shall continue in session until the date fixed herein for the beginning of the next term in each county, respectively.

(b) The Judge of said court may, in his discretion, hold as many sessions of the court in any terms in either county, for the trial of cases, as is deemed necessary and expedient for the proper dispatch of the business of the court.

(e) The 114th Judicial District Court composed of Smith and Wood Counties as herein provided for shall have, and the Judge thereof shall have, all of the jurisdiction and authority of a District Court of General jurisdiction, and a District Judge, as provided by the constitution and laws of this state; and the Judges of said court and of the 7th Judicial District Court in Smith and Wood Counties may transfer cases from one of said courts to the other in said counties, either in term time or vacation, and any cases so transferred may be tried and disposed of by the court to which it is transferred.

(f) The Judge of the 114th Judicial District Court of Smith and Wood Counties shall have the authority to approve all bills of exceptions, statements of fact, and all other matters to complete the disposition of any cases that may

have been heard and tried in said Special District Court before this Act becomes effective.

(g) The compensation of the Judge of said 114th Judicial District Court, as hereby reorganized and continued, shall be the same as the compensation paid to the Judges of other District Courts, including the expenses as provided for by law for District Judges; and the Comptroller of the State of Texas is hereby authorized to draw his warrant on the State Treasurer for such payment, and the compensation herein provided for shall be paid in the manner in which other District Judges of the State of Texas are paid.

(i) The District Attorney of the 7th Judicial District of Texas shall represent the state in all cases wherein the State of Texas is a party, in said District Court, in said county; and in case of the absence or inability of said District Attorney to so represent the state in any case pending in said District Court, then the County Attorney in said county in which said case is pending shall represent the state.

(j) The Judge of the Special District Court of Smith and Wood Counties shall continue to serve in said Special District Court until the date for the expiration of said Special District Court on June 15, 1947, as provided in said Acts 1945, 49th Legislature, Chapter 206. Immediately after the passage of this Act it shall be the duty of the Governor, with the advice and consent of the Senate, as provided by law, to appoint a person qualified by law as Judge of said 114th Judicial District Court herein created to take office at the time said court comes into existence as herein provided, which appointee shall hold office until the next General Election in this state, and until his successor is elected and qualified as provided by law. The terms of the Judge of said court shall thereafter be four (4) years, as provided by law for other District Judges.

(k) The District Clerks in Smith and Wood Counties, respectively, are hereby made clerks of the District Court herein provided for in their respective counties.

(l) The 114th Judicial District of Texas shall be composed of Wood and Smith Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Wood on the first Mondays in January and July.

In the County of Smith on the first Mondays in January and July.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(m) The Judge of said court in his discretion may hold as many sessions of court in any term of court in any county as is deemed proper and expedient for the dispatch of business.

[Acts 1935, 44th Leg., p. 7, ch. 3; Acts 1937, 45th Leg., p. 227, ch. 123, § 1; Acts 1939, 46th Leg., p. 155, § 1; Acts 1943, 48th Leg., p. 645, ch. 368, § 1; Acts 1945, 49th Leg., p. 284, ch. 206, § 1; Acts 1947, 50th Leg.,

p. 385, ch. 215, § 1; Acts 1953, 53rd Leg., p. 568, ch. 213, § 1.]

115.—Upshur, Wood and Marion Counties

(a) The 115th District Court of Texas shall be composed of Upshur, Wood, and Marion Counties, and the terms of the Court shall be held as follows:

In the County of Upshur on the first Mondays in January and June of each year, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Upshur County.

In the County of Wood on the first Mondays in February and July, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Wood County.

In the County of Marion on the first Mondays in March and September, and may continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of said Court in Marion County.

The Judge of the 115th District Court in his discretion may hold as many sessions of Court in any term of the Court in any County as is deemed by him proper and expedient for the dispatch of business.

(b) The jurisdiction of the 115th District Court is concurrent with the jurisdiction of the 76th District Court in Marion County, and with the 114th District Court in Wood County. The Judges of the 114th and 115th District Courts in Wood County may transfer on their dockets any case to be tried in Wood County with the consent of the Court to which transferred, and each may sit in the other Court to hear cases without transferring the case. The Judges of the 115th and 76th District Courts in Marion County may transfer on their dockets any case to be tried in Marion County with the consent of the court to which transferred, and each may sit in the other court to hear cases without transferring the case. All writs and processes issued and bonds and recognizances made in cases transferred are returnable to the court to which transferred, as if originally issued there.

(c) The officers serving the 76th District Court in Marion County shall serve in the same manner the 115th Judicial District Court in Marion County.

[Acts 1949, 51st Leg., p. 316, ch. 150, § 2; Acts 1969, 61st Leg., p. 519, ch. 181, § 4, eff. May 9, 1969.]

116.—Dallas

Sec. 1. One additional District Court is hereby created in and for Dallas County, the limits of which shall be co-extensive with the limits of the County. The District shall be known as the One Hundred and Sixteenth Judicial District.

3 West's Tex.Stats. & Codes—17

Sec. 2. The One Hundred and Sixteenth District Court shall not have or exercise any Criminal jurisdiction, but in all other respects it shall have and exercise the powers conferred by the Constitution and Laws of the State on the Judges of District Courts. No jurisdiction shall be concurrent with that of the existing District Courts of Dallas County.

Sec. 3. The terms of the One Hundred and Sixteenth District Court shall begin on the first Monday, respectively in January, April, July and October of each year, and each term of said Court shall continue until the Sunday immediately preceding the date set for the beginning of the next term thereof.

Sec. 4. The Governor shall appoint a suitable person as Judge for said office until the next general election, and until his successor shall have been provided by the Constitution and Laws of the State for the election of District Judges.

Sec. 5. The Clerk of the District Courts of Dallas County shall, upon the taking effect of this Act, assume the duties of Clerk of the One Hundred and Sixteenth District Court, and shall thereafter perform the duties of such position as if the Court had existed at the time of his election. He shall promptly prepare a docket for the One Hundred and Sixteenth District Court, placing thereon every sixth pending case on the respective dockets of the Fourteenth, Forty-Fourth, Sixty-Eighth, Ninety-Fifth, One Hundred and First District, and One Hundred and Sixteenth District Courts, continuing in this manner through said dockets until all the cases thereon are exhausted and the dockets of the six Courts are equalized as nearly as may be; provided, that no case on trial in any of the existing District Courts, nor any case pending on appeal therefrom, shall be transferred to the docket of the Court created hereby. The cases so transferred shall bear the same docket numbers as in the Court from which they are transferred, and the Judges of the existing Courts, respectively, shall make proper orders transferring from said Courts to the One Hundred and Sixteenth District Court the cases which shall have been placed upon the docket of the latter Court in pursuance of this Act.

Sec. 6. The letters A, B, C, D, E, and F, shall be placed on the docket and Court papers in the respective District Courts of Dallas County to distinguish them; A, being used in connection with the Fourteenth District Court; B, the Forty-Fourth District Court; C, the Sixty-Eighth District Court; D, the Ninety-Fifth District Court; E, the One Hundred and First District Court and F, the One Hundred and Sixteenth District Court.

Sec. 7. All suits, prosecutions and proceedings hereafter instituted in the District Courts of Dallas County shall be numbered consecutively, beginning with the next number after the last file number on the dockets of the existing Courts, and shall be entered by the District Clerk upon the dockets of said Courts, al-

ternatively, beginning with the Fourteenth District Court; next the Forty-Fourth District Court, third the Sixty-Eighth District Court; fourth, the Ninety-First District Court; fifth, the One Hundred and First District Court; sixth, the One Hundred and Sixteenth District Court.

Sec. 8. The respective Judges of the District Courts of Dallas County shall, from time to time, as occasion may require, transfer cases from any one of such Courts to any other such Court in order that the business may be equally distributed among them, that the Judges thereof may, at all times, be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

[Acts 1930, 41st Leg., 5th C.S., p. 228, ch. 71.]

117.—Nueces

Sec. 1. There is hereby created for and within Nueces County the 117th Judicial District of Texas, and a District Court for said Judicial District, the limits of which shall be co-extensive with the limits of Nueces County.

Sec. 2. The District Court for the 117th Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and the laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and Laws of this State on the Judges of District Courts. Its jurisdiction shall be concurrent with that of the District Court of Nueces County for the 28th Judicial District.

Sec. 3. The terms of the 117th District Court shall be held as follows: a term to be known as the January-July term shall begin on the first Monday in January of each year and shall continue to and including the Sunday preceding the first Monday in July of the same year, and a term to be known as the July-January term shall begin on the first Monday in July of each year and shall continue until and including the Sunday preceding the first Monday in January of the succeeding year.

Sec. 4. Repealed by Acts 1949, 51st Leg., p. 692, ch. 362, § 19.

Sec. 5. From and after the passage of this Act the County Court of Nueces County shall cease to have or exercise any Civil jurisdiction, except as hereinafter specified and enumerated, provided that said Court shall not be restricted nor deprived of any jurisdiction now vested in it by the General Laws, nor shall the Judge thereof be restricted nor deprived of any duties, rights or powers now vested in or required of him by the General Laws except the

Civil jurisdiction by this Act transferred from said Court to the District Court for the 117th Judicial District. The County Court of Nueces County shall have and retain jurisdiction of all cases appealed from the Justice Courts, and the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by Law, and the County Court or the Judge thereof shall have power to issue all writs necessary to the enforcement of the jurisdiction of said Court in all matters the jurisdiction of which, by this Act, is not transferred from said Court to the District Court of the 117th Judicial District.

Sec. 6. The Clerk of the District Court of Nueces County shall, upon the taking effect of this Act, assume the duties of Clerk of the 117th District Court, and shall thereafter perform the duties of such, as if the Court had existed at the time of his election. He shall promptly prepare a docket for the 117th District Court, placing thereon such cases as may be filed in said Court and as may be transferred to said Court; provided, that no case then on trial in the 28th District Court of Nueces County nor any case pending on appeal therefrom shall be transferred to the docket of the Court created hereby.

Sec. 7. The letters "A" and "B" shall be placed upon the dockets and Court papers in the respective District Courts of Nueces County to distinguish them; "A" being used in connection with the 28th District Court and "B" the 117th District Court.

Sec. 8. All suits and proceedings hereafter instituted in the District Courts of Nueces County shall be numbered consecutively, beginning with the next number after the last file number on the docket of the existing Court, and shall be entered upon the dockets of said Courts in the same manner as provided in Section 7 of this Act.

Sec. 10. The respective Judges of the 28th and 117th Judicial Districts shall from time to time, as occasion may require, transfer cases from one to the other in order that the business may be equally distributed among them, that the Judges of both of said Courts may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the Judge in whose Court it is pending; provided, however, no case shall be transferred from one Court to another without the consent of the Judge of the Court to which it is transferred. When any transfer is made, proper order shall be entered on the Minutes of the Court as evidence thereof, and notice of

the transfer shall be given in writing by the Clerk to the attorneys of record of all parties to the cause.

Sec. 11. This Act shall not, in any manner, affect the status of the Criminal District Court of Nueces County, nor the Judge or District Attorney thereof.

Sec. 12. The Governor, upon this Act taking effect, shall appoint a suitable person possessing qualifications prescribed by the Constitution and Laws of this State as Judge of the District Court of the 117th Judicial District of Texas, as herein constituted, and such person shall hold said office until the next general election, and until his successor shall have been elected and qualified, and thereafter the Judges of the District Court of the 117th Judicial District of Texas shall be elected as prescribed by the Constitution and Laws of this State for the election of District Judges. There shall be elected for four years by the qualified voters of Nueces County, beginning with the next general election after this Act takes effect, a Judge for the District Court of the 117th Judicial District of Texas, whose power and duties shall be the same as other District Judges, and who shall receive such salary as is now or may hereafter be prescribed by Law for District Judges of the District Courts of the State of Texas, to be paid in the same manner.

[Acts 1930, 41st Leg., 5th C.S., p. 224, ch. 69; Acts 1947, 50th Leg., p. 776, ch. 385, § 2; Acts 1949, 51st Leg., p. 692, ch. 362, § 19.]

118.—Howard, Glasscock and Martin

Sec. 6. The 118th Judicial District of Texas is hereby created and shall be composed of the Counties of Howard, Glasscock and Martin. Said District Court shall be known as the 118th Judicial District.

Sec. 7. The terms of said 118th Judicial Court shall be as follows:

In the County of Howard on the fourth Monday of August, the fourth Monday in October, the fourth Monday in January, and the fourth Monday in June.

In the County of Glasscock on the first Monday in September and on the first Monday in February.

In the County of Martin on the first Monday in October and the first Monday in January and the first Monday in June.

Each term of Court in each of such Counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 14. The District Court of the 70th Judicial District and the District Court of the 118th Judicial District shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas, and such as shall be thereafter given by law.

Sec. 15. The Judges of the 70th Judicial Court and of the 118th Judicial District Court

may each take a vacation and not attend Court for six (6) weeks in each year; the Judges of said Courts shall by agreement between themselves, take their vacations alternately so there shall be at all times at least one of said Judges in said Judicial Districts.

[Acts 1949, 51st Leg., p. 620, ch. 330.]

119.—Concho, Runnels and Tom Green

(a) The One Hundred and Nineteenth Judicial District of Texas shall be composed of Concho, Runnels, and Tom Green Counties; the terms of the District Court shall be held therein each year as follows:

In the County of Concho on the first Mondays in February and July.

In the County of Runnels on the first Mondays in March and October.

In the County of Tom Green on the first Mondays in April and November.

Each term of court in each of such counties may continue until the date herein fixed for the beginning of the next succeeding term therein.

(b) The judge of said court in his discretion may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

(c) All processes issued, bonds and recognizances made and all grand and petit juries drawn before this Act takes effect shall be valid for and returnable to the next succeeding term of the District Courts of the several counties as herein fixed as though issued and served for such terms and returnable to and drawn from the same.

(d) It is further provided that if any court in any county of said district shall be in session at the time this Act takes effect such court or courts affected thereby shall continue in session until the term thereof shall expire under the provisions of existing laws, but thereafter all courts in said district shall conform to the requirements of this Act.

[Acts 1931, 42nd Leg., p. 864, ch. 367, § 5; Acts 1933, 43rd Leg., 1st C.S., p. 78, ch. 24, § 1; Acts 1937, 45th Leg., p. 693, ch. 349, § 1; Acts 1939, 46th Leg., p. 171, § 2; Acts 1943, 48th Leg., p. 478, ch. 319, § 2; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.003; Acts 1973, 63rd Leg., p. 826, ch. 375, § 1, eff. June 12, 1973.]

120.—El Paso County

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

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 120th Judi-

cial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other district judges under the laws of this State.

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

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

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

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

Sec. 7. The Sheriff of El Paso County shall attend either in person or by deputy the Court as required by law in El Paso County, or when required by the Judge thereof and the sheriffs and constables of the several counties of this State when executing process out of said court

shall receive fees provided by general law for executing process out of district courts.

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

[Acts 1957, 55th Leg., p. 635, ch. 276.]

121.—Cochran, Hockley, Terry and Yoakum

There is hereby created the 121st Judicial District of Texas, to be composed of the Counties of Cochran, Hockley, Terry and Yoakum. The District Court of the 121st Judicial District shall have the jurisdiction provided by the Constitution and Laws of this State for District Courts. The terms of the District Court shall be held therein each year as follows:

In the County of Cochran, beginning on the second Monday in March and the second Monday in September.

In the County of Hockley, beginning on the second Monday in April and the second Monday in October.

In the County of Terry, beginning on the second Monday in May and the second Monday in November.

In the County of Yoakum, beginning on the second Monday in June and the second Monday in December.

[Acts 1959, 56th Leg., p. 425, ch. 190, § 1, eff. Sept. 1, 1959.]

122.—Galveston

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

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

The jurisdiction of the District Court of the 122nd Judicial District shall be concurrent with the District Courts of the 10th and 56th Judicial Districts in Galveston County. Either of the judges of said District Courts for Galveston County may in his discretion in term-time or in vacation transfer a case or cases, civil or criminal, to said other District Court with the consent of the judge of said other District Court by order entered on the minutes

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

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

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

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

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

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

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

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

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

Sec. 9. All grand and petit juries drawn and selected under existing laws in Galveston County shall be considered lawfully drawn and selected for the next ensuing term of the 122nd District Court.

[Acts 1957, 55th Leg., p. 1467, ch. 503.]

123.—Panola and Shelby

Sec. 4. The 123rd Judicial District of Texas is hereby created and shall be composed of the Counties of Panola and Shelby and shall be known as the District Court of said Counties in and for the 123rd Judicial District.

Sec. 5. The terms of the said 123rd Judicial District Court shall be as follows: in the County of Panola on the first Monday in January, May and September of each year, and may continue in session for seven (7) weeks thereafter, or until the business thereof is disposed of; in the County of Shelby on the first (1st) Monday in March, July and November of each year and may continue in session for eight (8) weeks thereafter or until the business is disposed of:

Sec. 10. That the District Courts of the 4th Judicial District, and the 123rd Judicial District shall have such jurisdiction and power as is conferred on District Courts under the constitution and existing laws of Texas and such as shall be hereafter given by Law.

[Acts 1931, 42nd Leg., p. 873, ch. 369.]

124.—Gregg

Sec. 1. Gregg County, Texas, shall hereafter constitute the One Hundred Twenty-fourth Judicial District of the State of Texas.

Sec. 2. The terms of the Court of the said One Hundred Twenty-fourth Judicial District Court of Gregg County, Texas, shall be held in Gregg County, Texas, each year as follows: On the first Monday in January, March, May, July, September and November of each year and each term of said Court shall continue in session until and including the Saturday before the next succeeding term begins or until all business is disposed of provided, however, that the first regular term of said Court shall be and become in session immediately upon the taking effect of this Act and the appointment and qualification of the Judge thereof as hereinafter provided for.

Sec. 6. The Governor of the State of Texas, immediately upon this Act's taking effect, shall appoint a suitable and qualified person as District Judge of said One Hundred Twenty-fourth Judicial District, having the qualifications as provided by the Laws of the State of Texas, as District Judge of said One Hundred Twenty-fourth Judicial District created by this Act, who shall hold his office until his successor is duly elected, at the next general election after this Act becomes effective, and qualifies, and said Judge and his successor in office shall receive such salary as is now provided for District Judges under and by virtue of the General Laws of the State of Texas.

Sec. 13. The Judge of the Seventy-first Judicial District Court for Gregg County, Texas, either in term time or in vacation, may enter an order upon the minutes of the District Court for the Seventy-first Judicial District for Gregg County, Texas, transferring any cases that may be pending in said Court to the One Hundred Twenty-fourth Judicial District Court, or the Special District Court for Gregg County, Texas [Expired], created by this Act and said One Hundred Twenty-fourth Judicial District Court, and the Special District Court for Gregg County, Texas, shall have the same power, authority and jurisdiction to try and finally dispose of said case or cases so transferred as would the Court from which the same were transferred. And the Judge of the One Hundred Twenty-fourth Judicial District Court, hereby created, may, at any time, either in term time or in vacation, by an order or orders, entered upon the minutes of his Court, transfer any case or cases pending upon the docket of said One Hundred Twenty-fourth Judicial District Court, to the District Court of the Seventy-first Judicial District, or to the District Court for the Special District Court for Gregg County, Texas, and when said case or cases are transferred, the Court to which transfer is made shall have the same right, authority and jurisdiction to try and finally dispose of the same as was originally had by the Court making such transfer. And the Judge of the Special District Court for Gregg County, Texas, created by this Act, may at any time, either in term time or in vacation, by an order or orders entered upon the minutes of his Court, transfer any case or cases pending upon the docket of the Special District Court for Gregg County, Texas, to the District Court of the Seventy-first Judicial District for Gregg County, Texas, or the District Court for the One Hundred Twenty-fourth Judicial District of Gregg County, Texas, and when said case or cases are transferred, the Court to which transfer is made shall have the same right, authority and jurisdiction to try and finally dispose of the same as was originally had by the Court making such transfer.

Sec. 14. Any party or parties desiring to institute or file any suit over which the District Court of the Seventy-first Judicial District, the District Court of the One Hundred

Twenty-fourth Judicial District and/or the Special District Court for Gregg County, Texas [Expired], has jurisdiction, shall have the right to file the same in either of said Courts, subject to the right of the Judge of either of said Courts to transfer the same, as herein provided for.

Sec. 15. The District Clerk of Gregg County, Texas, shall, when suits are filed, file the same in the Court designated by the Attorney filing said suit, and in order to designate cases filed in said Courts, the Clerk shall place after the number of each suit filed in the Seventy-first Judicial District Court for Gregg County, Texas, the capital letter "A", and after the number of each suit filed in the One Hundred Twenty-fourth Judicial District Court for Gregg County, Texas, the capital letter "B", and after the number of each suit filed in the Special District Court for Gregg County, Texas [Expired], the capital letter "C".

Sec. 16. The Seventy-first Judicial District Court in and for Gregg County, Texas; the One Hundred Twenty-fourth Judicial District Court for Gregg County, Texas, herein created, and the Special District Court for Gregg County, Texas [Expired], also herein created, shall have concurrent civil and criminal jurisdiction with each other in Gregg County, Texas, in all matters over which jurisdiction is given or may be given by the Constitution and Laws of the State of Texas to District Courts.

Sec. 17. The District Clerk of Gregg County, Texas, duly elected and now acting as such, shall be the District Clerk of the One Hundred Eighty-eighth and the One Hundred Twenty-fourth Judicial Districts. He shall receive such salary as is now or may be hereafter prescribed for District Clerks of the State of Texas.

Sec. 18. As a necessary incident to the extension of this Court and for purpose of retaining and perfecting the organization and proper functioning thereof the office of Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas is hereby continued; a Criminal District Attorney shall be elected at the next general election and each succeeding general election thereafter and shall hold his office for a period of two (2) years and until his successor is elected and qualified; he shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys provided that the present Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas shall continue in office, take the oath and give the bond required by the Constitution and Laws for other District Attorneys, and continue and assume the duties and be known as the Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas. He shall continue with the organization of his office and proceed to organize and arrange the affairs of the office of Criminal District Attorney, appoint Assistants as pro-

vided herein, and shall receive the fees provided for herein for such office until the next general election and until his successor shall be elected and qualified. A vacancy in the office shall be filled in the manner provided for filling a vacancy in the office of District Attorney.

Sec. 19. The Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas shall have and exercise all such powers, duties and privileges as are now by law conferred, or which may hereafter be conferred, upon District and County Attorneys, and shall represent the State of Texas in all Criminal cases under examination or prosecution in the One Hundred Twenty-fourth Judicial District and One Hundred Eighty-eighth Judicial District Courts and in the County Court, Justice Courts and all Municipal Courts of Gregg County, Texas, where the defendant is charged with violating a state law, and shall be entitled to collect the fees provided by law for representing the State of Texas in Municipal Courts, which fees are the same as the fees for representing the state in Justice Courts.

Sec. 20. The Criminal District Attorney for the One Hundred Twenty-fourth Judicial District of Texas shall receive the same fees allowed by Law for County Attorneys in misdemeanor cases, and shall, in addition to the Constitutional salary of Five Hundred Dollars (\$500.00) per annum allowed to District Attorneys, to be paid by the State of Texas in the manner provided by Law for paying the salary of District Attorneys, be paid the same fees which are now allowed and paid to County and District Attorneys in Counties where less than three thousand (3,000) votes were cast at the preceding presidential election.

Sec. 21. It is hereby made the duty of the Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas to represent the State of Texas in all Criminal cases under examination or prosecution in Gregg County in the Seventy-first Judicial District of Texas, and in the two Courts herein created, and in all criminal cases in any and all Courts in Gregg County, Texas, and it is further his duty to represent the State of Texas in all cases both criminal and civil in any and all cases wherein it is the duty of a District or County Attorney to represent the State of Texas that may arise in Gregg County, Texas. The Criminal District Attorney of the One Hundred Twenty-fourth Judicial District of Texas shall be permitted to retain out of the fees earned and collected by him the sum of Four Thousand Two Hundred and Fifty Dollars (\$4250) per annum. After deducting the Four Thousand Two Hundred and Fifty Dollars (\$4250), the remaining amount is to be applied first to the payment of the salary of his assistants and the actual and necessary expenses incurred by him in the conduct of his office; said expenses to be allowed as provided by law, the cost of premiums on whatever surety bonds may be required of the Criminal District Attor-

ney in qualifying for his office and the conduct thereof; expense of securing evidence, making criminal investigations, clerical and stenographic and bookkeeping expense when deemed by the Criminal District Attorney necessary over and above the amounts now allowed to him by law; stamps, stationery, books, telephone, telegraph, traveling expenses, and all other actual and necessary expenses incident to the conduct of his office; and the balance remaining to be paid over to Gregg County in accordance with the terms and provisions of the Maximum Fee Bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Municipal, Justice, County or District Courts, in said County of Gregg, or which may hereafter be created, including habeas corpus hearings, fines and forfeitures, but shall not include the Five Hundred Dollars (\$500) annual Constitutional salary paid by the State of Texas; provided that on the 1st day of March each year he shall make a full and complete report and account, as now provided by law for officers required to make annual reports of fees collected, of all fees collected by him, and shall keep the account and make the report provided in Article 3899, Revised Civil Statutes; provided that in addition to the above he shall receive ten per cent (10%) for the collection of bond forfeitures and fines collected for the State and County, as is now provided by law, relating to the collection of fees for County and District Attorneys. Said Criminal District Attorney shall represent the State and County in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys, and shall receive the same fees for said services as received by District and County Attorneys.

Sec. 22. (a) Said Criminal District Attorney is hereby authorized to appoint at his discretion a First Assistant Criminal District Attorney who shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum, and said Criminal District Attorney is hereby authorized to appoint at his discretion a Second Assistant Criminal District Attorney who shall receive a salary of Three Thousand Dollars (\$3,000) per annum, and the salaries of said Assistant Criminal District Attorneys shall be paid out of the General Fund of the County in twelve (12) equal monthly installments by warrants drawn on said Fund. Such Assistant Criminal District Attorneys shall take the Constitutional Oath of office and be authorized to represent the State in all of the Courts of the County in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and such Assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said Assistants shall be and are hereby authorized to administer oaths, file informations, examine witnesses before the Grand Jury and generally perform any duty devolving upon

the Criminal District Attorney, and to exercise any power conferred by law upon the County and District Attorneys, and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his Assistants as he would be entitled to receive if the services had been rendered by himself.

(b) Providing further that the Criminal District Attorney is hereby authorized when in his judgment the efficient conduct of his office so requires to appoint a criminal investigator who shall receive a salary of Three Thousand Dollars (\$3,000) per year. Such Criminal District Attorney may, also, if in his judgment the efficient conduct of his office so requires, appoint a stenographer for said office who shall receive a salary of Eighteen Hundred Dollars (\$1800) per year. The salary of such investigator and stenographer shall be paid out of the General Fund of the County in which they are appointed in twelve (12) equal installments, upon the certificate of the Criminal District Attorney by warrants drawn on said fund.

[Acts 1931, 42nd Leg., 1st C.S., p. 37, ch. 23; Acts 1935, 44th Leg., p. 11, ch. 4; Acts 1937, 45th Leg., p. 655, ch. 324, § 1; Acts 1969, 61st Leg., 2nd C.S., p. 156, ch. 23, § 5.002, eff. Sept. 19, 1969; Acts 1971, 62nd Leg., p. 53, ch. 29, §§ 1, 2, eff. March 18, 1971.]

125.—Harris. See 11th District

126.—Travis. See 53rd District

127.—Harris. See 11th District

128.—Orange

Sec. 1. From and after the passage of this Act, the temporary District Court of Orange County, Texas, known as the 128th Judicial District Court and now existing by virtue of Acts, 1947, Fiftieth Legislature, Page 198, Chapter 116, is hereby continued as a permanent, regular District Court and shall continue to be designated as the 128th Judicial District Court as composed of Orange County.

Sec. 2. The terms of the said 128th Judicial District Court shall be as follows: The first Monday in January, May and September of each year; and each term of said Court shall continue in session until the date herein fixed for the beginning of the next succeeding term.

Sec. 7. The District Court of the 128th Judicial District, as hereby created, shall have such jurisdiction and power as is conferred on District Courts under the Constitution and existing laws of Texas and such as shall be hereafter given by law.

[Acts 1947, 50th Leg., p. 198, ch. 116, §§ 6 to 10; Acts 1949, 51st Leg., p. 869, ch. 468.]

129.—Harris. See 11th District

130.—Brazoria, Fort Bend, Matagorda and Wharton

Sec. 1. An additional District Court is hereby created in and for the Counties of Brazoria, Fort Bend, Matagorda and Wharton, Texas, the limits of which district shall be co-extensive with the limits of said counties. Said

court shall be known as the 130th District Court.

Sec. 2. Immediately upon passage of this law the Governor shall appoint a suitable person, having the qualifications provided by the Constitution and Laws of Texas for District Judges, as Judge of the 130th District Court. He shall hold office as such Judge until the next general election, and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas.

Sec. 3. There shall be two terms of the District Court of the 130th District in each of said counties each year. In Brazoria County the first term shall be known as the January-June term and shall begin each year on the first Monday in January and shall continue until and including Saturday before the first Monday in July; the second term of said court in Brazoria County, Texas, which shall be known as the July-December term shall begin each year on the first Monday in July and shall continue until and including Saturday before the first Monday in the following January.

In Fort Bend County the first term shall be known as the February-July term, and shall begin each year on the first Monday of February and shall continue until and including Saturday before the first Monday in August; the second term, which shall be known as the August-January term, shall begin each year on the first Monday in August and continue until and including Saturday before the first Monday in the following February.

In Matagorda County the first term shall be known as the March-August term, and shall begin each year on the first Monday in March and shall continue until and including Saturday before the first Monday in September; and the second term shall be known as the September-February term and shall begin each year on the first Monday in September and shall continue until and including Saturday before the first Monday in the following March.

In Wharton County the first term shall be known as the April-September term and shall begin each year on the first Monday in April and shall continue until and including Saturday next before the first Monday in October of each year; and the second term, which shall be known as the October-March term, shall begin each year on the first Monday in October and shall continue until and including Saturday before the first Monday in the following April.

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

Sec. 4. The clerk of the District Courts in each of the respective counties included in said Judicial District shall also be clerk of the District Court of the 130th District in such respective counties.

Sec. 5. There shall be one general docket for the 23rd District and the 130th District in each of the counties of Brazoria, Matagorda, Wharton, and Fort Bend. All suits and other proceedings instituted in any county in the district of which the District Court has jurisdiction shall be addressed to the District Court of the county in which the suit or other proceeding is instituted. The Judge of either the District Court of the 23rd District or the 130th District may hear and dispose of any suit or other proceeding on the general docket of the District Court of the county in which the suit or other proceeding is instituted, without the necessity of transferring the suit or other proceeding from one court to another. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending and the clerk of the District Court in said county shall keep one set of minutes in which shall be recorded all the judgments and orders of the 23rd District Court and the 130th District Court. All citations and other process issued by the District Clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 23rd District Court or the 130th District Court shall be returnable to the District Court of the county in which such suit or other proceeding is pending, without reference to the number of the District Court, and on the return of such process a hearing or trial shall be presided over by the Judge of either the 23rd District Court or the 130th District Court.

Sec. 6. The official court reporter for the 23rd Judicial District shall also be the official court reporter for the 130th Judicial District, providing that at any time his services may be required in both the 130th and the 23rd District Courts at the same time, he shall be, and he is hereby, authorized and empowered to employ some competent qualified person to act for him in one of said District Courts, which said person so employed shall receive the same compensation for such services as is provided by law for the official court reporter for the 23rd Judicial District, and shall be paid for such services out of the same fund and in the same manner as the court reporter for the 23rd Judicial District.

Sec. 8. The Judges of the 23rd and the 130th District Courts shall sign the minutes of each term of said courts in each of said counties within thirty (30) days after the end of each term, and shall also sign the minutes at the end of each column of the minutes, and each Judge sitting in said court shall sign the minutes of such proceedings as were had before him.

Sec. 9. The Judges of the 23rd District Court and of the 130th District Court may each take a vacation and not attend court for six (6) weeks in each year; the Judges of said courts shall by agreement between themselves, take their vacations alternately so that there shall at all times be at least one of said Judges

in the Judicial Districts composed of Brazoria, Fort Bend, Matagorda and Wharton Counties. [Acts 1947, 50th Leg., p. 291, ch. 179.]

131.—Bexar

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

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

Sec. 3. All appropriations heretofore made or hereafter made for the payment of the salary and expenses of the Judge of the Special 37th Judicial District Court of Bexar County shall be made available for the payment of the salary and expenses of the Judge of the 131st Judicial District Court of Bexar County.

[Acts 1957, 55th Leg., p. 141, ch. 61.]

¹ 37th district of this article.

132.—Scurry and Borden

Sec. 6. The 132nd Judicial District of Texas is hereby created and shall be composed of Scurry and Borden Counties and shall be known as the District Court of the 132nd Judicial District, to be in existence from and after the effective date of this Act. The District Court of the 132nd Judicial District shall have and exercise civil and criminal jurisdiction coextensive with the limits of Scurry and Borden Counties in all actions, proceedings, matters and causes of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

Sec. 7. The terms of the District Court of the 132nd Judicial District shall be as follows:

In Scurry County on the first Monday in February, April, June, August, October and December of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Scurry County.

In Borden County on the first Monday in January, March, May, July, September and November of each year, and each term may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of the Court in Borden County.

[Acts 1951, 52nd Leg., p. 7, ch. 7; Acts 1955, 54th Leg., p. 895, ch. 346, § 2; Acts 1959, 56th Leg., p. 915, ch. 420, § 1, eff. Aug. 11, 1959.]

133.—Harris. See 11th District

134.—Dallas. See 14th District

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

Sec. 1. From and after the effective date of this Act, the 135th Judicial District of Texas shall consist of Goliad, Jackson, Refugio, Calhoun and Victoria Counties, and the court of said district, to be known as the 135th District Court, shall have jurisdiction over civil cases only, and the limits of said district shall be coextensive with the limits of said counties.

Sec. 2. The present Judge of the 135th Judicial District shall continue to serve as Judge of said District for the remainder of the term to which he was elected and for which he has qualified and until his successor shall be duly elected and qualified. Thereafter such Judge shall be elected as provided by the Constitution and Laws of the State of Texas.

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

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

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

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

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

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

Each term of court in each county may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such court in such county. The judge of said court, in his discretion, may hold as many sessions of court in any term in any county as he may deem proper and expedient for the dispatch of business.

Sec. 4. The district clerk of each of the respective Counties included in said Judicial District shall also be clerk of the District Court of the 135th Judicial District in such respective Counties.

Sec. 5. There shall be a docket for the 24th District Court and a docket for the 135th District Court in each of the Counties of Goliad, Jackson, Refugio, Calhoun and Victoria. All suits and other proceedings instituted in any county in the district of which the district court has jurisdiction shall be addressed to the District Court of the county in which the suit or other proceeding is instituted. All civil cases or other civil proceedings filed with an even number in each of said counties shall be placed on the docket of the 24th District Court, and all civil cases or other civil proceedings filed with an uneven number in each of said counties shall be placed on the docket of the 135th District Court. The judge of the District Court of either the 24th District or the 135th District in said counties may hear and dispose of any suit or other proceeding on the docket of either

of said district courts of the county in which the suit or proceeding is instituted without the necessity of transferring the suit or proceeding from one court to another; and the judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred, provided that no case shall be transferred without the consent of the judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the district court of the county in which the proceedings are pending, and the clerk of the district court in said county shall keep one set of minutes for each district court in which shall be recorded all judgments and orders of each court respectively. All citations and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the judge of the 24th District Court or the 135th District Court in said counties shall be returnable to the District Court of the county in which court such suit or other proceeding is pending.

Sec. 6. The Judge of the 135th District Court shall appoint a shorthand reporter for such Court, who shall hold office and be compensated as provided by law.

Sec. 7. The Judges of the 24th and 135th District Courts in Goliad, Jackson, Refugio, Calhoun and Victoria Counties shall sign the minutes of each term of said respective courts in said counties within thirty (30) days after the end of each term, and each judge shall also sign the minutes of the other court covering such proceedings as were had before him.

Sec. 8. Qualified jurors for service in both the 24th Judicial District Court and the 135th Judicial District Court in Goliad, Jackson, Refugio, Calhoun and Victoria Counties shall be selected in accordance with the provisions of the applicable laws of Texas.

Sec. 9. Jurors selected as provided in the preceding Section of this Act may be summoned and used for the trial of civil cases interchangeably in either the 24th District Court or the 135th District Court in Goliad, Jackson, Calhoun, Refugio and Victoria Counties. For the trial of criminal cases, only juries selected in the 24th District Court in Goliad, Jackson, Calhoun, Refugio and Victoria Counties shall be impaneled.

[Acts 1951, 52nd Leg., p. 498, ch. 306; Acts 1953, 53rd Leg., p. 358, ch. 86, § 1; Acts 1957, 55th Leg., p. 690, ch. 289, § 1.]

136.—Jefferson

Sec. 1. There is hereby created in and for Jefferson County, Texas, an additional District Court to be known as the District Court for the 136th Judicial District of Texas composed of the County of Jefferson.

Sec. 2. The District Court for the 136th Judicial District shall have and exercise concurrent jurisdiction with the 58th and 60th Districts Courts within the limits of Jefferson County in all civil cases or proceedings and

matters over which District Courts are given jurisdiction by the Constitution and laws of this State.

Sec. 3. The terms of the District Court for the 136th Judicial District shall be as follows:

There shall be two terms of said District Court for the 136th Judicial District in Jefferson County in each year, and the first term, which shall be known as the January-June term, shall be begun in said court on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second term, which shall be known as the July-December term, shall begin in said court on the first Monday in July, and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 4. The place of sitting of the District Court for the 136th Judicial District shall be as follows:

Said court, in the discretion of the judge presiding, may sit at Port Arthur, Texas, for the trial of non-jury cases. Nothing herein, however, shall be construed to prevent the trial of non-jury cases at Beaumont, Texas, or to deprive the court of jurisdiction to try non-jury cases at the county seat.

Sec. 5. Immediately on the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as judge of the District Court for the 136th Judicial District, who shall hold office until the next general election, and until his successor shall be duly elected and qualified, as provided by the Constitution and laws of this State; and he shall receive such compensation as allowed other district judges under the laws of this State.

Sec. 6. The judge of the 136th District Court is authorized to appoint an official shorthand reporter of such court who shall have the qualifications now required by law of official shorthand reporters. Such reporter shall perform such duties as are required by law, and such duties as may be assigned to him by the judge of the District Court for the 136th Judicial District, and shall receive as compensation for his services the compensation now allowed to the official shorthand reporters under the laws of this State.

Sec. 7. The District Clerk of Jefferson County shall also act as the District Clerk for the 136th Judicial District in Jefferson County. District Clerk of Jefferson County shall docket alternately on the dockets of the District Courts of the 58th, 60th and 136th Judicial Districts in Jefferson County all civil cases, actions, petitions, applications and other proceedings filed in the District Courts of Jefferson County, so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the 58th Judicial District

Court; and the second case or proceedings filed and every third case or proceedings thereafter filed shall be docketed in the 60th Judicial District Court; and so on seriatim; and all civil cases or proceedings in this manner shall be docketed in and divided and distributed among the 58th Judicial District Court, the 60th Judicial District Court and the 136th Judicial District Court, one-third of each of them when first filed. All civil suits and proceedings shall be filed by the Clerk in the order in which the petitions are presented to or deposited with him, and immediately after being so presented or deposited.

Any cases or proceedings pending on the dockets of the 58th, 60th or 136th District Courts may in the discretion of the judge thereof be transferred from one of said courts to either of the other, either in term time or in vacation, and the judges may in their discretion exchange benches or districts from time to time. In the case of the disqualification of the judge of any of said courts in any case or proceeding, such case or proceeding on the suggestion of such judge of the disqualification entered on the docket shall be transferred to another of said courts, and the order of transfer may be made by such disqualified judge or by any judge of another of said courts; or instead of transferring the case or proceeding, the judge of any other of said courts may sit in the court in which the case or proceeding is then pending and there try the same, and all transferred cases or proceedings shall be docketed by the Clerk accordingly.

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

Sec. 9. The sheriff of Jefferson County shall attend, either in person or by deputy, the court as required by law in Jefferson County or when required by the judge thereof, and the sheriffs and constables of the several counties of this State when executing process out of said court shall receive fees provided by General Law for executing process out of District Courts.

Sec. 10. The provisions of Article 52-160a, Code of Criminal Procedure of Texas,¹ shall be applicable to the court herein created as well as to the 58th and 60th Judicial District Courts, as well as to the Criminal District Court of Jefferson County, Texas.

[Acts 1955, 54th Leg., p. 634, ch. 216.]

¹ 1925 Code. See now Article 1926-62.

137.—Lubbock

Sec. 1. There is created in and for Lubbock County, Texas, an additional district court to be known as the District Court of the 137th Judicial District of Texas, composed of the County of Lubbock.

Sec. 2. The District Court for the 137th Judicial District of Texas shall have and exercise the jurisdiction prescribed by the constitution and laws of this state for district courts in general, and the judge shall have and exercise the powers conferred by the constitution and laws of this state on the judges of district courts. The jurisdiction of the court shall be concurrent with the District Court of the 72nd Judicial District of this state in the County of Lubbock and the District Court of the 99th Judicial District of Texas in Lubbock County and the District Court of the 140th Judicial District of Texas in Lubbock County. Any judge of a district court for Lubbock County may in his discretion in termtime or in vacation, transfer a case or cases, civil or criminal, to another district court with the consent of the judge of the other district court by order entered on the minutes of the court from which the case is transferred, or minutes or orders made in chambers as the case may be. The orders when made shall be copied and certified to by the district clerk of Lubbock County, together with all orders made in the case. The certified copies of the orders, together with the original papers, shall be filed among the papers of any case transferred and the fees shall be taxed as a part of the costs of the suit. The clerk of the court shall docket any case in the court to which it is transferred and when so entered the court to which the case is transferred shall have the same jurisdiction as in cases originally filed in the court and the case shall be dropped from the docket of the court from which it was transferred. All process and writs issued out of the district court from which any transfer is made shall be returnable to the term of court to which the transfer is made according to the terms of the district court of the respective courts as fixed by this Act. All bonds executed and recognizances entered into in any district court from which any transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of the court to which the transfer is made as the terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 137th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immediately preceding the Monday for convening the next regular term of the 137th District Court in Lubbock County, Texas.

Sec. 4. The district clerk of Lubbock County shall act as the district clerk for the court herein created. Immediately upon the effective date of this Act the Judge of the 72nd Ju-

dicial District Court, the Judge of the 99th Judicial District Court, and the Judge of the 140th Judicial District Court shall enter an order transferring a portion of the cases on the dockets in their courts to the District Court of the 137th Judicial District. The District Clerk of Lubbock County shall thereupon transfer such cases accordingly and enter them upon the docket of the court created by this Act, together with all records and papers relating thereto.

Sec. 5. The District Attorney in and for the 72nd Judicial District shall act also as the District Attorney for the District Court of the 137th Judicial District.

Sec. 6. The Sheriff of Lubbock County shall perform the duties in connection with the court herein created as provided by law for sheriffs to perform in connection with district courts.

Sec. 7. The Judge of the District Court of the 137th Judicial District shall appoint an official shorthand reporter for the court who shall be well skilled in his profession. He shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act, the Governor shall appoint a Judge of the District Court for the 137th Judicial District who shall have the qualifications required of judges of district courts of this state and who shall hold his office until the next general election and until his successor is duly elected and qualified.

Sec. 9. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 137th Judicial District. The salary shall be paid as provided by law.

Sec. 10. All grand and petit juries drawn and selected under existing laws in Lubbock County shall be considered lawfully drawn and selected for the next ensuing term of the 137th District Court.

[Acts 1965, 59th Leg., p. 895, ch. 442, §§ 1 to 10, eff. Sept. 1, 1965.]

138.—Willacy and Cameron

Sec. 1. An additional Judicial District is hereby created, the limits of which shall be co-extensive with the limits of the Counties of Willacy and Cameron, the District Court of which shall be known as the 138th District Court. Such court shall have the jurisdiction provided by the Constitution and laws of this State for District Courts, and it shall have concurrent jurisdiction with the 103rd and 107th District Courts, except that in Willacy County the 138th District Court shall not have the jurisdiction of the 107th District Court which is in addition to the jurisdiction vested by the Constitution in District Courts. The 138th District Court shall give preference to criminal cases in each of the said counties.

Sec. 2. The terms of such court shall be three (3) each year in each county as follows: (1) in the County of Willacy on the first Monday of January, May, and September; (2) in the County of Cameron on the first Monday of March, July, and November. Each term of court in each of the said counties shall continue until the convening of the next regular term of court therein. The judge of the 138th District Court may, in his discretion, hold as many sessions of court in any term of court in either county of his district as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the Judge thereof.

Sec. 3. All existing laws relative to juries and grand juries in the counties comprising the 138th Judicial District shall apply to juries and grand juries selected and impaneled by the 138th District Court; providing that the judge of the 138th District Court shall call grand juries at all times as required by law, but the judges of the 103rd and 107th District Courts need not call grand juries except in cases of emergency.

Sec. 4. The respective judges of the 103rd, the 107th, and the 138th District Courts may, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other, of which such other court has jurisdiction, and the judges of each of the said courts in such respective counties may, in their discretion, exchange benches or districts from time to time; and any of them may, in his own courtroom, try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in any other court and there hear and determine any case pending; and every judgment and order shall be entered on the minutes of the court in which the case is pending or order rendered as provided by law. The judge of any of said courts, in such respective counties, may issue restraining orders and injunctions returnable to the other judges or courts in such counties. It is provided, however, that in the County of Willacy the judges of the 103rd District Court and the 138th District Court shall not exchange benches with or sit for the judge of the 107th District Court in any case of which District Courts generally have no jurisdiction.

Sec. 5. The sheriffs and clerks of the District Courts of Willacy and Cameron Counties, as now provided by law shall be, respectively, the sheriffs and clerks of the 138th District Court in such counties. The County Attorneys of Willacy and Cameron Counties, each respectively, shall represent the State in said 138th District Court in Willacy and Cameron Counties.

Sec. 6. The judge of the 138th District Court shall appoint an official court reporter to serve said court in accordance with existing

law, who shall receive the same fees and salary as is now provided by law for official court reporters.

Sec. 7. The 138th District Court shall have a seal in like design as is now prescribed by law for District Courts.

[Acts 1954, 53rd Leg., 1st C.S., p. 125, ch. 57, Art. 1; Acts 1955, 54th Leg., p. 638, ch. 218, § 1.]

139.—Hidalgo

Sec. 1. An additional Judicial District is hereby created, the limits of which shall be co-extensive with the limits of Hidalgo County, the District Court of which shall be known as the 139th District Court. Such court shall have the jurisdiction provided by the Constitution and laws of this State for District Courts, and it shall have concurrent jurisdiction with the 92nd and 93rd District Courts.

Sec. 2. The terms of such court shall be two (2) each year in such county as follows: upon the first Monday of January and the first Monday of July. Each term of court shall continue until the convening of the next regular term of court therein. The judge of the 139th District Court may, in his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business; and the jurors therefor may be summoned to appear before such District Court at such times as may be designated by the judge thereof.

Sec. 3. The respective judges of the 92nd, the 93rd, and the 139th District Court may, from time to time, as occasion may require, transfer cases or other proceedings from one court to the other, of which such other court has jurisdiction, and the judges may, in their discretion, exchange benches or districts from time to time; and any of them may, in his own courtroom, try and determine any case or proceeding pending in the other court without having the case transferred, or may sit in any other court and there hear and determine any case pending; and every judgment and order shall be entered on the minutes of the court in which the case is pending or order rendered as provided by law. The judge of any of said courts, in such respective counties, may issue restraining orders and injunctions returnable to the other judges or courts in said Hidalgo County.

Sec. 4. The sheriff and clerk of the District Courts of Hidalgo County, as now provided by law shall be, respectively, the sheriff and clerk of the 139th Judicial District Court. The Criminal District Attorney of Hidalgo County shall represent the State in said 139th District Court.

Sec. 5. The Judge of the 139th District Court shall appoint an official court reporter to serve said court in accordance with existing law, who shall receive the same fees and salary as is now provided by law for official court reporters.

Sec. 6. The 139th District Court shall have a seal in like design as is now prescribed by law for District Courts.

[Acts 1954, 53rd Leg., 1st C.S., p. 125, ch. 57, Art. II; Acts 1955, 54th Leg., p. 638, ch. 218, § 2.]

140.—Lubbock

Sec. 1. There is hereby created in and for Lubbock County, Texas, an additional District Court to be known as the District Court of the 140th Judicial District of Texas, composed of the County of Lubbock.

Sec. 2. The District Court for the 140th Judicial District of Texas shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for District Courts in general, and the Judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the Judges of the District Courts. Its jurisdiction shall be concurrent with the District Court of the 72nd Judicial District of this State in the County of Lubbock and the District Court of the 99th Judicial District of Texas in Lubbock County. Either of the Judges of the said District Courts for Lubbock County may in his discretion in term-time or in vacation, transfer a case or cases, civil or criminal, to said other District Court with the consent of the Judge of said other District Court by order entered on the minutes of his Court from which said case is transferred, or minutes or orders made in chambers as the case may be, which orders when made shall be copied and certified to by the District Clerk of said Lubbock County; together with all orders made in said case; and such certified copies of such orders, together with the original papers, shall be filed among the papers of any case thus transferred and the fees thereof shall be taxed as a part of the costs of said suit; and the Clerk of said Court shall docket any such case in the Court to which it shall have been transferred and when so entered the Court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said Court and the same shall be dropped from the docket of the said Court from which it was transferred; provided that all process and writs issued out of the District Court from which any such transfer is made shall be returnable to the term of Court to which said transfer is made according to the terms of the District Court of said respective Courts as fixed by this Act, and that all bonds executed and recognizances entered into in any District Court from which any such transfer is made shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances at the terms of said Court to which said transfer is made as said terms are fixed by this Act.

Sec. 3. The terms of the District Court of the 140th Judicial District in and for Lubbock County shall be held as follows:

On the first Monday in January and July of each calendar year, and shall continue in session until and including the Saturday immedi-

ately preceding the Monday for convening the next regular term of said 140th District Court in Lubbock County, Texas.

Sec. 4. The District Clerk of Lubbock County shall act as the District Clerk for the Court herein created. Immediately upon the effective date of this Act the Judge of the 72nd Judicial District Court and the Judge of the 99th Judicial District Court shall enter an order transferring a portion of the cases on the dockets in said Courts to the District Court of the 140th Judicial District herein created; and the District Clerk of Lubbock County shall thereupon transfer such cases accordingly and enter the same upon the docket of the Court created by this Act, together with all records and papers relating thereto.

Sec. 5. The District Attorney in and for the 72nd Judicial District shall act also as the District Attorney for the District Court herein created.

Sec. 6. The Sheriff of Lubbock County shall perform the duties in connection with the Court herein created as provided by law for sheriffs to perform in connection with District Courts.

Sec. 7. The Judge of the District Court of the 140th Judicial District herein created shall appoint an official shorthand reporter for such court who shall be well skilled in his profession, and who shall be a sworn officer of the court and hold office at the pleasure of the Judge of the Court and shall be compensated as provided by law.

Sec. 8. Upon the effective date of this Act, the Governor shall appoint a Judge of the District Court for the 140th Judicial District herein created, who shall have the qualifications required of Judges of District Courts of this State and who shall hold his office until the next general election and until his successor is duly elected and qualified; and he shall be compensated as provided by law.

Sec. 9. All grand and petit juries drawn and selected under existing laws in Lubbock County shall be considered lawfully drawn and selected for the next ensuing term of the 140th District Court.

[Acts 1955, 54th Leg., p. 630, ch. 214.]

141.—Tarrant. See Article 199a, Sec. 3.002

142.—Midland

Sec. 1. The District Court of the 142nd Judicial District of Midland County shall have the jurisdiction provided by the Constitution and Laws of this State for District Courts.

Sec. 2. The 70th District Court shall exercise jurisdiction in Ector County only. The Judge of the 70th District Court shall have authority and power to approve any and all statements of facts and bills of exception, and to make any other order necessary in cases tried in the 70th District Court in Midland County and appealed.

Sec. 3. The terms of the 142nd District Court shall begin on the first Monday in

March and on the first Monday in September; and each term of court may continue until the date herein fixed for the beginning of the next succeeding term therein.

Sec. 4. The terms of the 70th District Court in Ector County shall begin on the first Monday in March and the first Monday in September; and each term of court may continue until the date herein fixed for the beginning of the next succeeding term therein; provided, however, that the term of the District Court which is in progress on September 1, 1954 may continue until the beginning of a new term as fixed herein.

Sec. 5. The Judge of the 142nd District Court shall appoint an official shorthand reporter, who shall be compensated as provided by law. The District Clerk of Midland County shall be the clerk of the 142nd District Court of Midland County.

Sec. 6. The office of District Attorney of the 142nd Judicial District is hereby established and made permanent. The present District Attorney shall serve as District Attorney for the 142nd Judicial District and shall hold office until the time for which he was elected expires and until his successor qualifies. He shall possess the qualifications and receive the compensation provided by law for District Attorneys, and his compensation shall be paid in the same manner in which other District Attorneys are paid.

Sec. 7. The District Attorney of the 70th Judicial District shall perform the duties of his office in Ector County, only.

Sec. 8. The territorial limits of the 70th Judicial District shall hereinafter be composed of Ector County and the Judge and District Attorney of the 70th Judicial District shall hereafter be elected by the voters of Ector County, provided, however, that the present Judge and present District Attorney of the 70th Judicial District shall continue in office for the expiration of their present terms.

[Acts 1954, 53rd Leg., 1st C.S., p. 120, ch. 55; Acts 1955, 54th Leg., p. 632, ch. 215, § 3.]

143.—Ward, Reeves and Loving

Sec. 1. From and after the effective date of this Act, the 143rd Judicial District of Texas shall be composed and confined to the Counties of Ward, Reeves and Loving.

Sec. 2. The terms of the 143rd Judicial District Court shall be as follows:

In the County of Ward on the third Monday in February, the first Monday in June, the third Monday in September and the first Monday in December, and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Ward County.

In the County of Reeves on the first Monday in January and third Mondays in May, August and October and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Reeves County.

In the County of Loving on the first Monday in April, the first Monday in August and the third Monday in December and may continue in session until 10:00 A.M. of the Monday for convening the next regular term of such Court in Loving County.

[Acts 1955, 54th Leg., p. 974, ch. 379, § 8.]

144, 175.—Bexar

Sec. 1. That the Criminal Judicial District Court of Bexar County, Texas, heretofore originally created by the terms of H.B.No.131, Acts of 1933, 43rd Legislature, page 867, Chapter 247, and as now provided for by the terms of H.B.No.486, Acts of 1957, 55th Legislature, page 1478, Chapter 507, is hereby designated as and shall henceforth be known as the 144th Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 2. That the Criminal Judicial District Court No. 2 of Bexar County, Texas, heretofore originally created as a permanent district court under the terms of S.B.No. 395, Acts of 1955, 54th Legislature, page 730, Chapter 262, and as now provided for by the terms of H.B.No. 486, Acts of 1957, 55th Legislature, page 1478, Chapter 507, is hereby designated as and shall henceforth be known as the 175th Judicial District Court, the limits of which district shall be coextensive with the limits of Bexar County, Texas.

Sec. 3. The present District Judges of the Criminal Judicial District Court of Bexar County, Texas, and the Criminal Judicial District Court No. 2 of Bexar County, Texas, duly elected and acting as such shall be the District Judges of the 144th Judicial District Court and the 175th Judicial District Court of Bexar County, Texas, respectively until the time for which they have been elected expires and until their successors are duly elected and qualified, as provided for by the Constitution and the laws of this state.

Sec. 4. All appropriations heretofore made or hereafter made for the payment of the salaries and the expenses of the judges of the Criminal Judicial District Court of Bexar County, Texas, and the Criminal Judicial District Court No. 2 of Bexar County, Texas, respectively, shall be made available for the payment of the salaries of the judges of the 144th Judicial District Court and the 175th Judicial District Court of Bexar County, Texas, respectively.

Sec. 5. Each of the said District Courts shall have an official seal as provided by law for District Courts.

[Acts 1961, 57th Leg., p. 38, ch. 24, eff. Aug. 28, 1961.]

145.—Nacogdoches

Sec. 1. The 145th Judicial District is composed of Nacogdoches County.

Sec. 2. The District Court of the 145th Judicial District shall have two terms each year, which shall begin on the first Mondays of March and September. Each term shall con-

tinue until the date for the beginning of the next term. The Judge may, in his discretion, hold as many sessions of court in any term of the court as is deemed by him proper and expedient for the dispatch of business.

Sec. 3. The 145th District Court shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the constitution and laws of Texas to District Courts.

Sec. 4. The District Clerk of Nacogdoches County shall be the Clerk of the District Court of the 145th Judicial District.

Sec. 5. On the effective date of this Act, the District Clerk of Nacogdoches County shall transfer all civil and criminal cases pending in the 2nd District Court in Nacogdoches County to the 145th District Court. All citations and other process issued by the district clerk and all notices, restraining orders and other process authorized to be issued by the Judge of the 2nd District Court or the 145th Judicial District in Nacogdoches County shall be returnable to the 145th District Court.

Sec. 6. The Judge of the 145th District Court may appoint an official court reporter who shall have the qualifications and receive the same compensation as is now, or may hereafter be, fixed by law, for court reporters in District Courts.

Sec. 7. The Judge of the 145th District Court in office on the effective date of this Act shall continue in office for the term for which he was elected.

Sec. 8. The Judge of the 145th District Court may take a vacation and not attend Court for four weeks in each year.

[Acts 1955, 54th Leg., p. 1230, ch. 492; Acts 1969, 61st Leg., 2nd C.S., p. 158, ch. 23, § 5.006, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 791, ch. 353, § 2, eff. June 12, 1973.]

146.—Bell

Sec. 1. An additional District Court is hereby created in and for the County of Bell, State of Texas, the limits of which district shall be coextensive with the limits of said County. Said Court shall be known as the 146th District Court.

Sec. 2. Beginning with the General Election of 1960 and thereafter a Judge shall be elected as Judge of the 146th District Court as provided by the Constitution and Laws of the State of Texas, and no Judge shall be appointed to hold office until the first such election.

Sec. 3. The terms of the District Court of the 146th Judicial District shall be on the first Monday in April and may continue until the last Saturday in June, on the first Monday in July and may continue until the last Saturday in September, on the first Monday in October and may continue until the last Saturday in December, and on the first Monday in January and may continue until the last Saturday in March.

Sec. 4. The District Clerk, Sheriff and District Attorney of the County shall perform all

the duties and functions relative to all District Courts of their County as is required by law for the District Court thereof.

Sec. 5. The Judge of the 146th District Court is authorized to appoint an official court reporter for his Court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the Judge of the Court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereafter allowed for official shorthand reporters for District Courts under the Laws of this State.

Sec. 6. All process, writs, bonds, recognizances or other obligations issued out of District Courts of the county coming under this Act are hereby made returnable to the terms of the District Courts of said County, as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of the County herein, shall be valid.

[Acts 1959, 56th Leg., p. 1075, ch. 490, eff. Aug. 11, 1959; Acts 1973, 63rd Leg., p. 1284, ch. 476, § 2, eff. June 14, 1973.]

147.—Travis

Sec. 1. There is hereby created the 147th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and the Criminal District Court of Travis County is hereby designated and created as the 147th Judicial District Court of Travis County, Texas.

Sec. 2. The 147th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and laws of the State of Texas to District Courts; provided, however, that such Court shall give preference to criminal matters.

Sec. 3. The present Judge of the Criminal District Court of Travis County, Texas, duly elected and acting as such, shall be the Judge of this Court and shall henceforth be known as the Judge of the 147th Judicial District Court of Travis County, and shall exercise all the powers and duties now or hereafter vested in and exercised by District Judges. He shall continue to serve as Judge of such Court until his present term of office expires and until his successor is elected and qualified as provided in the Constitution and laws of this State. He shall have the qualifications provided by the Constitution and laws of this State for District Judges of Travis County.

Sec. 4. All appropriations heretofore made and hereafter made for the payment of the sal-

aries and expenses of the Judge of the Criminal District Court of Travis County shall be made available for the payment of the salary and expenses of the Judge of the 147th Judicial District Court of Travis County.

Sec. 5. The 147th Judicial District Court of Travis County, Texas, shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, such terms to be as follows:

Beginning on the first Monday of January of each year and may continue until the first Monday of April; beginning on the first Monday of April and may continue until the first Monday of July; beginning on the first Monday of July and may continue until the first Monday of October; beginning on the first Monday of October and may continue until the first Monday of January of the following calendar year. A grand jury shall be impaneled in said Court for each term thereof in the same manner as is now or may hereafter be required by law in District Courts and under like rules and regulations. The Judge of said Court may also impanel other grand juries at any time as in his judgment is necessary, by an order entered in the minutes of the Court. The other District Courts of Travis County shall be relieved of the mandatory duty of impaneling grand juries but may impanel same in their discretion when necessary in accordance with the provisions of law.

Sec. 6. The Judge of the 147th Judicial District Court of Travis County and the Judge of each other District Court of Travis County may in their discretion exchange benches and hear cases for each other in the same manner as the Judge of each of such District Courts of Travis County may now do as provided by law, and cases may be transferred from such District Courts to other District Courts within Travis County as is provided by law by appropriate orders made and entered on the docket of the Court so transferring same. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear or determine any question in any case, and any other of said Judges may complete the hearing and render judgment in the case.

Sec. 7. On and after the effective date of this Act, all processes, writs, bonds, recognizances, or other obligations issued out of the Criminal District Court of Travis County or made returnable thereto, are hereby made returnable to the 147th Judicial District Court of Travis County, Texas, and all bonds executed and recognizances entered into in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as are fixed by law and by this Act; and all processes heretofore issued or returned, as well as all bonds and recognizances heretofore taken in the Criminal District Court of Travis County, Texas, shall be valid and binding.

Sec. 8. The 147th Judicial District Court shall have a seal of like design as now provided by law for District Courts in this State, which seal shall be used for all purposes for which seals of District Courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said Court, under the hand of the Clerk and attested by the seal of said Court, shall be admissible in evidence in all courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 9. The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided by law shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 147th Judicial District Court under the same rules and regulations as are now or may hereafter be prescribed by law for Sheriffs, District Attorneys, County Attorneys, and Clerks of the District Courts of the State; and the Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of this State to be paid in the same manner.

Sec. 10. The Judge of said 147th Judicial District Court shall have the right to appoint an official Court Reporter who shall have the qualifications and receive the same compensation as are now or may hereafter be fixed by law for Court Reporters in District Courts.

[Acts 1957, 55th Leg., p. 721, ch. 299; Acts 1963, 58th Leg., p. 120, ch. 71, § 1.]

148.—Nueces. See Article 199a, Sec. 3.001

149.—Brazoria. See Article 199a, Sec. 3.027

150.—Bexar

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

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

Sec. 3. From and after the effective date of this Act Bexar County shall constitute the 37th, 45th, 57th, 73rd, 131st, 150th, Criminal Judicial District of Bexar County and the Criminal Judicial District No. 2 of Bexar County, Texas. Each of the said eight (8) District Courts shall have and exercise civil and criminal jurisdiction in Bexar County, Texas. Said District Courts shall have and exercise in addition to the jurisdiction now conferred or to be conferred by law on said Courts, concurrent ju-

jurisdiction coextensive with the limits of Bexar County, Texas, in all actions, proceedings, matters, and causes, both civil and criminal, of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

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

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

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

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

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

in the 131st Judicial District; and the sixth case or proceeding and every sixth case or proceeding thereafter filed shall be docketed in the 150th Judicial District; and so on seriatim; and in this manner all cases or proceedings filed to be docketed in and divided equally among the 37th, 45th, 57th, 73rd, 131st, and 150th Judicial District Courts, one sixth ($\frac{1}{6}$) in each Court.

Sec. 9. The District Judges of Bexar County, Texas, shall on or before the first day of January and the first day of July of each year elect one (1) of the said District Judges as Presiding Judge of the Bexar County District Judges. The Presiding Judge of the Bexar County District Judges shall, when this Act becomes effective and from time to time as occasion may require in order to adjust the business and dockets of said Courts, transfer, or cause to be transferred, upon the approval of the Judges of said Courts, causes for any of said Courts to any other of said Courts in order that the business of said Courts shall be continually equalized and distributed among them to the end that each Judge shall be at all times provided with cases or proceedings to try or otherwise consider and that the trial of no cause shall be delayed because of the disqualification of the Judge in whose Court it is pending. When a case is transferred, proper order shall be entered on the minutes of the Court as evidence thereof. The clerk shall properly docket all cases transferred. It is the intention of this Act that the Criminal District Court and the Criminal District Court No. 2 of Bexar County, Texas, give preference to criminal matters while the other District Courts shall give preference to civil cases, matters or proceedings. The Judges of the said District Courts shall sign the minutes of each term of said Court in Bexar County, Texas, within thirty (30) days after the end of the term, and also shall sign the minutes at the end of each volume of the minutes, and each Judge sitting in said Courts shall sign the minutes of such proceedings as were had before him.

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

Sec. 11. All bail bonds, recognizances or other obligations, taken for the appearance of the defendants, parties and witnesses in any of the said District Courts or the Criminal District Courts of Bexar County, Texas, or any inferior court of Bexar County, Texas, shall be binding on all such defendants, parties and

witnesses and their sureties for appearance in any of said Courts in which said cause may be pending or to which same may be transferred. In all cases transferred from one (1) of said Courts to another all process, bonds, recognizances and obligations extant at the time of such transfer shall be returned to and filed in the court to which the cause is transferred and shall be valid and binding as though originally issued out of the court to which it is transferred.

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

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

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

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

Sec. 16. Repealed by Acts 1963, 58th Leg., p. 1312, ch. 501, § 15, eff. Aug. 23, 1963.

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

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

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

Sec. 20. The compensation of each Judge shall be the same as the compensation paid the Judges of other District Courts including the expenses as provided by the laws of this State, and the compensation shall be paid in the manner in which other District Judges of the State are paid.

[Acts 1957, 55th Leg., p. 1478, ch. 507; Acts 1963, 58th Leg., p. 1312, ch. 501, § 15, eff. Aug. 23, 1963.]

151.—Harris. See 11th District

152.—Harris. See 11th District

153.—Tarrant

Sec. 1. There is hereby created in and for Tarrant County, Texas, effective September 1, 1955, an additional District Court to be known as the District Court of the 153rd Judicial District of Texas composed of the County of Tarrant.

Sec. 2. The District Court for the 153rd Judicial District shall have and exercise concurrent jurisdiction with the 17th, 48th, 67th and 96th District Courts within the limits of Tarrant County in all civil cases or proceedings and matters over which District Courts are given jurisdiction by the Constitution and laws of this State.

Sec. 3. The terms of the District Court of the 153rd Judicial District shall be as follows:

On the first Monday in February, May, August and November and may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of such Court. Any term of the Court may be divided into as many sessions as the Judge thereof may deem expedient for the disposition of business.

Sec. 4. Immediately on the effective date of this Act, the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court for the 153rd Judicial District who shall hold office until the next general election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other District Judges under the laws of this State.

Sec. 5. The Judge of the 153rd District Court is authorized to appoint an official shorthand reporter of such Court who shall have the qualifications now required by law of official shorthand reporters. Such reporter shall perform such duties as are required by law and such duties as may be assigned to him by the Judge of the 153rd District Court and shall receive as compensation for his services the compensation now allowed other official shorthand reporters under the laws of this State.

Sec. 6. The District Clerk of Tarrant County shall also act as District Clerk for the 153rd Judicial District in Tarrant County.

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

Sec. 8. The Sheriff of Tarrant County shall attend either in person or by deputy the Court as required by law in Tarrant County or when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said Court shall receive fees provided by General Law for executing process out of District Courts.

Sec. 9. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Tarrant County are hereby made returnable to the terms of the District Courts of Tarrant County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Court as fixed by law and by this Act; and all process heretofore returned, as well as all bonds and recognizances heretofore taken in the District Courts of Tarrant County, shall be valid.

[Acts 1955, 54th Leg., p. 636, ch. 217.]

154.—Lamb, Bailey and Parmer

Sec. 1. From and after the effective date of this Act, there is hereby created the 154th Judicial District of Texas to be composed of the Counties of Lamb, Bailey and Parmer.

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

In the County of Lamb beginning on the first Mondays in January and July of each year des-

ignated as the January and July Terms, respectively.

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

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

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

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

[Acts 1957, 55th Leg., p. 1476, ch. 506.]

155.—Austin, Fayette and Waller

Sec. 1. Beginning September 1, 1967, the 155th Judicial District is composed of Austin, Fayette, and Waller counties, and its jurisdiction is coextensive with the boundaries of those counties. Its court is the 155th District Court, which has concurrent jurisdiction with the 22nd District Court in Austin and Fayette counties and with the 9th District Court in Waller County.

Sec. 2. The governor shall appoint a qualified person to the office of Judge of the 155th District Court. The person appointed holds office until the next general election and until his successor is elected and has qualified. The Judge of the 155th District Court is entitled to the compensation prescribed by law.

Sec. 3. (a) The terms of the court are two each year as follows: In Austin County, beginning on the first Mondays in April and November; in Fayette County, beginning on the first Mondays in February and September; and in Waller County, beginning on the first Mondays in January and June. Each term of court shall continue until the convening of the next regular term of court therein. The Judge of the 155th Judicial District may, at his discretion, hold as many sessions of court in any term of court as may be deemed by him proper and expedient for the disposition of the court's business.

Sec. 4. The Judge of the 22nd District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Austin or Fayette county. The Judge of the 9th District Court or the Judge of the 155th District Court may hear and dispose of any suit or proceeding on the docket of either court in Waller County. This may be done in any case without the necessity of transferring the action or proceeding

from one court to the other, and the Judges may transfer cases from one court to the other by an order entered on the docket of the court from which the case is transferred. Provided, however, that no case shall be transferred without the consent of the Judge of the court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the Clerk of the District Court in said county shall keep the minutes of the court in which shall be recorded all the judgments and orders of the respective courts.

Sec. 5. (a) The District Attorney of the 155th Judicial District composed of Austin, Fayette, and Waller counties shall be appointed by the Governor. The person appointed shall hold office until the next general election and until his successor is elected and has qualified. The District Attorney of the 155th Judicial District shall be entitled to the compensation prescribed by law.

(b) The district clerk of each of the respective counties included in the 155th Judicial District shall be the clerk of the District Court of the 155th Judicial District in each respective county and each clerk shall keep a docket for the 155th District Court.

Sec. 6. In Austin and Fayette Counties, jurors shall be selected as prescribed by law for service in both the 22nd and 155th District Courts. In Waller County, jurors shall be selected as prescribed by law for service in both the 9th and 155th District Courts. In each county, jurors may be summoned and used for the trial of cases interchangeable in either of the district courts.

Sec. 7. The Sheriff of each county of the 155th Judicial District shall attend either in person or by deputy the court as required by law in said county, or when required by the Judge thereof and the sheriffs and constables of the several counties of this state when executing process out of said court shall receive fees provided by general law for executing process out of district courts.

[Acts 1957, 55th Leg., p. 1485, ch. 509; Acts 1963, 58th Leg., p. 946, ch. 374, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 308, ch. 150, § 1, eff. May 9, 1967.]

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

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

Sec. 2. Immediately on the effective date of this Act the Governor shall appoint a suitable person having the qualifications provided by the Constitution and laws of this State as Judge of the District Court of the 156th Judicial District who shall hold office until the

next General Election and until his successor shall be duly elected and qualified as provided by the Constitution and laws of this State, and he shall receive such compensation as allowed other District Judges under the laws of this State.

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

In the County of Aransas on the first Monday in May and on the fourth Monday in October, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

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

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

In the County of Live Oak on the third Monday in March and on the first Monday in October, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

In the County of McMullen on the third Monday in April and the third Monday in November, and may continue in session until the Saturday immediately preceding the Monday for convening the next regular term of such Court in such County.

The Judge of said Court, in his discretion, may hold as many sessions of the Court in any term in any County as he may deem proper and expedient for the dispatch of business.

Sec. 4. The district clerk of each of the respective Counties included in said Judicial District shall be clerk of the District Court of the 156th Judicial District in such respective Counties, and each clerk shall immediately prepare a docket for the 156th District Court.

Sec. 5. The Judge of the 36th District Court or the Judge of the 156th District Court may hear and dispose of any suit or other proceeding on the docket of either of said District Courts of the county in which the action or proceeding is instituted, without the necessity of transferring the suit or proceeding from one (1) Court to the other; and the Judges may transfer cases from one (1) Court to the other by an order entered on the docket of the Court from which the case is transferred, provided that no case shall be transferred without the consent of the Judge of the Court to which transferred. Every judgment and order shall be entered in the minutes of the District Court of the county in which the proceedings are pending, and the clerk of the District Court in

said County shall keep minutes for each District Court in which shall be recorded all judgments and order of each Court, respectively.

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

Sec. 7. The Judges of the 36th and the 156th District Courts shall sign the minutes of each term of said respective Courts in each of said Counties within thirty (30) days after the end of each term, and each Judge shall also sign the minutes of the other Court covering such proceedings as were had before him.

Sec. 8. The district clerk shall file each civil case in numerical order as received and place the odd-numbered cases or proceedings on the docket of the 156th District Court and the even-numbered cases or proceedings on the docket of the 36th District Court.

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

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

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

[Acts 1957, 55th Leg., p. 699, ch. 295.]

157.—Harris. See 11th District

158.—Denton. See Article 199a, Sec. 3.004

159.—Angelina. See Article 199a, Sec. 3.005

160.—Dallas

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

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

with that of the existing district courts of Dallas County, Texas.

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

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

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

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

or in any other manner as directed by the presiding Judge of the District Judges of Dallas County.

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

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

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

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

[Acts 1957, 55th Leg., p. 1487, ch. 510.]

161.—Ector

Sec. 1. There is created hereby in and for Ector County, Texas, one (1) additional District Court, the limits of which district shall be coextensive with the limits of Ector County; said Court shall be known as the District Court of the 161st Judicial District of Texas.

Sec. 2. The 161st District Court shall have and exercise the powers conferred by the Constitution and Laws of the State of Texas on the Judges of the District Courts of Ector County, Texas. The jurisdiction shall be concurrent with that of the existing District Court of Ector County, Texas.

Sec. 3. The terms of the 161st District Court shall begin on the first Monday in March and September of each year respectively, and each term of said Court shall continue until the convening of the next succeeding term.

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

Sec. 5. The Judge of the 161st District Court is authorized to appoint an official Court Reporter for his Court and said Court Reporter shall have the qualifications now required by law for official shorthand reporters. Such Reporters shall perform the duties as required by law and such duties as may be assigned to the Court Reporter by the Judge of the Court to which the Reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Court of Ector County under the Laws of this State.

Sec. 6. The letters "A" and "B" shall be placed on the docket and the court papers of the respective district courts of Ector County to distinguish them, the letter "A" being used in connection with the 70th District Court, and the letter "B" being used in connection with the 161st District Court. All criminal cases shall be filed and docketed by the district clerk of Ector County in rotation from "A" through "B" as such cases are filed or in any other manner as directed by the district judges of Ector County. Civil cases shall not be filed and docketed on a rotation basis. Civil cases shall be filed and docketed by the district clerk in the court designated by the pleadings of the party filing the case, and in the event the pleadings do not specify that the case is to be filed in either the 161st District Court or the 70th District Court, the district clerk may file such case in either of said Courts, at the clerk's discretion.

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

Sec. 8. The District Clerk of Ector County shall also act as District Clerk for the 161st District Court of Ector County.

Sec. 9. The District Attorney in and for the 70th Judicial District shall act also as the District Attorney for the District Court created herein.

Sec. 10. The Sheriff of Ector County shall attend either in person or by Deputy the 161st District Court, as required by law in Ector County or when required by the Judge thereof, and the Sheriffs and Constables of the several counties of this State when executing process out of said Courts shall receive fees provided by General Law for executing process out of District Courts.

Sec. 11. All process, writs, bonds, recognizances or other obligations issued out of the District Courts of Ector County are hereby made returnable to the terms of the District Courts of Ector County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such bonds and recognizances heretofore taken in the District Court of Ector County shall be valid.

Sec. 12. All grand and petit juries drawn and selected under existing laws in Ector County shall be considered lawfully drawn and selected for either the 161st District Court or the 70th District Court, and may be used interchangeably in connection with said Courts.

[Acts 1959, 56th Leg., p. 528, ch. 233, eff. Sept. 1, 1959; Acts 1963, 58th Leg., p. 128, ch. 75, § 1, eff. Aug. 23, 1963.]

162.—Dallas

(A) There is hereby created effective October 1, 1963, in and for Dallas County, Texas, one additional Judicial District Court to be known as the District Court for the 162nd Judicial District of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(B) There is hereby created effective September 1, 1963, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District Number 4 and the Court of said District shall be known as the Criminal District Court Number 4 of Dallas County, Texas. The limits of said District shall be coextensive with the limits of Dallas County, Texas.

(C) The District Court for the 162nd Judicial District shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the District Courts of Dallas County, Texas. The jurisdiction of said Court shall be concurrent with that of the existing District Courts of Dallas County, Texas. The Criminal District Court Number 4 shall have and exercise the powers conferred by the Constitution and laws of the State of Texas on the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said Court shall be concurrent with that of the existing Criminal District Courts of Dallas County, Texas. All of said Courts hereby created shall have and exercise, in addition to the jurisdiction now conferred by law on said Courts, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes both civil and criminal of which District Courts of general jurisdiction are given jurisdiction by the Constitution and laws of the State of Texas.

(D) The term of the 162nd Judicial District Court shall begin on the first Monday of January and July of each year, respectively, and the term of said Court shall continue until the convening of the next succeeding term.

The Criminal Judicial District Court Number 4 shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October.

(E) The judge of each of the Courts hereby created is authorized to appoint an official court reporter for his court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Each such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of the court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for

the District Courts of Dallas County, Texas, under the laws of this State.

(F) The letter "I" shall be placed on the docket and court papers of the 162nd District Court. As soon as possible after this Act takes effect the District Clerk of Dallas County, Texas, shall, under the direction of the presiding judge of the District Judges of Dallas County, cause the civil dockets to be equalized in each of the District Courts handling civil matters in Dallas County by transferring pending cases from existing District Courts to the District Courts created by this Act as will be necessary to equalize the dockets of each of the District Courts; and thereafter civil cases shall be docketed by the District Clerk in rotation from A through I as such cases are filed or in any other manner as directed by the presiding judge of the District Judges of Dallas County. The District Clerk, similarly, shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court Number 2 and the Criminal District Court Number 3 to the Criminal District Court Number 4.

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

(H) The District Attorney of Dallas County shall also be the District Attorney for the additional Courts created by this Section.

(I) The District Clerk of Dallas County, Texas, shall also act as District Clerk for the 162nd Judicial District, and the Criminal District Court Number 4.

(J) The Sheriff of Dallas County either in person or by deputy shall attend the Courts created by this Section as required by law or when required by the respective judges thereof and the sheriff and constables of the several counties of this State when executing processes out of said Courts shall receive fees as

provided by General Law for executing processes issued out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said Courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such Courts as fixed by law and this Section and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

(L) Except as herein otherwise provided, all laws and parts of laws applicable to District Courts and Criminal District Courts of Dallas County shall be applicable to the Courts created by this Section.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 1, eff. Sept. 1, 1963; Acts 1965, 59th Leg., p. 351, ch. 167, § 1, eff. May 17, 1965.]

163.—Orange

(A) There is hereby created effective September 1, 1963, an additional Judicial District in and for the County of Orange, State of Texas, the limits of which District shall be coextensive with the limits of said County. Said Judicial District shall be known as the 163rd Judicial District.

(B) The District Court for the 163rd Judicial District shall have and exercise the jurisdiction prescribed by the Constitution and laws of this State for district courts in general. The judge thereof shall have and exercise the powers conferred by the Constitution and laws of this State on the judges of the district courts in general. The jurisdiction of said Court shall be concurrent with that of the 128th District Court in Orange County.

(C) The terms of the 163rd District Court shall begin on the first Monday in January, May and September of each year, respectively, and each term of said Court shall continue until the convening of the next succeeding term.

(D) The Judge of the Court created by this Section shall draw the same compensation that is provided by the laws of the State of Texas for the Judge of the 128th District Court.

(E) The Judge of the 163rd District Court is authorized to appoint an official court reporter for this Court and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the Judge of the Court to which the reporter is appointed and shall receive as compensation for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Court of Orange County under the laws of this State.

(F) The letters "A" and "B" shall be placed on the docket and the court papers of the re-

spective District Courts of Orange County to distinguish them, the letter "A" being used in connection with the 128th District Court and the letter "B" being used in connection with the 163rd District Court. As soon as possible after this Act takes effect the District Clerk of Orange County shall, under the direction of the District Judges of said Courts, cause the civil and criminal dockets to be equalized in the number of cases pending in each of the existing Courts; and thereafter civil and criminal cases shall be docketed by the District Clerk in rotation from "A" through "B" as such cases are filed, or in any other manner as directed by the said District Judges.

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

(H) The District Clerk of Orange County shall also act as District Clerk for the 163rd District Court of Orange County.

(I) The District Attorney in and for the 128th Judicial District Court shall also act as the District Attorney for the 163rd Judicial District Court created herein.

(J) The Sheriff of Orange County shall attend either in person or by deputy the 163rd District Court, as required by law in Orange County or when required by the Judge thereof, and the Sheriff and constables of the several counties of this State when executing process out of said Courts shall receive fees provided by General Law for executing process out of District Courts.

(K) All processes, writs, bonds, recognizances or other obligations issued out of the District Courts of Orange County are hereby made returnable to the terms of the District Courts of Orange County as said terms are fixed by law and by this Act, and all bonds executed and recognizances entered by and in said Court shall bind the parties for their appearance or to fulfill the obligations of such

bonds and recognizances heretofore taken in the 128th District Court shall be valid.

(L) All grand and petit juries drawn and selected under existing laws in Orange County shall be considered lawfully drawn and selected for either the 163rd District Court or the 128th District Court, and may be used interchangeably in connection with said Courts.

(M) Except as otherwise provided in this Act, all laws now in effect with respect to the 128th District Court of Orange County shall apply to the 163rd District Court created by this Section.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 2, eff. Sept. 1, 1963.]

164, 165.—Harris

There are hereby created in and for Harris County, Texas, two (2) additional District Courts, the limits each of which shall be coextensive with the limits of Harris County, Texas. Said Courts shall be known, respectively, as the 164th and 165th District Courts; the 164th District Court shall be effective September 1, 1963, and the 165th District Court shall be effective June 1, 1964.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 3(A).]

166.—Bexar

There is hereby created effective February 1, 1964, one (1) additional District Court in and for Bexar County, Texas, to be known as the 166th Judicial District Court. The limits of such District Court shall be coextensive with the limits of Bexar County, Texas.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 4(A), eff. Sept. 1, 1963.]

167.—Travis

(A) There is hereby created effective June 1, 1964, the 167th Judicial District to be composed of and to have its boundaries coextensive with the boundaries of Travis County, Texas; and there is also hereby created the 167th Judicial District Court of Travis County, Texas.

(B) The 167th Judicial District Court of Travis County, Texas, shall have jurisdiction over all matters, both civil and criminal, of which jurisdiction is given or shall be given by the Constitution and Laws of Texas to district courts.

(C) The terms of the 167th Judicial District Court of Travis County, Texas, shall begin on the first Monday in March and the first Monday in September of each year and each term of said Court shall continue until the convening of the next succeeding term.

(D) The Judge of said District Court shall have the right to select jury commissioners and empanel grand juries and may order both grand and petit juries to be drawn for such terms of his Court as in his judgment is necessary, by an order entered in the minutes of said Court.

(E) The Judge of said District Court is authorized to appoint an official Court Reporter for said Court who shall have the qualifications and receive the same compensation as are

now, or may hereafter be, fixed by law for court reporters in district courts.

(F) The Sheriff, District Attorney, County Attorney, and the Clerk of the District Courts of Travis County, as heretofore provided for by law, shall be the Sheriff, District Attorney, County Attorney, and Clerk, respectively, of the 167th Judicial District Court herein created under the same rules and regulations as are now or may hereafter be prescribed by law for sheriffs, district attorneys, county attorneys, and clerks of the district courts of the State; and said Sheriff, District Attorney, County Attorney, and Clerk shall respectively receive such compensation as is now or may hereafter be prescribed by law for such officers in the district courts of this State to be paid in the same manner.

(G) The Judge of said Court may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion transfer any cause, civil or criminal, on his docket to the docket of one of the other District Courts of Travis County, Texas, and any of the Judges of the other District Courts in Travis County, Texas, may, in his discretion, either on motion of any party or on agreement of the parties or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of said 167th Judicial District Court of Travis County, Texas, and the Judge of any of the District Courts of Travis County, Texas, may, in his discretion, exchange benches with any other District Judge in Travis County, Texas from time to time; and whenever a judge of any of said District Courts is disqualified, he shall transfer the case from his Court to one of the other District Courts in said County and any of the Judges of the District Courts of Travis County may in his own courtroom try and determine any case or proceeding pending in any of the other District Courts of Travis County, without having the case transferred or may sit in any of the other of said Courts and there hear and determine any case there pending and each judgment and order shall be entered in the minutes of the Court in which the case is pending, and two (2) or more judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any other Court. In case of absence, sickness, or disqualification of any of said District Judges of Travis County, any other of said Judges may hold court for him. Any of said Judges may hear any part of any case or proceeding pending in any of said Courts and determine the same or may hear or determine any question in any case and any other of said Judges may complete the hearing and render judgment in the case. Any of said Judges may hear and determine exceptions, motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trial and all preliminary matters, questions, and proceedings, and may enter judg-

ment or order thereon in the Court in which the case is pending, without having the case transferred to the Court of the Judge acting and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter or any part thereof and render final judgment thereon. Any of the Judges of said Courts may issue restraining orders and injunctions returnable to any of the other judges of courts.

[Acts 1963, 58th Leg., p. 1332, ch. 507, § 5, eff. Sept. 1, 1963.]

168.—El Paso. See Article 199a, Sec. 3.006

169.—Bell. See Article 199a, Sec. 3.003

170.—McLennan

Sec. 1. [See 19th District].

Sec. 2. The 170th Judicial District and the 170th District Court are established for McLennan County. The judge of the 170th District Court shall receive the same amount of salary and supplemental compensation as the other district judges of McLennan County.

Sec. 3. The sheriff, district clerk, and criminal district attorney of McLennan County shall serve in their respective capacities for the 170th District Court. The criminal district attorney of McLennan County may employ four investigators or assistants in addition to those now provided by law.

Sec. 4. The first judge of the 170th District Court shall be elected in the general election of 1970. This Section takes effect January 1, 1970, and the remainder of this bill takes effect January 1, 1971.

[Acts 1969, 61st Leg., p. 2006, ch. 684, §§ 2 to 4.]

171.—El Paso

A. Creation and Jurisdiction. (a) The 171st Judicial District is created. Its boundaries are coextensive with the boundaries of El Paso County, Texas, and its court is the 171st District Court of El Paso County, Texas.

(b) The 171st District Court has the jurisdiction provided for district courts by the constitution and laws of this state. Its jurisdiction is concurrent with that of the 34th, 41st, 65th, and 120th District Courts.

B. Terms of Court. The terms of the 171st District Court begin on the first Monday in January and the first Monday in July of each year. Each term of the court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint as judge of the 171st District Court a person qualified to serve as a district judge under the constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and qualified. A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the District Court of the 171st Judi-

cial District. The salary shall be paid as provided by law.

D. Court Officials. (a) The Judge of the 171st District Court may appoint an official court reporter. The reporter must meet the qualifications prescribed by law for that office and is entitled to the same compensation, fees, and allowances provided by law for other official court reporters.

(b) The District Attorney of the 34th Judicial District and the sheriff and district clerk of El Paso County shall serve as district attorney, sheriff, and clerk, respectively, of the 171st District Court. They shall perform the duties, and are entitled to the compensation and allowances, prescribed by law for their respective offices.

E. Transfer of Causes. (a) The judges of the 34th, 41st, 65th, 120th, and 171st District Courts may freely transfer causes, civil and criminal, to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(b) A judge of one of the district courts of El Paso County may hear all or any part of a cause pending in another district court of that county; and he may rule and enter orders on, continue, determine, or render judgment on all or any part of the cause without the necessity of transferring it to his own docket.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10b, eff. Sept. 1, 1965.]

172.—Jefferson. See Article 199a, Sec. 3.007

173.—Anderson, Henderson and Houston. See Article 199a, Sec. 3.008

174.—Harris

Sec. 1. The territorial limits of the Criminal Judicial District composed of the counties of Galveston and Harris is hereby changed so as to hereafter include Harris county alone, and there is hereby created and established in the city of Houston, in the county of Harris, a Criminal District Court, which shall have original and exclusive jurisdiction over all criminal cases, both felony and misdemeanor, in the county of Harris, of which district and county courts under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall be known as "The Criminal District Court of Harris County."

Sec. 2. The said court shall have exclusive appellate jurisdiction over all criminal cases tried and determined by justices of the peace, mayors and recorders in said county of Harris, under the same rules and regulations as are provided by law for appeals from justices of the peace, mayors and recorders to the county courts in criminal cases.

Sec. 3. The judge of said court hereinafter provided for shall have power to grant writs of habeas corpus, mandamus and all writs necessary to enforce the jurisdiction of his court,

under the same rules and regulations which govern district judges.

Sec. 4. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof, and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 5. Said court shall have jurisdiction over all criminal cases heretofore transferred from other courts to the Criminal District Court of Harris County as heretofore established, and over such criminal cases as may hereafter be transferred to the court created by this Act, as fully in all respects as if said cases had originated in said court.

Sec. 6. The said Criminal District Court of Harris County shall have a seal similar to the seal of the district court, with the words "Criminal District Court of Harris County" engraved thereon, an impression of which seal shall be attached to all writs and other process, except subpoenas issuing from said court, and shall be used in the authentication of all official acts of the clerk of the said court.

Sec. 7. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern in so far as the same may be applicable.

Sec. 8. All laws regulating the selection, summoning, and impaneling of grand and petit jurors in the district court shall govern and apply in the criminal district court in so far as the same may be applicable; provided, that the clerk of the district court of Harris county shall assist in drawing the names of the jurors for said criminal court as is now provided by law.

Sec. 9. All rules of the criminal procedure governing the district and county courts shall apply to and govern said criminal district court.

Sec. 10. [Not included.]

Sec. 11. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning the first Monday in August, one term beginning on the first Monday in November and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of.

Sec. 12. Whenever the Criminal District Court of Harris County shall be engaged in the trial of any cause when the time for the expiration of the term of said court as fixed by law shall arrive, the judge presiding shall have the power and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 13. The sheriff of Harris county and his deputies shall attend upon said court and execute all the process issuing therefrom and perform all duties required by said court or the judge thereof, and shall perform all such services for said court as sheriffs and constables are authorized or required to perform in and for other district courts of this State and he shall receive the same fees for his services as are provided by law for the same services in the district court.

Sec. 14. In all matters over which said criminal district court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rules in the exercise of such power.

Sec. 15. Appeals and writs of error may be prosecuted from the said criminal district court to the court of criminal appeals, in the same manner and form as from district courts in like cases. Superseding article 2228, Rev. Civ.St.1911.

Sec. 16. The county of Harris is hereby created a separate criminal judicial district and at the next general election after this Act shall take effect, there shall be elected in and for said district a criminal district judge, a criminal district clerk and a district attorney, each of whom shall have and exercise, respectively, the same duties, powers and authority within said county as are now possessed and exercised by the judge of the criminal district court, the clerk of the criminal district court, and the district attorney for the criminal district composed of Galveston and Harris Counties, and such other duties as are prescribed herein.

Sec. 17. From and after the taking effect of this Act, the criminal district now composed of Galveston and Harris counties shall cease to exist so far as it embraces Galveston county, and all cases of felony that are then pending on the docket of the Criminal District Court of Galveston County shall be at once transferred to the district courts in said county of the Tenth and Fifty-sixth Judicial Districts, the felony cases on said docket of even numbers shall be transferred to the district court for the Tenth Judicial District and the felony cases on said docket of odd numbers shall be transferred to the district court for the Fifty-sixth Judicial District, and the said district court for the Tenth Judicial District and the said court for the Fifty-sixth Judicial District are hereby vested with concurrent exclusive jurisdiction of all felony cases arising in the county of Galveston, and the judges of said courts are hereby vested with all powers, privileges, and authority given by the Constitution and laws of this State in criminal matters, to the district courts of this State; and the judge of the district court for the Tenth Judicial District and the judge of the district court for the Fifty-sixth Judicial District shall alternately impanel grand juries in said county of Galveston in the same manner provided therefor by the judges of the district courts of this State;

and from and after taking effect of this Act, all cases of misdemeanor pending on the docket of the Criminal District Court of Galveston County shall be transferred to the County Court of Galveston County, Texas, unless there be a county court at law of said county, in which event they shall be transferred to the latter court; and said county court and the judge thereof is hereby vested with all the powers, privileges and authority in criminal cases that are conferred by the laws of this State on the county court; and the clerk of the District Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of felony that are now conferred by law on clerks of the district court in this State, and shall be the custodian of the records in felony cases transferred from said Criminal District Court and hereafter arising in the county of Galveston; and the clerk of the County Court of Galveston County is hereby vested with the powers, duties and authority in criminal matters in cases of misdemeanor as are now conferred by law on the clerks of the county courts of this State, and such clerk shall be the custodian of the papers and records of misdemeanor cases arising in such county after such transfer, and the clerk of the Criminal District Court of Galveston County shall at once make the transfer of cases herein provided and turn over the papers and records of his office to the clerk of the district court and the clerk of the County Court of Galveston County as herein provided. The clerk of the district court shall file and docket the even numbered felony cases in the court of the Tenth Judicial District and the odd numbered felony cases in the court of the Fifty-sixth Judicial District, but any case pending in either of said courts may, in the discretion of the judge thereof, be transferred by one of said district courts to the other, and in case of the disqualification of the judge of either of said courts and in any case, such case on his suggestion of disqualification shall stand transferred to the other of said courts and docketed by the clerk accordingly. All writs and process heretofore, or that may hereafter be issued, up to the time this Act shall take effect, which are made returnable to the Criminal District Court of Galveston and Harris Counties, shall be returnable to the court to which the cause has been or may be transferred in like manner as if originally made returnable to said court and all writs and process are hereby validated.

The district clerk of Galveston county shall receive the sum of \$600.00 per annum, to be paid by the county of Galveston for ex officio services, and receive the same fees in criminal cases as fixed by law in felony cases, and the county clerk shall receive the sum of \$600.00 per annum for ex officio services and be entitled to such fees as are provided by law in misdemeanor cases.

The county commissioners court shall have authority to pay for the services of a special deputy district or county clerk, or both, if in

their judgment such shall be required; such assistant to be appointed by the clerk of the court in which his services are needed. The county attorney and his assistant shall conduct all prosecutions in said district and county courts and county court at law and said county attorneys and the clerks of said court shall receive such fees as are now or may hereafter be provided for by law.

Sec. 17a. The Criminal District Court of Harris County herein provided for shall, from and after the time when this Act takes effect, be taken and deemed to be, in respect to all matters of jurisdiction, records and procedure a continuation of the Criminal District Court of Galveston and Harris Counties as now organized for Harris county, it being the intention of this Act to reduce the territorial limits of the Criminal Judicial District of Galveston and Harris Counties to Harris county alone.

Sec. 18. The judge of the Criminal District Court of Harris County shall be elected by the qualified voters of said county for a term of four years and shall hold his office until his successor is elected and qualified. He shall possess the same qualifications as are required of the judges of the district court and shall receive the salary and compensation as is now, or may hereafter be provided for district judges of this State, to be paid in the same manner as the salary and compensation of other district judges is paid. Said judge of said criminal district court shall have and exercise all the powers and duties which are now, or hereafter may be by law vested in and exercised by district judges of this State in criminal cases. The judge of said court may exchange with other district judges, as provided by law, and the said judge shall have all the power within said criminal district which is by the Constitution and laws of this State vested in district judges of their respective judicial districts, except that the jurisdiction and authority of said criminal district judge shall be limited to criminal cases, and to the exercise of such powers and the granting of such writs and process as may be necessary or incidental to the exercise of such criminal jurisdiction.

Sec. 19. There shall be elected by the qualified electors of the criminal district of Harris county, Texas, an attorney for said court who shall be styled "The Criminal District Attorney of Harris County," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said criminal district attorney shall possess all of the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys. It shall be the duty of said criminal district attorney, or of his assistants, as hereinafter provided, to be in attendance upon each term of said Criminal District Court of Harris County and to represent the State in all matters pending before said court. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Harris county

that now has jurisdiction of criminal cases, as well as any or all courts that may be hereafter created and given jurisdiction of any criminal cases, and he shall collect the fees therefor provided by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris county, as well as before the criminal court of said county. The criminal district attorney of Harris county shall have and exercise, in addition to the specific powers given and duties imposed upon him by this Act, all such powers, duties and privileges within said criminal district of Harris county as are by law now conferred or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this State. It is further provided that he and his assistants shall have the exclusive right, and it shall be their sole duty to perform the duties provided for in this Act, except in cases of the absence from the county of the criminal district attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided in this Act, or to represent the State in any case in Harris county, except in case of the absence from Harris county, or the disability or refusal to act, of the criminal district attorney and his assistants.

Sec. 20. The said criminal district attorney of Harris county shall be commissioned by the Governor and shall receive a salary of five hundred dollars per annum, to be paid by the State, and in addition thereto shall receive the following fees in felony cases, to be paid by the State: For each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars. For representing the State in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The criminal district attorney shall also receive such fees in misdemeanor cases, to be paid by the defendant and by the county, as is now provided by law for district and county attorneys, and he shall also receive such compensation for other services rendered by him as is now, or may hereafter be, authorized by law to be paid to other district and county attorneys in this State.

Sec. 21. The criminal district attorney of Harris county shall retain out of the fees

earned by him in the Criminal District Court of Harris County the sum of twenty-five hundred dollars per annum, and in addition thereto, one-fourth of the gross excess of all fees in excess of twenty-five hundred dollars per annum, the three-fourths of the excess over and above twenty-five hundred dollars per annum, remaining, to be paid by him into the treasury of Harris county. It is provided that in arriving at the amount collected by him, he shall include the fees arising from all classes of criminal cases of which the Criminal District Court of Harris County has original and exclusive jurisdiction, whether felony, misdemeanor, habeas corpus hearings, or commission on fines and forfeitures collected in said court, it being the intention of this Act that the criminal district attorney of Harris county shall include all fees of every kind and class earned by him in said criminal district court in arriving at the amount collected by him; it being further provided that at the end of each year he shall make a full and complete report and accounting to the county judge of Harris county of the amount of such fees collected by him.

Sec. 22. The Criminal District Attorney of Harris County shall appoint two assistant criminal district attorneys, who shall each receive a salary of eighteen hundred dollars per annum, payable monthly. He shall also appoint a stenographer, who shall receive a salary of not more than twelve hundred dollars per annum, payable monthly. In addition to the assistant criminal district attorneys and stenographer, above provided for, the county judge of Harris County may, with the approval of the commissioners' court, appoint as many additional assistants as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath, addressed to the County Judge of Harris County, setting out the need therefor, provided, the county judge, with the approval of the commissioners' court may discontinue the service of any one or more of the assistant criminal district attorneys provided for in this Act, when in his judgment and of the judgment of the commissioners' court, they are not necessary; provided that the additional assistants appointed by the county judge as herein provided for shall receive not more than \$1,800.00 per year, payable monthly. The salaries of all assistants shall be paid by Harris County; provided that if the above salaries be insufficient and inadequate for the proper investigation of crime in Harris County and the efficient performance of the duties of said office, then the Criminal District Attorney may contract for and pay such additional compensation as is necessary for the proper and efficient discharge of his duties, out of the excess fees collected by him which would otherwise go to the county, a detailed itemized statement, under oath, of which he shall include in his annual report to the County Judge of Harris County, to be approved by the county auditor, but in no event shall the

county be liable for such extra compensation. Provided further that before said Criminal District Attorney shall pay such extra compensation he shall secure the written approval of a majority of the District Judges of Harris County. The assistant criminal district attorneys above provided for, when so appointed, shall take the oath of office and be authorized to represent the State before said Criminal District Court, and in all other courts in Harris County in which the Criminal District Attorney of Harris County, is authorized by this Act to represent the State, such authority to be exercised under the direction of the said Criminal District Attorney, and which assistants shall be subject to removal at the will of the said Criminal District Attorney. Each of said assistant criminal district attorneys shall be authorized to file informations, examine witnesses before the grand jury and generally to perform any duty devolving upon the Criminal District Attorney of Harris County, and to exercise any power conferred by law upon the said Criminal District Attorney when by him so authorized. The Criminal District Attorney of Harris County shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services should have been rendered by himself. Provided, further, that the \$2,500 in fees and the one-fourth of the excess fees heretofore provided for shall in no event exceed the total sum of \$6,000 per year as compensation to said District Attorney, and any amount in excess thereof shall be turned in to the County Treasurer.

Sec. 23. The clerk of the Criminal District Court of Harris County shall be elected by the qualified voters of Harris county, and shall hold his office for a term of two years, and until his successor is elected and qualified. Said clerk shall receive such fees as are now or may hereafter be prescribed by law to be paid to the clerk of the district courts of this State, and to be paid and collected in the same manner; and in addition thereto, he shall receive an annual salary of one thousand dollars, to be paid out of the treasury of Harris county monthly. Said clerk shall have the same power and authority, and shall perform the same duties with respect to said Criminal District Court of Harris County as are by law conferred upon the clerks of other district courts in criminal cases, and shall have authority to appoint one or more deputies as needed, whose salary shall be paid by said clerk. Said deputies shall take the oath of office prescribed by the Constitution of this State, and said deputies are authorized to perform such services as may be authorized by said criminal district clerk, and shall be removable at the will of the clerk.

Sec. 24. The criminal district judge and the criminal district attorney of the criminal judicial district composed of Galveston and Harris counties, who shall be in office at the time when this Act goes into effect, shall continue in office, respectively, as the judge and the

district attorney of the Criminal District Court of Harris County until the next general election, or until their successors shall be elected and qualified.

The clerk of the Criminal District Court of Harris County who shall be in office at the time when this Act goes into effect shall continue in office as clerk of the Criminal District Court of Harris County until January 1, A.D. 1912, and until his successor is appointed and qualified.

The Governor shall, on January 1, 1912, or thereafter, appoint a clerk of the Criminal District Court of Harris County, who shall hold his office from January 1, A.D. 1912, until the next general election, or until his successor is elected and qualified.

[Acts 1911, 32nd Leg., p. 111, ch. 67; Acts 1917, ch. 42, § 1.]

175.—Bexar. See 144th District

176.—Harris

Sec. 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 2 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said criminal district court of Harris County now has jurisdiction; and either of the judges of said criminal district courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court. From and after the taking effect of this Act, all felony cases of even numbers that are then pending on the docket of the criminal district court of Harris County shall be at once transferred to the Criminal District Court No. 2 of Harris County, and from and after the taking effect of this Act, the clerk of the criminal district court shall file and docket the felony cases of even numbers in the Criminal District Court No. 2 of Harris County, and the felony cases of odd numbers in the criminal district court of Harris County.

Sec. 3. The judge of said Criminal District Court No. 2 of Harris County shall be elected by the qualified voters of Harris County for a

term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Law, and until his successor shall have been elected and qualified. Either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his court room or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal district court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, district attorney and the clerk of the criminal district court of Har-

ris County, as heretofore provided for by law, shall be the sheriff, district attorney and clerk, respectively, of said Criminal District Court No. 2 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, district attorneys and clerks of the district courts of the State; and said sheriff, district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner.

The county commissioners' court shall have authority to pay out of the general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the general funds thereof.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday in August, one term beginning on the first Monday in November, and one term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in the district courts. The district judges of the criminal district courts of Harris County shall alternately appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel;

they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the articles commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act and other laws now in effect.

[Acts 1927, 40th Leg., p. 33, ch. 24.]

177.—Harris

Sec. 1. There is hereby created and established at the city of Houston a criminal district court to be known as the "Criminal District Court No. 3 of Harris County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Harris County and the Criminal District Court No. 2 of Harris County under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County now have jurisdiction; and the judge of any one (1) of said criminal district courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one (1) of the other criminal district courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such criminal district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the

court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 3, 6, or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 3 of Harris County, and after the effective date of this Act, the clerk of the criminal district courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County in rotation in the order filed so that the first case or proceeding filed after the effective date of this Act and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every third case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County and so on in rotation.

Sec. 3. The judge of said Criminal District Court No. 3 of Harris County shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of the judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified. The judge of any one of said criminal district courts may, in his discretion, in the absence of the judge of one of the other criminal district courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such

court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular judge of said criminal court could make if personally present and presiding.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 3 of Harris County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, criminal district attorney and the clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the sheriff, criminal district attorney and clerk, respectively, of said Criminal District Court No. 3 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, criminal district attorneys and clerks of the district courts of the State; and said sheriff, criminal district attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the clerk of the criminal district court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The criminal district attorney may appoint an assistant criminal district attorney, in addition to those now provided by law, to attend said court. Said assistant shall have the authority and shall qualify as provided by law for assistant district attorneys, and shall be removable at the will of the criminal district attorney, and shall receive a salary not to exceed the maximum salary allowed assistant district attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds

thereof. The judge of the Criminal District Court No. 3 of Harris County shall appoint an official court reporter for said court as provided by law.

Sec. 6. Said court shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one (1) term beginning the first Monday in May, one (1) term beginning on the first Monday in August, one (1) term beginning on the first Monday in November, and one (1) term beginning on the first Monday in February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in district courts. The district judges of the criminal district courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the criminal district courts of the county for each week during the time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the criminal district courts for the respective weeks for which they are designated to serve. The judges of the said criminal district courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the criminal district judge to whom the panel of jurors shall report for duty, and said judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said criminal district courts, and they may be used interchangeably in the criminal district courts. In the event of a deficiency of said jurors, the judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act.

[Acts 1951, 52nd Leg., p. 500, ch. 307.]

178, 179.—Harris

Sec. 1. There is hereby created and established at the City of Houston, two (2) Criminal District Courts to be known as the "Criminal District Court No. 4 of Harris County" and "Criminal District Court No. 5 of Harris County," which Courts shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, and the Criminal District Court No. 3 of Harris County, under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County and the Criminal District Court No. 5 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his Court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his Court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the Judge of that Court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said Court, provided no case shall be transferred without the consent of the Judge of the Court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 4 or 9 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 4 of Harris County, and all felony cases having numbers ending with 5 or 0 pending on the dockets of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 5 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County in rotation in the order filed

so that the first case or proceeding filed after the effective date of this Act and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every fifth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and so on in rotation.

Sec. 3. The Judges of said Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County and the Criminal District Court No. 2 of Harris County and the Criminal District Court No. 3 of Harris County. The Judge of each of said Courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a Judge of each of said Courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent Judge were he personally present and presiding. And any one of said Judges may receive in open Court from the foreman of the Grand Jury any bill or bills of indictment in the Court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such Court, and may hear and receive from any empaneled petit

jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such Court; and may make any other order or orders in such Courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

Sec. 4. Said Court shall each have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 4 of Harris County" shall be engraved around the margin of one and "Criminal District Court No. 5 of Harris County" of the other thereof, which seals shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said Court, under the hand of the Clerk and attested by the seal of either said Courts, shall be admissible in evidence in all the Courts of this State in like manner as similar certified copies from Courts of record are now or may hereafter be admissible.

Sec. 5. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 4 of Harris County and Criminal District Court No. 5 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the State; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the State, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district Clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district Clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said Court. Said assistant shall have the authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly

by said County by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judges of the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County shall appoint an official court reporter for said Court as provided by law.

Sec. 6. Said Courts shall hold four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said Court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint Grand Jury commissioners and empanel Grand Juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the Criminal District Courts of the County for each week during the said time said Courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the County for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in

full force and effect, except as modified by this Act.

[Acts 1959, 56th Leg., p. 555, ch. 249.]

180.—Harris

A. There is hereby created and established at the City of Houston, a new Criminal District Court to be known as the "Criminal District Court No. 6 of Harris County," which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County, under the Constitution and the laws of the State of Texas.

B. From and after the time this law shall take effect, the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County, shall have and exercise concurrent jurisdiction with each other in all felony causes, and in all matters and proceedings of which the said Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County now have jurisdiction; and the Judge of any one of said Criminal District Courts may in his discretion transfer any cause or causes that may at any time be pending in his court to one of the other Criminal District Courts by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such Criminal District Court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court, provided no case shall be transferred without the consent of the judge of the court to which transferred. When this Act becomes effective, all felony cases having numbers ending with 1 or 6 pending on the dockets of the other Criminal District Courts of Harris County shall be at once transferred to and docketed in the Criminal District Court No. 6 of Harris County, and after the effective date of this Act, the Clerk of the Criminal District Courts shall file and docket felony cases in the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, the Criminal District Court No. 5 of Harris County, and the Criminal District Court No. 6 of Harris County in rotation in the order filed so that the first case or proceeding filed after

the effective date of this Act and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court of Harris County, and the second case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 2 of Harris County, and the third case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 3 of Harris County, and the fourth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 4 of Harris County, Texas, and the fifth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 5 of Harris County, Texas, and the sixth case or proceeding filed and every sixth case or proceeding thereafter filed shall be docketed in the Criminal District Court No. 6 of Harris County, Texas, and so on in rotation.

C. The Judges of said Criminal District Court No. 6 of Harris County, shall be elected by the qualified voters of Harris County for a term of four (4) years, and shall hold his office until his successor shall have been elected and qualified. They shall each possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary and additional compensation as is now or may hereafter be paid to the District Judges, to be paid in like manner. They shall each have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Harris County, the Criminal District Court No. 2 of Harris County, the Criminal District Court No. 3 of Harris County, the Criminal District Court No. 4 of Harris County, and the Criminal District Court No. 5 of Harris County. The judge of each of said courts may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of the Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided that the Governor, under the authority now provided by law, upon this Act becoming effective, shall appoint a judge of each of said courts, who shall hold the office until the next general election, after the passage of this Act, and until his successor shall have been elected and qualified, the Judge of any one of said Criminal District Courts may, in his discretion, in the absence of the Judge of one of the other Criminal District Courts from his courtroom or from the County of Harris, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Courts as fully as could such absent judge were he personally present and presiding. And any one of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such

bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent District Judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal Court could make if personally present and presiding.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 6 of Harris County. The salary shall be paid as provided by law.

E. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 6 of Harris County" shall be engraved around the margin which seal shall be used for all the purposes for which the seals of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of either said courts, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

F. The Sheriff, District Attorney and the Clerk of the Criminal District Court of Harris County, as heretofore provided for by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 6 of Harris County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, District Attorney and Clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the District Courts of the state, to be paid in the same manner. The County Commissioners Court shall have authority to pay out of the Officers' Salary Fund or other general funds of the county for the services of such special deputy district clerks as in their judgment shall be required, such special deputy or deputies to be appointed by the Clerk of the Criminal District Court, and to be removable at the will of the clerk, and to be paid a salary not to exceed the compensation allowed by law to other deputy district clerks, said salary shall be payable monthly. The District Attorney may appoint an assistant District Attorney in addition to those now provided by law to attend said court. Said assistant shall have the

authority and shall qualify as provided by law for assistant District Attorneys, and shall be removable at the will of the District Attorney, and shall receive a salary not to exceed the maximum salary allowed assistant District Attorneys; said salary to be payable monthly by said county by warrant drawn from the Officers' Salary Fund or other general funds thereof. The Judge of the Criminal District Court No. 6 of Harris County shall appoint an official court reporter for said court as provided by law.

G. Said court shall hold for four (4) terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday in May, one term beginning on the first Monday of August, one term beginning on the first Monday in November, and one term beginning on the first Monday of February of each year. Each term shall continue until the business is disposed of. The trials and proceedings in said court shall be conducted according to the law governing the pleadings, practice and proceedings in criminal cases in District Courts. The District Judges of the Criminal District Courts of Harris County shall successively appoint grand jury commissioners and empanel grand juries; and they shall meet together and determine approximately the number of petit jurors that are reasonably necessary for jury service in the Criminal District Courts of the County for each week during the said time said courts may hold court during the year, and shall thereupon order the drawing of such number of jurors from the jury wheel of the county for each of said weeks, said jury to be known as the panel of jurors for service in the Criminal District Courts for the respective weeks for which they are designated to serve. The Judges of the said Criminal District Courts shall agree upon which one shall be authorized to act in carrying out the provisions of this Act as relating to the calling and qualifying of the jury panel; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of service as they deem proper. From time to time they shall designate the Criminal District Judge to whom the panel of jurors shall report for duty, and said Judge, for such time as he is chosen to so act, shall organize said juries and have immediate supervision and control of them. The said jurors, after being regularly drawn from the wheel, shall be served by the Sheriff to appear and report for jury service before said Judge so designated, who shall hear excuses of said jurors and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said Criminal District Courts, and they may be used interchangeably in the Criminal District Courts. In the event of a deficiency of said jurors the Judge having control of said panel of jurors shall order such additional jurors to be drawn from the wheel as may be sufficient to meet

such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no further needed. The provisions of the Statutes commonly known as the "jury wheel law" shall remain in full force and effect, except as modified by this Act.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10c, eff. Sept. 1, 1965.]

181.—Potter and Randall. See Article 199a, Sec. 3.009

182.—Harris. See Article 199a, Sec. 3.010

183.—Harris. See Article 199a, Sec. 3.011

184.—Harris. See Article 199a, Sec. 3.012

185.—Harris. See Article 199a, Sec. 3.013

186.—Bexar

Sec. 1. The 186th Judicial District, coextensive with the limits of Bexar County, is created effective, October 1, 1969. The court of the district is the 186th District Court of Bexar County.

Sec. 2. (a) The governor shall appoint as judge of the 186th District Court a person qualified to serve as district judge under the Constitution and laws of this state. The judge appointed holds office until the next general election and until his successor is duly elected and has qualified.

(b) The judge appointed and his successors are entitled to the same compensation and allowances, paid by the state and county, as the other district judges in Bexar County.

[Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 6, eff. Oct. 1, 1969.]

187.—Bexar. See Article 199a, Sec. 3.014

188.—Gregg. See Article 199a, Sec. 3.015

189.—Harris. See Article 199a, Sec. 3.016

190.—Harris. See Article 199a, Sec. 3.017

191.—Dallas. See Article 199a, Sec. 3.018

192.—Dallas. See Article 199a, Sec. 3.019

193.—Dallas. See Article 199a, Sec. 3.020

194.—Dallas. See Article 199a, Sec. 3.021

195.—Dallas. See Article 199a, Sec. 3.022

196.—Hunt. See Article 199a, Sec. 3.023

197.—Cameron and Willacy. See Article 199a, Sec. 3.024

198.—Kerr, Bandera, Kendall, Menard, Concho, Kimble and McCulloch. See Article 199a, Sec. 3.026

199.—Collin. See Article 199a, Sec. 3.028

200, 201.—Travis. See Article 199a, Sec. 3.029

202.—Bowie. See Article 199a, Sec. 3.033

203.—Dallas. See Article 199a, Sec. 3.030

- 204.—Dallas. See Article 199a, Sec. 3.031
- 205.—El Paso. See Article 199a, Sec. 3.032
- 206.—Hidalgo. See Article 199a, Sec. 3.034
- 207.—Camal, Hays and Caldwell. See Article 1199a, Sec. 3.035
- 208.—Harris. See Article 199a, Sec. 3.036
- 209.—Harris. See Article 199a, Sec. 3.037
- 210.—El Paso. See Article 199a, Sec. 3.038
- 211.—Denton. See Article 199a, Sec. 3.039
- 212.—Galveston. See Article 199a, Sec. 3.040
- 213.—Tarrant. See Article 199a, Sec. 3.041
- 214.—Nueces. See Article 199a, Sec. 3.042
- 215.—Harris. See Article 199a, Sec. 3.043
- 216.—Kerr, Bandera, Kendall, Kimble, Gillespie and Sutton

The name of the Second Thirty-eighth Judicial District of Texas is hereby changed to the 216th Judicial District of Texas.

The 216th Judicial District shall be composed of the Counties of Kerr, Bandera, Kendall, Kimble, Gillespie, and Sutton, and the terms of the district court shall be held therein as follows:

In Kerr County, beginning on the first Monday in January and June.

In Bandera County, beginning on the first Monday in February and September.

In Kendall County, beginning on the fourth Monday in February and September.

In Kimble County, beginning on the third Monday in March and October.

In Gillespie County, beginning on the second Monday in April and November.

In Sutton County, beginning on the first Monday in May and December.

Each term of court in each of such counties shall continue until the date herein fixed for the beginning of the next succeeding term. The judge of the district may hold as many sessions of court during each term as is deemed proper and expedient for the dispatch of business.

All grants, emoluments and memberships now pertaining to the Second Thirty-eighth Judicial District are hereby reserved and transferred to the 216th Judicial District.

[Acts 1973, 63rd Leg., p. 732, ch. 316, § 2, eff. Sept. 1, 1973.]

229.—Duval, Jim Hogg and Starr

Sec. 1. The 229th Judicial District shall be composed of the counties of Duval, Starr, and Jim Hogg.

Sec. 2. The 229th District Court shall have and exercise all jurisdiction now or hereafter prescribed by the Constitution and laws of this state for district courts.

Sec. 3. The terms of the 229th District Court shall be:

(a) In the County of Duval, beginning on the first Monday in February and the first Monday in August of each year, and each term of the court shall continue until the beginning of the next term.

(b) In the County of Starr, beginning on the first Monday in April and the first Monday in October of each year, and each term of the court shall continue until the beginning of the next term.

(c) In the County of Jim Hogg, beginning on the first Monday in June and the first Monday in December of each year, and each term of the court shall continue until the beginning of the next term.

The judge of the 229th District Court, in his discretion, may hold as many sessions of court in any term of the court in any county as is deemed by him proper and expedient for the dispatch of business.

Sec. 4. The District Clerk and Sheriff of Duval, Starr, and Jim Hogg counties shall serve the 229th District Court. The judge of the 229th District Court shall appoint an official shorthand reporter for the court. The reporter shall be a sworn officer of the court and shall be compensated as provided by law.

Sec. 5. Upon the effective date of this Act, the Governor shall appoint a judge of the 229th District Court who shall have qualifications required of judges of district courts in this state and who shall hold office until the next general election and until his successor is sworn. The judge of the 229th District Court shall receive the compensation provided by law for district judges.

[Acts 1969, 61st Leg., p. 697, ch. 239, § 3, eff. Sept. 1, 1969.]

235.—Wise, Jack and Cooke. See Article 199a, Sec. 3.028

Art. 199a. Judicial Districts Act of 1969

Acts 1969, 61st Leg., 2nd C.S., p. 150, ch. 23, consisting of sections 1.001 to 7.003 which appear under Article 199a, creates and modifies various judicial districts affecting the provisions of Article 199.

SUBCHAPTER A. ORGANIZATION AND PURPOSE

Short Title

Sec. 1.001. This Act may be cited as the Judicial Districts Act of 1969.

Scope of Act

Sec. 1.002. Except as otherwise indicated by the context, this Act applies only to judicial districts created by this Act or by amendments of this Act.

Subchapters

Sec. 1.003. (a) The provisions of Subchapter B of this Act are general and apply to all district courts created by this Act and those

later created by amendment of Subchapter C of this Act except expressly provided by this Act or an amendatory Act.

(b) The provisions of Subchapter C of this Act create specific judicial districts and define their territorial composition, and may contain specific provisions applicable to each court.

(c) The provisions of Subchapter D of this Act are concerned with specific judicial districts and the office of district attorney for those districts.

(d) The provisions of Subchapter E of this Act amend prior law to conform legislation to the new pattern of judicial districts drawn by this Act.

(e) The provisions of Subchapter F of this Act are transitional provisions applicable to each court created by this Act or by amendment of this Act except as expressly provided by this Act or an amendatory Act.

Amendments

Sec. 1.004. This Act is so designed that the Legislature may later add districts or change the composition of a district or the jurisdiction of a court by adding or amending sections of Subchapter C without repeating the provisions of Subchapter B or Subchapter F.

SUBCHAPTER B. GENERAL PROVISIONS

Terms of Court

Sec. 2.001. Each district court holds in each county within its jurisdiction continuous terms which commence on the first Monday in January and on the first Monday in July of each year. Each term of court continues until the next succeeding term begins.

Transfer of Cases; Exchange of Benches

Sec. 2.002. (a) In any county in which there are two or more district courts, the judges of such courts may, in their discretion, either in termtime or in vacation, on motion of any party or on agreement of the parties, or on their own motion, transfer any case or proceeding, civil or criminal, on their dockets to the docket of one of the other said district courts; and the judges of the courts may, in their discretion, exchange benches or districts from time to time.

(b) Whenever a judge of one of the courts is disqualified, he shall transfer the case or proceeding from his court to one of the other courts, and any of the judges may in his own courtroom try and determine any case or proceeding pending in either of the other courts without having the case transferred, or may sit in any of the other courts and there hear and determine any case or proceeding there pending. Each judgment and order shall be entered in the minutes of the court in which the case is pending, and two or more judges may try different cases in the same court at the same time and each may occupy his own courtroom or the room of any other court.

(c) In case of absence, sickness, or disqualification of any of the judges, any other of the

judges may hold court for him. Any of the judges may hear any part of any case or proceeding pending in any of the courts and determine the same or may hear or determine any question in any case or proceeding and any other of the judges may complete the hearing and render judgment in the same. Any of the judges may hear and determine motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, and all dilatory pleas, motions for new trials, and all preliminary matters, questions and proceedings, and may enter judgment or order thereon in the court in which the case or proceeding is pending without having the same transferred to the court of the judge acting; and the judge in whose court the same is pending may thereafter proceed to hear, complete, and determine the same or other matter or any part thereof and render final judgment thereon. Any of the judges of the courts may issue restraining orders and injunctions returnable to any of the other courts.

(d) The specific matters mentioned in this section shall not be construed as any limitation on the powers of such judges when acting for any other judge by exchange of benches or otherwise.

Filing and Docketing Cases

Sec. 2.003. In a county in which there are two or more district courts, the judges of the courts may make such rules governing the filing and numbering of cases, the assignment thereof for trial, and the distribution of the work of such courts as in their discretion is deemed necessary or desirable for the orderly dispatch of the business of the courts.

Process, Writs, Etc.

Sec. 2.004. (a) When a case is transferred from one court to another, all process and writs issued from the transferring court are returnable to the court to which the case is transferred as if originally issued by that court.

(b) The obligees in all bonds and recognizances taken in and for a court from which a case is transferred, and all witnesses summoned to appear in a district court from which a case is transferred, are required to appear before the district court to which the case is transferred as if originally issued by that court.

Governor to Appoint District Judges

Sec. 2.005. The district judge of each new district created by this Act shall be appointed by the governor in the manner prescribed by the constitution and laws of the State of Texas and shall serve in such capacity until the next succeeding general election and until his successor has been duly elected and has qualified.

Juvenile Boards and Supplemental Compensation

Sec. 2.006. The district judge of any new district created by this Act shall sit as a member of the juvenile board in any county within his district in which a juvenile board exists.

The judge shall receive the same amount as supplemental compensation for his services on the board as is received by other judges on the board. Unless otherwise provided by this Act, the judge shall receive the same amount in other supplemental compensation from the county as is received by other district judges in that county.

Court Officers

Sec. 2.007. The district attorney (or county attorney or criminal district attorney), the sheriff, the district clerk, the bailiffs, and other officers serving the other district court or courts of the county shall serve in their respective capacities for the court created by this Act.

Court Reporter

Sec. 2.008. The district judge shall appoint an official shorthand reporter for the court who shall have the qualifications and receive the compensation prescribed by law. If other district courts have jurisdiction in the county, the official shorthand reporter is entitled to the compensation prescribed by law for the official shorthand reporters of the other district courts.

Jurisdiction

Sec. 2.009. Each court created in Subchapter C, has the jurisdiction provided by the constitution and the general laws of this state for district courts.

Special District Courts

Sec. 2.010. Each court created in Subchapter C which is directed to give preference to specific matters or types of cases shall participate in all matters relating to juries, grand juries, indictments, and docketing of cases in the same manner as the existing district court or courts which are similarly directed within that county.

SUBCHAPTER C. CREATION OF DISTRICTS

148.—Nueces

Sec. 3.001. (a) The 148th Judicial District, composed of the County of Nueces, is hereby created.

(b) The 148th District Court shall give first preference to family law matters and second preference to criminal cases.

141.—Tarrant

Sec. 3.002. The 141st Judicial District, composed of the County of Tarrant, is hereby created.

169.—Bell

Sec. 3.003. (a) The 169th Judicial District, composed of the County of Bell, is hereby created.

(b) The terms of the 169th District Court shall be on the first Monday in April and may continue until the last Saturday in June, on the first Monday in July and may continue until the last Saturday in September, on the first

Monday in October and may continue until the last Saturday in December, and on the first Monday in January and may continue until the last Saturday in March.

158.—Denton

Sec. 3.004. The 158th Judicial District, composed of the County of Denton, is hereby created.

159.—Angelina

Sec. 3.005. (a) The 159th Judicial District, composed of the County of Angelina, is hereby created.

(b) The judges of the 2nd and 145th District Courts in office on the effective date of this Act shall continue in office for the terms for which they were elected.

168.—El Paso

Sec. 3.006. The 168th Judicial District, composed of the County of El Paso, is hereby created.

172.—Jefferson

Sec. 3.007. The 172nd Judicial District, composed of the County of Jefferson, is hereby created.

173.—Anderson, Henderson and Houston

Sec. 3.008. The 173rd Judicial District, composed of the Counties of Anderson, Henderson, and Houston, is hereby created.

181.—Potter and Randall

Sec. 3.009. (a) The 181st Judicial District, composed of the Counties of Potter and Randall, is hereby created.

(b) The 181st District Court may hear and determine, in whichever county in that district is convenient for the court, all preliminary or interlocutory matters in which a jury may not be demanded, in any case pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held. The 181st District Court may, unless there is some objection filed by a party to the suit, hear, in any county in said district which is convenient for said court, any non-jury case (including but not limited to divorces, adoptions, default judgments and matters where there has been citation by publication) pending in any county in said district, regardless of whether the cases were filed in the county in which the hearing is held.

182.—Harris

Sec. 3.010. (a) The 182nd Judicial District, composed of the County of Harris, is hereby created.

(b) The 182nd District Court shall give preference to criminal cases.

(c) The term of court of the 182nd District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the

disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

183.—Harris

Sec. 3.011. (a) The 183rd Judicial District, composed of the County of Harris, is hereby created.

(b) The 183rd District Court shall give preference to criminal cases.

(c) The term of court of the 183rd District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

184.—Harris

Sec. 3.012. (a) The 184th Judicial District, composed of the County of Harris, is hereby created.

(b) The 184th District Court shall give preference to criminal cases.

(c) The term of court of the 184th District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Monday in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

185.—Harris

Sec. 3.013. (a) The 185th Judicial District, composed of the County of Harris, is hereby created.

(b) The 185th District Court shall give preference to criminal cases.

(c) The term of court of the 185th District Court beginning on the first Monday in January, 1973, shall continue until the first Monday in August, 1973. Beginning on the first Monday in August, 1973, the court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning on the first Monday in August, one term beginning on the first Monday in November, one term beginning on the first Mon-

day in February, and one term beginning on the first Monday in May of each year. Each term shall continue until the business is disposed of.

187.—Bexar

Sec. 3.014. (a) The 187th Judicial District, composed of the County of Bexar, is hereby created.

(b) The 187th District Court shall give preference to criminal cases.

188.—Gregg

Sec. 3.015. (a) The 188th Judicial District, composed of the County of Gregg, is hereby created.

(b) All cases and proceedings pending on the effective date of this Act in the 71st District Court in Gregg County shall be transferred in equal numbers to the 124th and 188th District Courts. All process and writs issued from the 71st District Court sitting in Gregg County and made returnable to the 71st District Court sitting in Gregg County are hereby made returnable to the 124th or 188th District Court, as the case may be. The obligees in all bonds and recognizances taken in and for the 71st District Court sitting in Gregg County, and all witnesses summoned to appear before the 71st District Court in Gregg County, are required to appear before the 124th or 188th District Court as directed by the 124th or 188th District Court but not at a time earlier than originally required.

(c) The judge of the 71st District Court is continued in office until the expiration of the term to which he was elected and until his successor is elected and has qualified.

189.—Harris

Sec. 3.016. The 189th Judicial District, composed of the County of Harris, is hereby created.

190.—Harris

Sec. 3.017. The 190th Judicial District, composed of the County of Harris, is hereby created.

191.—Dallas

Sec. 3.018. The 191st Judicial District, composed of the County of Dallas, is hereby created.

192.—Dallas

Sec. 3.019. The 192nd Judicial District, composed of the County of Dallas, is hereby created.

193.—Dallas

Sec. 3.020. The 193rd Judicial District, composed of the County of Dallas, is hereby created.

194.—Dallas

Sec. 3.021. (a) The 194th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 194th District Court shall give preference to criminal cases.

195.—Dallas

Sec. 3.022. (a) The 195th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 195th District Court shall give preference to criminal cases.

196.—Hunt

Sec. 3.023. The 196th Judicial District, composed of the County of Hunt, is hereby created.

197.—Cameron and Willacy

Sec. 3.024. (a) The 197th Judicial District, composed of the Counties of Cameron and Willacy, is hereby created.

(b) The 197th District Court shall give preference to criminal cases.

Tarrant; Criminal Judicial District No. 4

Sec. 3.025. [See Article 1926-45 for text].

198.—Kerr, Bandera, Menard, Concho, Kimble, and McCulloch

Sec. 3.026. (a) The 198th Judicial District, composed of the Counties of Kerr, Bandera, Menard, Concho, Kimble, and McCulloch, is hereby created.

(b) The judge of the 198th District Court shall have the right to select jury commissioners and empanel grand juries in each county. The judge of the 198th District Court may alternate the drawing of grand juries with the judge of any other district court in each county within his district and may order grand and petit juries to be drawn for any term of his court as in his judgment is necessary, by an order entered in the minutes of the court. Indictments within each county may be returned to either court within that county.

149.—Brazoria

Sec. 3.027. (a) The 149th Judicial District, composed of the County of Brazoria, is hereby created.

(b) The Commissioners Court of Brazoria County may supplement the salary of the judge of the 149th Judicial District in an amount sufficient to equal the total supplemented salary of any other judge of a judicial district which includes Brazoria County.

235.—Wise, Jack and Cooke

Text of section 3.028 as added by Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2

Sec. 3.028. (a) The 235th Judicial District, composed of the Counties of Wise, Jack, and Cooke, is hereby created.

(b) The enactment of this amendment shall in no way change, alter, diminish, or affect the provisions of Subdivision 16, Article 199, Revised Civil Statutes of Texas, 1925, as amended, but is in addition to and cumulative of those provisions.

(c) In addition to the compensation provided by law and paid by the state, the Judge of the 235th Judicial District may be paid for services rendered to the county and for performing administrative duties an annual sum of not more than \$1,800 per year by the Commissioners Court of Jack County, and an annual sum of not more than \$3,600 per year by the Commissioners Court of Wise County. The additional compensation may be paid in equal monthly installments from the funds of Jack and Wise counties.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1357, ch. 514, § 1, eff. June 14, 1973.]

For text of section 3.028 as added by Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1, see section 3.028, post.

199.—Collin

Text of section 3.028 as added by Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1

Sec. 3.028. (a) The 199th Judicial District, composed of the County of Collin, is hereby created.

(b) The County Court of Collin County shall have the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions provided for by general law governing county courts throughout the state, but neither the County Court of Collin County nor the judge thereof shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction, or other original criminal jurisdiction, or appellate civil jurisdiction, or other appellate criminal jurisdiction; provided, however, that all future statutes pertaining to probate matters enacted by the Legislature of the State of Texas shall be operative in Collin County as fully as though this statute had not been enacted.

(c) The 199th District Court and the presiding judge thereof shall have and exercise original jurisdiction in matters of eminent domain in Collin County. The 199th District Court and the presiding judge thereof shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which, by the laws of this state, the County Court of Collin County would have had original or appellate jurisdiction but for the provisions set out in Subsection (b) of this section; all causes, other than probate matters, as are pro-

vided in Subsection (b) of this section, shall be and the same are hereby transferred to the 199th District Court, and all writs and process relating to such civil and criminal matters and causes included in the subject matter of jurisdiction prescribed in this section, issued by or out of said County Court of Collin County, are hereby made returnable to the next term of the 199th District Court after this section takes effect. Provided further, however, that as to any civil or criminal case on appeal from the county court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, it shall be remanded to the 199th District Court, and all jurisdiction in respect to the particular case shall thereafter vest in the 199th District Court.

(d) The County Clerk of Collin County is hereby required, within 30 days after this section takes effect, to file with the clerk of the 199th District Court all original papers in cases here transferred to the district court and all judges' dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the county court in the cases so transferred. The district clerk shall immediately docket all such cases on the docket of the 199th District Court. All such cases shall stand on the docket of the district court in the same manner and place as each stands on the docket of the county court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county court, but papers in the case bearing the file mark of the county clerk prior to the time of the transfer shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. The county clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which deposited. Credit shall be given litigants for all jury fees paid in the county court.

(e) This section shall not be construed to in anywise or manner affect final judgments heretofore rendered by the County Court of Collin County pertaining to matters and causes which by this section are transferred to the district court. The county court shall retain jurisdiction to enforce those final judgments and the county clerk of the county shall issue all writs of execution and orders of sale and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes the same as if no change had been made as set out in Subsection (c).

[Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1, eff. Aug. 30, 1971.]

For text of section 3.028 as added by Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2, see section 3.028, ante.

200, 201.—Travis

Sec. 3.029. (a) The 200th and 201st Judicial Districts, each composed of the County of Travis, are hereby created.

(b) The 200th Judicial District is created effective September 1, 1971.

(c) The 201st Judicial District is created effective January 1, 1973.

203.—Dallas

Sec. 3.030. (a) The 203rd Judicial District, composed of the County of Dallas, is hereby created.

(b) The 203rd District Court shall give preference to criminal cases.

204.—Dallas

Sec. 3.031. (a) The 204th Judicial District, composed of the County of Dallas, is hereby created.

(b) The 204th District Court shall give preference to criminal cases.

205.—El Paso

Sec. 3.032. (a) The 205th Judicial District, composed of the County of El Paso, is hereby created.

(b) The 205th District Court shall give preference to criminal cases.

202.—Bowie

Sec. 3.033. (a) The 202nd Judicial District, composed of the County of Bowie, is hereby created.

(b) The 202nd District Court shall give preference to criminal cases.

(c) The jurisdiction of the 202nd District Court, insofar as Bowie County is concerned, is concurrent and coextensive with the 5th and 102nd Judicial District Courts, and the terms of the 202nd District Court shall commence on the first Monday in January, April, July, and October, and each such term shall continue until the beginning of the next succeeding term, and the judge of said court may hold as many sessions in any term of the court as is deemed by him proper and expedient for the dispatch of business. During each term of court in Bowie County, Texas, the court may sit in Texarkana, Texas, to try, hear, and determine any civil non-jury case, and may hear and determine motions, agreements and other non-jury civil matters as may come before the court, and may hear and determine any criminal non-jury matters, including, but not limited to pleas of guilty, both felony and misdemeanor, when a jury has been waived, but nothing herein shall be construed as limiting said court's power to hear such matters in Boston, Texas.

(d) The clerk of the district court of Bowie County shall be the clerk of the 202nd District Court and shall perform all duties pertaining to the clerkship of the court; provided that the district clerk of Bowie County, or his deputy, shall wait on the court when sitting at Tex-

arkana, Texas, and shall be permitted to transfer all necessary books, minutes and records to Texarkana, Texas, while the court is in session there, and likewise, to transfer all necessary books, minutes, records, and papers from Texarkana, Texas, to Boston, Texas, at the end of each session in Texarkana, Texas.

(e) The judge of the 202nd District Court shall appoint a shorthand reporter and fix her salary the same as that which is received by the shorthand reporters of the 5th and 102nd District Courts, which salary shall be fixed immediately upon the passage of this Act, and shall be paid by the County of Bowie out of the general fund, officers salary fund, jury fund, or any other fund available for the purpose, and thereafter shall be governed in accordance with all applicable laws.

(f) The sheriff of Bowie County, or his deputy, shall be in attendance upon the court while sitting at Texarkana, Texas, and shall perform such duties as he may be directed to perform, either as required by law or under the order of the court.

206.—Hidalgo

Sec. 3.034. The 206th Judicial District, composed of the County of Hidalgo, is hereby created.

207.—Comal, Hays and Caldwell

Sec. 3.035. (a) The 207th Judicial District, composed of the Counties of Comal, Hays, and Caldwell, is hereby created.

(b) The 207th District Court shall have the same jurisdiction in Comal County as the 22nd District Court has in Comal County and shall give preference to criminal cases in Caldwell, Comal, and Hays Counties. In addition to the jurisdiction prescribed by the constitution and laws of this state for district courts, the 207th District Court shall also have and exercise concurrent jurisdiction with the County Court of Caldwell County over all matters of original and appellate criminal jurisdiction in causes over which under the constitution and laws of this state the County Court of Caldwell County has jurisdiction.

208.—Harris

Sec. 3.036. (a) The 208th Judicial District, composed of the County of Harris, is hereby created.

(b) The 208th District Court shall give preference to criminal cases.

209.—Harris

Sec. 3.037. (a) The 209th Judicial District, composed of the County of Harris, is hereby created.

(b) The 209th District Court shall give preference to criminal cases.

210.—El Paso

Sec. 3.038. The 210th Judicial District, composed of the County of El Paso, is hereby created.

211.—Denton

Sec. 3.039. The 211th Judicial District, composed of the County of Denton, is hereby created.

212.—Galveston

Sec. 3.040. The 212th Judicial District, composed of the County of Galveston, is hereby created.

213.—Tarrant

Text of section added effective Jan. 1, 1975

Sec. 3.041. The 213th Judicial District, composed of the County of Tarrant, is hereby created.

214.—Nueces

Text of section added effective Jan. 1, 1975

Sec. 3.042. (a) The 214th Judicial District, composed of the County of Nueces, is hereby created.

(b) The 214th District Court shall give preference to criminal cases.

215.—Harris

Text of section added effective Jan. 20, 1975

Sec. 3.043. (a) The 215th Judicial District, composed of Harris County, is created.

(b) The 215th District Court shall give preference to civil matters.

SUBCHAPTER D. DISTRICT ATTORNEYS

196th Judicial District

Sec. 4.001. (a) The office of district attorney for the 196th Judicial District is created.

(b) The district attorney with the approval of the Commissioners Court of Hunt County may appoint such assistants, investigators, and secretarial help as are necessary to carry out the duties of his office. Each assistant, investigator, and secretary shall receive a salary fixed by the district attorney, subject to the approval of the commissioners court.

(c) The district attorney may receive additional compensation from Hunt County in an amount to be set by the commissioners court so that his total salary including his compensation from the state does not exceed \$11,000 per year.

198th Judicial District

Sec. 4.002. (a) The office of the district attorney for the 198th Judicial District is created.

(b) The district attorney shall represent the state in all matters pending before the 198th District Court. The district attorney of the 198th Judicial District and the district attorneys of the other judicial districts within his district shall assist each other in the conduct of their duties.

2nd Judicial District

Sec. 4.003. The district attorney for the 2nd Judicial District in office on the effective date of this Act shall continue in office for the term for which he was elected.

159th Judicial District

Sec. 4.004. (a) The office of district attorney for the 159th Judicial District is created.

(b) The district attorney shall perform within the 159th Judicial District all the duties imposed and have all the authority conferred on district attorneys by the general laws of this state.

(c) The district attorney shall receive from the state as salary an amount as provided in the General Appropriations Act. The commissioners court may supplement any salary paid by the state. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

(d) (1) The district attorney of the 159th Judicial District for the purpose of conducting the affairs of that office may appoint assistant district attorneys to be paid an annual salary approved by the commissioners court. In order to conduct the affairs of his office, the district attorney may appoint investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary, subject to the approval of the commissioners court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the district attorney and the commissioners court of Angelina County.

(2) The assistant district attorney of the 159th Judicial District and investigators, when appointed, shall take the constitutional oath of office, and the assistant district attorney shall exercise the powers and perform the duties conferred and imposed by law upon the district attorney, under the supervision and direction of the district attorney of the 159th Judicial District.

SUBCHAPTER E. CONFORMING AMENDMENTS AND REPEALS

Sec. 5.001. Subdivision 71, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 71st District, for text].

Sec. 5.002. Sections 17 and 19, Chapter 23, Acts of the 42nd Legislature, 1st Called Session, 1931, as amended (Subdivision 124, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 124th District, for text].

Sec. 5.003. Section 5, Chapter 367, Acts of the 42nd Legislature, Regular Session, 1931, as last amended by Section 2, Chapter 319, Acts of the 48th Legislature, 1943 (Subdivision 119, Article 199, Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 199, 119th District, for text].

Sec. 5.004. Chapter 649, Acts of the 59th Legislature, Regular Session, 1965 (Article 326e-1¹ Vernon's Texas Civil Statutes), is amended to read as follows: [See Article 326e-1 for text].

¹ Should read "326f-1."

Sec. 5.005. Subdivision 2, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 69, Acts of the 48th Legislature, 1943, is amended to read as follows: [See Article 199, 2nd District, for text].

Sec. 5.006. Sections 1, 3, 5, 8, and 9, Chapter 492, Acts of the 54th Legislature, 1955 (Subdivision 145, Article 199, Vernon's Texas Civil Statutes), are amended to read as follows: [See Article 199, 145th District, for text].

Sec. 5.007. Subdivision 47, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 47th District, for text].

Sec. 5.008. Article 199, Revised Civil Statutes of Texas, 1925, is amended by adding Subdivision 108 to read as follows: [See Article 199, 108th District, for text].

Sec. 5.009. Subdivision 8, Article 199, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 4, page 154, General Laws, Acts of the 46th Legislature, Regular Session, 1939, is amended to read as follows: [See Article 199, 8th District, for text].

Sec. 5.010. Subdivision 62, Article 199, Revised Civil Statutes of Texas, 1925, as amended, is amended to read as follows: [See Article 199, 62nd District, for text].

Repealers

Sec. 5.011. The following laws are repealed: Chapter 7, Acts of the 40th Legislature, Regular Session, 1927¹; Chapter 248, Acts of the 43rd Legislature, Regular Session, 1933²; Chapter 464, Acts of the 47th Legislature, Regular Session, 1941²; Chapter 42, Acts of the 43rd Legislature, 2nd Called Session, 1934³; Chapter 211, Acts of the 48th Legislature, 1943³; and Chapter 744, Acts of the 61st Legislature, Regular Session, 1969.

¹ Article 199, subs. 47 and 108.

² Article 199, subd. 47.

³ Article 199, subd. 108.

Court Reporter of 229th Judicial District

Sec. 5.012. The official shorthand reporter of the 229th Judicial District of Texas shall receive a salary of not more than \$11,500 a year, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the judge of the 229th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 229th Judicial District of Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

SUBCHAPTER F. TRANSITIONAL PROVISIONS

Appointment of Initial Officials

Sec. 6.001. When a judicial district is created by this Act or by amendment to this Act,

the Governor shall appoint a qualified person to the office of district judge, who shall serve until the next succeeding general election and until his successor is elected and has qualified; and if the office of district attorney for a judicial district is created by this Act or by amendment to this Act, the Governor shall appoint a qualified person to the office of district attorney, who shall serve until the next succeeding general election in a presidential election year and until his successor is elected and has qualified.

Grand and Petit Jurors

Sec. 6.002. All grand and petit jurors selected in a county before the creation of a district court under this Act are considered to be lawfully selected for the district court created for the county by this Act.

Cases Transferred

Sec. 6.003. Except as otherwise provided by this Act, when this Act is effective to transfer a county from one judicial district to another, or to create a new judicial district within a county and remove the county from one or more existing judicial districts, all cases and proceedings pending in the district courts of that county are transferred by operation of law to the new judicial district or the judicial district to which the county is transferred. The judges of the district courts affected shall sign the proper orders in connection with the transfer.

Process and Writs Remain Valid

Sec. 6.004. (a) When this Act is effective to transfer any county to a different judicial district, or to create a new judicial district within a county and remove the county from one or more existing judicial districts, or to prescribe a different time or place for the court to hold terms of court, all process and writs issued from that court before the effective date of this Act and made returnable to the court as constituted at the time of issuance are returnable to the district court for that county as the court is constituted under this Act at such times as that court directs but not at a time earlier than originally returnable. The writs and process are as legal and valid as if they had been made returnable to the court as constituted under this Act.

(b) All grand and petit jurors lawfully selected in a county before the effective date of this Act are lawfully selected for the district court for that county as constituted under this Act.

(c) The obligees in all appearance bonds and recognizances taken in and for a district court of a county before the effective date of this Act, as well as all witnesses summoned to appear before that district court under laws existing before the effective date of this Act, are required to appear at the district court for that county as constituted under this Act at such time as that court directs but not at a time earlier than originally required.

SUBCHAPTER G. MISCELLANEOUS PROVISIONS

Severability

Sec. 7.001. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision of application, and to this end the provisions of this Act are declared to be severable.

Sec. 7.002. All laws and parts of laws in conflict herewith are hereby modified or repealed to the extent of such conflict; and in any or all cases of such conflict, the provisions of this Act shall prevail.

Appropriation

Sec. 7.003. There is hereby appropriated from the General Revenue Fund, for the fiscal biennium ending August 31, 1971, for the payment of salaries and travel expenses of judges and district attorneys whose offices are created by this Act, the sum of \$1,222,000, or so much thereof as is necessary for these purposes.

[Acts 1969, 61st Leg., 2nd C.S., p. 107, ch. 6, eff. Oct. 1, 1969; Acts 1971, 62nd Leg., p. 1113, ch. 244, § 1, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 1973, ch. 611, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1113, ch. 244, § 2, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 1807, ch. 535, § 2, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2017, ch. 621, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 1786, ch. 525, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2899, ch. 959, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., pp. 530, 531, ch. 228, §§ 1 to 3, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 715, ch. 309, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 731, ch. 316, §§ 1, 2, eff. Sept. 1, 1973; Acts 1973, 63rd Leg., p. 731, ch. 316, § 3, eff. Jan. 1, 1974; Acts 1973, 63rd Leg., p. 731, ch. 316, § 4, eff. Jan. 1, 1975; Acts 1973, 63rd Leg., p. 731, ch. 316, § 5, eff. Jan. 20, 1975; Acts 1973, 63rd Leg., p. 1285, ch. 476, § 3, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1357, ch. 514, § 1, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1361, ch. 517, §§ 1, 2, eff. June 14, 1973.]

Art. 200. Amendments Affecting Judicial Districts

Wherever the law declaring what counties shall compose a judicial district, or the law prescribing the time or places for holding the terms of the district court of any judicial district shall have been or may hereafter be amended, in every such case all process and writs theretofore issued from any such district court and made returnable to a term of such court as fixed by law at the time of such issuance, shall be returnable to the next ensuing term of such court as prescribed by such amended law; and all such writs and process shall be as legal and valid as if the same had been made returnable to the term of such court as fixed by such amendment. All grand and petit jurors selected and drawn under theretofore existing laws in any county of any such judicial district shall be considered lawfully drawn and selected for the next term of the district court of such county as fixed by the amended law; and the obligees in all appearance bonds and recognizances taken in and for any such district court, as well as all witnesses

summoned to appear before such district court under pre-existing law, shall be required to appear at the next term of such court as fixed by the amended law.

[Acts 1925, S.B. 84.]

ADMINISTRATIVE JUDICIAL DISTRICTS

Art. 200a. Administrative Judicial Districts

Numbers and Composition

Sec. 1. The State of Texas is hereby divided into nine (9) Administrative Judicial Districts, which districts shall be numbered and composed of Counties as follows:

First—Bowie, Red River, Lamar, Fannin, Grayson, Collin, Hunt, Delta, Hopkins, Franklin, Titus, Morris, Camp, Cass, Marion, Harrison, Gregg, Upshur, Wood, Rains, Kaufman, Van Zandt, Dallas, Ellis, Henderson, Anderson, Houston, Cherokee, Nacogdoches, Angelina, Panola, Shelby, Smith, Rusk.

Second—San Augustine, Sabine, Jasper, Newton, Orange, Jefferson, Tyler, Hardin, Liberty, Chambers, Galveston, Harris, Brazoria, Matagorda, Wharton, Fort Bend, Waller, Montgomery, San Jacinto, Polk, Walker, Trinity, Grimes, Madison, Leon, Brazos, Freestone, Limestone, Burleson, Washington, Bastrop, Robertson, Lee.

Third—Johnson, Somervell, Bosque, Hill, Navarro, McLennan, Falls, Milam, Williamson, Travis, Austin, Fayette, Caldwell, Comal, Hays, Colorado, Lavaca, Gonzales, Guadalupe, Blanco, Burnet, San Saba, Llano, Mason, Menard, Bell, Lampasas, Mills, Coryell, Hamilton, Comanche.

Fourth—Jackson, Calhoun, Aransas, Refugio, San Patricio, Bee, Live Oak, McMullen, Goliad, Victoria, De Witt, Karnes, Wilson, Atascosa, Frio, LaSalle, Dimmit, Webb, Zapata, Jim Hogg, Bexar.

Fifth—Nueces, Kleberg, Kenedy, Jim Wells, Duval, Brooks, Starr, Hidalgo, Wilbarger, Cameron.

Sixth—Maverick, Kinney, Edwards, Val Verde, Terrell, Kerr, Kendall, Bandera, Gillespie, Kimble, Real, Medina, Uvalde, Zavala, Sutton, Crockett, Pecos, Brewster, Jeff Davis, Presidio, Culberson, Hudspeth, El Paso, Upton, Reagan.

Seventh—Lynn, Garza, Gaines, Dawson, Andrews, Martin, Loving, Winkler, Ector, Midland, Glasscock, Reeves, Ward, Crane, Sterling, Coke, Irion, Tom Green, Schleicher, Borden, Scurry, Howard, Mitchell, Nolan, Taylor, Callahan, Throckmorton, Haskell, Jones, Fisher, Stonewall, Kent, Runnels, Coleman, Brown, McCulloch, Concho.

Eighth—Cooke, Denton, Montague, Clay, Wichita, Archer, Jack, Wise, Young, Stephens, Eastland, Erath, Hood, Palo Pinto, Parker, Tarrant, Shackelford.

Ninth—Wilbarger, Baylor, Knox, King, Dickens, Motley, Cottle, Crosby, Lubbock,

Hockley, Cochran, Bailey, Lamb, Hale, Floyd, Castro, Swisher, Briscoe, Parmer, Deaf Smith, Oldham, Hartley, Dallam, Sherman, Moore, Potter, Randall, Armstrong, Hansford, Ochiltree, Lipscomb, Hutchinson, Roberts, Hemphill, Carson, Gray, Wheeler, Donley, Collingsworth, Hall, Childress, Hardeman, Foard, Yoakum, Terry.

Presiding Judge

Sec. 2. It shall be the duty of the Governor, with the advice and consent of the Senate, to designate one of the regularly elected district judges, or a retired district judge, who voluntarily retired from office, who resides within the district, and who has certified his willingness to serve, in each of said districts as Presiding Judge of the Administrative Judicial District. Adequate quarters for the operation of such District and preservation of records shall be provided in the courthouse of the county in which such Presiding Judge resides. Upon the death, resignation or expiration of the term of office of such Presiding Judge, the Governor shall thereafter immediately appoint or reappoint a Presiding Judge of the Administrative District, as in the first instances above. Presiding Judges of Administrative Judicial Districts shall serve for a term of four (4) years from date of qualification as such administrative judge.

Annual Meetings of Presiding Judges; Assignments for Services in Other Districts; Compensation

Sec. 2a. (1) The Chief Justice of the Supreme Court of Texas shall call and preside over an annual meeting of the Presiding Judges of the Administrative Judicial Districts, on a date and at a time and place designated by him, within the State of Texas, and he shall have the power and authority to call and convene such additional meetings of the Presiding Judges as he may deem necessary for the promotion of the orderly and efficient administration of justice. The expenses of the Presiding Judges attending such meetings shall be paid in the manner prescribed in Sections 8 and 9 of this Act.

(2) At such meetings of the Presiding Judges, the statistics reflecting the condition of the dockets of the various courts of the State shall be studied for the purpose of determining the need for the assignment of judges under this Act; the local Rules of Court shall be compared for the purpose of achieving uniformity thereof insofar as practicable consistent with existing local conditions; and uniformity in the administration of this Act in the various Administrative Judicial Districts shall be considered and efforts made to promote more effective administration of justice through the use of this Act.

(3) In addition to the method set forth in this Act for the assignment of judges by the Presiding Judges of the Administrative Judicial Districts, the Chief Justice shall have the power to designate and assign judges of one or

more Administrative Judicial Districts for service in other Administrative Judicial Districts whenever he deems such assignment necessary to the prompt and efficient administration of justice. Judges so assigned by the Chief Justice shall perform all the duties and functions authorized in this Act the same as if they had been so designated and assigned by the Presiding Judges of the Administrative Judicial Districts.

(4) In addition to, and cumulative of, all other compensation and expenses authorized by law and this Act, judges who are required to hold court outside their own districts and out of their own counties under the provisions of this Act, shall receive a per diem of Twenty-five (\$25.00) Dollars for each day, or fraction thereof, which they spend outside their said districts and counties in the performance of their duties; such additional compensation to be paid in the same manner as their salaries are paid by the State upon certificates of approval by the Chief Justice or by the Presiding Judge of the Administrative Judicial District in which they reside.

Clerk

Sec. 3. The Clerk of the District Court of the district from which the judge has been designated as the Presiding Judge of the Administrative District, and of the county of the residence of the judge, in addition to his regular duties as clerk of the district court, shall perform the duties of the clerk of the Administrative District.

Meetings or Council of Judges

Sec. 4. It shall be the duty of the Presiding Judge of such Administrative District, once each year, to call a regular conference, and, at such times as may be necessary, a special conference, of the several district judges of the several judicial districts composing the Administrative District, at a time and place to be designated by the Presiding Judge, for consultation and counsel as to the state of business, civil and criminal, in the several district courts of the Administrative District, and to arrange for the disposition of the business pending on the dockets of the several district courts of the District. At the time of such consultation, or at any time thereafter, with or without an additional meeting of the judges, it shall be the duty of the Presiding Judge, from time to time, to assign any of the judges of the Administrative District to hold special or regular terms of court in any county of the Administrative District in order to try and dispose of accumulated business, under such rules as may be prescribed by the session, or sessions, of the district judges of the Administrative District. Such meeting or council of judges shall have the power to prescribe rules regulating and facilitating the order of trials, the keeping of records in the various counties of the district where judges are sent from one district into another to facilitate the disposition of cases, and to make such other rules and regulations as may be necessary to carry this Act into

practical operation. When it is deemed necessary, the Presiding Judge of the Administrative District may call special or additional meetings of the conference of judges during the year. The District Judges shall lay before each conference of judges a list of all cases pending, and the exact status of their dockets, together with such other information as may be required by the rules and regulations of the conference.

Assignment of Judges; Vacancy in Office

Sec. 5. Judges may be assigned in the manner herein provided for the holding of District Court when the regular Judge thereof is absent or is from any cause disabled or disqualified from presiding, and in instances where the regular District Judge is present or himself trying cases where authorized or permitted by the Constitution and laws of the State; and Judges may also be assigned in the manner herein provided for the holding of a District Court, when by reason of the death, resignation, or from any cause whatsoever, the office of District Judge of the District is or has become vacant.

Assignment of Retired and Regular Judges; Duty to Accept Assignment

Sec. 5a. Both retired district judges, as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended, who have consented to be subject to assignment, and all regular district judges in this state may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides. When such district judge is so assigned by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the duty of such judge so assigned or reassigned to serve in such court or administrative district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declining such duty for good cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the differ-

ence between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge.

Assignment of Retired District Judges to Domestic Relations or Juvenile Courts

Sec. 5b. A retired district judge, as defined by Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes), may be assigned by the presiding judge of the administrative judicial district wherein the assigned judge resides to a domestic relations or juvenile court within the geographic limits of the respective administrative judicial district. The assignment shall be governed by all other provisions of this Act, except that the county wherein the domestic relations or juvenile court is located shall pay the salary stipulated in Section 5a of this Act.

Extended or Special Terms

Sec. 6. It shall be the duty of any district judge of any district within the Administrative District to extend the regular terms of his court, and to call special terms, when necessary to carry out the purposes of this Act and dispose of pending litigation. If the term be extended as herein provided no other term of the court in such district shall fail because of said extension, but such other terms may be opened and held as usual. The Presiding Judge of one Administrative District may call upon the Presiding Judge of another Administrative District to furnish judges to aid in the disposition of litigation pending in any judicial district within the Administrative District in which such judge so making the request has been designated as the Presiding Judge. For the trial of cases and the entry of orders and the disposition of other business necessary, the judge of any district in this State, or any District Judge sent to any district in this State by the Presiding Judge of an Administrative District, shall have power, by entering an order on the minutes, to convene a special term of the court for the disposition of the business coming before the district court.

Duties of Clerk

Sec. 7. The district clerk performing the duties of clerk for the Administrative District shall conduct the correspondence for the Presiding Judge of the Administrative District, keep a record of all its proceedings, and a complete and accurate record of all cases pending in the several courts of the Administrative District, the time of their filing, the style and purposes of the causes, and their final disposition, and such other matters as may be prescribed by the council of judges herein referred to. For such purposes he is authorized, with the approval of the Presiding Judge, to purchase the necessary office equipment, stamps, stationery and supplies, and to employ one additional deputy clerk, under the

direction of the council of judges or such rules as they may promulgate. Such cost shall be divided pro rata among the counties and paid by the counties on the certificate of the Presiding Judge. He shall, under the direction of the Presiding Judge of the Administrative District, make an annual report, and such special reports as may be directed by the Presiding Judge of the District, to the Attorney General. Such reports shall be there filed and open to public inspection, and shall be condensed and tabulated in the biennial reports of the Attorney General.

Expenses of Meeting of Judges

Sec. 8. The several district judges of the District, when required to attend the annual or special sessions of the judges herein prescribed, shall, in addition to all other compensation allowed them by law, receive their actual traveling expenses going to and returning from the place of meeting, and their actual expenses while in attendance on the meeting.

Expenses Paid by Counties Composing District

Sec. 9. All of the aforesaid salaries, compensation, and expenses, and all other expenses authorized and incurred herein for the purpose of administering this Law, shall be paid by the several counties composing the Administrative District out of the General Fund of said counties. Said salaries, compensations, expenses, and expenditures herein authorized are to be paid in proportion to the number of weeks provided by Law for holding District Court in the respective counties, on certificates of approval of the Presiding Judge of the Administrative Judicial District.

Expenses of Judge Filling Assignment

Sec. 10. When the district judges are assigned under the provisions of this Act to districts other than their own district, and out of their own counties, they shall, in addition to all other compensation permitted or authorized by law, receive their actual expenses in going to and returning from their several assignments, and their actual living expenses while in the performance of their duties under assignments, which expenses shall be paid out of the General Fund of the county in which their duties under assignments are performed, upon accounts certified and approved by the Presiding Judge of the Administrative District.

Differential Pay

Sec. 10a. Any active district judge of the State of Texas assigned to sit for the judge of a district or domestic relations court under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended, codified as Article 200a of Vernon's Texas Civil Statutes, shall, while so serving in any county outside his own judicial district, receive in addition to his necessary expenses additional compensation from the county to which he is assigned in an amount not to exceed the difference between the pay of such visiting judge from all sources exclusive of the per diem provided for such visiting judge under Section

2a(4) of Article 200a of Vernon's Texas Civil Statutes, and the pay received from all sources by the judge of the court to which he is so assigned, such amount to be paid by the county upon approval of the presiding judge of the Administrative District in which such court is located.

Compensation for Performing Duties as Presiding Judge of Administrative Judicial Districts

Sec. 11. (a) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, Presiding Judges of Administrative Judicial Districts shall receive not to exceed \$3,000 per annum as compensation for performing duties as the Presiding Judge of an Administrative Judicial District. In each Administrative Judicial District the salary of the administrative judge shall be set biennially by the Texas Civil Judicial Council, heretofore created, as provided for in Chapter 19, Acts of the 41st Legislature, 1st Called Session, 1929, as amended (Article 2328a, Vernon's Texas Civil Statutes). Whether an administrative judge is active in administrative duties, performs part time, or is retired from the bench shall be considered in arriving at the salary. Each county comprising the Administrative Judicial District shall upon certification pay out of the officers salary fund or the general fund of the county the amount of salary fairly apportioned to it. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annually by the said counties in each Administrative Judicial District to the Presiding Judge of each Administrative Judicial District, and by said Judge placed in an Administrative Fund, from which said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the population of each judicial district comprising the Administrative Judicial District and after so apportioned the amount apportioned to each judicial district shall be apportioned to each county comprising the judicial district according to the population of the county.

(b) In addition to and cumulative of all other compensation, expenses, and perquisites authorized by law and this Act, the Presiding Judge of any Administrative Judicial District in Texas which has forty or more district courts therein, when such Presiding Judge is a retired district judge, shall receive not less than \$5,000.00 nor more than \$15,000.00 per annum as compensation for performing duties as the Presiding Judge of such Administrative Judicial District. Biennially the Council of Judges of such Administrative Judicial District shall fix the amount of such compensation by a majority vote of the judges. Each county comprising such Administrative Judicial District shall pay out of the officers salary fund or the general fund of the county the amount of salary apportioned to it as herein provided. The aforesaid salary, or compensation, and all other expenses incidental thereto, shall be paid annu-

ally by the said counties in such Administrative Judicial District to the Presiding Judge of such Administrative Judicial District, and by said judge placed in an Administrative Fund, from which fund said salary, and other expenses incidental thereto, shall be paid. Said salary shall be paid in twelve equal monthly payments. Said salary shall be apportioned according to the assessed property valuation of each judicial district comprising such Administrative Judicial District and after so apportioned the amount apportioned shall be apportioned to each county comprising the judicial district according to the assessed property valuation of the county.

[Acts 1927, 40th Leg., p. 228, ch. 156; Acts 1929, 41st Leg., p. 488, ch. 231, § 1; Acts 1943, 48th Leg., p. 25, ch. 22, § 1; Acts 1957, 55th Leg., p. 1236, ch. 408, § 1; Acts 1959, 56th Leg., p. 901, ch. 413, § 1, eff. May 30, 1959; Acts 1961, 57th Leg., p. 975, ch. 423, § 1, eff. Aug. 28, 1961; Acts 1965, 59th Leg., p. 62, ch. 22, § 1, eff. March 16, 1965; Acts 1965, 59th Leg., p. 820, ch. 398, § 1, eff. June 9, 1965; Acts 1967, 60th Leg., p. 1167, ch. 520, § 1, eff. June 14, 1967; Acts 1969, 61st Leg., p. 159, ch. 58, § 1, eff. April 3, 1969; Acts 1969, 61st Leg., p. 1984, ch. 674, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1967, ch. 605, § 1, eff. June 2, 1971; Acts 1971, 62nd Leg., p. 2818, ch. 919, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 3414, ch. 1043, § 1, eff. Aug. 30, 1971.]

Art. 200b. Judicial Administration in Certain Counties

Application of Act

Sec. 1. This Act shall apply in any county in which there are three or more courts, including criminal district courts, juvenile courts, and courts of domestic relations, having any of the jurisdiction conferred upon district courts under the constitution and laws of this State.

Authority of Judge

Sec. 2. In any county coming within the purview of Section 1 of this Act, any judge of a court having any district court jurisdiction may hear and determine any matter pending in any other of the courts having any district court jurisdiction, whether the matter is preliminary or final or after judgment in the matter. The judge may sign any judgment or order in any of the courts, with or without having the case transferred. Any such judgment, order, or action shall be valid and binding to the same extent as if the case were pending in the court of the judge so acting. This authority extends to any active or retired judge assigned to any of the courts having any district court jurisdiction under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), or under the provisions of Chapter 99, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon's Texas Civil Statutes).

Rules

Sec. 3. (a) The judges of the courts having any district court jurisdiction may, by majority vote, make and amend rules governing the assignment, docketing, transfer, and hearing of cases, including civil, criminal, juvenile, and

domestic relations cases, subject to jurisdictional limitations.

(b) The judges may make and amend rules of practice and procedure in the courts not inconsistent with the statutes of this State and not inconsistent with the rules of procedure promulgated by the Supreme Court of Texas.

Presiding Judge

Sec. 4. (a) The judges of the courts having any district court jurisdiction may elect, from time to time by majority vote, one of their number as presiding judge. The presiding judge may, under rules adopted under Section 3 of this Act, assign and transfer any case pending in any of the courts to any other of the courts; he may direct the manner in which such cases shall be filed and docketed; he may assign any case or proceeding pending in any of the courts to the judge of any other of the courts; and he may assign the judge of any of the courts to try any case or hear any proceeding pending in any other of the courts.

(b) The judges of the courts shall try any case and hear any proceeding as assigned by the presiding judge. The district clerk of the county shall file, docket, transfer, and assign all such cases as directed by the presiding

judge in accordance with the rules adopted under Section 3 of this Act.

Appointment and Removal of Presiding Judges

Sec. 5. The rules adopted under Section 3 of this Act may authorize the presiding judge elected under Section 4 to appoint and remove, from time to time, presiding judges for courts assigned to any specified class of cases, such as civil, criminal, juvenile, and domestic relations cases. The presiding judge appointed under this section shall have the same authority under the rules adopted under Section 3 of this Act, with respect to such class of cases and with respect to the judges of the courts assigned to such class of cases, as is conferred under Section 4 of this Act on the presiding judge of all the courts in the county.

Jurisdiction

Sec. 6. Neither this Act nor any rule adopted under this Act may be construed to authorize any judge to act in a case of which his own court would not have potential jurisdiction under the constitution and laws of this State.

[Acts 1971, 62nd Leg., p. 1395, ch. 376, eff. May 26, 1971.]

TITLE 9

APPRENTICES [Repealed]

Arts. 201 to 223. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing these articles, enacts Title 2 of the Texas Family Code.

TITLE 10

ARBITRATION

1. TEXAS GENERAL ARBITRATION ACT

Article

- 224. Validity of Arbitration Agreements.
- 225. Proceedings to Compel or Stay Arbitrations.
- 226. Appointment of Arbitrators by Court.
- 227. Majority Action by Arbitrators.
- 228. Hearings before Arbitrators and Notices Thereof.
- 229. Representation by Attorneys.
- 230. Testimony at Hearings before Arbitrators by Witnesses; Subpoenas and Dispositions Therefor.
- 231. Awards by Arbitrators.
- 232. Changes of Awards by Arbitrators.
- 233. Fees and Expenses of Arbitrations as Awarded by Arbitrators.
- 234. Courts with Jurisdiction in Arbitration Proceedings.
- 235. Applications to Courts and the Effect Thereof; Court Proceedings on Applications to Courts; Venue Thereof; Stay of Proceedings in Another Court Pursuant to a Later Application; What the Court may Require that an Application Contain; When Applications may be Filed in Advance of or Pending or at or after the Conclusion of Arbitration Proceedings; Acquisition of Jurisdiction over Adverse Parties by Service of Process or in Rem by Ancillary Proceedings; Court Relief in Aid of Pending or Prospective Arbitration Proceedings or the Enforcement of Court Orders or Decrees or Satisfaction of Court Judgments; Court Hearings on Applications.
- 236. Confirmation of an Award.
- 237. Vacating an Award.
- 238. Modification or Correction of Award.
- 238-1. Judgment or Decree Upon an Award; The Enforcement Thereof.
- 238-2. Appeals.
- 238-3. Act Not Retroactive.
- 238-4. Uniformity of Interpretation.
- 238-5. Severability.
- 238-6. Name of this Act; Definition of Term "This Act"; Effect of Division into Articles, Sections, and Paragraphs and of Captions of Articles.

2. ARBITRATION BETWEEN EMPLOYER AND EMPLOYED

- 239. Board of Arbitration Authorized.
- 240. District Judge to Establish Board, Etc.
- 241. Controversy Involving Labor Organizations.
- 242. Submission in Writing.
- 243. Arbitrators to Take Oath, Etc.
- 244. Powers and Duties of Chairman and Board.
- 245. Adjudication Terminates Powers.
- 246. Status Quo Preserved.
- 247. Compensation.
- 248. Award to Take Effect When.
- 249. Judgment Entered.

1. TEXAS GENERAL ARBITRATION ACT

Part 1 of Title 10, Arbitration in General, consisting of articles 224 to 238, was revised and amended by Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, to read as it now appears in articles 224 to 238-6.

Sections 2 and 3 of the 1965 Act provided:

"Sec. 2. This Act does not affect the enforcement of arbitration agreements made before the effective date of this Act.

"Sec. 3. This Act takes effect on January 1, 1966."

Former articles 224 to 238 were derived from Const. art. 16, § 13 and Acts 1846, p. 127.

Art. 224. Validity of Arbitration Agreements

A written agreement concluded upon the advice of counsel to both parties as evidenced by counsels' signatures thereto to submit any existing controversy to arbitration or a provision in a written contract concluded upon the advice of counsel to both parties as evidenced by counsels' signatures thereto to submit to arbitration any controversy thereafter arising between the parties is valid, enforceable and irrevocable, save upon such grounds as exist at law or in equity for the revocation of any contract. Provided, however, that none of the provisions of this Act shall apply to any labor union contract or to any arbitration agreements or to any arbitrations held pursuant to agreements between any employer and any employee of that employer or between their respective representatives, to any contract of insurance or any controversy thereunder, or to any construction contract or any document relating thereto.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 225. Proceedings to Compel or Stay Arbitrations

Sec. A. On application of a party showing an agreement described in Article 224 of this Act, and the opposing party's refusal to arbitrate, the court shall order the parties to proceed with arbitration; but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue so raised and shall order arbitration if found for the moving party; otherwise, the application shall be denied.

Sec. B. On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. Such an issue, when in substantial and bona fide dispute, shall be forthwith and summarily tried and the stay ordered if found for the moving party. If found for the opposing party, the court shall order the parties to proceed to arbitration.

Sec. C. If an issue referable to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under Section A of Article 234 of this Act, the application shall be made therein. Otherwise and subject

to Article 235 of this Act, the application may be made in any court of competent jurisdiction.

Sec. D. Any action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application therefor has been made under the provisions of this Article 225, or, if the issue is severable, the stay may be with respect thereto only. When the application is made in such action or proceeding, the order for arbitration shall include such stay.

Sec. E. An order for arbitration shall not be refused on the ground that the claim in issue lacks merit or bona fides or because any fault or grounds for the claim sought to be arbitrated have not been shown.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 226. Appointment of Arbitrators by Court

If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. In the absence thereof, or if the agreed method fails or for any reason cannot be followed, or when an arbitrator appointed fails or is unable to act and his successor has not been duly appointed, the court on application of a party setting forth the nature of the issues to be arbitrated and the qualifications of the proposed arbitrators shall appoint one or more qualified arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 227. Majority Action by Arbitrators

The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 228. Hearings before Arbitrators and Notices Thereof

Unless otherwise provided by the agreement:

Sec. A. The arbitrators shall appoint a time and place for the hearing and cause notification to the parties to be served personally or by registered or certified mail with return receipt requested not less than five days before the hearing. Appearance at the hearing waives such notice. The arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause, or upon their own motion, may postpone the hearing to a time not later than the date fixed by the agreement for making the award unless the parties consent to a later date. The arbitrators may hear and determine the controversy upon the evidence produced notwithstanding the failure of a party duly notified to appear. The court on application may direct the arbitrators to proceed promptly with the hearing and determination of the controversy.

Sec. B. The parties are entitled to be heard, to present evidence material to the controversy and to cross-examine witnesses appearing at the hearing.

Sec. C. The hearing shall be conducted by all the arbitrators but a majority may determine any question and render a final award. If, during the course of the hearing, an arbitrator for any reason ceases to act, the remaining arbitrator or arbitrators appointed to act as neutrals may continue with the hearing and determination of the controversy.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 229. Representation by Attorneys

A party has the right to be represented by an attorney at any proceeding or hearing under this Act. A waiver thereof prior to the proceeding or hearing is ineffective.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 230. Testimony at Hearings before Arbitrators by Witnesses; Subpoenas and Dispositions Therefor

Sec. A. The arbitrators shall have the power to administer oaths required of witnesses in a civil action pending in a district court and may cause same to be administered by any one of them, to each witness testifying before them.

Sec. B. The arbitrators may authorize a deposition to be taken of a witness who cannot be required by subpoena to appear before them or who is unable to attend the hearing, for use as evidence, or may authorize a deposition of an adverse witness for discovery or evidentiary purposes, such depositions to be taken in the manner provided by law for depositions in a civil action pending in a district court.

Sec. C. The arbitrators may issue or cause to be issued by any one of them, subpoenas for the attendance of witnesses and for the production of books, records, documents, and other evidence; the appearance of the witness required by such a subpoena may be either at the hearing before the arbitrators or at the deposition of the witness. Subpoenas so issued shall be served in the manner provided by law for the service of subpoenas issued in a civil action pending in a district court. All provisions of law requiring a witness under subpoena to appear, to produce and to testify, pursuant to a subpoena issued in such a civil action, shall apply to subpoenas issued under this Article.

Sec. D. Fees for witnesses attending any hearing before arbitrators or any deposition pursuant to the provisions of this Article, shall be the same as for a witness in a civil action in a district court.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 231. Awards by Arbitrators

Sec. A. The award shall be in writing and signed by the arbitrators joining in the award.

The arbitrators shall deliver a copy to each party personally or by registered or certified mail, or as provided in the agreement.

Sec. B. An award shall be made within the time fixed therefor by the agreement or, if not so fixed, within such time as the court orders on application of a party. The parties may extend the time in writing either before or after the expiration thereof. A party waives the objection that an award was not made within the time required unless he notifies the arbitrators of his objection prior to the delivery of the award to him.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 232. Changes of Awards by Arbitrators

On application of a party or, if an application to the court is pending under Articles 236, 237 and 238, on submission to the arbitrators by the court under such conditions as the court may order, the arbitrators may modify or correct the award upon the grounds stated in Section A of Article 238, or for the purpose of clarifying the award. The application shall be made within twenty days after delivery of the award to the applicant. Written notice thereof shall be given forthwith to the opposing party, stating that he must serve his objections thereto, if any, within ten days from the notice. The award so modified or corrected is subject to the provisions of Articles 236, 237 and 238.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 233. Fees and Expenses of Arbitrations as Awarded by Arbitrators

Unless otherwise provided in the agreement to arbitrate, the arbitrators' expenses and fees, together with other expenses incurred in the conduct of the arbitration, shall be paid as provided in the award. Attorneys fees shall be awarded by the arbitrators as additional sums required to be paid under the award only if provided for in the agreement to arbitrate or provided by law as to any recovery in a civil action in the district court on such a cause of action on which the award in whole or in part is based.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 234. Courts with Jurisdiction in Arbitration Proceedings

Sec. A. The term "court" as used in this Act shall mean and include any court of this State of competent jurisdiction as to the parties, the subject matter, and the amount in controversy. Such a court shall have jurisdiction to hear and determine applications as provided in Article 235.

Sec. B. The making of an agreement described in Article 224 and to which that Article is applicable (but this expressly shall not be the effect of the making of an agreement to which that Article is made inapplicable by the last sentence thereof), which provides for or authorizes an arbitration in this State, confers

jurisdiction on the court to enforce the agreement under this Act and to enter judgment on an award thereunder.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 235. Applications to Courts and the Effect Thereof; Court Proceedings on Applications to Courts; Venue Thereof; Stay of Proceedings in Another Court Pursuant to a Later Application; What the Court may Require that an Application Contain; When Applications may be Filed in Advance of or Pending or at or after the Conclusion of Arbitration Proceedings; Acquisition of Jurisdiction over Adverse Parties by Service of Process or in Rem by Ancillary Proceedings; Court Relief in Aid of Pending or Prospective Arbitration Proceedings or the Enforcement of Court Orders or Decrees or Satisfaction of Court Judgments; Court Hearings on Applications

Sec. A. The jurisdiction of a court may be invoked by the filing with the clerk of that court of an application for the entry by the court of a judgment or decree or order provided for by the terms of this Act. Upon the filing of the initial application and the payment to the clerk of the fees of court required to be paid on the filing of a civil action in the court, the clerk shall docket the proceedings as a civil action pending in that court.

Sec. B. The filing of the initial application shall be with the clerk of the court of that county in Texas in which (if it does so provide) the arbitration agreement shall provide that the hearing before the arbitrators shall be held; or if the hearing has been held, in the county in which it was held. Otherwise, the initial application shall be filed in the county in which the adverse party resides (or one of them if there are two or more adverse parties) or has a place of business; or if no adverse party has a residence or place of business in this State, in any county. The initial application filed with the clerk of a court having jurisdiction but in a county other than as provided for in this Section, shall be transferred to a court of the county provided for in this Section by an order comparable to an order sustaining a plea of privilege to be sued in a civil action in a district court of a county other than the county in which an action is filed; provided that such order of transfer shall be entered only if applied for by a party adverse to the applicant who files the initial application, within twenty days of the service of process on such adverse party and in advance of any other appearance in the court of that adverse party other than one challenging the jurisdiction of the court.

Sec. C. An initial application having been so filed, the court having jurisdiction thus invoked, may by order or orders stay proceedings pursuant to any application later filed seeking to invoke the jurisdiction of any other court or the entry of a judgment or decree or order pro-

vided for by the terms of this Act; or may stay any civil action or other proceeding later instituted; provided, however, that any such stay of proceedings in any civil action or other proceeding or pursuant to an application later filed in any other court shall be limited to and affect only an issue subject to arbitration under the arbitration agreement pursuant to the terms of which the initial application was so filed.

Sec. D. As provided in Section C of Article 225, the initial application and all subsequent applications to the court relating to arbitration of an issue subject to arbitration under an arbitration agreement shall be filed in a civil action or proceeding pending in a court having jurisdiction to hear applications under the provisions of Section A of Article 234 if the civil action or proceeding is pending before the filing of the initial application as otherwise provided by Section A of Article 235.

Sec. E. The court may require that an application filed under this Act for entry by it of any judgment or decree or order shall show the jurisdiction of the court, shall have attached to it a copy of the arbitration agreement, shall define the issue or issues subject to arbitration between the parties under the arbitration agreement, shall specify the status of the proceedings before arbitrators and show the need for the entry of the judgment, decree or order by the court sought by the applicant. No application shall be deemed inadequate because of the absence of any of these requirements unless the court shall, in its discretion, first require that the application as filed be amended to meet the requirements of the court and a period of ten days is granted to the applicant to permit him to comply.

Sec. F. An application for entry by the court of a judgment or decree or order provided for by the terms of this Act may be filed in advance of the institution of any arbitration proceedings but in aid thereof, or during the pendency of any arbitration proceeding before the arbitrators or, subject to the provisions of subsequent Articles of this Act, at or after the conclusion thereof.

Sec. G. In advance of the institution of any arbitration proceedings, but in aid thereof, an application may be filed for order or orders to be entered by the court, including but not limited to applications:

(i) invoking the jurisdiction of the court over the adverse party and for effecting same by service of process on him in advance of the institution of arbitration proceedings (it not being required to be shown in this connection that the adverse party is about to, or may, absent himself from the state if jurisdiction over him is not effected by service of process on him before the institution of arbitration proceedings); or

(ii) invoking the jurisdiction of the court over the controversy in rem, by attachment, garnishment, sequestration, or

any other ancillary proceeding in the manner by which, and on complying with the conditions under which, such proceedings may be instituted and conducted ancillary to a civil action in a district court; or

(iii) seeking to restrain or enjoin the destruction of the subject matter of the controversy or any essential part thereof, or the destruction or alteration of books, records, documents, or evidence needed for the arbitration proceeding, or seeking from the court in its discretion, order for deposition or depositions needed in advance of the commencement of the arbitration proceedings for discovery, for perpetuation of testimony or for evidence; or

(iv) seeking the appointment of arbitrator or arbitrators so that proceedings before them under the arbitration agreement may proceed; or

(v) seeking any other relief, which the court can grant in its discretion, needed to permit the orderly arbitration proceedings to be instituted and conducted and to prevent any improper interference or delay thereof.

Sec. H. During the pendency of any arbitration proceedings before the arbitrators, an application may be filed for order or orders to be entered by the court, including but not limited to applications:

(i) referred to or to serve any purpose referred to in Section G of this Article; or

(ii) to require compliance by any adverse party or any witness with order or orders made by arbitrators during the arbitration proceedings, pursuant to provisions of this Act; or

(iii) to require the issuance and service under orders of the court rather than orders made by the arbitrators, of subpoenas, notices or other court processes in aid of the arbitration proceedings before the arbitrators; or in any ancillary proceedings in rem by attachment, garnishment, sequestration or otherwise, in the manner of and on complying with the conditions under which such ancillary proceedings may be instituted and conducted ancillary to a civil action in a district court; or

(iv) to seek to effect or maintain security for the satisfaction of any court judgment that may be later entered pursuant to the provisions of an award. During the pendency of the arbitration proceedings or at or after their conclusion, an application may be filed to seek any of the above mentioned relief or otherwise aid in the enforcement of any court judgment or decree or order entered pursuant to the provisions of this Act; or for relief as provided in Articles 236, 237 and 238.

Sec. I. On filing of any initial application herein authorized, the clerk of the court shall issue process for service upon each adverse

party named therein, attaching a copy of the application to each, and appropriate officials authorized so to do may proceed to effect service of such process on each adverse party, the form and substance of the process and service and the return of service, insofar as applicable, being the form provided for as to process and service on a defendant in a civil action in a district court.

Sec. J. Upon the filing of any application other than the initial application, if the jurisdiction over the adverse party has been established by service of process on him or in rem upon the initial application (though, if not, then on such subsequent application there shall be a service of process as provided for in Section I of this Article), each subsequent application with reference to the same arbitration proceedings or prospective proceedings under the same arbitration agreement and relating to the same controversy or controversies, shall be treated for the purposes of notice to each adverse party, as if a motion filed in a pending civil action in a district court. Every such subsequent application to the court for any relief and every initial application shall be heard by the court in the manner and pursuant to the notice provided by law or rule of court as to the making and hearing of such a motion.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 236. Confirmation of an Award

Upon application of a party, the court shall confirm an award, unless within the time limits hereinafter imposed grounds are urged for vacating or modifying or correcting the award, in which case the court shall proceed as provided in Articles 237 and 238 of this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 237. Vacating an Award

Sec. A. Upon application of a party, the court shall vacate an award where:

- (1) The award was procured by corruption, fraud or other undue means;
- (2) There was evident partiality by an arbitrator appointed as a neutral or corruption in any of the arbitrators or misconduct or wilful misbehavior of any of the arbitrators prejudicing the rights of any party;
- (3) The arbitrators exceeded their powers;
- (4) The arbitrators refused to postpone the hearing upon sufficient cause being shown therefor or refused to hear evidence material to the controversy or otherwise so conducted the hearing, contrary to the provisions of Article 228, as to prejudice substantially the rights of a party; or
- (5) There was no arbitration agreement and the issue was not adversely determined in proceedings under Article 225 and the party did not participate in the arbitration hearing without raising the

objection; but the fact that the relief was such that it could not or would not be granted by a court of law or equity is not ground for vacating or refusing to confirm the award.

Sec. B. An application under this Article shall be made within ninety days after delivery of a copy of the award to the applicant, except that, if predicated upon corruption, fraud or other undue means, it shall be made within ninety days after such grounds are known or should have been known.

Sec. C. In vacating the award on grounds other than stated in paragraph 5 of Section A of this Article, the court may order a rehearing before new arbitrators chosen as provided in the agreement, or in the absence thereof, by the court in accordance with the provisions of Article 226; or, if the award is vacated on grounds set forth in paragraphs 3 and 4 of Section A of this Article, the court may order a rehearing before the arbitrators who made the award or their successors appointed in accordance with the provisions of Article 226. The time within which the agreement requires the award to be made is applicable to the rehearing and commences from the date of the order.

Sec. D. If the application to vacate is denied and no motion to modify or correct the award is pending, the court shall confirm the award.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238. Modification or Correction of Award

Sec. A. Upon application made within ninety days after delivery of a copy of the award to the applicant, the court shall modify or correct the award where:

- (1) There was an evident miscalculation of figures or an evident mistake in the description of any person, thing, or property referred to in the award;
- (2) The arbitrators have awarded upon a matter not submitted to them and the award may be corrected without affecting the merits of the decision upon the issues submitted; or
- (3) The award is imperfect in a matter of form, not affecting the merits of the controversy.

Sec. B. If the application is granted, the court shall modify and correct the award so as to effect its intent and shall confirm the award as so modified and corrected. Otherwise, the court shall confirm the award as made.

Sec. C. An application to modify or correct an award may be joined in the alternative with an application to vacate the award.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-1. Judgment or Decree Upon an Award; The Enforcement Thereof

Upon the granting of an order confirming, modifying or correcting an award, judgment or decree shall be entered in conformity therewith

and be enforced as any other judgment or decree. Costs of the application and of the proceedings subsequent thereto, and disbursements may be awarded by the court.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-2. Appeals

Sec. A. An appeal may be taken from:

(1) An order denying an application to compel arbitration made under Section A of Article 225;

(2) An order granting an application to stay arbitration made under Section B of Article 225;

(3) An order confirming or denying confirmation of an award;

(4) An order modifying or correcting an award;

(5) An order vacating an award without directing a rehearing; or

(6) A judgment or decree entered pursuant to the provisions of this Act.

Sec. B. The appeal shall be taken in the manner and to the same extent as from orders or judgments in a civil action.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-3. Act Not Retroactive

The Act applies only to agreements made subsequent to the taking effect of this Act.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-4. Uniformity of Interpretation

This Act shall be so construed as to effectuate its general purpose and make uniform the construction of those articles and sections that are enacted into the law of arbitration proceedings of other states.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-5. Severability

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

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

Art. 238-6. Name of this Act; Definition of Term "This Act"; Effect of Division into Articles, Sections, and Paragraphs and of Captions of Articles

The name of this Act is "Texas General Arbitration Act." The term "this act" as used therein shall mean and refer to Article 224 through this Article 238-6, inclusive. This Act is divided into articles with a caption for each, with a number assigned to each article, certain of the articles are divided into sections with a capital letter assigned to each section and cer-

tain of the sections are subdivided into paragraphs with a parenthetical number assigned to each such paragraph. These subdivisions of this Act however are for purposes of convenience only and in order that there may be references in one provision of the Act to other provision or provisions of the Act more readily; neither any such subdivision of the Act nor any caption for any article however shall be any aid to or given any effect in connection with any construction of the Act or any part thereof.

[Acts 1965, 59th Leg., p. 1593, ch. 689, § 1, eff. Jan. 1, 1966.]

2. ARBITRATION BETWEEN EMPLOYER AND EMPLOYED

Art. 239. Board of Arbitration Authorized

Whenever any grievance or dispute of any nature, growing out of the relation of employer and employes, shall arise or exist between employer and employes, it shall be lawful, upon mutual consent of all parties, to submit all matters respecting such grievance or dispute in writing to a board of arbitrators to hear, adjudicate, and determine the same. Said board shall consist of five persons. When the employes concerned in such grievance or dispute, as the aforesaid, are members in good standing of any labor organization which is represented by one or more delegates in a central body, the said central body shall have power to designate two of said arbitrators, and the employer shall have the power to designate two others of said arbitrators; and the said four arbitrators shall designate a fifth person as arbitrator, who shall be chairman of the board. In case the employes concerned in any such grievance or dispute, as aforesaid, are members in good standing of a labor organization which is not represented in a central body, then the organization of which they are members shall designate two members of said board; and said board shall be organized as hereinbefore provided; and in case the employes concerned in any such grievance or dispute, as aforesaid, are not members of any labor organization, then a majority of said employes, at a meeting duly held for that purpose, shall designate two arbitrators for said board; and said board shall be organized as hereinbefore provided; provided, that when the two arbitrators shall have been selected by each of the respective parties to the controversy, the district judge of the district having jurisdiction of the subject matter shall, upon notice from either of said arbitrators that they have failed to agree upon the fifth arbitrator, appoint said fifth arbitrator.

[Acts 1925, S.B. 84.]

Art. 240. District Judge to Establish Board, Etc.

Any board, as aforesaid selected, may present a written petition to the district judge of the county where such grievance or dispute to be arbitrated may arise, signed by a majori-

ty of said board, setting forth in brief terms the facts showing their due and regular appointment, and the nature of the grievance or dispute between the parties to said arbitration, and praying the license or order of such judge establishing and approving of said board of arbitration. Upon the presentation of said petition, said judge, if it appear that all requirements of this law have been complied with, shall make an order establishing such board of arbitration and referring the matters in dispute to it for hearing, adjudication and determination. The said petition and order, or a copy thereof, shall be filed in the office of the district clerk of the county in which the arbitration is sought.

[Acts 1925, S.B. 84.]

Art. 241. Controversy Involving Labor Organizations

When a controversy involves and affects the interests of two or more classes or grades of employes belonging to different labor organizations, or of individuals who are not members of a labor organization, then the two arbitrators selected by the employes shall be agreed upon and selected by the concurrent action of all such labor organizations, and a majority of such individuals who are not members of a labor organization.

[Acts 1925, S.B. 84.]

Art. 242. Submission in Writing

The submission shall be in writing, shall be signed by the employer or receiver and the labor organization representing the employes, or any laborer or laborers to be affected by such arbitration who may not belong to any labor organization, shall state the question to be decided, and shall contain appropriate provisions by which the respective parties shall stipulate as follows:

1. That pending the arbitration, the existing status prior to any disagreement or strike, shall not be changed.

2. That the award shall be filed in the office of the clerk of the district court of the county in which said arbitration is held, and shall be final and conclusive upon both parties, unless set aside for error of law, apparent on the record.

3. That the respective parties to the award will each faithfully execute the same, and that the same may be specifically enforced in equity so far as the powers of a court of equity permit.

4. That the employes dissatisfied with the award shall not, by reason of such dissatisfaction, quit the service of said employer or receiver before the expiration of thirty days, nor without giving said employer or receiver thirty days written notice of their intention to quit.

5. That said award shall continue in force as between the parties thereto for the period of one year after the same shall

go into practical operation; and no new arbitration upon the same subject between the same parties shall be had until the expiration of said one year.

[Acts 1925, S.B. 84.]

Art. 243. Arbitrators to Take Oath, Etc.

The arbitrators so selected shall sign a consent to act as such and shall take and subscribe an oath before some officer authorized to administer the same, to faithfully and impartially discharge his duties as such arbitrator, which consent and oath shall be immediately filed in the office of the clerk of the district court wherein such arbitrators are to act. When said board is ready for the transaction of business, it shall select one of its members to act as secretary, and the parties to the dispute shall receive notice of a time and place of hearing, which shall be not more than ten days after such agreement to arbitrate has been filed.

[Acts 1925, S.B. 84.]

Art. 244. Powers and Duties of Chairman and Board

The chairman shall have power to administer oaths and to issue subpoenas for the production of books and papers and for the attendance of witnesses, to the same extent that such power is possessed by a court of record, or the judge thereof, in this State. The board may make and enforce the rules for its government and transaction of the business before it and fix its sessions and adjournment, and shall hear and examine such witnesses as may be brought before the board, and such other proof as may be given relative to the matter in dispute.

[Acts 1925, S.B. 84.]

Art. 245. Adjudication ¹ Terminates Powers

When said board shall have rendered its adjudication and determination, its powers shall cease, unless there may be at the time in existence other similar grievances or disputes between the same class of persons mentioned in the first article of this subdivision, and in such case such persons may submit their differences to said board, which shall have power to act and adjudicate and determine the same as fully as if said board were originally created for the settlement of such difference or differences.

[Acts 1925, S.B. 84.]

¹ Probably should read "Adjudication."

Art. 246. Status Quo Preserved

During the pendency of such arbitration it shall not be lawful for the employer or receiver party to such arbitration, nor his agent, to discharge the employes parties thereto, except for inefficiency, violation of law, or neglect of duty, or where reduction of force is necessary, nor for the organization representing such employes to order, nor for the employes to unite in, aid or abet strikes or boycotts against such employer or receiver.

[Acts 1925, S.B. 84.]

Art. 247. Compensation

Each of the said board of arbitrators shall receive three dollars per day for every day in actual service, not to exceed ten days, and traveling expenses not to exceed five cents per mile actually traveled in getting to, or returning from, the place where the board is in session. The fees of witnesses of the aforesaid board shall be fifty cents for each day's attendance and five cents per mile traveled by the nearest route to, and returning from, the place where attendance is required by the board. All subpoenas shall be signed by the secretary of the board and may be served by any person of full age authorized by the board to serve the same. And the fees and mileage of witnesses and the per diem and traveling expenses of said arbitrators shall be taxed as costs against either or all of the parties to said arbitration, as the board of arbitrators may deem just, and shall constitute part of their award; and each of the parties to said arbitration shall, before the arbitrators proceed to consider the matters submitted to them, give a bond, with two or more good and sufficient sureties, in an amount to be fixed by the board of arbitration, conditioned for the payment of all expenses connected with the said arbitration.

[Acts 1925, S.B. 84.]

Art. 248. Award to Take Effect When

The award shall be made in triplicate. One copy shall be filed in the district clerk's office, one copy shall be given to the employer or receiver, and one copy to the employes or their duly authorized representative. The award, being filed in the District Clerk's office, as hereinbefore provided, shall go into practical

operation, and judgment shall be entered thereon accordingly, at the expiration of ten days from such filing, unless within such ten days either party shall file exceptions thereto for matter of law apparent on the record; in which case said award shall go into practical operation, and judgment shall be rendered accordingly, when such exceptions shall have been fully disposed of by either said district court or on appeal therefrom.

[Acts 1925, S.B. 84.]

Art. 249. Judgment Entered

At the expiration of ten days from the decision of the district court, upon exceptions taken to said award as aforesaid, judgment shall be entered in accordance with said decision, unless during the said ten days either party shall appeal therefrom to the court of civil appeals holding jurisdiction thereof. In such case, only such portions of the record shall be transmitted to the appellate court as is necessary to the proper understanding and consideration of the questions of law presented by said exceptions and to be decided. The determination of said court of civil appeals, upon said questions shall be final, and being certified by the clerk of said court of civil appeals, judgment pursuant thereto shall thereupon be entered by said district court. If exceptions to an award are finally sustained, judgment shall be entered setting aside the award; but in such case the parties may agree upon a judgment to be entered disposing of the subject matter of the controversy, which judgment, when entered, shall have the same force and effect as judgment entered upon an award.

[Acts 1925, S.B. 84.]

TITLE 10A

ARCHITECTS

Article

- 249a. Regulation of Practice of Architecture.
- 249b. Temporary provisions.
- 249c. Regulation of Practice of Landscape Architecture.
- 249d. Construction Contracts; Indemnification of Architects or Engineers; Covenants.

Art. 249a. Regulation of Practice of Architecture

Architects to Register

Sec. 1. In order to safeguard life, health, and property, and the public welfare, and in order to protect the public against the irresponsible practice of the profession of architecture by properly defining and regulating the practice of architecture, no person shall practice architecture, as herein defined, within this State, after ninety (90) days after the appointment and qualification of the members of the Board of Architectural Examiners hereinafter created, unless he be a registered architect, as provided by this Act.

Board of Architectural Examiners Created; Qualification; Term of Office; Vacancies

Sec. 2. There is hereby created a Board of Architectural Examiners to be known as the Texas Board of Architectural Examiners, and such Board shall consist of six (6) reputable practicing architects who have resided in the State of Texas and have been actively engaged in the practice of architecture for five (5) years next preceding their appointment. The term of office of each member of said Board shall be six (6) years, except that as to the first Board appointed hereunder two (2) of its members shall serve for a term of two (2) years, two (2) of its members for a term of four (4) years, and two (2) of its members for a term of six (6) years, the respective terms of the first members so appointed to be designated by the Governor of this State in so appointing them. Within thirty (30) days after this Act becomes effective the six (6) members of said Board shall be appointed by the Governor of this State; two (2) to serve for two (2) years, two (2) to serve for four (4) years, and two (2) to serve for six (6) years, or until their successors shall have been appointed and qualified as provided in this Act. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of this State and he shall serve for a term of six (6) years or until his successor shall be appointed and qualified. The present members of the Board of Architectural Examiners of Texas shall remain in office and perform their duties until the new members of the Texas Board of Architectural Examiners provided for in this Act shall have qualified. All vacancies occurring in the mem-

bership of said Board shall be filled by appointment by the Governor of this State for the unexpired term of such membership. All appointments to said Board shall be subject to confirmation by the Texas Senate.

Not more than one (1) member of said Board shall be a stockholder or owner of any interest in, nor be a member of the faculty, or board of trustees, or other governing board of, nor be an officer of, any school or college which teaches architecture.

A member of said Board shall not be disqualified for, nor prohibited from, performing any work or rendering any service on any State, county, municipal, or other public building or work for a fee or other direct compensation because of membership on said Board.

Oath; Organization of Board; Bond of Secretary-Treasurer; Powers and Duties; Rules and Regulations

Sec. 3(a). The members of the Texas Board of Architectural Examiners shall, before entering upon the discharge of their duties, qualify by subscribing to, before a Notary Public or other officer authorized by law to administer oaths, and filing with the Secretary of State, the Constitutional oath of office. They shall, as soon as organized, and biennially thereafter in the month of January, elect from their number a chairman and vice-chairman. A secretary-treasurer of this Board shall be appointed by the Board and shall hold office at the pleasure of the Board. The secretary-treasurer may, but need not, be a Member of the Board. The secretary-treasurer, before entering upon his duties, shall make and file a bond of not less than Five Thousand Dollars (\$5,000.00) with the State Comptroller. Said bond shall be payable to the Governor of this State for the benefit of said Board; shall be conditioned upon the faithful performance of the duties of such officer, and shall be in such form as may be approved by the Attorney General of this State; and shall be executed by a surety company, as surety, and be approved by the Texas Board of Architectural Examiners. The premium on the bond shall be paid from the Architects Registration Fund.

(b). The Board shall adopt all reasonable and necessary rules, regulations, and by-laws not inconsistent with the Texas Constitution, the laws of this State, and this Act for the performance of their duties in administering this Act. The Board shall adopt a seal, which shall be used on official documents. The design of the seal shall be similar to the seal of other departments of the State, in that it shall contain the five-pointed star with a circular border, and within the border shall contain the

words, "Texas Board of Architectural Examiners".

(c). The secretary-treasurer of the Board shall keep a correct record of all the proceedings of the Board and of all moneys received or expended by the Board, which record shall be open to public inspection at all reasonable times. The records shall reflect all renewals or refusals of certificates of registration; and they shall also contain the name, known place of residence, and the date and serial number of the registration certificate of every registered architect entitled to practice his or her profession in this State, and a record of all renewals of such certificates.

(d). The Board shall cause the prosecution of all persons violating any of the provisions of this Act, and may incur the expense reasonably necessary in that behalf.

Fees; Architects Registration Fund; Office;
Employees; Compensation

Sec. 4(a). All fees collected or money derived under the provisions of this Act shall be received and accounted for by the secretary-treasurer. All of these funds which are received shall be paid weekly to the State Treasurer, who shall keep this money in a separate fund to be known as the Architects Registration Fund. This fund shall be paid out only by warrants of the State Comptroller, upon itemized vouchers, approved by the chairman or acting chairman and attested by the secretary-treasurer of the Board. Disbursements shall not in any way be a charge upon the General Revenue Fund of this State.

(b). To aid the Board in performing its duties, the Board shall maintain an office in Austin, Travis County, Texas. The Board may employ an executive director to conduct the affairs of the Board under the Board's direction. The executive director shall receive a salary which the Board shall determine. The Board shall employ clerical help and assistants as are necessary for the proper performance of its work and may make expenditures for this purpose.

(c). Each member of the Board shall receive as compensation the sum of Twenty-Five Dollars (\$25.00) per day for each day he is actually engaged in the duties of his office, including time spent in necessary travel, together with all legitimate expenses incurred in the performance of his duties. All per diem and expenses incurred under this Act shall be paid from the Architects Registration Fund as provided in this Act.

Quorum; Meetings; Rules and Regulations;
Enforcement Remedies

Sec. 5(a). A majority of the membership of the Board shall constitute a quorum. Regular meetings of the Board shall be held at such times as the Board may fix and determine. Special meetings of the Board shall be called by the chairman, or in his absence from the State, or inability to act, by the vice-chairman of the Board.

(b). In addition to the powers and duties granted to the Board by other provisions of this Act, the Board may make all rules consistent with the laws and constitution of this State which are reasonably necessary for the proper performance of its duties, the regulation of the practice of architecture and the examination and registration of applicants to practice architecture in this State, and the enforcement of this Act.

(c). The Texas Board of Architectural Examiners is hereby empowered and authorized to enforce such rules and regulations, the provisions of this Act, and the statutes of this state pertaining to the practice of architecture, by applying to a court of competent jurisdiction in the county of the residence of the defendant or the county where the violation occurred for relief by injunction, restraining order, or such other relief as may be available from such court, in order to enjoin or restrain a person, firm, corporation, partnership or any other group or combination of persons from the commission of any act which is contrary to or in violation of such rules, regulations or statutes. The Board has the right to institute these actions in its own name. The remedy provided by this section shall be in addition to any other remedy provided by law. The Board may be represented by the Attorney General, the District Attorney, or the County Attorney, and by other counsel when necessary.

Meetings; Examinations; Fee; Certificate

Sec. 6(a). It shall be the duty of the Texas Board of Architectural Examiners to hold meetings at least twice each year at such times and places as the Board may determine for the purpose of transacting its business and to examine all applicants for license to practice architecture in this State on any subjects and procedures pertaining to architecture which the Board in its discretion may require.

(b). Each person applying for examination shall pay to the Board a uniform fee to be fixed by the Board, but which shall not exceed One Hundred Dollars (\$100.00). The Board shall report to each applicant within a reasonable time after the examination whether or not the applicant passed or failed the examination. An applicant who has passed the examination shall be granted a certificate to practice architecture in this State. The original certificate herein provided for shall be valid for the balance of the current registration year and must be renewed each year thereafter in the manner and time provided by law.

Qualifications of Applicants for Registration

Sec. 7(a). An applicant for examination for registration as an architect in this State shall be a person of good moral character, not less than 21 years of age, and shall present a diploma from and be a graduate of a recognized university or college of architecture approved by the Board, and shall also present evidence acceptable to the Board of such applicant's having had satisfactory experience in architecture, in the office or offices of one or

more legally practicing architects, as prescribed in the rules and regulations adopted by the Board.

(b). Repealed by Acts 1973, 63rd Leg., p. 806, ch. 361, § 11, eff. June 12, 1973.

(c). Until June 30, 1980, the Board may accept for examination, an applicant, although not a graduate as above required, who possesses all of the other qualifications and furnishes evidence acceptable to the Board of his having completed not less than eight years satisfactory experience in architecture in the office or offices of one or more legally practicing architects, or any combination of architectural schooling and experience totaling eight years.

Licensees from Other States or Countries; Fees

Sec. 8(a). The Texas Board of Architectural Examiners may, in its discretion in each instance, grant a certificate to practice architecture in this State to an architect who possesses a valid and current certificate or license to practice architecture in another State or territory of the United States of America or of another country, where the requirements and qualifications of such other jurisdiction were, at the time of the granting of such certificate or license to practice architecture in such other jurisdiction, equal to or the equivalent of the requirements of the Texas Board of Architectural Examiners at the time of the filing of such application for a reciprocal certificate. An applicant for a certificate under this section shall possess all of the other qualifications prescribed in this Act for other applicants and shall make application in the same manner and form as any other applicant; and such applicant shall furnish the Board such documents and other evidence concerning his application and qualifications as will substantiate his qualifications.

(b). All applications under this Section shall be accompanied by a fee of One Hundred Dollars (\$100.00) payable to the Texas Board of Architectural Examiners for the processing and investigating of the application so filed and for the issuance of the certificate herein provided for. The provisions of this section shall apply only where the laws, legal requirements and regulations of such other jurisdiction extend like or similar privileges to practice architecture in such other jurisdiction to registered architects of this State.

Seal; Restricted Use; Penalty

Sec. 9. Every registered architect shall obtain and keep a seal, such as is authorized, prescribed, and approved by the Texas Board of Architectural Examiners, with which he or she shall stamp or impress all drawings or specifications issued from his or her office for use in this State. The design of the seal shall be the same as that to be used by the Texas Board of Architectural Examiners, except that it shall bear the words "Registered Architect, State of Texas" instead of "Texas Board of Architectural Examiners." No person, firm, partnership,

corporation or any other group or combination of persons shall use or attempt to use such prescribed seal, or any similar seal, or replica thereof unless the use is by and through an architect duly registered under the provisions of this Act. No architect duly registered under this Act shall authorize or permit the use of his seal by any unregistered person, firm, corporation, partnership or any other group or combination of persons without his personal supervision, and a violation hereof shall be grounds for cancellation of the registration certificate of any such offending architect.

Practice of Architecture Defined; Exceptions

Sec. 10(a). "Practice of Architecture" shall mean any service or creative work, either public or private, applying the art and science of developing design concepts, planning for functional relationships and intended uses, and establishing the form, appearance, aesthetics, and construction details, for any building or buildings, or environs, to be constructed, enlarged or altered, the proper application of which requires architectural education, training and experience. "Practice architecture" or "practicing architecture" shall mean performing or doing, or offering or attempting to do or perform any service, work, act or thing within the scope of the practice of architecture.

(b). Notwithstanding any other provision of this Act or any rule or regulation of the Board of Architectural Examiners, it is the intent of this Act to acknowledge the necessity of professional inter-relations and cooperation between the professions for the benefit of the public and to achieve the highest standards in design, planning, and building. Therefore, nothing in this Act or any such rule or regulation, heretofore or hereafter adopted, shall be construed or given effect in any manner whatsoever so as to prevent, limit or restrict any professional engineer licensed under the laws of this State from performing any act, service or work within the definition of the practice of professional engineering as defined by the Texas Engineering Practice Act.¹

(c). Nothing in this Act shall be construed as curtailing draftsmen, clerks of the works, superintendents and other employees of registered architects or engineers, under provisions of this Act from acting under the instructions, control or supervision of such architect or engineer employers.

(d). Nothing in this Act may be construed as curtailing any regular full time employee of a privately owned public utility or cooperative utility and/or affiliates who is engaged solely and exclusively in performing services for such utility and/or its affiliates. This exemption includes the use of job titles and personnel classifications by such persons not in connection with any offer of architectural services to the public, providing that no name, title, or words are used which tend to convey the impression that an unlicensed person is offering architectural services to the public.

(e). Nothing in this Act shall be construed to prohibit the use of the title "Landscape Architect" by qualified persons or to limit the practice of landscape architecture.

(f). Nothing in this Act shall be construed to prohibit the use of the title "Interior Designer" or "Interior Decorator" by qualified persons or to limit the practice of interior designing or interior decorating.

(g). Nothing in this Act shall prevent registered professional engineers licensed under the laws of this State from planning and supervising work, such as railroad, hydroelectric work, industrial plants, or other construction primarily intended for engineering use or structures incidental thereto, nor prevent said engineers from planning, designing, or supervising the mechanical, electrical, or structural features of any building.

(h). A firm, partnership, association or corporation, including firms, partnerships, corporations and joint stock associations carrying on the practice of engineering under Section 17 of the Texas Engineering Practice Act, may engage in the practice of architecture and may hold itself out to the public as offering architectural services, provided that the actual practice of architecture on behalf of such firms, partnerships or corporations is carried on, conducted and performed only by architects registered, and licensed in this State.

(i). No firm, partnership, association, or corporation may engage in the practice of architecture, or hold itself out to the public as being engaged in the practice of architecture or use the word "architect" or "architecture" in its name in any manner unless all architectural services are rendered by and through persons to whom registration certificates have been duly issued, and which certificates are in full force and effect.

¹ Article 3271a.

Revocation or Cancellation of Certificates

Sec. 11. Registration certificates of architects issued in accordance with this Act shall remain in full force and effect until expiration date unless revoked or suspended for cause as herein provided. The registration certificate and right of any person to practice architecture in this State may be revoked and cancelled by the Texas Board of Architectural Examiners after due notice and hearing and upon the proof of the violation of the law in any respect in regard thereto, or for any cause for which the Texas Board of Architectural Examiners is authorized to refuse to grant registration certificates, or for proof of gross incompetency, or for recklessness in the construction of buildings on the part of the architect designing, planning, or supervising the construction or alteration of same, or for dishonest practice on the part of the holder of such registration certificate. The action of the Board in revoking and cancelling such registration

certificate may be appealed to a District Court in the County of residence of the aggrieved party, and such appeal shall be trial de novo as in cases from the justice court to the county court.

Annual Registration and Fee; Certificate of Renewal; Failure to Renew; Suspension and Revocation

Sec. 12(a). It shall be the duty of all persons now or hereafter engaged in the practice of architecture in this State who desire to continue in such practice to register annually with the Texas Board of Architectural Examiners on or before the first day of January of each calendar year. Each person so registering shall pay a fee of not more than Fifty Dollars (\$50.00) for residents and not more than One Hundred Dollars (\$100.00) for nonresidents. Upon receipt of the required fee within the time and in the manner prescribed by the Board the designated officer or employee of the Board shall thereupon issue to such registered architect a certificate of renewal of his or her registration certificate for the term of one year.

(b). Any registered architect who shall fail to have his or her registration certificate renewed before the first day of January of each and every year shall have his or her registration certificate suspended; and it shall be the duty of the secretary-treasurer of the Board to mail a notice of such suspension to such architect at his last known address. But the failure to renew such registration certificate in the time stated shall not deprive such architect of the right of reinstatement and renewal thereafter; but the fee to be paid upon the renewal of a registration certificate after the first day of January and before the first of April of the same year shall be an additional Twenty Dollars (\$20.00) to cover the additional expense incurred by the Board in effecting the renewal; and in the event that the renewal is not made before the first day of April of the year following, such certificate to practice architecture in this State may be revoked and an entry of such revocation made in the official records of the Board; and thereafter the applicant may be required in the discretion of the Board in each case to take and satisfactorily pass such examination as may be prescribed by the Board, and if the applicant passes such examination successfully the fee to be paid upon the renewal of the registration certificate shall be, in such case, the sum not to exceed One Hundred Dollars (\$100.00) as set by the Board; and provided that a registered architect, as herein defined, who is on active duty as a member of the Armed Forces of the United States of America subsequent to October 1, 1940, and who was at the time of his entry into said service or is now in good standing as a registered architect in this State, shall have his name continued on the list of registered architects and shall be exempt from the payment of any further fee during his service, as aforesaid, and until separated from the service; and

when his active duty status ceases and he is separated from the service, he shall be exempt from payment of such fee for the then current fiscal year.

(c). Repealed by Acts 1973, 63rd Leg., p. 806, ch. 361, § 11, eff. June 12, 1973.

Expiration Dates of Registrations; Proration of Fees

Sec. 12A. The board by rule may adopt a system under which registrations expire on various dates during the year. The date for mailing notice of suspension and the period for reinstatement shall be adjusted accordingly. For the year in which the expiration date is changed, registration fees payable on September 30 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total registration fee is payable.

Penalty

Sec. 13. If any person or firm shall, for a fee or other direct compensation, pursue the practice of the profession of architecture in this State as herein defined, or shall engage in this State in the profession or business of planning, designing, or supervising the construction of buildings to be erected or altered by or for other persons than himself, herself, or themselves, and shall advertise, or put out any sign, card, or drawings in this State designating himself, herself, or themselves as an architect, architectural designer, or other title of profession or business using some form of the word "Architect" without first having complied with the provisions of this Act, such person, or the members of such firm, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined not less than Twenty-five Dollars (\$25.00) and not more than Two Hundred Dollars (\$200.00) for each offense; and each and every day of violation of this Act as above set forth shall constitute a separate offense.

Exceptions from Act

Sec. 14. This Act shall not apply:

1. To the practice of architecture solely as an officer or employee of the United States, but persons so engaged or employed shall not engage in the private practice of architecture in this State without first having a registration certificate as herein provided;

2. To legally qualified architects residing in another State or county outside the border of the United States, who do not maintain nor open offices in this State, who agree to perform or hold themselves out as able to perform any of the professional services involved in the practice of architecture, provided that when performing the architectural service in this State,

they shall employ a resident registered architect of this State as a consultant, or shall act as a consultant of a registered architect in this State or shall register as an architect in this State as provided by this Act;

3. To the preparation of plans and specifications for and the supervision of the alteration of any building not involving substantial and major structural changes;

4. To the preparation of plans and specifications for and the supervision of the construction, enlargement, or alteration of private buildings which are used exclusively for farm, ranch, or agricultural purposes or used exclusively for storage of raw agricultural commodities.

5. To any person or firm who prepares plans and specifications for the erection or alteration of a building, or supervises the erection or alteration of a building by or for other persons than himself, or themselves, but does not in any manner represent himself, herself, or themselves to be an architect, architectural designer, or other title of profession or business using some form of the word "architect".

[Acts 1937, 45th Leg., p. 1279, ch. 478; Acts 1941, 47th Leg., p. 478, ch. 301, § 1; Acts 1943, 48th Leg., p. 254, ch. 155, § 1; Acts 1951, 52nd Leg., p. 413, ch. 259, § 1; Acts 1951, 52nd Leg., p. 835, ch. 473, §§ 2 to 11; Acts 1955, 54th Leg., p. 1303, ch. 515, § 1; Acts 1969, 61st Leg., p. 2377, ch. 802, §§ 1 to 10, eff. June 14, 1969; Acts 1973, 63rd Leg., p. 626, ch. 266, § 14; Acts 1973, 63rd Leg., pp. 801 to 806, ch. 361, §§ 1 to 11 eff. June 12, 1973.]

Art. 249b. Temporary Provisions

Acts 1943, 48th Leg., p. 406, ch. 274, § 1, as amended and reenacted by Acts 1947, 50th Leg., p. 1012, ch. 430, § 1, Acts 1967, 60th Leg., p. 1765, ch. 667, § 1 and Acts 1971, 62nd Leg., p. 2451, ch. 791, § 1, read: "That any person of good moral character who on May 22, 1937, was practicing architecture in Texas and had been engaged in the practice of architecture for a period of six months prior to May 22, 1937, and who shall present to the Board of Architectural Examiners of this state an affidavit to that effect, shall be entitled to receive from said Board without examination a certificate authorizing him or her to practice architecture in the State of Texas without examination upon payment to the Secretary-Treasurer of the Board a fee of \$25.00, and the Secretary-Treasurer of the Board shall thereupon issue a registration certificate as above required to each such person having complied with the provisions of this Act; provided, however, that the Board may, in its discretion, require further evidence than the affidavit hereinabove provided for that the applicant was actually engaged in the practice of architecture on May 22, 1937, and for six months prior thereto. Such practicing architect shall be required to file his or her application for registration under this Act within ninety (90) days from the date this Act goes into effect."

Art. 249c. Regulation of Practice of Landscape Architecture

Definitions

Sec. 1. As used in this Act:

(a) "Landscape architect" means a person licensed to practice or teach landscape architecture in this state as provided herein.

(b) "Landscape architecture" means the performance of professional services such as consultation, investigation, research, preparation of general development and detailed design plans, studies, specifications, and responsible supervision in connection with the development of land areas where, and to the extent that, the principal purpose of such service is to arrange and modify the effects of natural scenery for aesthetic effect, considering the use to which the land is to be put. Such services concern the arrangement of natural forms, features, and plantings, including the ground and water forms, vegetation, circulation, walks, and other landscape features to fulfill aesthetic and functional requirements but shall not include any services or functions within the definition of the practice of engineering, public surveying, or architecture as defined by the laws of this state.

(c) "Board" means the Texas State Board of Landscape Architects, as created and provided for in this Act.

(d) "Person" means a natural person except where otherwise specifically indicated.

(e) "Secretary" means the executive secretary of the board as herein provided.

(f) "Landscape irrigation system" means any assembly of component parts permanently installed with and for the controlled distribution of water for the purpose of irrigating any and all types of landscape vegetation, in any location, or for the purpose of dust reduction or erosion control.

(g) "Landscape irrigator" means a person, corporation, partnership, or other legal entity duly licensed in this state under this Act, who has and shall maintain a regular place of business, and who, by himself, or through a person or persons in his employ, sells, designs, consults, installs, maintains, alters, repairs, or services any landscape irrigation system or yard sprinkler system including connections in and to any private or public potable water supply or water supply system.

Exemptions

Sec. 2. (a) The provisions of this Act do not apply to nor affect laws relating to:

(1) A registered professional engineer, building designer, land surveyor, nurseryman, and architect (except landscape architect), respectively;

(2) Irrigation or yard sprinkler work done by a property owner in a building or on premises owned or occupied by him as his home;

(3) Irrigation or yard sprinkler work done by anyone who is regularly employed as or acting as a maintenance man incidental to and in consideration with the business in which he is employed or en-

gaged, and who does not engage in the occupation of landscape irrigator or yard sprinkler contractor or maintenance for the general public; construction, installation and maintenance work done upon the premises or equipment of a railroad by an employee thereof who does not engage in the occupation of landscape irrigator or yard sprinkler construction or maintenance for the general public; and landscape irrigation and yard sprinkler construction or maintenance done by persons engaged by any public service company in the laying, maintenance and operation of its service lines or mains and the installation, alteration, adjustment, repair, removal and renovation of all types of appurtenances, equipment and appliances;

(4) Any temporary or portable watering devices such as garden hose, hose sprinklers, soaker hoses and agricultural irrigation;

(5) Any agricultural irrigation, portable or solid set;

(6) Irrigation or yard sprinkler work or any other services authorized by this Act done by a licensed professional engineer as defined by the laws of this state.

(b) Every agriculturist, agronomist, horticulturist, forester, gardener, contract gardener, garden or lawn caretaker, nurseryman, grader or cultivator of land and any person making plans for property owned by himself is exempt from registration under the provisions of this Act, provided however, none of the foregoing shall use the title or term "landscape architect," or "landscape irrigator," in any sign, card, listing, advertisement or represent himself to be a "landscape architect," or a "landscape irrigator," without complying with the provisions of this Act.

Texas State Board of Landscape Architects

Sec. 3. There is hereby created a Texas State Board of Landscape Architects, which board shall consist of six members, each of whom shall be a citizen of the United States and a resident of this state. Members of the board and their successors shall be appointed by the Governor with the advice and consent of the Senate; three members shall be individuals who have been actively engaged in the practice of landscape architecture for a period of not less than 10 years prior to the date of their appointment, and three members shall be individuals who have been actively engaged in the practice of landscape irrigation who shall have had respectively at least a minimum of 10 years, eight years and six years experience as landscape irrigators.

The membership of the board, except the initial members, shall consist of three landscape architects and three landscape irrigators licensed under the provisions of this Act. The three present members of the board shall serve and hold office pursuant to the terms of their respective appointments: one member for two

years; one member for four years; and, one member for six years from the date of their appointment or until their successors are duly appointed and qualified. The Governor shall appoint three additional members to the board, who shall be landscape irrigators, on August 31, 1973, to serve the following terms: one member for two years; one member for four years; and one member for six years from the date of their appointment or until their successors are appointed and have qualified. Thereafter, at the expiration of the term of each member first appointed, his successor shall be appointed by the Governor of the state, and he shall serve for a term of six years, or until his successor is appointed and qualified. Before entering upon the duties of his office, each member of the board shall take and subscribe to the constitutional oath of office, and the same shall be filed with the Secretary of State. Upon the death, resignation, or removal of any member of the board, the Governor shall appoint a successor for the remainder of the term of such member who shall qualify in the same manner as other members of the board. Any member may be removed by the Governor for official misconduct, gross inefficiency or moral unfitness.

Powers and Duties of the Board

Sec. 4. (a) The board shall promulgate procedural rules and regulations, consistent with the provisions of this Act, to govern the conduct of its business and proceedings, and setting standards governing the connections to any public or private water supply by a landscape irrigator. Notwithstanding any other provision of this Act, the board shall not have any power or authority to amend or enlarge upon any provision of this Act by rule or regulation or by rule or regulation to change the meaning in any manner whatsoever of any provision of this Act or to promulgate any rule or regulation which is in any way contrary to the underlying and fundamental purposes of this Act or to make any rule or regulation which is unreasonable, arbitrary, capricious, illegal, or unnecessary. At its first meeting it shall select one of its members who shall be a landscape architect as chairman of the board and he shall serve as such chairman for such length of time not exceeding his term as a member of the board, as the board may prescribe. The chairman shall serve a term as prescribed by the rules and regulations of the board and may be removed for cause, his removal however, not to disqualify him from continuing as a member of the board. Four members of the board shall constitute a quorum for the transaction of business. The board may adopt such reasonable rules and regulations of the orderly conduct of its affairs as it may deem necessary, and may from time to time amend such rules and regulations.

(b) The first board appointed under the provisions of this Act shall hold its first meeting within 30 days after the members have been qualified. It shall hold at least two regular

meetings each year at such time and place as the chairman may designate. It may hold special meetings at such times and at such places as a majority of the board may deem necessary after giving reasonable notice thereof to all members. The board is authorized to employ an executive secretary who shall have such duties and responsibilities as the board may prescribe. The board is authorized to employ such other persons as it may deem necessary to administer the provisions of this Act. The salary of the secretary and all other employees of the board shall be fixed by the board and shall be paid out of the Texas State Board of Landscape Architect's and Irrigator's Fund as provided for in this Act. All salaries paid by the board shall be reasonable, comparable in amounts to salary paid by other departments of the state government to employees engaged in similar capacities. All persons employed by the board shall hold their positions at the pleasure of the board. Each member of the board shall receive as compensation for services performed in connection with his duties as such member a sum equal to his expenses actually incurred, provided however, said expenses shall not exceed the sum of \$25 per day, exclusive of travel expense. All payments to board members or employees and all expenses of the administration of this Act shall be paid out of the Texas State Board of Landscape Architect's and Irrigator's Fund provided for herein, and no part of the expense of administering this Act shall ever be charged against the general funds of the State of Texas. The board shall arrange for such suitable office space and equipment as it may deem necessary and the rental for such office space and the cost of such equipment shall be considered administration expenses, provided however, that if space is available this agency shall be housed in one of the state office buildings of the State of Texas and such compensation as may be required by the administration of said office building shall be considered as a part of the administration expense of this Act. The board shall, as of August 31st of each year, after the passage of this Act make a written report to the Governor accounting for all receipts and disbursements under this Act.

Qualifications for Registration

Sec. 5. (a) From and after the effective date of this Act, no person shall represent himself or practice in any manner as a landscape architect, as defined herein, unless such person shall be licensed as provided herein. The following classes of persons shall be qualified for registration and receive a license:

(1) Any person over the age of 21 years, notwithstanding any other provisions of this Act, who submits evidence to the board that prior to the passage of this Act, that he is a resident of Texas and a citizen of the United States, possesses good moral character, and who has, for a period of not less than three years, regularly represented himself to be a landscape architect en-

gaged in the practice of landscape architecture, as defined in this Act, shall be entitled to receive, upon taking the required examination, hereinafter set out, a license to practice landscape architecture as a landscape architect.

(2) Any person who is a resident of the State of Texas and a citizen of the United States over the age of 21 years, possessing good moral character, and having or holding a degree from a school whose study of landscape architecture is approved by the board, or shall have had not less than seven years actual experience in the office of a licensed landscape architect, may apply for examination and such application shall be accompanied by a fee of \$50. The examination to be prepared by the members of the board and given by the board at its office in Austin, Travis County, Texas, or such other place as the board may determine or designate, provided however, that one-third of the board shall be present at each examination held and provided further that not more than three examinations may be held during any calendar year. The scope of the examination and the methods of procedure shall be prescribed by the board with special reference to the applicant's ability which will insure safety to the public welfare and the property rights. A candidate failing an examination may apply for reexamination at the expiration of six months, and shall be reexamined one time without payment of additional fee.

(b) No person shall engage in, work at, or conduct the business of landscape irrigation, or yard sprinkler construction or repairing in this state, and connect to any private or public, raw or potable water supply system unless such person is the holder of a valid certificate of registration as provided for by this section. The board shall issue certificates of registration to such persons of good moral character as have, by a uniform, reasonable examination, shown themselves fit, competent, and qualified to engage in the business, trade, or calling of a landscape irrigator. An examination for landscape irrigators shall be given at the same time and place and in the same manner as an examination for landscape architects is given under Subsection (a) of this section, and the fee for such examination shall be \$50.

(c) Any landscape architect licensed under this Act shall not have to be licensed as a landscape irrigator in order to perform the necessary services for design, construction, repair and installation of any landscape irrigation system.

Reciprocal Provisions

Sec. 6. The board may certify for registration without examination an applicant who is legally registered as a landscape architect or irrigator in any state or country whose requirements for registration are at least substantial-

ly equivalent to the requirements of this state and which extends the same privilege of reciprocity to landscape architects or irrigators registered in this state. Such application shall be accompanied by a fee to be determined by the board.

Certificates of Registration

Sec. 7. All certificates of registration shall expire on the 31st day of August of each year, following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the secretary of the board to notify every person registered under this Act of that date of expiration of his certificate and the amount of the fee that shall be required for its renewal for one year; such notice shall be mailed at least one month in advance of the date of the expiration of said certificate. Renewal may be effected at any time during the month of July or August of each year by payment of the fee as prescribed and set by the board. The fee for a landscape architect's certificate shall be not less than \$10 nor more than \$50. The fee for a landscape irrigator's certificate shall be not more than \$100. Failure on the part of any registrant to renew his certificate annually, and by not later than August 31st, as required above shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after August 31st shall be increased 10 percent for each month or fraction of a month that renewal payment is delayed; and provided further, that if such failure to renew shall continue for more than one year after the date of expiration of the registration certificate, the applicant must reapply for registration and must qualify under Section 5 of this Act. All renewal certificates shall carry the same registration number as the original certificate.

Expiration dates of certificates of registration; proration of fee

Sec. 7A. The board by rule may adopt a system under which certificates of registration expire on various dates during the year. Renewals may be made at any time during the two months prior to the expiration date, and renewal fees paid after the expiration date shall be increased 10 percent for each month or fraction of a month that renewal payment is delayed. For the year in which the expiration date is changed, registration fees payable on August 31 shall be prorated on a monthly basis so that each registrant shall pay only that portion of the registration fee which is allocable to the number of months during which the registration is valid. On renewal of the registration on the new expiration date, the total of the registration fee is payable.

Revocation and Reissuance of Certificates

Sec. 8. (a) The board has the power to revoke the certificate of registration of any registrant who is charged with and found guilty of:

- (1) Violations of provisions of this Act;
- (2) The practice of any fraud or deceit in obtaining a certificate of registration;

(3) Any gross negligence, incompetency, or misconduct in the practice of landscape architecture or irrigation;

(4) Holding himself out to the public or any member thereof as an engineer or making use of the words "engineer," "engineered," "professional engineer," "P.E.," or any other terms tending to create the impression that such registrant is authorized to practice engineering or any other profession unless he is licensed under provisions of Texas Engineering Practice Act or the other applicable licensing law of this state.

(5) Holding himself out to the public or any member thereof as a surveyor or making use of the words "surveyor," "surveyed," "registered public surveyor," "R. P. S.," or any other terms tending to create the impression that such registrant is authorized to practice surveying or any other profession unless he is licensed under the provisions of the Registered Public Surveyors Act² or the other applicable licensing law of this state.

(b) In determining the truth of any such charges the board shall proceed upon sworn information furnished it by any reliable resident of this state; such information shall be in writing and shall be duly verified by the person familiar with the facts therein charged, and three copies of the same shall be filed with the secretary of the board. Upon receipt of such information the board, if it deems the information sufficient to support further action on its part, shall make an order setting the charges therein contained for hearing at a specified time and place, and the secretary of the board shall cause a copy of the board's order and of the information contained in the written charges to be served upon the accused at least 30 days before the date appointed in the order for the hearing. The accused may appear in person or by counsel or both, at the time and place named in the order and make his defense to the same. The board shall have the power, through its chairman or secretary, to administer oaths and compel the attendance of witnesses before it as in civil cases in the district court, by subpoena issued over the signature of the secretary and the seal of the board.

Any person who may feel himself aggrieved by reason of the revocation of his certificate of registration of the board, as hereinabove authorized, shall have the right to file suit within 30 days within receiving notice of the board's order revoking his certificate of registration in the district in the county of his residence of the county in which the alleged events relied upon, and grounds for revocation, took place, to annul or vacate the order of the board revoking the certificates of registration; said suit to be filed against the board as defendant, and service of process may be had upon its chairman or secretary. The only issues to be tried in such cause shall be whether such per-

son has been guilty as originally found by the board, which issue shall be by trial de novo, as that term is commonly used in connection with an appeal from the justice of the peace court to the county court, and the substantial evidence rule shall not apply.

¹ Article 3271a.

² Article 5282a.

Violations and Penalties

Sec. 9. After the effective date of this Act any person who represents himself to be a landscape architect or irrigator in this state without being registered or exempted in accordance with the provisions of this Act, or any person presenting or attempting to use as his own, the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining or assisting in attaining for another a certificate of registration, or any person who shall violate any of the provisions of this Act, shall be fined not less than \$100 nor more than \$500, or be confined in jail for a period not to exceed three months, or both. Each day of such violation shall be a separate offense.

The attorney general or his assistants shall act as legal advisor of the board and shall render such legal assistance as may be necessary in enforcing and making effective the provisions of this Act, provided that this shall not relieve the local prosecuting officers of any of their duties under the law as such.

Fees

Sec. 10. Every landscape architect shall pay an annual fee as set by the board, but in no event to be less than \$10 nor more than \$50, as provided in Section 7 hereof. Every landscape irrigator shall pay an annual fee as set by the board, but in no event shall it be more than \$100. The fees shall be due and payable on or before August 31 of each calendar year and shall become delinquent on September 1 of each year.

All sums of money paid to the board under the provisions of this Act, shall be deposited in the treasury of the State of Texas, and placed in a special fund to be known as the "Texas State Board of Landscape Architect's and Irrigator's Fund." All expenditures for the administration and enforcement of this Act shall be in the amounts and for the purposes fixed by the general appropriation bill.

Severability

Sec. 11. If any article, section, subsection, sentence, clause or phrase of this Act is for any purpose or reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions thereof be declared unconstitutional.

Repeal of Conflicting Legislation with Proviso

Sec. 12. All laws or parts of laws in conflict with the provisions of this Act shall be,

and the same are hereby repealed, provided however, that this Act shall not be construed as repealing or amending any laws affecting or regulating any other profession.

[Acts 1969, 61st Leg., p. 1516, ch. 457, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 626, ch. 266, § 15, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1731, ch. 629, § 1, eff. Aug. 27, 1973.]

Sections 2 and 3 of Acts 1973, 63rd Leg., p. 1731, ch. 629, provided:

"Sec. 2. A person involved in the business of landscape irrigation or yard sprinkler construction at the time this Act takes effect may, within six months after the effective date of this Act, obtain a landscape irrigator's certificate of registration under Section 1 of this Act without being required to take an examination, but the person must pay the required license fee.

"Sec. 3. The provisions in Section 1 of this Act that a person who is involved in the business of landscape irrigation or yard sprinkler construction must have a landscape irrigator's certificate of registration will not take effect until six months after the effective date of this Act."

Art. 249d. Construction Contracts; Indemnification of Architects or Engineers; Covenants

Any covenant or promise, in or in connection with or collateral to any contract or agreement made and entered into by any owner, contractor, subcontractor or supplier relative to the construction, alteration, repair or maintenance of a building, structure, appurtenance, road, highway, bridge, dam, levee, or other improvement to or on real property, including moving, demolition and excavating connected therewith, whereby a registered architect or registered engineer or his agents, servants or employees is indemnified or held harmless by the contrac-

tor who is to perform the work from liability for bodily injury or death to persons or damage to property of any person or expenses in connection therewith caused by or resulting from defects in plans, designs or specifications prepared, approved or used by such architect or engineer or negligence of such architect or engineer in the rendition or conduct of professional duties called for or arising out of the contract or agreement and the plans, designs or specifications which are a part thereof shall be deemed void as against public policy and wholly unenforceable; provided, however, that this Act shall not apply to a contract of insurance nor to an owner of an interest in real property and persons employed solely by such owner, and this Act shall not prohibit nor render void or unenforceable any covenant or promise to indemnify or hold harmless such owner, and persons employed solely by such owner, in connection with contracts and agreements of the class described above and further provided that this Act shall not apply to any contract or agreement whereby an architect or engineer or their agents, servants or employees is indemnified from liability for their negligent acts other than those described above or for the negligent acts of the contractor, any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable.

[Acts 1969, 61st Leg., p. 2393, ch. 805, § 1, eff. Sept. 1, 1969.]

TITLE 11

ARCHIVES

1. ARCHIVES OF THE GENERAL LAND OFFICE

Article

- 250. Enumeration.
- 251. Effect Given to Archives.
- 252. Deeds, Etc.
- 253. Withdrawal.
- 253a. Railway Surveys.

2. OTHER PUBLIC ARCHIVES

- 254. Of State Department.
- 255. Archives of Republic.
- 256. Historical Archives.
- 257. Of Comptroller's Office.
- 258. Other Archives.
- 259. University Archives.
- 260. Loan of Archives.

1. ARCHIVES OF THE GENERAL LAND OFFICE

Art. 250. Enumeration

The following shall be deemed the records, books, and papers of the general land office and constitute a part of the archives of the same:

(1) All the records, books, titles, surveys, maps, papers and documents which in any manner pertain to the lands of the late Republic, or State of Texas, which have been, prior to the eighteenth day of April, A.D. 1876, delivered to the Land Commissioner in pursuance of, and in accordance with, the requirements of any law of the Republic or State of Texas, by any of the empresarios, political chiefs, alcaldes, regidores, commissioners, special or general, for extending titles.

(2) All books, papers, records, documents, and archives pertaining to the lands of the Republic or State of Texas that have heretofore been delivered by the Commissioner of the Court of Claims to the Comptroller and by him turned over to the Land Commissioner in pursuance and by authority of law.

(3) All other books, records, papers and archives of the colony of Martin de Leon heretofore delivered by the Secretary of State, in accordance with law, to the Land Commissioner.

(4) The duly certified copy of the book or register of land certificates, usually known as the "Lost Book of Harris County," transmitted to the Land Commissioner by the clerk of the county court, in accordance with law.

(5) All other books, transfers, powers of attorney, field-notes, maps, plats, legal proceedings, official reports, original documents and other papers appertaining to the land of the Republic or State of Texas

that have been deposited or filed in the general land office in accordance with any law of the Republic or of this State.

(6) All owners of land between the Nueces and Rio Grande rivers, under grants or titles from the former government which grants or titles are such as are described in Section 4 of Article 13 of the present Constitution, and have been, previous to the adoption of his¹ Constitution, recorded in the respective counties where the land is situated, but have not yet been deposited or archived in the general land office of this State, be and they are hereby authorized and required to deposit and archive said grants or titles in said general land office. Such titles when so archived, shall be subject to all defenses and objections to which they would have been subject if not so archived; and said act of archiving shall invest said titles with no greater validity than they before had as titles recorded in the proper county; and the Land Commissioner is hereby authorized and required to receive the same as archives of said office.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Probably should read "the."

Art. 251. Effect Given to Archives

Nothing in the preceding article shall be construed to give any of the said books, records or other papers named in said article any greater force or validity by reason of their being so recognized as archives of the general land office than was accorded them by the laws in force at the date of their execution and deposit in the general land office.

[Acts 1925, S.B. 84.]

Art. 252. Deeds, Etc.

Deeds and other instruments of writing which were executed or issued prior to the second day of March, A.D. 1836, upon stamped paper of the second or third seal, and which deeds or instruments of writing are not original documents in the general land office, nor expressly declared by law to be archives of the said office, are hereby declared to constitute no part of the archives of said office.

[Acts 1925, S.B. 84.]

Art. 253. Withdrawal

The owners of any land to which the deeds or other instruments of writing named in the preceding article relate, may withdraw the same from the general land office on making a written sworn application therefor, to the Land Commissioner, setting forth the fact of such ownership; and, if the commissioner shall be

satisfied that the person applying is in fact the owner of the land to which such deed or instrument of writing relates, he may deliver the same to such applicant, taking his receipt therefor, and describing in such receipt the deed or instrument of writing delivered, with a summary of its contents and the name of the original grantee of the land to which such deed or instrument of writing may relate or refer. [Acts 1925, S.B. 84.]

Art. 253a. Railway Surveys

The Commissioner of the General Land Office is authorized and required to procure, accept and file in the General Land Office the original papers relating to the survey of lands by virtue of certificates issued by the State of Texas to The Texas & Pacific Railway Company and its predecessors in title, including the maps, sketches, reports and all papers drawn by the surveyors in making the original as well as the corrected surveys of such lands, which papers, maps, sketches and reports are now in the custody of said railway company. Said Commissioner shall verify the authenticity of such papers, maps, sketches and reports. In the event said Commissioner cannot procure the original papers, maps, sketches and reports above mentioned, he is authorized to procure, accept and file, verified copies thereof, or if he can procure only a portion of the originals, he shall procure and accept such portion and take and file verified copies of those originals which he cannot procure. Thereafter said original papers or verified copies thereof so filed by the Commissioner shall become archives in the General Land Office and the same or certified copies thereof shall be admissible in evidence as are other papers, documents and records and certified copies thereof of such office.

[Acts 1930, 41st Leg., 5th C.S., p. 204, ch. 59, § 1.]

2. OTHER PUBLIC ARCHIVES

Art. 254. Of State Department

The Secretary of State is authorized to take possession of rooms in the basement of the capitol for the use of the State Department and the better preservation of archives.

[Acts 1925, S.B. 84.]

Art. 255. Archives of Republic

The entire archives of the Congress of the Republic of Texas, and of the several Legislatures of this State, arranged and filed according to law, together with the records, books and journals of said Congress and Legislatures, prepared in accordance with law, and heretofore, or hereafter, deposited in the office of the Secretary of State are declared to be archives of said office.

[Acts 1925, S.B. 84.]

Art. 256. Historical Archives

All books, pictures, papers, maps, documents, manuscripts, memoranda and data which relate

to the history of Texas as a province, colony, Republic or State, which have been or may be delivered to the State Librarian by the Secretary of State, Comptroller, Land Commissioner or by any head of any department, or by any person or officer, in pursuance of law, shall be deemed books and papers of the State Library and shall constitute a part of the archives of said State Library; and copies therefrom shall be made and certified by the State Librarian, or by the person serving as Archivist of the Texas State Library, upon application of any person interested, which certificate shall have the same force and effect as if made by the officer originally in custody of them.

[Acts 1925, S.B. 84.]

Art. 257. Of Comptroller's Office

All books, papers, records and archives, that were heretofore archives of the auditor's office, or of the office of the Commissioner of the Court of Claims, and which have heretofore, in pursuance of law, been delivered to the Comptroller, shall be deemed papers and records of the Comptroller's office, and shall constitute a part of the archives of his office.

[Acts 1925, S.B. 84.]

Art. 258. Other Archives

All books, papers, records, rolls, documents, returns, reports, lists and all other papers that have been, are now, or that may be, required by law to be kept, filed or deposited in any office of the executive departments of this State, shall constitute a part of the archives of the offices in which the same are so kept, filed or deposited.

[Acts 1925, S.B. 84.]

Art. 259. University Archives

The librarian of the University of Texas and the archivist of the Department of History of said University are hereby authorized to make certified copies of all public records in the custody of the University of Texas, and said certified copies shall be valid in law and shall have the same force and effect for all purposes as if certified to by the county clerk or other custodian as now provided for by law. In making the certificate to the said certified copies, either by the librarian or by the archivist of the Department of History, the said officer shall certify that the foregoing is a true and correct copy of said document, and after signing the said certificate shall swear to the same before any officer authorized to take oaths under the laws of this State.

[Acts 1925, S.B. 84.]

Art. 260. Loan of Archives

County Commissioners and other custodians of public records are hereby authorized, in their discretion, to lend to the Library of the University of Texas, for such length of time and on such conditions as they may determine, such parts of their archives and records as

have become mainly of historical value, taking a receipt therefor from the librarian of such University; and the librarian of said University is hereby authorized to receipt for such records as may be transferred to the said Library, and to make copies thereof for historical study.
[Acts 1925, S.B. 84.]

TITLE 11A

ASSIGNMENTS, IN GENERAL [Repealed]

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed article 260-1 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967.

However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

See, now, Business and Commerce Code, § 9.101 et seq.

TITLE 12

ASSIGNMENTS FOR CREDITORS
[Repealed]

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 261 to 274 effective September 1, 1967.

See, now, Business and Commerce Code, § 23.01 et seq.

TITLE 13

ATTACHMENT

Article

- 275. Who May Issue.
- 276. What Facts Must Further Appear.
- 277. Not to Issue until Suit Begun.
- 278. May Issue on Debt Not Yet Due.
- 279. Plaintiff Must Give Bond.
- 279a. Exemption of State, Counties, Etc. from Bond.
- 280. Repealed.
- 281. Attachment in Tort or Unliquidated Demand.
- 282. Writ to Issue Instantly.
- 283 to 286. Repealed.
- 287. May Demand Indemnity.
- 288. Property Subject to Attachment.
- 289. Repealed.
- 290. Attachment of Personal Property.
- 291. Claimant's Bond and Affidavit.
- 292 to 299. Repealed.
- 300. Attachment Creates a Lien.
- 301. Judgment and Foreclosure.
- 302. Judgment When Property is Replevied.
- 303. Repealed.

Art. 275. Who May Issue

The judges and clerks of the district and county courts and justices of the peace may issue writs of original attachment, returnable to their respective courts, upon the plaintiff, his agent or attorney, making an affidavit stating:

- (1) That the defendant is justly indebted to the plaintiff, and the amount of the demand; and
- (2) That the defendant is not a resident of the State, or is a foreign corporation, or is acting as such; or
- (3) That he is about to remove permanently out of the State, and has refused to pay or secure the debt due the plaintiff; or
- (4) That he secretes himself so that the ordinary process of law can not be served on him; or
- (5) That he has secreted his property for the purpose of defrauding his creditors; or
- (6) That he is about to secrete his property for the purpose of defrauding his creditors; or
- (7) That he is about to remove his property out of the State, without leaving sufficient remaining for the payment of his debts; or
- (8) That he is about to remove his property, or a part thereof, out of the county where the suit is brought, with intent to defraud his creditors; or
- (9) That he has disposed of his property, in whole or in part, with intent to defraud his creditors; or
- (10) That he is about to dispose of his property with intent to defraud his creditors; or

(11) That he is about to convert his property, or a part thereof, into money, for the purpose of placing it beyond the reach of his creditors; or

(12) That the debt is due for property obtained under false pretenses.

[Acts 1925, S.B. 84.]

Art. 276. What Facts Must Further Appear

The affidavit shall further state that the attachment is not sued out for the purpose of injuring or harassing the defendant; and that the plaintiff will probably lose his debt unless such attachment is issued.

[Acts 1925, S.B. 84.]

Art. 277. Not to Issue until Suit Begun

No such attachment shall issue until the suit has been duly instituted; but it may be issued in a proper cause either at the commencement of the suit or at any time during its progress.

[Acts 1925, S.B. 84.]

Art. 278. May Issue on Debt Not Yet Due

The writ of attachment above provided for may issue, although the plaintiff's debt or demand be not due, and the same proceedings shall be had thereon as in other cases, except that no final judgment shall be rendered against the defendant until such debt or demand shall become due.

[Acts 1925, S.B. 84.]

Art. 279. Plaintiff Must Give Bond

Before the issuance of any writ of attachment, the plaintiff must execute a bond, with two or more good and sufficient sureties, payable to the defendant in an amount to be fixed by the judge or by the justice of the peace issuing the attachment, conditioned that the plaintiff will prosecute his suit to effect, and will pay all such damages and costs as shall be adjudged against him for wrongfully suing out such attachment. Such bond shall be delivered to and approved by the officer issuing the writ, and shall, together with the affidavit, be filed with the papers of the cause.

[Acts 1925, S.B. 84; Acts 1965, 59th Leg., p. 1336, ch. 607, § 1.]

Art. 279a. Exemption of State, Counties, Etc. from Bond

Neither the State of Texas, nor any county, nor any state department, nor the head of any state department, nor the Federal Housing Administration, nor any National Mortgage Association, nor any National Mortgage Savings and Loan Insurance Corporation created and/or to be created by or under authority of any Act of the Congress of the United States of America as a National Relief Organization

operating territorially on a state-wide basis, nor the Veterans Administration, nor the Administrator of Veterans Affairs, shall be required to give any bond incident to any suit filed by any such agency, official, and/or entity, for costs of court or for any appeal or writ of error taken out by it or either of them, nor any surety for the issuance of any bond for the taking out of writs or attachment, sequestration, distress warrants, or writs of garnishment in any civil suit. Provided that no county or district attorney shall be exempted from the filing of bonds in the taking out of an extraordinary writ, unless said county or district attorney shall first obtain the approval by proper order of the Commissioners Court of the county in behalf of which such action is taken or the approval of the Attorney General in actions brought in behalf of the State.

[Acts 1935, 44th Leg., p. 670, ch. 283, § 1; Acts 1957, 55th Leg., p. 439, ch. 213, § 1.]

Art. 280. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 281. Attachment in Tort or Unliquidated Demand

Nothing in this title shall prevent the issuance of attachments in suits founded in tort or upon unliquidated demands against persons, co-partnerships, associations or corporations upon whom personal service cannot be obtained within this State. Where the demand is unliquidated, the amount of the bond to be made by the plaintiff shall be fixed by the judge or clerk of the court or by the justice of the peace issuing the attachment. The bond shall be made in the sum so fixed and upon the approval and filing of same the attachment shall issue as in other cases.

[Acts 1925, S.B. 84.]

Art. 282. Writ to Issue Instanter

Upon the execution of such affidavit and bond, it shall be the duty of the judge or clerk, or justice of the peace, as the case may be, immediately to issue a writ of attachment, directed to the sheriff or any constable of any county where property of the defendant is supposed to be, commanding him to attach so much of the property of the defendant as shall be sufficient to satisfy the demand of the plaintiff and the probable costs of the suit.

[Acts 1925, S.B. 84.]

Repealed In Part

Repealed in part by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, ch. 25, § 1. See Rules of Civil Procedure, rule 593.

Arts. 283 to 286. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 287. May Demand Indemnity

Whenever an officer shall levy an attachment, it shall be at his own risk. Such officer may, for his own indemnification, require the

plaintiff in attachment to execute and deliver to him a bond of indemnity to secure him if it should afterward appear that the property levied upon by him does not belong to the defendant.

[Acts 1925, S.B. 84.]

Art. 288. Property Subject to Attachment

The writ of attachment may be levied upon such property, and none other, as is, or may be, by law subject to levy under the writ of execution.

[Acts 1925, S.B. 84.]

Art. 289. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 290. Attachment of Personal Property

When personal property is attached, the same shall remain in the hands of the officer attaching until final judgment, unless a claim be made thereto and bond be given to try the right to the same, or unless the same be replevied or be sold as provided by law.

[Acts 1925, S.B. 84.]

Art. 291. Claimant's Bond and Affidavit

Any person other than the defendant may claim the personal property so levied on, or any part thereof, upon making the affidavit and giving bond required by the provisions of the title relating to the trial of the right of property.

[Acts 1925, S.B. 84.]

Arts. 292 to 299. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Art. 300. Attachment Creates a Lien

The execution of the writ of attachment upon any property of the defendant subject thereto, unless the writ should be quashed or otherwise vacated, shall create a lien from the date of such levy on the real estate levied on and on such personal property as remains in the hands of the attaching officer, and on the proceeds of such personal property as may have been sold.

[Acts 1925, S.B. 84.]

Art. 301. Judgment and Foreclosure

Should the plaintiff recover in the suit, such attachment lien shall be foreclosed as in case of other liens, and the court shall direct the proceeds of the personal property sold to be applied to the satisfaction of the judgment, and the sale of personal property remaining in the hands of the officer and of the real estate levied on, to satisfy the judgment. When an attachment issued from a county or justice court has been levied upon land, no order or decree foreclosing the lien thereby acquired shall be necessary, but the judgment shall briefly recite the issuance and levy of such attachment, and such recital shall be sufficient to preserve such lien. The land so attached may be sold under execution after judgment, and the sale thereof shall vest in the purchaser all the estate of the defendant in attachment in

such land, at the time of the levy of such writ of attachment.

[Acts 1925, S.B. 84.]

Art. 302. Judgment When Property is Replevied

When personal property has been levied on, as hereinbefore provided, the judgment shall

also be against the defendant and his sureties on his replevy bond for the amount of the judgment, interest and costs, or for the value of the property replevied and interest, according to the terms of such replevy bond.

[Acts 1925, S.B. 84.]

Art. 303. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

TITLE 14

ATTORNEYS AT LAW

Article

- 304. Board of Examiners.
- 305. Duties of Board.
- 305a. Assistant Secretary to Board, Salary.
- 306. Authority of Supreme Court.
- 306a. Exemption from Examination; Membership in Legislature and Service as Judge as Equivalent of Prelegal Study.
- 307. Repealed.
- 307A. Licenses to Law Graduates in, or Formerly in, Military Service.
- 307A-1. Licenses to Certain Former Legislators and War Veterans.
- 307A-2. Licenses to Certain Graduates Entering Military Service; Application; Affidavit.
- 307B. Military or Merchant Marine Service; Exemption from Examination in Subjects Passed Prior to.
- 308. Foreign Attorneys.
- 309. Oath of Attorney.
- 310. Fees.
- 311. Convicts Barred.
- 312. Misbehavior or Contempt.
- 313. Disbarment.
- 314. Complaint.
- 315. Citation to Issue.
- 316. Trial.
- 317. Retention of Client's Money.
- 318. Repealed.
- 319. Officers not to Appear.
- 320. Repealed.
- 320a-1. State Bar Act.
- 320b. Prepaid Legal Services Act.

Art. 304. Board of Examiners

The Board of Law Examiners shall consist of five lawyers having the qualifications required of members of the Supreme Court. They shall be biennially appointed by the Supreme Court and shall each hold office for two years and be subject to removal by the Supreme Court for incompetency or inattention to duty.

[Acts 1925, S.B. 84.]

Art. 305. Duties of Board

Such Board, acting under instructions of the Supreme Court as hereinafter provided, shall pass upon the eligibility of all candidates for examination for license to practice law within this State, and examine such of these as may show themselves eligible therefor, as to their qualifications to practice law. Such Board shall not recommend any person for license to practice law unless such person shall show to the Board, in the manner to be prescribed by the Supreme Court, that he is of such moral character and of such capacity and attainment that it would be proper for him to be licensed.

[Acts 1925, S.B. 84.]

Art. 305a. Assistant Secretary to Board, Salary

The Secretary of the Board of Legal Examiners with the approval of the Supreme Court, is hereby authorized to appoint an assistant to

serve during the months of February and March, June and July, October and November, at a salary to be fixed by the Clerk of the Supreme Court at an amount not to exceed One Hundred Dollars (\$100.00) per month, said salary to be paid by the Clerk of the Supreme Court out of any fees of his office not otherwise appropriated.

[Acts 1934, 43rd Leg., 4th C.S., p. 2, ch. 2, § 1.]

Art. 306. Authority of Supreme Court

The Supreme Court is hereby authorized to make such rules as in its judgment may be proper to govern eligibility for such examination and the manner of conducting the same, covering, among other points, proper guarantee to insure:

1. Good moral character on the part of each candidate for license;
 2. Adequate pre-legal study and attainment;
 3. Adequate study of the law for at least two years, covering the course of study prescribed by the Supreme Court, or the equivalent of such course;
 4. The legal topics to be covered by such study and by the examination given;
 5. The time and place for holding the examination, the manner of conducting same, and the grades to be made by the candidates to entitle them to be licensed.
- Whenever as many as five applicants shall request the Board to conduct an examination in any particular town or city convenient to their place of residence, the examination of such applicants shall be conducted at such town or city at some suitable time, to be determined by the Board;
6. Any other such matters as shall be desirable in order to make the issuance of a license to practice law evidence of good character, and fair capacity and real attainment and proficiency in the knowledge of law.

The completion of prescribed study in an approved law school as herein defined shall satisfy the law study requirements for taking the aforesaid examination. An approved law school is hereby defined as one which is approved by the Supreme Court as offering the course of study prescribed by the Supreme Court for the period of time designated by such Court, and as maintaining the additional standards prescribed by the Court. No license to practice law in this state shall be issued by any court or authority except by the Supreme Court of this state, under the provisions of this

title. The power granted to the Supreme Court by this Act shall not be delegated.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 350, ch. 70, § 1.]

Art. 306a. Exemption from Examination; Membership in Legislature and Service as Judge as Equivalent of Prelegal Study

Sec. 1. The Supreme Court by general order may exempt from taking any examination as to prelegal or legal studies and attainments any attorney at law who has been duly licensed to practice law in a State of the United States and has not been disbarred or had his license to practice law suspended in any State where applicant has heretofore practiced law in such State for a period of seven (7) years and has been duly licensed to practice law before the Supreme Court of the United States and has resided in the State of Texas for a period of twenty-four (24) months immediately before he is issued a license to practice law in this State, but such attorneys must in all instances furnish evidence as to moral character required of candidates to take the bar examinations in this State. The provisions of this section shall apply only to those States which give to persons licensed to practice law in Texas the same or similar reciprocal privileges.

Sec. 2. (a) Membership in the Texas Legislature for twelve (12) consecutive years, or Membership in the Texas Legislature for four (4) consecutive years with a bachelor's degree or its equivalent and adequate study of the law for at least two (2) years at an approved law school, or Membership in the Texas Legislature for eight (8) consecutive years with a bachelor's degree or its equivalent, or service in both Houses of the Texas Legislature with a master's degree or its equivalent, prior to making application to take the Bar examination, shall be considered equivalent to the prelegal study and training and study of the law required under Article 306, Revised Civil Statutes, 1925, as amended, as a prerequisite to taking the regular examination for license to practice law and may be substituted in lieu thereof, provided the applicant meets all requirements of the Supreme Court relative to moral character; and any person complying with the above is declared to be eligible to take such examination for license to practice law. In such cases thirty (30) days' written notice of intention to take the Bar examination, directed and delivered to the Clerk of the Supreme Court of Texas, shall be sufficient notice. This section shall apply only to persons who were members of the Texas Legislature prior to the convening of the 64th Regular Session of the Texas Legislature in January, 1975.

(b) Service as Judge of any court of record in the State of Texas for a period of ten (10) consecutive years, prior to making application to take the Bar examination, shall be considered equivalent to the prelegal study and training and study of the law required under Arti-

cle 306, Revised Civil Statutes, 1925, as amended, as a prerequisite to taking the regular examination for license to practice law and may be substituted in lieu thereof, provided the applicant meets all requirements of the Supreme Court relative to moral character, and any person complying with the above is declared to be eligible to take such examination for license to practice law. In such cases thirty (30) days' written notice of intention to take the Bar examination, directed and delivered to the Clerk of the Supreme Court of Texas, shall be sufficient notice, provided that such notice must be filed prior to January 1, 1975. This subsection shall apply only to persons who were judges of courts of record in the State of Texas prior to January 1, 1974.

[Acts 1939, 46th Leg., p. 68; Acts 1965, 59th Leg., p. 1655, ch. 714, § 1; Acts 1973, 63rd Leg., p. 1617, ch. 581, § 1, eff. Aug. 27, 1973.]

Art. 307. Repealed by Acts 1935, 44th Leg., p. 438, ch. 176, § 1

Art. 307A. Licenses to Law Graduates in, or Formerly in, Military Service

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

1. He shall meet the character requirements prescribed by the rules promulgated by the Supreme Court of Texas.
2. He must have been a resident of the State of Texas for at least one (1) year prior to graduation from law school.
3. He must have commenced his military service prior to the date set for the second State Bar Examinations next following the date of his graduation.
4. He must have served honorably and continuously on active duty for a period of time of not less than one (1) year.
5. He must make application for license within one (1) year after the date of his separation from the military service of the United States.

Military service shall include service in all branches of the Army, Navy, Air Force and other military forces of the United States, including auxiliary service.

[Acts 1943, 48th Leg., p. 397, ch. 268, § 1; Acts 1957, 55th Leg., p. 344, ch. 158, § 1.]

Art. 307A-1. Licenses to Certain Former Legislators and War Veterans

Law licenses shall be granted, without requirement of passage of the State Bar Examination, to any citizen of Texas

- (a) who has served a minimum of three (3) Sessions as a Member of the Texas Legislature, and
- (b) who is a veteran of World War I and World War II, and
- (c) who is a member of the Bar in a state bordering on Texas, and
- (d) who has been a resident of Texas for at least twenty (20) years.

[Acts 1957, 55th Leg., p. 344, ch. 158, § 2.]

Art. 307A-2. Licenses to Certain Graduates Entering Military Service; Application; Affidavit

Any person now serving on active duty in the military service of the United States and any person who enters active duty in the military service of the United States prior to November 1, 1957, and serves for a period of at least ninety (90) days and who has graduated from a law school given unconditional approval on the official list of approved law schools filed by the Supreme Court of Texas with the Clerk of the Court and who meets the character requirements prescribed by the rules promulgated by the Supreme Court of Texas and who has been a resident of the State of Texas for at least one (1) year prior to graduation from law school and who has commenced his military service prior to the date set for the second State Bar examination next following the date of his graduation may file application for a license with the Board of Law Examiners of this State. Upon filing of such an application, which shall be in the form of an affidavit by such applicant stating that he has met all requirements heretofore set out in this Section of this Act, and upon the filing of an affidavit signed by said applicant's commanding officer stating that such applicant has honorably and continuously served on active duty in the military service for a period of at least three (3) months such applicant shall be issued a law license.

[Acts 1957, 55th Leg., p. 344, ch. 158, § 3.]

Art. 307B. Military or Merchant Marine Service; Exemption from Examination in Subjects Passed Prior to

Law Licenses shall be granted without requirements of passage of the State Bar Examination as to any subject or subjects which the candidate has satisfactorily passed prior to entering the Military Service or Merchant Marine Service of the United States in any law school situated within this State which is on the approved list of the Supreme Court of Texas, provided such applicants are graduates of such law schools, provided such candidate has been a citizen of Texas for at least one (1) year prior to the passage of this Act, and has served at least two (2) years in the Military

Service or Merchant Marine Service of the United States. Such candidate must have been honorably discharged or released from active Military Service and must have the character requirements prescribed by the Rules of the Supreme Court of Texas. Such candidate shall file with his application for license a certified copy of his honorable discharge or release from active Military Service or Merchant Marine Service of the United States. Such application shall be filed with the clerk of the Supreme Court of Texas not later than six (6) months after such candidate graduates from one of the approved law schools. Military Service or Merchant Marine Service shall include service in all branches of the Army, Navy, and other Military Forces or Merchant Marine Service of the United States, including Auxiliary Service during World War II or during national emergency as declared by Congress or the President of the United States.

[Acts 1947, 50th Leg., p. 504, ch. 298, § 1; Acts 1961, 57th Leg., p. 1137, ch. 515, § 1.]

Art. 308. Foreign Attorneys

The Supreme Court shall make such rules and regulations as to admitting attorneys from other jurisdictions to practice law in this State as it shall deem proper and just. All such attorneys shall be required to furnish satisfactory proof as to good moral character.

[Acts 1925, S.B. 84.]

Art. 309. Oath of Attorney

Every person admitted to practice law shall, before receiving license, take an oath that he will support the Constitution of the United States and of this State; that he will honestly demean himself in the practice of law, and will discharge his duty to his client to the best of his ability; which oath shall be indorsed upon his license, subscribed by him and attested by the officer administering the same.

[Acts 1925, S.B. 84.]

Art. 310. Fees

The fee for any examination given by the Board shall be fixed by the Supreme Court, not to exceed \$40 for each candidate, which shall be paid to the clerk of said court at the time the application for examination is made. The money thus obtained shall be used to pay all legitimate expenses incurred in holding the examination; and as compensation to the members of the Board, under such regulations as shall be agreed upon by the Board, or determined by the Supreme Court.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 743, ch. 311, § 1, eff. May 27, 1967.]

Art. 311. Convicts Barred

No person convicted of a felony shall receive license as an attorney at law; or, if licensed, any court of record in which such person may practice shall, on proof of a conviction of any felony, revoke his license and strike his name from the roll of attorneys.

[Acts 1925, S.B. 84.]

Art. 312. Misbehavior or Contempt

An attorney at law may be fined or imprisoned by any court for misbehavior or for contempt of such court. No attorney shall be suspended or stricken from the rolls for contempt unless it involve fraudulent or dishonorable misconduct or malpractice.

[Acts 1925, S.B. 84.]

Art. 313. Disbarment

Any attorney at law who shall be guilty of barratry or any fraudulent or dishonorable conduct or malpractice, may be suspended from practice, or his license may be revoked by the district court of the county in which such attorney resides or where the act complained of occurred, regardless of the fact that such act may constitute an offense under the Penal Code of Texas, and regardless of whether he is being prosecuted or has been convicted for the violation of such penal provision.

[Acts 1925, S.B. 84.]

Art. 314. Complaint

The judge of any court, a practicing attorney, a county commissioner or justice of the peace may file with the clerk of the district court a sworn complaint of fraudulent or dishonorable conduct or malpractice on the part of any attorney at law.

[Acts 1925, S.B. 84.]

Repeal

In State ex rel. Chandler v. Dancer (Civ. App. 1965) 391 S.W.2d 504, ref. n. r. e., the court held that this article and articles 315, 316 were repealed by the enactment of the State Bar Act (article 320a-1) and the promulgation of the State Bar Rules (Title 14 Appendix).

Art. 315. Citation to Issue

Upon the filing of such complaint, or upon its own observance of such conduct, such district court shall order the attorney to be cited to show cause why his license shall not be suspended or revoked. If the citation be ordered upon the observation of the court, the charge and the grounds thereof shall be set out distinctly in the order of the court. Such citation shall be served upon defendant at least five days before the trial day.

[Acts 1925, S.B. 84.]

Repeal

See italicized note following article 314.

Art. 316. Trial

Upon the return of said citation executed, if the defendant appear and deny the charge, the cause shall be docketed for trial and conducted in the name of the State of Texas against the defendant. The county or district attorney shall represent the State. A jury of twelve men shall be impaneled, unless waived by the defendant. If the attorney be found guilty, or

if he fail to appear and deny the charge after being duly cited, the said court, by proper order entered on the minutes, may suspend his license for a time, or revoke it entirely, and may also give proper judgment for costs.

[Acts 1925, S.B. 84.]

Repeal

See italicized note following article 314.

Art. 317. Retention of Client's Money

Each attorney who receives or collects money for his client and refuses to pay over the same when demanded, may be proceeded against by motion of the party injured or his attorney before the district court of the county in which such attorney usually resides or in which he resided when he collected or received the money; notice of which motion with a copy thereof shall be served on such party at least five days before the trial. In case the motion be sustained, judgment shall be rendered against the defendant, for the amount by him collected or received and not less than ten nor more than twenty per cent damages on the principal sum.

[Acts 1925, S.B. 84.]

Art. 318. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1**Art. 319. Officers not to Appear**

No judge or clerk of the Supreme Court, Courts of Civil or Criminal Appeals, or District Court, or sheriff or deputy, or constable, shall be allowed to appear and plead as an attorney at law in any Court of record in this State. No county judge or county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any County or Justice Court, except in cases where the Court over which such judge presides, or over which such clerk is clerk has neither original nor appellate jurisdiction. No county clerk who is licensed to practice law shall be allowed to appear and practice as an attorney at law in any District Court, Court of Civil Appeals, Court of Criminal Appeals, or the Supreme Court unless the Court of which such clerk is clerk has neither original nor appellate jurisdiction.

[Acts 1925, S.B. 84; Acts 1951, 52nd Leg., p. 452, ch. 279, § 1.]

Art. 320. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1**Art. 320a-1. State Bar Act****Citation of Act**

Sec. 1. This Act may be cited as the State Bar Act.

Creation and General Powers of State Bar; Board of Directors

Sec. 2. Subd. (a). There is hereby created the State Bar, which is hereby constituted an administrative agency of the Judicial Department of the state, with power to contract with

relation to its own affairs and which may sue and be sued and have such other powers as are reasonably necessary to carry out the purposes of this Act.

Subd. (b). The general executive agency of the State Bar shall be its Board of Directors. Upon such Board shall rest the duty of enforcing the provisions of this Act.

Such Board shall be composed of the officers of the State Bar, and not more than 30 additional members, elected from geographical Bar Districts by the members of the State Bar, with one or more Board members from each district, as may be determined by the Board.

For purposes of electing directors or for the fulfillment of any other duty imposed upon the State Bar by this Act or the State Bar rules, such Board shall from time to time reapportion the state into Bar Districts as conditions require, taking into account the best interests of the legal profession and the public and the advancement of the administration of justice in this state. Provided, however, that any reapportionment plan promulgated by the Board shall be submitted in referendum to the registered members of the State Bar for a vote thereon. Such plan submitted shall become effective unless disapproved by 51% of the members.

Members of State Bar; Unlicensed Persons Prohibited from Practicing; Assistance of Law Students in Trial of Cases Subject to Rules and Regulations; Licensed Persons

Sec. 3. All persons who are now or who shall hereafter be licensed to practice law in this State shall constitute and be members of the State Bar, and shall be subject to the provisions hereof and the rules adopted by the Supreme Court of Texas; and all persons not members of the State Bar are hereby prohibited from practicing law in this State except as provided below. A bona fide law student attending a law school approved by the Supreme Court of Texas who has completed two-thirds of the required curriculum for graduation as computed on an hourly basis, may, with the consent of the presiding judge, assist licensed attorneys in the trial of cases. His participation in the trial of cases shall be governed by rules and regulations which shall be promulgated within 90 days after this Act becomes law by a joint committee composed of five members of the State Bar designated by the president of such bar and four members of the State Junior Bar designated by the president of such bar. The presiding officer of the joint committee shall be chosen by the committee members from the members designated by the State Bar. All rules and regulations promulgated within 90 days after this Act becomes law by the joint committee shall be subject to approval by the Supreme Court of Texas, but shall contain at least the following minimum requirements:

(1) that a qualified law student may file instruments and motions and handle

other routine matters before any court or administrative body of this State;

(2) that a qualified law student may make an appearance for the purpose of trial and the arguing of motions, provided that he is accompanied at such appearance by an attorney licensed to practice law in this State, in all courts of this State; and

(3) that a qualified law student may not appear in or conduct any contested hearing or trial, before any administrative tribunal or in any of the courts, unless accompanied at such appearance by an attorney licensed to practice law in this State.

Within the meaning of this section, all persons furnishing evidence of or complying with any of the following provisions shall be deemed as now licensed to practice law within this State, viz:

(a) That he is now enrolled as an attorney at law before the Supreme Court of this State.

(b) A license or the issuance of a license by the Board of Legal Examiners of this State authorizing him to practice law within this State.

(c) A license or the issuance of a license to practice law within this State by any authority, which, at the time of the issuance thereof, was authorized by the laws of this State, then in effect, to issue the license.

(d) Where an attorney, licensed before October 6, 1919, has lost or misplaced his license, issued by legal authority, and where the proof of its issuance is not available in the records of the Court in Texas in which he claims it was issued, then his status as a licensed attorney in this State may be established by a certificate of the District Judge in the District of his residence that such person has been engaged in the practice of law within this State for a period of five (5) years immediately and continuously next preceding the effective date of this Act, and, within the judgment of said District Judge, said attorney has theretofore been duly licensed to practice law under the laws of the State of Texas and is of good moral character. Before any such certificate shall be issued by a District Judge, the Judge shall give an opportunity to the president of the local bar association in the county of said attorney's residence to be heard.

(e) Any proof satisfactory to the Supreme Court of this State that he is and was, upon the effective date of this Act, authorized to practice law within this State.

Rules and Regulations; Fees

Sec. 4. Subd. (a). From time to time as to the Court may seem proper, the Supreme Court of Texas shall prepare and propose rules and regulations for disciplining, suspending,

and disbaring attorneys at law; for the operation, maintenance, and conduct of the State Bar; and prescribing a code of ethics governing the professional conduct of attorneys at law. When the Court has prepared and proposed such rules and regulations, it shall submit by mail a copy of each such rule and regulation, as well as all such other rules and regulations as may have been proposed and filed with the Court, supported by petition signed by at least ten per cent (10%) of the registered members of the State Bar, in ballot form to each registered member of the State Bar for a vote thereon. At the end of thirty (30) days from the time such ballots are mailed, the Court shall count the ballots that have been returned, provided that no election shall be valid unless a minimum of fifty-one per cent (51%) of the members registered shall have voted at the election at which such rule or rules are adopted; and each and all of such rules and regulations that have received a majority of the votes cast shall be by said Court declared and adopted and shall be promulgated by said Court and shall become immediately effective. Such vote shall be open to inspection by any member of the Bar. No rule or regulation shall be promulgated that has not received a majority of votes cast in the manner above-provided. Nothing herein shall be construed as authorizing the Court to prescribe fees to be charged for legal services rendered by any attorney.

Subd. (b). The Supreme Court is further empowered and it shall be its duty to prescribe fees of not less than Four Dollars (\$4) per annum per person for members of the State Bar to be paid to the Clerk of the Supreme Court to be held by him and expended by the Court or under its direction for the purpose of the administration of this Act. Any person licensed and registered may pay to the Clerk of the Supreme Court a sum of money from which the fees owed by such person may be taken from time to time as they become due.

Subd. (c). The Supreme Court, prior to prescribing any fee to be assessed on members of the State Bar in excess of Four Dollars (\$4) per annum, shall and must submit to the registered members of the State Bar, in ballot form, the question of whether such proposed fee assessment in excess of Four Dollars (\$4) per annum shall be so prescribed. Ballots shall be mailed to the registered members of the State Bar and at the end of thirty (30) days from the time the last of said ballots are mailed by the Court, the Court shall count the ballots that have been returned to the Court; provided that no election shall be valid unless a minimum of fifty-one per cent (51%) of the registered members of the State Bar shall have voted at the election held for such purpose, and further provided, that a majority of those members so voting shall have approved said proposed fee. Such vote shall be open to inspection by any member of the State Bar and such ballots shall not be destroyed until the ex-

piration of twelve (12) months after the results of such election have been declared.

Right of Trial by Jury not to be Abrogated in
Disbarment Proceedings

Sec. 5. The Supreme Court of Texas shall not adopt or promulgate any rule or regulation abrogating the right of trial by jury in disbarment proceedings, in the county of the residence of the defendant.

Venue; Conviction in Court Prerequisite to Suspension;
Appeal; Probation; Disbarment

Sec. 6. No disbarment proceeding shall be instituted against any attorney except in the district court located in the county of said attorney's residence, nor shall any attorney be suspended until such attorney has been convicted of the charge pending against him, in a court of competent jurisdiction in the county of such attorney's residence. Provided, however, upon proof of conviction of an attorney in any trial court of any felony involving moral turpitude or of any misdemeanor involving the theft, embezzlement, or fraudulent appropriation of money or other property, the district court of the county of the residence of the convicted attorney shall enter an order suspending said attorney from the practice of law during the pendency of any appeal from said conviction. An attorney who has been given probation after such conviction shall be suspended from the practice of law for the period of his probation. Upon proof of final conviction of any felony involving moral turpitude or of any misdemeanor involving theft, embezzlement, or fraudulent appropriation of money or other property, where probation has not been given or has been revoked, the district court of the county of the residence of the convicted attorney shall enter a judgment disbaring him.

Partial Invalidity

Sec. 7. If any sentence, paragraph or section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other sentence, paragraph or section hereof, and the Legislature hereby expressly declares that it would have passed such remaining sentences, paragraphs and sections despite such invalidity.

[Acts 1939, 46th Leg., p. 64; Acts 1939, 46th Leg., p. 66, § 1; Acts 1949, 51st Leg., p. 1103, ch. 563, § 1; Acts 1965, 59th Leg., p. 1531, ch. 669, § 1, eff. June 18, 1965; Acts 1969, 61st Leg., p. 364, ch. 134, § 1, eff. May 6, 1969; Acts 1971, 62nd Leg., p. 2336, ch. 706, § 1, eff. Aug. 30, 1971.]

Art. 320b. Prepaid Legal Services Act

Short Title

Sec. 1. This Act may be cited as the Prepaid Legal Services Act.

Purpose

Sec. 2. The purpose of this Act is to provide for the regulation of prepaid legal services programs, in order to assure the quality and availability of the services offered by such programs.

Definitions

Sec. 3. As used in this Act:

(1) "Organization" means any professional association, trade association, labor union, or other non-profit organization or combination of persons, incorporated or otherwise;

(2) "Prepaid legal services program" or "program" means a plan by which a sponsoring organization offers legal services benefits to its members or beneficiaries, which services are financed by direct financial charge in advance of need;

(3) "Bar" means the State Bar of Texas; and

(4) "Board" means the Board of Directors of the State Bar of Texas.

Excluded Programs

Sec. 4. The provisions of this Act do not apply to:

(1) the employment of counsel by an organization to represent its members free of direct financial charge to them; or

(2) legal services made available incidental to a contract of insurance in which the insurer has contracted to pay all or a substantial part of a judgment, if any, and the legal services are free of direct financial charge to the insured.

Approval of Program Required

Sec. 5. (a) No member of the Bar may provide legal services pursuant to any prepaid legal services program, unless the sponsoring organization first applies to and secures approval of the arrangement from the Board of Directors of the Bar.

(b) Any organization sponsoring a prepaid legal services program on the effective date of this Act shall apply to and secure approval of the Board for the continuance of the service within six months from that date.

(c) This Act shall be limited to five prepaid legal services programs between Classroom Teachers Associations and The State Bar of Texas which shall be deemed pilot programs.

Application

Sec. 6. Every application for approval of a prepaid legal services program shall demonstrate affirmatively:

(1) the security of the program funds held, and to be held, by the organization, as evidenced by a fidelity bond for those officers of the organization authorized to manage the funds;

(2) compliance of the program with the requirements of the Disciplinary Rules of the Code of Professional Responsibility;

(3) that any person eligible to receive legal services under the program may obtain the services from any attorney of his choice; and

(4) that prior to entry into the program, each member or beneficiary is given full information in writing concerning:

(A) the services offered by the program;

(B) the total annual cost of the program to an individual member or beneficiary; and

(C) the required compliance of the program with each provision of this section.

Action upon Application

Sec. 7. (a) If the Board finds that the application of a petitioning organization affirmatively demonstrates compliance with the requirements of Section 6 of this Act, it shall approve the application. If the Board finds a substantial failure of the application to comply with the requirements of Section 6, it shall disapprove the application and give written notice of the reasons for the disapproval.

(b) The Board shall either approve or disapprove an application within 60 days from the date it is filed.

Revocation of Approval

Sec. 8. (a) Upon written notice to the organization of the reasons for the revocation, the Board may revoke the approval of a program because of:

(1) failure to provide the services offered; or

(2) failure to maintain the requirements established by Section 6 for initial approval of the application.

(b) Upon revocation of approval of a program under authority of Subsection (a) of this section, the sponsoring organization shall return to its members or beneficiaries the unexpended funds of the prepaid legal services program, including the proceeds of a bond, if available, and shall certify to the Board the manner and amount of the redistribution of the funds. If necessary, the Board shall supervise the redistribution.

Insurance Laws

Sec. 9. No law pertaining to insurance may be construed to apply to any prepaid legal services program governed by this Act.

Bylaws and Rules

Sec. 10. (a) The Board may adopt such supplementary bylaws as deemed necessary relating to the enforcement and implementation of this Act.

(b) The Bar may adopt rules, not inconsistent with the provisions of this Act, regulating the participation of its members in group legal services programs and may require periodic reporting on such participation.

Fees

Sec. 11. The Board may assess reasonable fees of organizations applying for approval of a prepaid legal services program as are neces-

sary for the enforcement of the provisions of this Act.

Severability

Sec. 12. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the in-

valid provision or application, and to this end the provisions of this Act are declared to be severable.

Effective Date

Sec. 13. This Act shall take effect January 1, 1974.

[Acts 1973, 63rd Leg., p. 1618, ch. 582, eff. Jan. 1, 1974.]

TITLE 14—APPENDIX
RULES GOVERNING THE STATE
BAR OF TEXAS

Adopted by
MEMBERS OF THE STATE BAR OF TEXAS
and
Promulgated by
THE SUPREME COURT OF TEXAS
As Amended to December 20, 1971.

These Rules were originally prepared by the Lawyers' Advisory Committee and approved by the Supreme Court on February 22, 1940.

The Order of the Supreme Court approving the Rules read:

"These Rules providing for the conduct of the State Bar of Texas, and the discipline, suspension and disbarment of attorneys at law and prescribing a code of ethics governing the professional conduct of the members of the Bar, as prepared and recommended by the Lawyers' Advisory Committee authorized and created under order of this Court, are hereby approved by the Supreme Court and ordered submitted to the registered members of the State Bar for a vote thereon.

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ARTICLE I. DEFINITIONS

In these rules, unless the context or subject matter otherwise requires,

"State Bar" means the State Bar of Texas created by H.B.No.74, as enacted by the 46th Texas Legislature, Regular Session, 1939, as amended by S.B.No.477;¹

"State Bar Act" means H.B.No.74, as amended by S.B.No.477;

"Board" or "Board of Directors" means the Board of Directors of the State Bar of Texas;

"Director" means a Director of the State Bar of Texas, and

"Member" means a member of the State Bar of Texas.

¹ Article 320a-1.

ARTICLE II. STATE BAR OF TEXAS

Sec. 1. Name

The name of this Bar shall be the "State Bar of Texas."

Sec. 2. Seal

The State Bar shall have a seal, to be kept in the office of the Secretary, in the form of a five-pointed star around which shall be written: "State Bar of Texas-Created in 1939."

Sec. 3. Principal Office

The principal office of the State Bar shall be maintained in Austin, until changed by vote of the State Bar at an annual meeting.

Sec. 4. Service of Process

Service of citation or any other notice upon the State Bar may be had upon the President or Secretary.

ARTICLE III. PURPOSES AND ADMINISTRATION

Sec. 1. Purposes

The purposes of the State Bar shall be the advancement of the administration of justice and the science of jurisprudence; the encouragement of cordial intercourse among its members; the improvement of the relations between the Bench and the Bar and the public; and the protection of the professional interest of the members of the State Bar.

Sec. 2. Reports to Annual Meetings

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

[Jan. 22, 1957.]

Sec. 3. Reports to Board

All committees and sections from time to time shall render to the Board such additional reports as may be requested by the President or by the Board.

Sec. 4. Cooperation with Local Bar Organizations

The Board of Directors, officers and members of the State Bar shall encourage and foster the organization of local bar associations and a closer cooperation between them and the State Bar.

Sec. 5. Referendum to Membership

Whenever the Board of Directors under these rules shall be required to take a referendum, or whenever the Board may order a referendum to the membership of the State Bar, the

Board shall prepare a questionnaire containing the matter or matters upon which the vote is to be taken, which shall be submitted to each member in the manner and under such conditions as to enable such member to vote and return the questionnaire as directed.

Sec. 6. Effect of Referendum

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

[Jan. 22, 1957.]

ARTICLE IV. REGISTRATION AND DUES

Sec. 1. Registration

Immediately upon the taking effect of these rules the Secretary shall furnish every member a registration card by first class mail, which card shall, within thirty days after the same is mailed, be returned by the member by first class mail and shall contain such information as the Board of Directors may require.

In like manner, such registration card shall be furnished to and filed by each person thereafter admitted to the Bar in Texas.

Sec. 2. Suspension for Failure to File Registration Card

Any member who fails to return his registration card completely filled out within thirty days after its being mailed to him shall be regarded as delinquent and shall be given written notice thereof by the Secretary. If the delinquent member fails to mail his registration card within thirty days after such notice is mailed, he shall cease to be a member of the Bar, but shall be reinstated upon mailing or delivering his registration card completely filled out to the Secretary.

Sec. 3. Fiscal Year

The fiscal year of the Bar shall begin June 1 of each year and end May 31 of the next succeeding year.

Sec. 4. Membership Fee

The annual membership fee prescribed by the Supreme Court shall be due and payable by each member to the Clerk of the Supreme Court June 1 of each fiscal year. However, any person becoming a member before the first day of December shall pay on admission the full membership fee for that fiscal year, but if such person becomes a member after December 1, he shall pay on admission one-half of the annual membership fee. It shall be the duty of the Clerk to issue to each member so paying such fee a membership card. It shall be the duty of the Clerk to keep all books, and other records proper and necessary to carry out the provisions of this section.

Sec. 5. Suspension for Non-payment of Fees

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

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

[Jan. 22, 1957.]

Sec. 6. Reinstatement of Members

A member removing from the state, may file notice thereof in writing with the Secretary. If he returns to Texas he may be reinstated as a member upon complying with the law of this State and the rules of the State Bar in force at the time of his return and upon payment of membership fees due for the year in which he shall return.

ARTICLE V. OFFICERS

Sec. 1. Officers Named

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

[Jan. 22, 1957.]

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

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

canvassed and the results declared, as prescribed in said Section 3.

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

Any other member's name shall be printed also on the ballot as a candidate for President-Elect or Vice-President when a petition in writing, signed by not fewer than 175 members requesting such action, is filed with the Executive Director on or before March 15th.

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

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

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 3. When Officers Assume Duties

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

[Jan. 22, 1957.]

Sec. 4. How Executive Director Elected

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

[Jan. 22, 1957; Dec. 20, 1971.]

Sec. 4a. How General Counsel Elected

The General Counsel shall be elected by a majority vote of the Board of Directors and shall hold office during the pleasure of the Board, but his term in no event shall exceed two years. He may be re-elected as many

times as the Board of Directors may choose. He shall be a member of the State Bar and shall have had at least seven years' experience in the practice of law within the State of Texas. The Board of Directors may appoint such assistants to the General Counsel as it deems necessary, such assistants to be appointed with the advice of the General Counsel.

[Jan. 22, 1957.]

Sec. 4b. Duties of the General Counsel

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

[Jan. 22, 1957.]

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

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

[Jan. 22, 1957.]

Sec. 6. Duties of the Executive Director

The Executive Director shall be responsible for the execution of the policies and directives of the Board with reference to all activities of the State Bar, except such activities as may be made the responsibility of the General Counsel by the Board or under these rules. He shall expedite and assist in the work of all standing and special committees, and shall serve as Editor-In-Chief of the Texas Bar Journal. He shall serve as Secretary to the Board and the State Bar, performing all duties required of the Secretary by these rules and other duties usually required of a secretary and a treasurer, including such other duties as may be assigned to him by the Board of Directors. Wherever the word "Secretary" is used in these Rules, it shall be taken to mean Executive Director. The Board shall fix his salary, which shall be paid in equal monthly installments. He shall be required to execute a cor-

porate surety bond in such amount as the Board may direct, conditioned upon the faithful performance of his duties, the premium for which shall be paid by the State Bar. All of his accounts shall be audited annually by accountants selected by the Board of Directors, and a statement of the audit shall be printed in full in the next issue of the Bar Journal following the filing of such report. The Executive Director, with the approval of the Board of Directors, may employ such administrative, stenographic, and clerical assistants as the work of his office may require, salaries to be fixed by the Board of Directors and paid out of the funds of the State Bar.

[Jan. 22, 1957.]

Sec. 7. Clerical Assistance for Clerk of the Supreme Court

The Clerk of the Supreme Court, with the approval of the Supreme Court, may employ one assistant to assist in discharging the duties imposed upon him by these rules and the State Bar Act.¹ The Clerk shall also be entitled to such stationery, office supplies, stamps and other items as may be needed to carry on the work imposed upon him by these rules and the State Bar Act. The salary of such assistant shall be fixed by the Board, which salary and the expenses above provided for, shall be paid each month by the Clerk of the Court, on approval of the Supreme Court, from the funds in his hands belonging to the State Bar. The Clerk may retain in his hands out of such funds an amount sufficient to take care of the expenses provided for by this Section.

¹ Article 320a-1.

ARTICLE VI. BOARD OF DIRECTORS

Sec. 1. How Comprised

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

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

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 2. Qualifications of Director; Vacancies; How Filled

Each elected Director shall be a resident of the District for which he is elected and upon removal from the District shall thereby automatically vacate his office. No member, except residents of Bexar, Dallas, Harris and Tarrant Counties, may be a candidate for Director if the county of his residence was the county of residence of the last preceding Director from that District. This prohibition shall not apply to a member appointed to fill a vacancy, if at the time of the next regular annual election

following his appointment the combined service of himself and his predecessor as Director does not exceed eighteen calendar months.

If there be any vacancy, the President shall appoint some member who is a resident of the District in which the vacancy exists to serve until the next regular annual election of Directors. The appointed Director may be a resident of the same county as his predecessor only in the event that the predecessor served as a Director for less than eighteen months. This restriction shall not apply to residents of the four populous counties above named.

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

[Jan. 22, 1957; Dec. 8, 1965.]

Sec. 3. How Chosen

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

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

On or before the tenth day of April of each year, the Executive Director of the State Bar shall cause to be printed a ballot for each District in which a Director is to be elected for that year. The name and place of residence of each candidate shall be printed on such ballot.

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

In all elections, the voter shall mark out the names of all candidates he does not wish to vote for. If the name of the person for whom the voter wishes to vote is not printed on the ballot, the voter shall mark through the names which appear on the ballot in that race and shall write in the name of the candidate for whom he wishes to vote in the appropriate space. The failure of a voter to mark his ballot in strict conformity with these directions shall not invalidate such ballot and it shall be counted in all races wherein the intention of the voter is clearly ascertainable, except where the State Bar Act or Rules otherwise expressly prohibit the counting of the ballot.

The Board shall adopt such further regulations as it may deem advisable to insure the validity and secrecy of ballots. The member shall return his ballot in any regular or runoff

election in accordance with these Rules and any regulations adopted by the Board. No ballot shall be counted unless it is received at State Bar Headquarters or is postmarked within fourteen (14) days after the day on which the ballot was mailed from State Bar Headquarters.

The Executive Director shall keep the ballots unopened in a safe container under private lock until the day following the deadline for voting. Thereafter, he, together with the Clerk of the Supreme Court, and such assistants as they may require and designate, shall count and tally all votes cast in all the several districts, but the final count shall not be announced until the fifth day following the deadline for voting (or the next succeeding working day if such fifth day be Sunday or a legal holiday). The person receiving the majority of votes cast in each District shall be declared elected Director for that District for the succeeding term.

If no candidate receives a majority of the votes cast, a runoff election shall be held and only the names of the two candidates who receive the highest number of votes for such office shall be placed on the official ballot. In a runoff election, the voter shall not be entitled to vote for a candidate whose name is not printed on the ballot.

Within ten days after the results of the regular election are announced, the Executive Director shall send by first-class mail a runoff ballot to each registered member of the State Bar eligible to vote in such runoff election. If the final result of any runoff election shall be a tie between the two runoff candidates, the Executive Director shall certify both names to the Board of Directors, whereupon such Board shall immediately break the tie by designating which of the two candidates shall serve, and the Board shall notify both candidates, the Executive Director and the Clerk of the Supreme Court of its decision.

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

[Jan. 22, 1957; Dec. 3, 1965.]

Sec. 4. Staggered Terms

At the first meeting of the Board of Directors after this amended rule is adopted and becomes effective (but not earlier than the September 1948 meeting) the eleven newly-elected Directors shall draw for three-year terms and two-year terms, the seven newly-elected Directors drawing three-year terms to serve for one year beyond the two-year term for which they were elected and the remaining four such Directors to serve for the balance of the two-year term to which elected. Likewise, the Directors whose terms under the former rule would expire in 1949 shall draw for three-year and

two-year terms, the three Directors drawing three-year terms to serve for one year beyond the two years for which they were elected. In 1949 Directors shall be elected in the Districts of the remaining seven Directors and each of the seven so elected, as well as each Director thereafter elected at any annual election for Directors shall serve for a term of three years unless he shall be elected or appointed to fill an unexpired term, in which event he shall serve for the unexpired term only.

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

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 4a. Removal of Directors

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

[Jan. 22, 1957.]

Sec. 5. Duties of the Board of Directors

The Board shall be the general executive agency of the State Bar and upon it shall rest the duty of enforcing the provisions of the Act creating the State Bar.¹

The Board shall make such regulations, not inconsistent with law or these rules, as shall be necessary and proper for the protection of the property of the State Bar, and for the preservation of good order and the conduct of the affairs of the Bar.

It shall from time to time suggest to the Supreme Court the submission to the Bar of new rules for the government of the Bar or such amendments to these rules as it may think requisite or expedient, upon majority vote of the directors present at any meeting considering such matters.

The Board shall direct the manner and purposes for which all funds of the State Bar shall be disbursed, but it shall have no power to make the State Bar liable for any debts in excess of the amount of money in the treasury at any one time not subject to liabilities already existent.

The Board shall perform all other duties required of it under other articles and sections of these rules and shall have full power to exercise whatever functions may be necessary or incident to the full exercise of any power bestowed upon it by these rules or by the laws of this state and not inconsistent therewith.

¹ Article 320a-1.

Sec. 6. Regular Meetings

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

[Jan. 22, 1957.]

Sec. 7. Special Meetings

The Board of Directors may, by a majority vote at any regular meeting, designate a time and place for a special meeting, or the President of the State Bar in his discretion may, and upon written request of ten Directors shall call special meetings of the Board of Directors for a time and place designated in the call. If the President shall fail or refuse for five days after such request by ten Directors to call a special meeting, the Secretary shall call the meeting, specifying the time and place for holding the meeting. Any such call shall specify the matters to be considered, and nothing else may be considered. The time for such meeting shall be not less than five nor more than ten days from the date of the call.

Sec. 8. Notice of Special Meetings

Notice of special meetings shall be mailed or telegraphed to each Director at his office address, as it appears in the Secretary's records, unless he shall file with the Secretary a written waiver of notice. The notice shall specify the time, place and purpose of the special meeting.

Sec. 9. Quorum

A majority of the Board of Directors shall constitute a quorum for the transaction of business at all meetings, and no action whatever may be taken except upon a majority vote of the Directors present.

ARTICLE VI—A. DISQUALIFICATION FOR OFFICE IN STATE BAR

From the date of passage of this rule, no member of the State Bar holding any political office for which remuneration is received or a candidate for such office shall be qualified to hold office in the State Bar.

Provided that this rule shall not affect any officer of said Bar for the tenure of the term for which he has been elected.

[June 5, 1944.]

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

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

Sec. 2. Vacancies

Vacancies occurring in memberships of committees shall be filled by the President for the unexpired term.

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

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

[Jan. 22, 1957.]

Sec. 2. Program for Annual Meetings

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

[Jan. 22, 1957.]

Sec. 3. Special Meetings

Special meetings of the State Bar shall be called by the Secretary, (1) upon two-thirds vote of the Directors, or (2) upon written petition of at least five hundred members of the State Bar.

When such a meeting is voted by the Board, it shall designate the time and place of the meeting. The time shall be not less than twenty or more than forty days after the call is voted. When the call is made by a minimum of five hundred members, the President in his approval shall designate the place the meeting is to be held and the time, which shall be not less than twenty nor more than forty days after the President's approval. No matters may be considered at any special meeting except those plainly set forth in the call.

Sec. 4. Notice of Special Meetings

At least ten days before any special meeting is to convene, the Secretary shall mail to each member at his office address a notice of the time and place of the meeting and the purposes for which the meeting is to be held.

Sec. 5. Order of Business at Annual Meetings

The order of business at annual meetings shall be fixed by the President, with the advice and consent of the Board of Directors, and shall be included in the program submitted to the Board at its April meeting as prescribed in Section 2 of this Article.

Sec. 5a. Procedure as to Proposals

Resolutions (except courtesy resolutions), motions, recommendations and other proposals by any member, section or committee, which are to be presented at the annual meeting, shall be filed with the Executive Director not less than forty-five (45) days prior to the first day of the annual meeting. Provided, the Board of Directors may in a proper case waive the time of filing.

At its meeting immediately preceding the annual meeting, the Board of Directors will determine whether the proposed action is of such importance, or seriously affects policy of the State Bar, or for any other proper reason should be submitted to a referendum of the members of the State Bar. Where the Board of Directors has so determined, the vote in the Resolution Committee and in the General Assembly of the annual meeting shall be upon whether the proposed action shall be submitted to a referendum vote of the members of the State Bar. Courtesy resolutions presented at the annual meeting shall be approved or rejected at such meeting.

The Board of Directors shall submit a proposal to a referendum, as above specified, prior to the next annual meeting, after giving due notice thereof to the members of the State Bar and providing equal opportunity through the Texas Bar Journal for discussion of the subject, pro and con.

[June 20, 1960.]

Sec. 6. Quorum at Annual or Special Meetings

One hundred members of the State Bar shall constitute a quorum for the transaction of business at any annual or special meeting.

Sec. 7. Rules to Govern Proceedings

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

[Jan. 22, 1957.]

Sec. 8. How Member May Vote at Annual or Special Meetings

No member may vote at any regular or special meeting of the State Bar unless he is present on the floor at the time a vote is called.

ARTICLE IX. ELECTIONS ADOPTING OR AMENDING RULES**Sec. 1. Submission to Members**

In submitting these rules, or any amendment, to the members of the State Bar, the Supreme Court shall cause to be furnished to each member a ballot which shall afford the member an opportunity to indicate clearly his approval or disapproval of each rule or amendment submitted.

Sec. 2. Counting of Ballots

On the thirty-first day after the ballots shall have been mailed to the registered members as required by the State Bar Act¹ (unless the thirty-first day shall fall on Sunday or a legal holiday, in which event it shall be done on the next succeeding working day), the Clerk of the Supreme Court and the Secretary of the State Bar, with the aid of such assistants as the Supreme Court may by order designate, shall open and count the ballots. The Clerk shall immediately certify in writing to the Court the results of the election; whereupon the Supreme Court shall immediately declare and adopt such rules as may have been adopted by the State Bar and promulgate the rules as directed and required by the State Bar Act.

¹ Article 320a-1.

Sec. 3. Publication of Rules

When these rules shall have been adopted by the State Bar and promulgated by the Supreme Court, the Secretary shall immediately cause the rules to be published in pamphlet form and a copy thereof mailed to each member of the State Bar at his office address. In like manner, all rules or amendments subsequently adopted and promulgated shall be published and mailed to each member. The expense of publication and mailing the rules shall be paid out of funds of the State Bar.

Sec. 4. Expenses of Such Elections

All expenses reasonably incident to holding, canvassing, and declaring the results of all such elections referred to in this Article shall be paid by warrant against State Bar funds.

ARTICLE X. FISCAL**Sec. 1. Budget Committee**

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

[Jan. 22, 1957.]

Sec. 2. Annual Budget

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

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

[Jan. 22, 1957.]

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

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

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

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

[Jan. 22, 1957.]

Sec. 4. Expenses of Officers and Directors

The Board of Directors may provide for the payment of all actual and necessary expenses incurred by the officers and directors of the State Bar in the discharge of their duties, except those incurred in attendance upon the annual meetings of the Bar.

ARTICLE XI. STATE BAR JOURNAL**Sec. 1. Journal Provided For**

A monthly journal, devoted to legal matters and the affairs of the State Bar and its members, may be published and circulated under the direction of the Board of Directors.

Sec. 2. Circulation to Members

A copy of the Journal when published shall be mailed to each member of the State Bar registered in the principal office of the Bar, without expense to the member additional to the annual dues paid by him.

Sec. 3. Publication of Bar Matters

The Journal, without charge to the State Bar, shall print all notices, reports of committees, and such other items as may be indicated by the President or the Board of Directors.

ARTICLE XII. DISCIPLINE AND SUSPENSION OF MEMBERS**A. GRIEVANCE COMMITTEES**

The sections of original Article XII were repealed in 1957 and new sections 1 to 36 were substituted therefor.

Sec. 1. Grievance Committee Districts

Each Bar District shall have one or more Grievance Committees as hereinafter set forth. At the first meeting of the Board of Directors after adoption of this amendment, the Board, with the advice of the Director for each Bar District, shall determine whether the duties of a Grievance Committee can be performed effectively by one committee for the entire district, or whether the same should be divided into two or three Grievance Committee Districts; and where more than one such district is deemed in order, the Board shall create such districts, naming the county or counties to be included in each. In Bar Districts composed of only one county, the Board, in its discretion, may provide for as many county-wide grievance committees with concurrent jurisdiction as are deemed in order. In such cases the Board shall promulgate a system of assigning complaints to the committees so as to equalize the workload of the committees. The Board shall have the power to change the boundaries of such districts, and to create new ones, from time to time, as may be required by virtue of Bar redistricting, or for other good reason.

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 2. Grievance Committee Districts, Designation of

The Grievance Committee Districts shall be designated according to the Bar Districts, that is, for example, "Grievance Committee District No. 5," corresponding with Bar District No. 5, and where there shall be more than one Grievance Committee District for the Bar District, the designation, for example, shall be "Grievance Committee District No. 21-A" (or 21-B, or 21-C).

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 3. Size of Grievance Committees

Each District Grievance Committee shall consist of as many members as are deemed necessary by the Board of Directors for the expeditious transaction of its business.

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 4. Appointment and Tenure of Grievance Committee Members

The President, upon recommendation of the Director, or Directors, if there be more than one for the District, shall appoint the members of the Grievance Committee or Committees for the Bar District. Each member of a Grievance Committee shall be a resident of the Grievance Committee District for which he is appointed. Except as hereinafter provided, each member shall serve for a term of three years, beginning with the adjournment of the annual meeting of the State Bar.

All members shall be eligible to re-appointment.

The President and Directors shall give precedence to Grievance Committee appointments, and notice of the appointments, when made, shall be given the appointees, the holdover members, and the retiring members, of the Committee. Delay in making appointments shall not deprive the Committee of its power to act, and retiring members shall continue to hold office pending the organization meeting of the new committee.

In making appointments for the first time after this amended rule has been adopted and become effective, or after Bar re-districting, or after change in boundaries of districts, the President shall specify which members of the Committee whose terms have not expired shall serve for one more year, which for two more years, and which, if any, shall serve for three more years, and likewise with reference to appointments then being made, which members

shall serve for one, two, or three years, to the end that thereafter the terms of approximately one-third of the Committee shall expire each year.

[Jan. 22, 1957; Dec. 30, 1965.]

Sec. 5. Organization of Grievance Committees and Quorum

It shall be the duty of the Director to call promptly the first meeting of the Grievance Committee or Committees in his District and to preside until after the Committee shall have elected its own Chairman. A majority of the Committee shall constitute a quorum for all purposes.

[Jan. 22, 1957.]

Sec. 6. Disqualification of Members

If a matter shall arise before a Committee where the Committee considers one or more of the members disqualified to act, such member or members shall be excluded from further participation therein, and if the Chairman, or a majority of the remainder of the Committee, shall be of the opinion that one or more temporary members should be appointed to act in his or their stead, the President shall make such appointment on request, to be effective only so far as concerns the matter in question.

[Jan. 22, 1957.]

**B. GRIEVANCE COMMITTEE ACTION
ON COMPLAINTS****Sec. 7. "Complaint" and "Formal Complaint" Distinguished**

The term "complaint" shall embrace all complaints brought before a Grievance Committee, whether verbally or in writing. By "Formal Complaint" is meant the pleading by which a disciplinary action is instituted by a Grievance Committee in District Court.

[Jan. 22, 1957.]

CODE OF PROFESSIONAL RESPONSIBILITY

Sec. 8. Code of Professional Responsibility

Order of the Supreme Court dated December 20, 1971, amended Articles XII and XIII by promulgating a new Code of Professional Responsibility in Section 8 of Article XII, consisting of nine Canons of Ethics, to replace the forty-three canons appearing in Article XIII, Section 3, and by making other changes in these articles in conformity therewith.

The order also provided: "IT IS FURTHER ORDERED by the Court that the Code of Professional Responsibility herein promulgated as new Section 8, Article XII, Rules Governing the State Bar of Texas, applies only to conduct occurring after the date of this Order, and conduct occurring before the date of this Order is governed by old Sections 8 and 9 of Article XII and Article XIII (Canons of Ethics), Rules Governing the State Bar of Texas, existing before the date of this Order, which rules are continued in effect for this purpose, as if the new Sections 8 and 9 of Article XII, Rules Governing the State Bar of Texas, were not in force. For the purpose of this Order conduct is committed after the effective date of this Order, if any element of such conduct occurs after the effective date."

The Ethical Considerations preceding the Disciplinary Rules were adopted by the State Bar Board of Directors on January 22, 1972.

a. Code of Professional Responsibility

Canon

1. A Lawyer Should Assist in Maintaining the Integrity and Competence of the Legal Profession.

Ethical Considerations

EC

1-1 to 1-6.

Disciplinary Rules

DR

1-101. Maintaining Integrity and Competence of the Legal Profession.

1-102. Misconduct.

1-103. Disclosure of Information to Authorities.

2. A Lawyer Should Assist the Legal Profession in Fulfilling Its Duty to Make Legal Counsel Available.

Ethical Considerations

EC

2-1.

2-2 to 2-5. Recognition of Legal Problems.

2-6 to 2-8. Selection of a Lawyer: Generally.

2-9 to 2-15. Selection of a Lawyer: Professional Notices and Listings.

2-16. Financial Ability to Employ Counsel: Generally.

2-17 to 2-23. Financial Ability to Employ Counsel: Persons Able to Pay Reasonable Fees.

2-24, 2-25. Financial Ability to Employ Counsel: Persons Unable to Pay Reasonable Fees.

Canon

2. A Lawyer Should Assist the Legal Profession in Fulfilling Its Duty to Make Legal Counsel Available—Continued

Ethical Considerations—Continued

EC

2-26 to 2-32. Acceptance and Retention of Employment.

Disciplinary Rules

DR

2-101. Publicity in General.

2-102. Professional Notices, Letterheads, Offices, and Law Lists.

2-103. Recommendation of Professional Employment.

2-104. Suggestion of Need of Legal Services.

2-105. Limitation of Practice.

2-106. Fees for Legal Services.

2-107. Division of Fees Among Lawyers.

2-108. Agreements Restricting the Practice of a Lawyer.

2-109. Acceptance of Employment.

2-110. Withdrawal from Employment.

3. A Lawyer Should Assist in Preventing the Unauthorized Practice of Law.

Ethical Considerations

EC

3-1 to 3-9.

Disciplinary Rules

DR

3-101. Aiding Unauthorized Practice of Law.

3-102. Dividing Legal Fees with a Non-Lawyer.

3-103. Forming a Partnership with a Non-Lawyer.

4. A Lawyer Should Preserve the Confidences and Secrets of a Client.

Ethical Considerations

EC

4-1 to 4-6.

Disciplinary Rules

DR

4-101. Preservation of Confidences and Secrets of a Client.

5. A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client.

Ethical Considerations

EC

5-1.

5-2 to 5-13. Interests of a Lawyer That May Affect His Judgment.

5-14 to 5-20. Interests of Multiple Clients.

5-21 to 5-24. Desires of Third Persons.

Disciplinary Rules

DR

5-101. Refusing Employment When the Interests of the Lawyer May Impair His Independent Professional Judgment.

5-102. Withdrawal as Counsel When the Lawyer Becomes a Witness.

5-103. Avoiding Acquisition of Interest in Litigation.

5-104. Limiting Business Relations with a Client.

5-105. Refusing to Accept or Continue Employment if the Interests of Another Client May Impair the Independent Professional Judgment of the Lawyer.

5-106. Settling Similar Claims of Clients.

5-107. Avoiding Influence by Others Than the Client.

Canon

6. A Lawyer Should Represent a Client Competently.
Ethical Considerations
EC
6-1 to 6-6.
Disciplinary Rules
DR
6-101. Failing to Act Competently.
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Canon 1

A Lawyer Should Assist in Maintaining the Integrity and Competence of the Legal Profession

ETHICAL CONSIDERATIONS

EC 1-1. A basic tenet of the professional responsibility of lawyers is that every person in our society should have ready access to the independent professional services of a lawyer of integrity and competence. Maintaining the in-

tegrity and improving the competence of the bar to meet the highest standards is the ethical responsibility of every lawyer.

EC 1-2. The public should be protected from those who are not qualified to be lawyers by reason of a deficiency in education or moral standards or of other relevant factors but who nevertheless seek to practice law. To assure the maintenance of high moral and educational standards of the legal profession, lawyers should affirmatively assist courts and other appropriate bodies in promulgating, enforcing, and improving requirements for admission to the bar. In like manner, the bar has a positive obligation to aid in the continued improvement of all phases of pre-admission and post-admission legal education.

EC 1-3. Before recommending an applicant for admission, a lawyer should satisfy himself that the applicant is of good moral character. Although a lawyer should not become a self-appointed investigator or judge of applicants for admission, he should report to proper officials all unfavorable information he possesses relating to the character or other qualifications of an applicant.

EC 1-4. The integrity of the profession can be maintained only if conduct of lawyers in violation of the Disciplinary Rules is brought to the attention of the proper officials. A lawyer should reveal voluntarily to those officials all unprivileged knowledge of conduct of lawyers which he believes clearly to be in violation of the Disciplinary Rules. A lawyer should, upon request, serve on and assist committees and boards having responsibility for the administration of the Disciplinary Rules.

EC 1-5. A lawyer should maintain high standards of professional conduct and should encourage fellow lawyers to do likewise. He should be temperate and dignified, and he should refrain from all illegal and morally reprehensible conduct. Because of his position in society, even minor violations of law by a lawyer may tend to lessen public confidence in the legal profession. Obedience to law exemplifies respect for law. To lawyers especially, respect for the law should be more than a platitude.

EC 1-6. An applicant for admission to the bar or a lawyer may be unqualified, temporarily or permanently, for other than moral and educational reasons, such as mental or emotional instability. Lawyers should be diligent in taking steps to see that during a period of disqualification such person is not granted a license or, if licensed, is not permitted to practice. In like manner, when the disqualification has terminated, members of the bar should assist such person in being licensed, or, if licensed, in being restored to his full right to practice.

DISCIPLINARY RULES

DR 1-101. Maintaining Integrity and Competence of the Legal Profession

(A) A lawyer is subject to discipline if he has made a materially false statement in, or if

he has deliberately failed to disclose a material fact requested in connection with, his application for admission to the bar.

(B) A lawyer shall not further the application for admission to the bar of another person known by him to be unqualified in respect to character, education, or other relevant attribute.

DR 1-102. Misconduct

(A) A lawyer shall not:

- (1) Violate a Disciplinary Rule.
- (2) Circumvent a Disciplinary Rule through actions of another.
- (3) Engage in illegal conduct involving moral turpitude.
- (4) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation.
- (5) Engage in conduct that is prejudicial to the administration of justice.
- (6) Engage in any other conduct that adversely reflects on his fitness to practice law.

DR 1-103. Disclosure of Information to Authorities

(A) A lawyer possessing unprivileged knowledge of a violation of DR 1-102 shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.

(B) A lawyer possessing unprivileged knowledge or evidence concerning another lawyer or a judge shall reveal fully such knowledge or evidence upon proper request of a tribunal or other authority empowered to investigate or act upon the conduct of lawyers or judges.

Canon 2

**A Lawyer Should Assist the Legal Profession
in Fulfilling Its Duty to Make
Legal Counsel Available**

ETHICAL CONSIDERATIONS

EC 2-1. The need of members of the public for legal services is met only if they recognize their legal problems, appreciate the importance of seeking assistance, and are able to obtain the services of acceptable legal counsel. Hence, important functions of the legal profession are to educate laymen to recognize their legal problems, to facilitate the process of intelligent selection of lawyers, and to assist in making legal services fully available.

Recognition of Legal Problems

EC 2-2. The legal profession should assist laymen to recognize legal problems because such problems may not be self-revealing and often are not timely noticed. Therefore, lawyers acting under proper auspices should encourage and participate in educational and public relations programs concerning our legal system with particular reference to legal prob-

lems that frequently arise. Such educational programs should be motivated by a desire to benefit the public rather than to obtain publicity or employment for particular lawyers. Examples of permissible activities include preparation of institutional advertisements and professional articles for lay publications and participation in seminars, lectures, and civic programs. But a lawyer who participates in such activities should shun personal publicity.

EC 2-3. Whether a lawyer acts properly in volunteering advice to a layman to seek legal services depends upon the circumstances. The giving of advice that one should take legal action could well be in fulfillment of the duty of the legal profession to assist laymen in recognizing legal problems. The advice is proper only if motivated by a desire to protect one who does not recognize that he may have legal problems or who is ignorant of his legal rights or obligations. Hence, the advice is improper if motivated by a desire to obtain personal benefit, secure personal publicity, or cause litigation to be brought merely to harass or injure another. Obviously, a lawyer should not contact a non-client, directly or indirectly, for the purpose of being retained to represent him for compensation.

EC 2-4. Since motivation is subjective and often difficult to judge, the motives of a lawyer who volunteers advice likely to produce legal controversy may well be suspect if he receives professional employment or other benefits as a result. A lawyer who volunteers advice that one should obtain the services of a lawyer generally should not himself accept employment, compensation, or other benefit in connection with that matter. However, it is not improper for a lawyer to volunteer such advice and render resulting legal services to close friends, relatives, former clients (in regard to matters germane to former employment), and regular clients.

EC 2-5. A lawyer who writes or speaks for the purpose of educating members of the public to recognize their legal problems should carefully refrain from giving or appearing to give a general solution applicable to all apparently similar individual problems, since slight changes in fact situations may require a material variance in the applicable advice; otherwise, the public may be misled and misadvised. Talks and writings by lawyers for laymen should caution them not to attempt to solve individual problems upon the basis of the information contained therein.

Selection of a Lawyer: Generally

EC 2-6. Formerly a potential client usually knew the reputations of local lawyers for competency and integrity and therefore could select a practitioner in whom he had confidence. This traditional selection process worked well because it was initiated by the client and the choice was an informed one.

EC 2-7. Changed conditions, however, have seriously restricted the effectiveness of the

traditional selection process. Often the reputations of lawyers are not sufficiently known to enable laymen to make intelligent choices. The law has become increasingly complex and specialized. Few lawyers are willing and competent to deal with every kind of legal matter, and many laymen have difficulty in determining the competence of lawyers to render different types of legal services. The selection of legal counsel is particularly difficult for transients, persons moving into new areas, persons of limited education or means, and others who have little or no contact with lawyers.

EC 2-8. Selection of a lawyer by a layman often is the result of the advice and recommendation of third parties—relatives, friends, acquaintances, business associates, or other lawyers. A layman is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment. A lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or to encourage future recommendations.

Selection of a Lawyer: Professional Notices and Listings

EC 2-9. The traditional ban against advertising by lawyers, which is subject to certain limited exceptions, is rooted in the public interest. Competitive advertising would encourage extravagant, artful, self-laudatory brashness in seeking business and thus could mislead the layman. Furthermore, it would inevitably produce unrealistic expectations in particular cases and bring about distrust of the law and lawyers. Thus, public confidence in our legal system would be impaired by such advertisements of professional services. The attorney-client relationship is personal and unique and should not be established as the result of pressures and deceptions. History has demonstrated that public confidence in the legal system is best preserved by strict, self-imposed controls over, rather than by unlimited, advertising.

EC 2-10. Methods of advertising that are subject to the objections stated above should be and are prohibited. However, the Disciplinary Rules recognize the value of giving assistance in the selection process through forms of advertising that furnish identification of a lawyer while avoiding such objections. For example, a lawyer may be identified in the classified section of the telephone directory, in the office building directory, and on his letterhead and professional card. But at all times the permitted notices should be dignified and accurate.

EC 2-11. The name under which a lawyer conducts his practice may be a factor in the selection process. The use of a trade name or an assumed name could mislead laymen concerning the identity, responsibility, and status of those practicing thereunder. Accordingly, a lawyer in private practice should practice only under his own name, the name of a lawyer em-

ploying him, a partnership name composed of the name of one or more of the lawyers practicing in a partnership, or, if permitted by law, in the name of a professional legal corporation, which should be clearly designated as such. For many years some law firms have used a firm name retaining one or more names of deceased or retired partners and such practice is not improper if the firm is a bona fide successor of a firm in which the deceased or retired person was a member, if the use of the name is authorized by law or by contract, and if the public is not misled thereby. However, the name of a partner who withdraws from a firm but continues to practice law should be omitted from the firm name in order to avoid misleading the public.

EC 2-12. A lawyer occupying a judicial, legislative, or public executive or administrative position who has the right to practice law concurrently may allow his name to remain in the name of the firm if he actively continues to practice law as a member thereof. Otherwise, his name should be removed from the firm name, and he should not be identified as a past or present member of the firm; and he should not hold himself out as being a practicing lawyer.

EC 2-13. In order to avoid the possibility of misleading persons with whom he deals, a lawyer should be scrupulous in the representation of his professional status. He should not hold himself out as being a partner or associate of a law firm if he is not one in fact, and thus should not hold himself out as a partner or associate if he only shares offices with another lawyer.

EC 2-14. In some instances a lawyer confines his practice to a particular field of law. In the absence of state controls to insure the existence of special competence, a lawyer should not be permitted to hold himself out as a specialist or as having special training or ability, other than in the historically excepted fields of admiralty, trademark, and patent law.

EC 2-15. The legal profession has developed lawyer referral systems designed to aid individuals who are able to pay fees but need assistance in locating lawyers competent to handle their particular problems. Use of a lawyer referral system enables a layman to avoid an uninformed selection of a lawyer because such a system makes possible the employment of competent lawyers who have indicated an interest in the subject matter involved. Lawyers should support the principle of lawyer referral systems and should encourage the evolution of other ethical plans which aid in the selection of qualified counsel.

Financial Ability to Employ Counsel: Generally

EC 2-16. The legal profession cannot remain a viable force in fulfilling its role in our society unless its members receive adequate compensation for services rendered, and reasonable fees should be charged in appropriate cases to

clients able to pay them. Nevertheless, persons unable to pay all or a portion of a reasonable fee should be able to obtain necessary legal services, and lawyers should support and participate in ethical activities designed to achieve that objective.

Financial Ability to Employ Counsel: Persons Able to Pay Reasonable Fees

EC 2-17. The determination of a proper fee requires consideration of the interests of both client and lawyer. A lawyer should not charge more than a reasonable fee, for excessive cost of legal service would deter laymen from utilizing the legal system in protection of their rights. Furthermore, an excessive charge abuses the professional relationship between lawyer and client. On the other hand, adequate compensation is necessary in order to enable the lawyer to serve his client effectively and to preserve the integrity and independence of the profession.

EC 2-18. The determination of the reasonableness of a fee requires consideration of all relevant circumstances, including those stated in the Disciplinary Rules. The fees of a lawyer will vary according to many factors, including the time required, his experience, ability, and reputation, the nature of the employment, the responsibility involved, and the results obtained. Suggested fee schedules and economic reports of state and local bar associations provide some guidance on the subject of reasonable fees. It is a commendable and long-standing tradition of the bar that special consideration is given in the fixing of any fee for services rendered a brother lawyer or a member of his immediate family.

EC 2-19. As soon as feasible after a lawyer has been employed, it is desirable that he reach a clear agreement with his client as to the basis of the fee charges to be made. Such a course will not only prevent later misunderstanding but will also work for good relations between the lawyer and the client. It is usually beneficial to reduce to writing the understanding of the parties regarding the fee, particularly when it is contingent. A lawyer should be mindful that many persons who desire to employ him may have had little or no experience with fee charges of lawyers, and for this reason he should explain fully to such persons the reasons for the particular fee arrangement he proposes.

EC 2-20. Contingent fee arrangements in civil cases have long been commonly accepted in the United States in proceedings to enforce claims. The historical bases of their acceptance are that (1) they often, and in a variety of circumstances, provide the only practical means by which one having a claim against another can economically afford, finance, and obtain the services of a competent lawyer to prosecute his claim, and (2) a successful prosecution of the claim produces a *res* out of which the fee can be paid. Although a lawyer generally should decline to accept employment

on a contingent fee basis by one who is able to pay a reasonable fixed fee, it is not necessarily improper for a lawyer, where justified by the particular circumstances of a case, to enter into a contingent fee contract in a civil case with any client who, after being fully informed of all relevant factors, desires that arrangement. Because of the human relationships involved and the unique character of the proceedings, contingent fee arrangements in domestic relation cases are rarely justified. In administrative agency proceedings contingent fee contracts should be governed by the same considerations as in other civil cases. Public policy properly condemns contingent fee arrangements in criminal cases, largely on the ground that legal services in criminal cases do not produce a *res* with which to pay the fee.

EC 2-21. A lawyer should not accept compensation or any thing of value incident to his employment or services from one other than his client without the knowledge and consent of his client after full disclosure.

EC 2-22. Without the consent of his client, a lawyer should not associate in a particular matter another lawyer outside his firm. A fee may be properly divided between lawyers properly associated if the division is in proportion to the services performed and the responsibility assumed by each lawyer, or is with a forwarding attorney, and if the total fee is reasonable.

EC 2-23. A lawyer should be zealous in his efforts to avoid controversies over fees with clients and should attempt to resolve amicably any differences on the subject. He should not sue a client for a fee unless necessary to prevent fraud or gross imposition by the client.

Financial Ability to Employ Counsel: Persons Unable to Pay Reasonable Fees

EC 2-24. A layman whose financial ability is not sufficient to permit payment of any fee cannot obtain legal services, other than in cases where a contingent fee is appropriate, unless the services are provided for him. Even a person of moderate means may be unable to pay a reasonable fee which is large because of the complexity, novelty, or difficulty of the problem or similar factors.

EC 2-25. Historically, the need for legal services of those unable to pay reasonable fees has been met in part by lawyers who donated their services or accepted court appointments on behalf of such individuals. The basic responsibility for providing legal services for those unable to pay ultimately rests upon the individual lawyer, and personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer. Every lawyer, regardless of professional prominence or professional workload, should find time to participate in serving the disadvantaged. The rendition of free legal services to those unable to pay reasonable fees continues to be an obligation of each lawyer,

but the efforts of individual lawyers are often not enough to meet the need. Thus it has been necessary for the profession to institute additional programs to provide legal services. Accordingly, legal aid offices, lawyer referral services, and other related programs have been developed, and others will be developed, by the profession. Every lawyer should support all proper efforts to meet this need for legal services.

Acceptance and Retention of Employment

EC 2-26. A lawyer is under no obligation to act as adviser or advocate for every person who may wish to become his client; but in furtherance of the objective of the bar to make legal services fully available, a lawyer should not lightly decline proffered employment. The fulfillment of this objective requires acceptance by a lawyer of his share of tendered employment which may be unattractive both to him and the bar generally.

EC 2-27. History is replete with instances of distinguished and sacrificial services by lawyers who have represented unpopular clients and causes. Regardless of his personal feelings, a lawyer should not decline representation because a client or a cause is unpopular or community reaction is adverse.

EC 2-28. The personal preference of a lawyer to avoid adversary alignment against judges, other lawyers, public officials, or influential members of the community does not justify his rejection of tendered employment.

EC 2-29. When a lawyer is appointed by a court or requested by a bar association to undertake representation of a person unable to obtain counsel, whether for financial or other reasons, he should not seek to be excused from undertaking the representation except for compelling reasons. Compelling reasons do not include such factors as the repugnance of the subject matter of the proceeding, the identity or position of a person involved in the case, the belief of the lawyer that the defendant in a criminal proceeding is guilty, or the belief of the lawyer regarding the merits of the civil case.

EC 2-30. Employment should not be accepted by a lawyer when he is unable to render competent service or when he knows or it is obvious that the person seeking to employ him desires to institute or maintain an action merely for the purpose of harassing or maliciously injuring another. Likewise, a lawyer should decline employment if the intensity of his personal feeling, as distinguished from a community attitude, may impair his effective representation of a prospective client. If a lawyer knows a client has previously obtained counsel, he should not accept employment in the matter unless the other counsel approves or withdraws, or the client terminates the prior employment.

EC 2-31. Full availability of legal counsel requires both that persons be able to obtain

counsel and that lawyers who undertake representation complete the work involved. Trial counsel for a convicted defendant should continue to represent his client by advising whether to take an appeal and, if the appeal is prosecuted, by representing him through the appeal unless new counsel is substituted or withdrawal is permitted by the appropriate court.

EC 2-32. A decision by a lawyer to withdraw should be made only on the basis of compelling circumstances, and in a matter pending before a tribunal he must comply with the rules of the tribunal regarding withdrawal. A lawyer should not withdraw without considering carefully and endeavoring to minimize the possible adverse effect on the rights of his client and the possibility of prejudice to his client as a result of his withdrawal. Even when he justifiably withdraws, a lawyer should protect the welfare of his client by giving due notice of his withdrawal, suggesting employment of other counsel, delivering to the client all papers and property to which the client is entitled, cooperating with counsel subsequently employed, and otherwise endeavoring to minimize the possibility of harm. Further, he should refund to the client any compensation not earned during the employment.

DISCIPLINARY RULES

DR 2-101. Publicity in General

(A) A lawyer shall not prepare, cause to be prepared, use, or participate in the use of, any form of public communication that contains professionally self-laudatory statements calculated to attract lay clients; as used herein, "public communication" includes, but is not limited to, communication by means of television, radio, motion picture, newspaper, magazine, or book.

(B) A lawyer shall not publicize himself, his partner, or associate as a lawyer through newspaper or magazine advertisements, radio or television announcements, display advertisements in city or telephone directories, or other means of commercial publicity, nor shall he authorize or permit others to do so in his behalf, except as permitted under DR 2-103. This does not prohibit limited and dignified identification of a lawyer as a lawyer as well as by name:

(1) In political advertisements when his professional status is germane to the political campaign or to a political issue.

(2) In public notices when the name and profession of a lawyer are required or authorized by law or are reasonably pertinent for a purpose other than the attraction of potential clients.

(3) In routine reports and announcements of a bona fide business, civic, professional, or political organization in which he serves as a director or officer.

(4) In and on legal documents prepared by him.

(5) In and on legal textbooks, treatises, and other legal publications, and in dignified advertisements thereof.

(C) A lawyer shall not compensate or give any thing of value to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item.

DR 2-102. Professional Notices, Letterheads, Offices, and Law Lists

(A) A lawyer or law firm shall not use professional cards, professional announcement cards, office signs, letterheads, telephone directory listings, law lists, legal directory listings, or similar professional notices or devices, except that the following may be used if they are in dignified form:

(1) A professional card of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, and any information permitted under DR 2-105. A professional card of a law firm may also give the names of members and associates. Such cards may be used for identification but may not be published in periodicals, magazines, newspapers, or other media.

(2) A brief professional announcement card stating new or changed associations or addresses, change of firm name, or similar matters pertaining to the professional office of a lawyer or law firm, which may be mailed to lawyers, clients, former clients, personal friends, and relatives. It shall not state biographical data except to the extent reasonably necessary to identify the lawyer or to explain the change in his association, but it may state the immediate past position of the lawyer. It may give the names and dates of predecessor firms in a continuing line of succession. It shall not state the nature of the practice except as permitted under DR 2-105.

(3) A sign on or near the door of the office in the building directory identifying the law office. The sign shall not state the nature of the practice, except as permitted under DR 2-105.

(4) A letterhead of a lawyer identifying him by name and as a lawyer, and giving his addresses, telephone numbers, the name of his law firm, associates and any information permitted under DR 2-105. A letterhead of a law firm may also give the names of members and associates, and names and dates relating to deceased and retired members. A lawyer may be designated "Of Counsel" on a letterhead if he has a continuing relationship with a lawyer or law firm, other than as a partner or associate. A lawyer or law firm may be designated as "General Counsel" or by similar professional reference on stationery of a client if he or the firm devotes a substantial amount of professional time in the representation of that client. The let-

terhead of a law firm may give the names and dates of predecessor firms in a continuing line of succession.

(5) A listing of the office of a lawyer or law firm in the alphabetical and classified sections of the telephone directory or directories for the geographical area or areas in which the lawyer resides or maintains offices or in which a significant part of his clientele resides and in the city directory of the city in which his or the firm's office is located, but the listing may give only the name of the lawyer or law firm, the fact he is a lawyer, addresses, and telephone numbers. The listing shall not be in distinctive form or type. A law firm may have a listing in the firm name separate from that of its members and associates. The listing in the classified section shall not be under a heading or classification other than "Attorneys" or "Lawyers," except that additional headings or classifications descriptive of the types of practice referred to in DR 2-105 are permitted.

(6) A listing in a reputable law list or legal directory giving brief biographical and other informative data. A law list or directory is not reputable if its management or contents are likely to be misleading or injurious to the public or to the profession. A law list is conclusively established to be reputable if it is certified by the American Bar Association as being in compliance with its rules and standards. The published data may include only the following: name, including name of law firm and names of professional associates; addresses and telephone numbers; one or more fields of law in which the lawyer or law firm concentrates; a statement that practice is limited to one or more fields of law; a statement that the lawyer or law firm specializes in a particular field of law or law practice but only if authorized under DR 2-105(A)(4); date and place of birth; date and place of admission to the bar of state and federal courts; schools attended, with dates of graduation, degrees, and other scholastic distinctions; public or quasi-public offices; military service; posts of honor; legal authorships; legal teaching positions; memberships, offices, committee assignments, and section memberships in bar associations; memberships and offices in legal fraternities and legal societies; technical and professional licenses; memberships in scientific, technical and professional associations and societies; foreign language ability; names and addresses of references, and, with their consent, names of clients regularly represented.

(B) A lawyer in private practice shall not practice under a trade name, a name that is misleading as to the identity of the lawyer or lawyers practicing under such name, or a firm

name containing names other than those of one or more of the lawyers in the firm, except that the name of a professional corporation or professional association may contain "P.C." or "P.A." or similar symbols indicating the nature of the organization, and if otherwise lawful a firm may use as, or continue to include in, its name the name or names of one or more deceased or retired members of the firm or of a predecessor firm in a continuing line of succession. A lawyer who assumes a judicial, legislative, or public executive or administrative post or office shall not permit his name to remain in the name of a law firm or to be used in professional notices of the firm during any significant period in which he is not actively and regularly practicing law as a member of the firm, and during such period other members of the firm shall not use his name in the firm name or in professional notices of the firm.

(C) A lawyer shall not hold himself out as having a partnership with one or more other lawyers unless they are in fact partners.

(D) A partnership shall not be formed or continued between or among lawyers licensed in different jurisdictions unless all enumerations of the members and associates of the firm on its letterhead and in other permissible listings make clear the jurisdictional limitations on those members and associates of the firm not licensed to practice in all listed jurisdictions; however, the same firm name may be used in each jurisdiction.

(E) A lawyer who is engaged both in the practice of law and another profession or business shall not so indicate on his letterhead, office sign, or professional card, nor shall he identify himself as a lawyer in any publication in connection with his other profession or business.

(F) Nothing contained herein shall prohibit a lawyer from using or permitting the use of, in connection with his name, an earned degree or title derived therefrom indicating his training in the law.

DR 2-103. Recommendation of Professional Employment

(A) A lawyer shall not recommend employment, as a private practitioner, of himself, his partner, or associate to a non-lawyer who has not sought his advice regarding employment of a lawyer.

(B) Except as permitted under DR 2-103(C), a lawyer shall not compensate or give anything of value to a person or organization to recommend or secure his employment by a client, or as a reward for having made a recommendation resulting in his employment by a client.

(C) A lawyer shall not request a person or organization to recommend employment, as a private practitioner, of himself, his partner, or associate, except that he may request referrals from a lawyer referral service operated, sponsored, or approved by a bar association repre-

sentative of the general bar of the geographical area in which the association exists and may pay its fees incident thereto.

(D) A lawyer shall not knowingly assist a person or organization that recommends, furnishes, or pays for legal services to promote the use of his services or those of his partners or associates. However, he may cooperate in a dignified manner with the legal service activities of any of the following, provided that his independent professional judgment is exercised in behalf of his client without interference or control by any organization or other person:

(1) A legal aid office or public defender office:

(a) Operated or sponsored by a duly accredited law school.

(b) Operated or sponsored by a bona fide non-profit community organization.

(c) Operated or sponsored by a governmental agency.

(d) Operated, sponsored, or approved by a bar association representative of the general bar of the geographical area in which the association exists.

(2) A military legal assistance office.

(3) A lawyer referral service operated, sponsored, or approved by a bar association representative of the general bar of the geographical area in which the association exists.

(4) A bar association representative of the general bar of the geographical area in which the association exists.

(5) Any other non-profit organization that recommends, furnishes, or pays for legal services to its members or beneficiaries, but only in those instances and to the extent that controlling constitutional interpretation at the time of the rendition of the services requires the allowance of such legal service activities, and only if the following conditions, unless prohibited by such interpretation, are met:

(a) The primary purposes of such organization do not include the rendition of legal services.

(b) The recommending, furnishing, or paying for legal services to its members is incidental and reasonably related to the primary purposes of such organization.

(c) Such organization does not derive a financial benefit from the rendition of legal services by the lawyer.

(d) The member or beneficiary for whom the legal services are rendered, and not such organization, is recognized as the client of the lawyer in that matter.

(E) A lawyer shall not accept employment when he knows or it is obvious that the person

who seeks his services does so as a result of conduct prohibited under this Disciplinary Rule.

DR 2-104. Suggestion of Need of Legal Services

(A) A lawyer who has given unsolicited advice to a layman that he should obtain counsel or take legal action shall not accept employment resulting from that advice, except that:

(1) A lawyer may accept employment by a close friend, relative, former client (if the advice is germane to the former employment), or one whom the lawyer reasonably believes to be a client.

(2) A lawyer may accept employment that results from his participation in activities designed to educate laymen to recognize legal problems, to make intelligent selection of counsel, or to utilize available legal services if such activities are conducted or sponsored by any of the offices or organizations enumerated in DR 2-103(D)(1) through (5), to the extent and under the conditions prescribed therein.

(3) A lawyer who is furnished or paid by any of the offices or organizations enumerated in DR 2-103(D)(1), (2), or (5) may represent a member or beneficiary thereof, to the extent and under the conditions prescribed therein.

(4) Without affecting his right to accept employment, a lawyer may speak publicly or write for publication on legal topics so long as he does not emphasize his own professional experience or reputation and does not undertake to give individual advice.

(5) If success in asserting rights or defenses of his client in litigation in the nature of a class action is dependent upon the joinder of others, a lawyer may accept, but shall not seek, employment from those contacted for the purpose of obtaining their joinder.

DR 2-105. Limitation of Practice

(A) A lawyer shall not hold himself out publicly as a specialist or as limiting his practice, except as permitted under DR 2-102(A)(6) or as follows:

(1) A lawyer admitted to practice before the United States Patent Office may use the designation "Patents," "Patent Attorney," or "Patent Lawyer," or any combination of those terms, on his letterhead and office sign. A lawyer engaged in the trademark practice may use the designation "Trademark," "Trademark Attorney," or "Trademark Lawyer," or any combination of those terms, on his letterhead and office sign, and a lawyer engaged in the admiralty practice may use the designation "Admiralty," "Proctor in Admiralty," "Admiralty Lawyer," or any combination of these terms, on his letterhead and office sign.

(2) A lawyer may permit his name to be listed in lawyer referral service offices according to the fields of law in which he will accept referrals.

(3) A lawyer available to act as a consultant to or as an associate of other lawyers in a particular branch of law or legal service may distribute to other lawyers and publish in legal journals a dignified announcement of such availability, but the announcement shall not contain a representation of special competence or experience. The announcement shall not be distributed to lawyers more frequently than once in a calendar year, but it may be published periodically in legal journals.

(4) A lawyer who is certified as a specialist in a particular field of law or law practice by the authority having jurisdiction under state law over the subject of specialization by lawyers may hold himself out as such specialist but only in accordance with the rules prescribed by that authority.

DR 2-106. Fees for Legal Services

(A) A lawyer shall not enter into an agreement for, charge, or collect an illegal or clearly excessive fee.

(B) A fee is clearly excessive when, after a review of the facts, a lawyer of ordinary prudence would be left with a definite and firm conviction that the fee is in excess of a reasonable fee. Factors to be considered as guides in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation, and ability of the lawyer or lawyers performing the services.

(8) Whether the fee is fixed or contingent.

(C) A lawyer shall not enter into an arrangement for, charge, or collect a contingent fee for representing a defendant in a criminal case.

DR 2-107. Division of Fees Among Lawyers

(A) A lawyer shall not divide a fee for legal services with another lawyer who is not a

partner in or associate of his law firm or law office, unless:

(1) The client consents to employment of the other lawyer after a full disclosure that a division of fees will be made.

(2) The division is made in proportion to the services performed and responsibility assumed by each, or is made with a forwarding lawyer.

(3) The total fee of the lawyers does not clearly exceed reasonable compensation for all legal services they rendered the client.

(B) This Disciplinary Rule does not prohibit payment to a former partner or associate pursuant to a separation or retirement agreement.

DR 2-108. Agreements Restricting the Practice of a Lawyer

(A) A lawyer shall not be a party to or participate in a partnership or employment agreement with another lawyer that restricts the right of a lawyer to practice law after the termination of a relationship created by the agreement, except as a condition to payment of retirement benefits.

(B) In connection with the settlement of a controversy or suit, a lawyer shall not enter into an agreement that restricts his right to practice law.

DR 2-109. Acceptance of Employment

(A) A lawyer shall not accept employment on behalf of a person if he knows or it is obvious that such person wishes to:

(1) Bring a legal action, conduct a defense, or assert a position in litigation, or otherwise have steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) Present a claim or defense in litigation that is not warranted under existing law, unless it can be supported by good faith argument for an extension, modification, or reversal of existing law.

DR 2-110. Withdrawal from Employment

(A) In general.

(1) If permission for withdrawal from employment is required by the rules of a tribunal, a lawyer shall not withdraw from employment in a proceeding before that tribunal without its permission.

(2) In any event, a lawyer shall not withdraw from employment until he has taken reasonable steps to avoid foreseeable prejudice to the rights of his client, including giving due notice to his client, allowing time for employment of other counsel, delivering to the client all papers and property to which the client is entitled, and complying with applicable laws and rules.

(3) A lawyer who withdraws from employment shall refund promptly any part

of a fee paid in advance that has not been earned.

(B) Mandatory withdrawal.

A lawyer representing a client before a tribunal, with its permission if required by its rules, shall withdraw from employment, and a lawyer representing a client in other matters shall withdraw from employment, if:

(1) He knows or it is obvious that his client is bringing the legal action, conducting the defense, or asserting a position in the litigation, or is otherwise having steps taken for him, merely for the purpose of harassing or maliciously injuring any person.

(2) He knows or it is obvious that his continued employment will result in violation of a Disciplinary Rule.

(3) His mental or physical condition renders it unreasonably difficult for him to carry out the employment effectively.

(4) He is discharged by his client.

(C) Permissive withdrawal.

If DR 2-110(B) is not applicable, a lawyer may not request permission to withdraw in matters pending before a tribunal, and may not withdraw in other matters, unless such request or such withdrawal is because:

(1) His client:

(a) Insists upon presenting a claim or defense that is not warranted under existing law and cannot be supported by good faith argument for an extension, modification, or reversal of existing law.

(b) Personally seeks to pursue an illegal course of conduct.

(c) Insists that the lawyer pursue a course of conduct that is illegal or that is prohibited under the Disciplinary Rules.

(d) By other conduct renders it unreasonably difficult for the lawyer to carry out his employment effectively.

(e) Insists, in a matter not pending before a tribunal, that the lawyer engage in conduct that is contrary to the judgment and advice of the lawyer but not prohibited under the Disciplinary Rules.

(f) Deliberately disregards an agreement or obligation to the lawyer as to expenses or fees.

(2) His continued employment is likely to result in a violation of a Disciplinary Rule.

(3) His inability to work with co-counsel indicates that the best interests of the client likely will be served by withdrawal.

(4) His mental or physical condition renders it difficult for him to carry out the employment effectively.

(5) His client knowingly and freely assents to termination of his employment.

(6) He believes in good faith, in a proceeding pending before a tribunal, that the tribunal will find the existence of other good cause for withdrawal.

Canon 3

A Lawyer Should Assist in Preventing the Unauthorized Practice of Law

ETHICAL CONSIDERATIONS

EC 3-1. The prohibition against the practice of law by a layman is grounded in the need of the public for integrity and competence of those who undertake to render legal services. Because of the fiduciary and personal character of the lawyer-client relationship and the inherently complex nature of our legal system, the public can better be assured of the requisite responsibility and competence if the practice of law is confined to those who are subject to the requirements and regulations imposed upon members of the legal profession.

EC 3-2. The sensitive variations in the considerations that bear on legal determinations often make it difficult even for a lawyer to exercise appropriate professional judgment, and it is therefore essential that the personal nature of the relationship of client and lawyer be preserved. Competent professional judgment is the product of a trained familiarity with law and legal processes, a disciplined, analytical approach to legal problems, and a firm ethical commitment.

EC 3-3. A non-lawyer who undertakes to handle legal matters is not governed as to integrity or legal competence by the same rules that govern the conduct of a lawyer. A lawyer is not only subject to that regulation but also is committed to high standards of ethical conduct. The public interest is best served in legal matters by a regulated profession committed to such standards. The Disciplinary Rules protect the public in that they prohibit a lawyer from seeking employment by improper overtures, from acting in cases of divided loyalties, and from submitting to the control of others in the exercise of his judgment. Moreover, a person who entrusts legal matters to a lawyer is protected by the attorney-client privilege and by the duty of the lawyer to hold inviolate the confidences and secrets of his client.

EC 3-4. A layman who seeks legal services often is not in a position to judge whether he will receive proper professional attention. The entrustment of a legal matter may well involve the confidences, the reputation, the property, the freedom, or even the life of the client. Proper protection of members of the public demands that no person be permitted to act in the confidential and demanding capacity of a lawyer unless he is subject to the regulations of the legal profession.

EC 3-5. It is neither necessary nor desirable to attempt the formulation of a single, specific definition of what constitutes the practice of

law. Functionally, the practice of law relates to the rendition of services for others that call for the professional judgment of a lawyer. The essence of the professional judgment of the lawyer is his educated ability to relate the general body and philosophy of law to a specific legal problem of a client; and thus, the public interest will be better served if only lawyers are permitted to act in matters involving professional judgment. Where this professional judgment is not involved, non-lawyers, such as court clerks, police officers, abstracters, and many governmental employees, may engage in occupations that require a special knowledge of law in certain areas. But the services of a lawyer are essential in the public interest whenever the exercise of professional legal judgment is required.

EC 3-6. A lawyer often delegates tasks to clerks, secretaries, and other lay persons. Such delegation is proper if the lawyer maintains a direct relationship with his client, supervises the delegated work, and has complete professional responsibility for the work product. This delegation enables a lawyer to render legal service more economically and efficiently.

EC 3-7. The prohibition against a non-lawyer practicing law does not prevent a layman from representing himself, for then he is ordinarily exposing only himself to possible injury. The purpose of the legal profession is to make educated legal representation available to the public; but anyone who does not wish to avail himself of such representation is not required to do so. Even so, the legal profession should help members of the public to recognize legal problems and to understand why it may be unwise for them to act for themselves in matters having legal consequences.

EC 3-8. Since a lawyer should not aid or encourage a layman to practice law, he should not practice law in association with a layman or otherwise share legal fees with a layman. This does not mean, however, that the pecuniary value of the interest of a deceased lawyer in his firm or practice may not be paid to his estate or specified persons such as his widow or heirs. In like manner, profit-sharing retirement plans of a lawyer or law firm which include non-lawyer office employees are not improper. These limited exceptions to the rule against sharing legal fees with laymen are permissible since they do not aid or encourage laymen to practice law.

EC 3-9. Regulation of the practice of law is accomplished principally by the respective states. Authority to engage in the practice of law conferred in any jurisdiction is not per se a grant of the right to practice elsewhere, and it is improper for a lawyer to engage in practice where he is not permitted by law or by court order to do so. However, the demands of business and the mobility of our society pose distinct problems in the regulation of the practice of law by the states. In furtherance of

the public interest, the legal profession should discourage regulation that unreasonably imposes territorial limitations upon the right of a lawyer to handle the legal affairs of his client or upon the opportunity of a client to obtain the services of a lawyer of his choice in all matters including the presentation of a contested matter in a tribunal before which the lawyer is not permanently admitted to practice.

DISCIPLINARY RULES

DR 3-101. Aiding Unauthorized Practice of Law

(A) A lawyer shall not aid a non-lawyer in the unauthorized practice of law.

(B) A lawyer shall not practice law in a jurisdiction where to do so would be in violation of regulations of the profession in that jurisdiction.

DR 3-102. Dividing Legal Fees with a Non-Lawyer

(A) A lawyer or law firm shall not share legal fees with a non-lawyer, except that:

(1) An agreement by a lawyer with his firm, partner, or associate may provide for the payment of money, over a reasonable period of time after his death, to his estate or to one or more specified persons.

(2) A lawyer who undertakes to complete unfinished legal business of a deceased lawyer may pay to the estate of the deceased lawyer that proportion of the total compensation which fairly represents the services rendered by the deceased lawyer.

(3) A lawyer or law firm may include non-lawyer employees in a retirement plan, even though the plan is based in whole or in part on a profit-sharing arrangement.

DR 3-103. Forming a Partnership with a Non-Lawyer

(A) A lawyer shall not form a partnership with a non-lawyer if any of the activities of the partnership consist of the practice of law.

Canon 4

A Lawyer Should Preserve the Confidences and Secrets of a Client

ETHICAL CONSIDERATIONS

EC 4-1. Both the fiduciary relationship existing between lawyer and client and the proper functioning of the legal system require the preservation by the lawyer of confidences and secrets of one who has employed or sought to employ him. A client must feel free to discuss whatever he wishes with his lawyer and a lawyer must be equally free to obtain information beyond that volunteered by his client. A lawyer should be fully informed of all the facts of the matter he is handling in order for his client to obtain the full advantage of our legal system. It is for the lawyer in the exercise of

his independent professional judgment to separate the relevant and important from the irrelevant and unimportant. The observance of the ethical obligation of a lawyer to hold inviolate the confidences and secrets of his client not only facilitates the full development of facts essential to proper representation of the client but also encourages laymen to seek early legal assistance.

EC 4-2. The obligation to protect confidences and secrets obviously does not preclude a lawyer from revealing information when his client consents after full disclosure, when necessary to perform his professional employment, when permitted by Disciplinary Rules, or when required by law. Unless the client otherwise directs, a lawyer may disclose the affairs of his client to partners or associates of his firm. It is a matter of common knowledge that the normal operation of a law office exposes confidential professional information to non-lawyer employees of the office, particularly secretaries and those having access to the files; and this obligates a lawyer to exercise care in selecting and training his employees so that the sanctity of all confidences and secrets of his clients may be preserved. If the obligation extends to two or more clients as to the same information, a lawyer should obtain the permission of all before revealing the information. A lawyer must always be sensitive to the rights and wishes of his client and act scrupulously in the making of decisions which may involve the disclosure of information obtained in his professional relationship. Thus, in the absence of consent of his client after full disclosure, a lawyer should not associate another lawyer in the handling of a matter; nor should he, in the absence of consent, seek counsel from another lawyer if there is a reasonable possibility that the identity of the client or his confidences or secrets would be revealed to such lawyer. Both social amenities and professional duty should cause a lawyer to shun indiscreet conversations concerning his clients.

EC 4-3. Unless the client otherwise directs, it is not improper for a lawyer to give limited information from his files to an outside agency necessary for statistical, bookkeeping, accounting, data processing, banking, printing, or other legitimate purposes, provided he exercises due care in the selection of the agency and warns the agency that the information must be kept confidential.

EC 4-4. The attorney-client privilege is more limited than the ethical obligation of a lawyer to guard the confidences and secrets of his client. This ethical precept, unlike the evidentiary privilege, exists without regard to the nature or source of information or the fact that others share the knowledge. A lawyer should endeavor to act in a manner which preserves the evidentiary privilege; for example, he should avoid professional discussions in the presence of persons to whom the privilege does not extend. A lawyer owes an obligation to advise the client of the attorney-client privilege

and timely to assert the privilege unless it is waived by the client.

EC 4-5. A lawyer should not use information acquired in the course of the representation of a client to the disadvantage of the client and a lawyer should not use, except with the consent of his client after full disclosure, such information for his own purposes. Likewise, a lawyer should be diligent in his efforts to prevent the misuse of such information by his employees and associates. Care should be exercised by a lawyer to prevent the disclosure of the confidences and secrets of one client to another, and no employment should be accepted that might require such disclosure.

EC 4-6. The obligation of a lawyer to preserve the confidences and secrets of his client continues after the termination of his employment. Thus a lawyer should not attempt to sell a law practice as a going business because, among other reasons, to do so would involve the disclosure of confidences and secrets. A lawyer should also provide for the protection of the confidences and secrets of his client following the termination of the practice of the lawyer, whether termination is due to death, disability, or retirement. For example, a lawyer might provide for the personal papers of the client to be returned to him and for the papers of the lawyer to be delivered to another lawyer or to be destroyed. In determining the method of disposition, the instructions and wishes of the client should be a dominant consideration.

DISCIPLINARY RULES

DR 4-101. Preservation of Confidences and Secrets of a Client

(A) "Confidence" refers to information protected by the attorney-client privilege under applicable law, and "secret" refers to other information gained in the professional relationship that the client has requested be held inviolate or the disclosure of which would be embarrassing or would be likely to be detrimental to the client.

(B) Except when permitted under DR 4-101(C), a lawyer shall not knowingly:

(1) Reveal a confidence or secret of his client.

(2) Use a confidence or secret of his client to the disadvantage of the client.

(3) Use a confidence or secret of his client for the advantage of himself or of a third person, unless the client consents after full disclosure.

(C) A lawyer may reveal:

(1) Confidences or secrets with the consent of the client or clients affected, but only after a full disclosure to them.

(2) Confidences or secrets when permitted under Disciplinary Rules or required by law or court order.

(3) The intention of his client to commit a crime and the information necessary to prevent the crime.

(4) Confidences or secrets necessary to establish or collect his fee or to defend himself or his employees or associates against an accusation of wrongful conduct.

(D) A lawyer shall exercise reasonable care to prevent his employees, associates, and others whose services are utilized by him from disclosing or using confidences or secrets of a client, except that a lawyer may reveal the information allowed by DR 4-101(C) through an employee.

Canon 5

A Lawyer Should Exercise Independent Professional Judgment on Behalf of a Client

ETHICAL CONSIDERATIONS

EC 5-1. The professional judgment of a lawyer should be exercised, within the bounds of the law, solely for the benefit of his client and free of compromising influences and loyalties. Neither his personal interests, the interests of other clients, nor the desires of third persons should be permitted to dilute his loyalty to his client.

Interests of a Lawyer That May Affect His Judgment

EC 5-2. A lawyer should not accept proffered employment if his personal interests or desires will, or there is a reasonable probability that they will, affect adversely the advice to be given or services to be rendered the prospective client. After accepting employment, a lawyer carefully should refrain from acquiring a property right or assuming a position that would tend to make his judgment less protective of the interests of his client.

EC 5-3. The self-interest of a lawyer resulting from his ownership of property in which his client also has an interest or which may affect property of his client may interfere with the exercise of free judgment on behalf of his client. If such interference would occur with respect to a prospective client, a lawyer should decline employment proffered by him. After accepting employment, a lawyer should not acquire property rights that would adversely affect his professional judgment in the representation of his client. Even if the property interests of a lawyer do not presently interfere with the exercise of his independent judgment, but the likelihood of interference can reasonably be foreseen by him, a lawyer should explain the situation to his client and should decline employment or withdraw unless the client consents to the continuance of the relationship after full disclosure. A lawyer should not seek to persuade his client to permit him to invest in an undertaking of his client nor make improper use of his professional relationship to

influence his client to invest in an enterprise in which the lawyer is interested.

EC 5-4. If, in the course of his representation of a client, a lawyer is permitted to receive from his client a beneficial ownership in publication rights relating to the subject matter of the employment, he may be tempted to subordinate the interests of his client to his own anticipated pecuniary gain. For example, a lawyer in a criminal case who obtains from his client television, radio, motion picture, newspaper, magazine, book, or other publication rights with respect to the case may be influenced, consciously or unconsciously, to a course of conduct that will enhance the value of his publication rights to the prejudice of his client. To prevent these potentially differing interests, such arrangements should be scrupulously avoided prior to the termination of all aspects of the matter giving rise to the employment, even though his employment has previously ended.

EC 5-5. A lawyer should not suggest to his client that a gift be made to himself or for his benefit. If a lawyer accepts a gift from his client, he is peculiarly susceptible to the charge that he unduly influenced or overreached the client. If a client voluntarily offers to make a gift to his lawyer, the lawyer may accept the gift, but before doing so, he should urge that his client secure disinterested advice from an independent, competent person who is cognizant of all the circumstances. Other than in exceptional circumstances, a lawyer should insist that an instrument in which his client desires to name him beneficially be prepared by another lawyer selected by the client.

EC 5-6. A lawyer should not consciously influence a client to name him as executor, trustee, or lawyer in an instrument. In those cases where a client wishes to name his lawyer as such, care should be taken by the lawyer to avoid even the appearance of impropriety.

EC 5-7. The possibility of an adverse effect upon the exercise of free judgment by a lawyer on behalf of his client during litigation generally makes it undesirable for the lawyer to acquire a proprietary interest in the cause of his client or otherwise to become financially interested in the outcome of the litigation. However, it is not improper for a lawyer to protect his right to collect a fee for his services by the assertion of legally permissible liens, even though by doing so he may acquire an interest in the outcome of litigation. Although a contingent fee arrangement gives a lawyer a financial interest in the outcome of litigation, a reasonable contingent fee is permissible in civil cases because it may be the only means by which a layman can obtain the services of a lawyer of his choice. But a lawyer, because he is in a better position to evaluate a cause of action, should enter into a contingent fee arrangement only in those instances where the arrangement will be beneficial to the client.

EC 5-8. A financial interest in the outcome of litigation also results if monetary advances are made by the lawyer to his client. Although this assistance generally is not encouraged, there are instances when it is not improper to make loans to a client. For example, the advancing or guaranteeing of payment of the costs and expenses of litigation by a lawyer may be the only way a client can enforce his cause of action, but the ultimate liability for such costs and expenses should be that of the client.

EC 5-9. Occasionally a lawyer is called upon to decide in a particular case whether he will be a witness or an advocate. If a lawyer is both counsel and witness, he becomes more easily impeachable for interest and thus may be a less effective witness. Conversely, the opposing counsel may be handicapped in challenging the credibility of the lawyer when the lawyer also appears as an advocate in the case. An advocate who becomes a witness is in the unseemly and ineffective position of arguing his own credibility. The roles of an advocate and of a witness are inconsistent; the function of an advocate is to advance or argue the cause of another, while that of a witness is to state facts objectively.

EC 5-10. Problems incident to the lawyer-witness relationship arise at different stages; they relate either to whether a lawyer should accept employment or should withdraw from employment. Regardless of when the problem arises, his decision is to be governed by the same basic considerations. It is not objectionable for a lawyer who is a potential witness to be an advocate if it is unlikely that he will be called as a witness because his testimony would be merely cumulative or if his testimony will relate only to an uncontested issue. In the exceptional situation where it will be manifestly unfair to the client for the lawyer to refuse employment or to withdraw when he will likely be a witness on a contested issue, he may serve as advocate even though he may be a witness. In making such decision, he should determine the personal or financial sacrifice of the client that may result from his refusal of employment or withdrawal therefrom, the materiality of his testimony, and the effectiveness of his representation in view of his personal involvement. In weighing these factors, it should be clear that refusal or withdrawal will impose an unreasonable hardship upon the client before the lawyer accepts or continues the employment. Where the question arises, doubts should be resolved in favor of the lawyer testifying and against his becoming or continuing as an advocate.

EC 5-11. A lawyer should not permit his personal interests to influence his advice relative to a suggestion by his client that additional counsel be employed. In like manner, his personal interests should not deter him from suggesting that additional counsel be employed; on the contrary, he should be alert to the desirability of recommending additional counsel

when, in his judgment, the proper representation of his client requires it. However, a lawyer should advise his client not to employ additional counsel suggested by the client if the lawyer believes that such employment would be a disservice to the client, and he should disclose the reasons for his belief.

EC 5-12. Inability of co-counsel to agree on a matter vital to the representation of their client requires that their disagreement be submitted by them jointly to their client for his resolution, and the decision of the client shall control the action to be taken.

EC 5-13. A lawyer should not maintain membership in or be influenced by any organization of employees that undertakes to prescribe, direct, or suggest when or how he should fulfill his professional obligations to a person or organization that employs him as a lawyer. Although it is not necessarily improper for a lawyer employed by a corporation or similar entity to be a member of an organization of employees, he should be vigilant to safeguard his fidelity as a lawyer to his employer, free from outside influences.

Interests of Multiple Clients

EC 5-14. Maintaining the independence of professional judgment required of a lawyer precludes his acceptance or continuation of employment that will adversely affect his judgment on behalf of or dilute his loyalty to a client. This problem arises whenever a lawyer is asked to represent two or more clients who may have differing interests, whether such interests be conflicting, inconsistent, diverse, or otherwise discordant.

EC 5-15. If a lawyer is requested to undertake or to continue representation of multiple clients having potentially differing interests, he must weigh carefully the possibility that his judgment may be impaired or his loyalty divided if he accepts or continues the employment. He should resolve all doubts against the propriety of the representation. A lawyer should never represent in litigation multiple clients with differing interests; and there are few situations in which he would be justified in representing in litigation multiple clients with potentially differing interests. If a lawyer accepted such employment and the interests did become actually differing, he would have to withdraw from employment with likelihood of resulting hardship on the clients; and for this reason it is preferable that he refuse the employment initially. On the other hand, there are many instances in which a lawyer may properly serve multiple clients having potentially differing interests in matters not involving litigation. If the interests vary only slightly, it is generally likely that the lawyer will not be subjected to an adverse influence and that he can retain his independent judgment on behalf of each client; and if the interests become differing, withdrawal is less likely to have a disruptive effect upon the causes of his clients.

EC 5-16. In those instances in which a lawyer is justified in representing two or more clients having differing interests, it is nevertheless essential that each client be given the opportunity to evaluate his need for representation free of any potential conflict and to obtain other counsel if he so desires. Thus before a lawyer may represent multiple clients, he should explain fully to each client the implications of the common representation and should accept or continue employment only if the clients consent. If there are present other circumstances that might cause any of the multiple clients to question the undivided loyalty of the lawyer, he should also advise all of the clients of those circumstances.

EC 5-17. Typically recurring situations involving potentially differing interests are those in which a lawyer is asked to represent co-defendants in a criminal case, co-plaintiffs in a personal injury case, an insured and his insurer, and beneficiaries of the estate of a decedent. Whether a lawyer can fairly and adequately protect the interests of multiple clients in these and similar situations depends upon an analysis of each case. In certain circumstances, there may exist little chance of the judgment of the lawyer being adversely affected by the slight possibility that the interests will become actually differing; in other circumstances, the chance of adverse effect upon his judgment is not unlikely.

EC 5-18. A lawyer employed or retained by a corporation or similar entity owes his allegiance to the entity and not a stockholder, director, officer, employee, representative, or other person connected with the entity. In advising the entity, a lawyer should keep paramount its interests and his professional judgment should not be influenced by the personal desires of any person or organization. Occasionally a lawyer for an entity is requested by a stockholder, director, officer, employee, representative, or other person connected with the entity to represent him in an individual capacity; in such case the lawyer may serve the individual only if the lawyer is convinced that differing interests are not present.

EC 5-19. A lawyer may represent several clients whose interests are not actually or potentially differing. Nevertheless, he should explain any circumstances that might cause a client to question his undivided loyalty. Regardless of the belief of a lawyer that he may properly represent multiple clients, he must defer to a client who holds the contrary belief and withdraw from representation of that client.

EC 5-20. A lawyer is often asked to serve as an impartial arbitrator or mediator in matters which involve present or former clients. He may serve in either capacity if he first discloses such present or former relationships. After a lawyer has undertaken to act as an impartial arbitrator or mediator, he should not thereafter represent in the dispute any of the parties involved.

Desires of Third Persons

EC 5-21. The obligation of a lawyer to exercise professional judgment solely on behalf of his client requires that he disregard the desires of others that might impair his free judgment. The desires of a third person will seldom adversely affect a lawyer unless that person is in a position to exert strong economic, political, or social pressures upon the lawyer. These influences are often subtle, and a lawyer must be alert to their existence. A lawyer subjected to outside pressures should make full disclosure of them to his client; and if he or his client believes that the effectiveness of his representation has been or will be impaired thereby, the lawyer should take proper steps to withdraw from representation of his client.

EC 5-22. Economic, political, or social pressures by third persons are less likely to impinge upon the independent judgment of a lawyer in a matter in which he is compensated directly by his client and his professional work is exclusively with his client. On the other hand, if a lawyer is compensated from a source other than his client, he may feel a sense of responsibility to someone other than his client.

EC 5-23. A person or organization that pays or furnishes lawyers to represent others possesses a potential power to exert strong pressures against the independent judgment of those lawyers. Some employers may be interested in furthering their own economic, political, or social goals without regard to the professional responsibility of the lawyer to his individual client. Others may be far more concerned with establishment or extension of legal principles than in the immediate protection of the rights of the lawyer's individual client. On some occasions, decisions on priority of work may be made by the employer rather than the lawyer with the result that prosecution of work already undertaken for clients is postponed to their detriment. Similarly, an employer may seek, consciously or unconsciously, to further its own economic interests through the actions of the lawyers employed by it. Since a lawyer must always be free to exercise his professional judgment without regard to the interests or motives of a third person, the lawyer who is employed by one to represent another must constantly guard against erosion of his professional freedom.

EC 5-24. To assist a lawyer in preserving his professional independence, a number of courses are available to him. For example, a lawyer should not practice with or in the form of a professional legal corporation, even though the corporate form is permitted by law, if any director, officer, or stockholder of it is a non-lawyer. Although a lawyer may be employed by a business corporation with non-lawyers serving as directors or officers, and they necessarily have the right to make decisions of business policy, a lawyer must decline to accept direction of his professional judgment from any layman. Various types of legal aid

offices are administered by boards of directors composed of lawyers and laymen. A lawyer should not accept employment from such an organization unless the board sets only broad policies and there is no interference in the relationship of the lawyer and the individual client he serves. Where a lawyer is employed by an organization, a written agreement that defines the relationship between him and the organization and provides for his independence is desirable since it may serve to prevent misunderstanding as to their respective roles. Although other innovations in the means of supplying legal counsel may develop, the responsibility of the lawyer to maintain his professional independence remains constant, and the legal profession must insure that changing circumstances do not result in loss of the professional independence of the lawyer.

DISCIPLINARY RULES**DR 5-101. Refusing Employment When the Interests of the Lawyer May Impair His Independent Professional Judgment**

(A) Except with the consent of his client after full disclosure, a lawyer shall not accept employment if the exercise of his professional judgment on behalf of his client will be or reasonably may be affected by his own financial, business, property, or personal interests.

(B) A lawyer shall not accept employment in contemplated or pending litigation if he knows or it is obvious that he or a lawyer in his firm ought to be called as a witness, except that he may undertake the employment and he or a lawyer in his firm may testify:

(1) If the testimony will relate solely to an uncontested matter.

(2) If the testimony will relate solely to a matter of formality and there is no reason to believe that substantial evidence will be offered in opposition to the testimony.

(3) If the testimony will relate solely to the nature and value of legal services rendered in the case by the lawyer or his firm to the client.

(4) As to any matter, if refusal would work a substantial hardship on the client because of the distinctive value of the lawyer or his firm as counsel in the particular case.

DR 5-102. Withdrawal as Counsel When the Lawyer Becomes a Witness

(A) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm ought to be called as a witness on behalf of his client, he shall withdraw from the conduct of the trial and his firm, if any, shall not continue representation in the trial, except that he may continue the representation and he or a lawyer in his firm may testify in the circumstances enumerated in DR 5-101(B)(1) through (4).

(B) If, after undertaking employment in contemplated or pending litigation, a lawyer learns or it is obvious that he or a lawyer in his firm may be called as a witness other than on behalf of his client, he may continue the representation until it is apparent that his testimony is or may be prejudicial to his client.

DR 5-103. Avoiding Acquisition of Interest in Litigation

(A) A lawyer shall not acquire a proprietary interest in the cause of action or subject matter of litigation he is conducting for a client, except that he may:

- (1) Acquire a lien granted by law to secure his fee or expenses.
- (2) Contract with a client for a reasonable contingent fee in a civil case.

DR 5-104. Limiting Business Relations with a Client

(A) A lawyer shall not enter into a business transaction with a client if they have differing interests therein and if the client expects the lawyer to exercise his professional judgment therein for the protection of the client, unless the client has consented after full disclosure.

(B) Prior to conclusion of all aspects of the matter giving rise to his employment, a lawyer shall not enter into any arrangement or understanding with a client or a prospective client by which he acquires an interest in publication rights with respect to the subject matter of his employment or proposed employment.

DR 5-105. Refusing to Accept or Continue Employment if the Interests of Another Client May Impair the Independent Professional Judgment of the Lawyer

(A) A lawyer shall decline proffered employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by the acceptance of the proffered employment, except to the extent permitted under DR 5-105(C).

(B) A lawyer shall not continue multiple employment if the exercise of his independent professional judgment in behalf of a client will be or is likely to be adversely affected by his representation of another client, except to the extent permitted under DR 5-105(C).

(C) In the situations covered by DR 5-105(A) and (B), a lawyer may represent multiple clients if it is obvious that he can adequately represent the interest of each and if each consents to the representation after full disclosure of the possible effect of such representation on the exercise of his independent professional judgment on behalf of each.

(D) If a lawyer is required to decline employment or to withdraw from employment under DR 5-105, no partner or associate of his or his firm may accept or continue such employment.

DR 5-106. Settling Similar Claims of Clients

(A) A lawyer who represents two or more clients shall not make or participate in the making of an aggregate settlement of the claims of or against his clients, unless each client has consented to the settlement after being advised of the existence and nature of all the claims involved in the proposed settlement, of the total amount of the settlement, and of the participation of each person in the settlement.

DR 5-107. Avoiding Influence by Others Than the Client

(A) Except with the consent of his client after full disclosure, a lawyer shall not:

- (1) Accept compensation for his legal services from one other than his client.
- (2) Accept from one other than his client any thing of value related to his representation of or his employment by his client.

(B) A lawyer shall not permit a person who recommends, employs, or pays him to render legal services for another to direct or regulate his professional judgment in rendering such legal services.

(C) A lawyer shall not practice with or in the form of a professional corporation or association authorized to practice law for a profit, if:

- (1) A non-lawyer owns any interest therein, except that a fiduciary representative of the estate of a lawyer may hold the stock or interest of the lawyer for a reasonable time during administration;
- (2) A non-lawyer is a corporate director or officer thereof; or
- (3) A non-lawyer has the right to direct or control the professional judgment of a lawyer.

Canon 6

A Lawyer Should Represent a Client Competently

ETHICAL CONSIDERATIONS

EC 6-1. Because of his vital role in the legal process, a lawyer should act with competence and proper care in representing clients. He should strive to become and remain proficient in his practice and should accept employment only in matters which he is or intends to become competent to handle.

EC 6-2. A lawyer is aided in attaining and maintaining competence by keeping abreast of current legal literature and developments, participating in continuing legal education programs, concentrating in particular areas of the law, and by utilizing other available means. He has the additional ethical obligation to assist in improving the legal profession, and he may do so by participating in bar activities intended to advance the quality and standards of members of the profession. Of particular im-

portance is the careful training of his younger associates and the giving of sound guidance to all lawyers who consult him. In short, a lawyer should strive at all levels to aid the legal profession in advancing the highest possible standards of integrity and competence and to meet those standards himself.

EC 6-3. While the licensing of a lawyer is evidence that he has met the standards then prevailing for admission to the bar, a lawyer generally should not accept employment in any area of the law in which he is not qualified. However, he may accept such employment if in good faith he expects to become qualified through study and investigation, as long as such preparation would not result in unreasonable delay or expense to his client. Proper preparation and representation may require the association by the lawyer of professionals in other disciplines. A lawyer offered employment in a matter in which he is not and does not expect to become so qualified should either decline the employment or, with the consent of his client, accept the employment and associate a lawyer who is competent in the matter.

EC 6-4. Having undertaken representation, a lawyer should use proper care to safeguard the interests of his client. If a lawyer has accepted employment in a matter beyond his competence but in which he expected to become competent, he should diligently undertake the work and study necessary to qualify himself. In addition to being qualified to handle a particular matter, his obligation to his client requires him to prepare adequately for and give appropriate attention to his legal work.

EC 6-5. A lawyer should have pride in his professional endeavors. His obligation to act competently calls for higher motivation than that arising from fear of civil liability or disciplinary penalty.

EC 6-6. A lawyer should not seek, by contract or other means, to limit his individual liability to his client for his malpractice. A lawyer who handles the affairs of his client properly has no need to attempt to limit his liability for his professional activities and one who does not handle the affairs of his client properly should not be permitted to do so. A lawyer who is a stockholder in or is associated with a professional legal corporation may, however, limit his liability for malpractice of his associates in the corporation, but only to the extent permitted by law.

DISCIPLINARY RULES

DR 6-101. Failing to Act Competently

(A) A lawyer shall not:

(1) Handle a legal matter which he knows or should know he is not competent to handle.

(2) Handle a legal matter without preparation adequate in the circumstances.

(3) Willfully or intentionally neglect a legal matter entrusted to him.

DR 6-102. Limiting Liability to Client

(A) A lawyer shall not attempt in advance to exonerate himself from or limit his liability to this client for his malpractice.

Canon 7

A Lawyer Should Represent a Client Zealously Within the Bounds of the Law

ETHICAL CONSIDERATIONS

EC 7-1. The duty of a lawyer, both to his client and to the legal system, is to represent his client zealously within the bounds of the law, which includes Disciplinary Rules and enforceable professional regulations. The professional responsibility of a lawyer derives from his membership in a profession which has the duty of assisting members of the public to secure and protect available legal rights and benefits. In our government of laws and not of men, each member of our society is entitled to have his conduct judged and regulated in accordance with the law; to seek any lawful objective through legally permissible means; and to present for adjudication any lawful claim, issue, or defense.

EC 7-2. The bounds of the law in a given case are often difficult to ascertain. The language of legislative enactments and judicial opinions may be uncertain as applied to varying factual situations. The limits and specific meaning of apparently relevant law may be made doubtful by changing or developing constitutional interpretations, inadequately expressed statutes or judicial opinions, and changing public and judicial attitudes. Certainty of law ranges from well-settled rules through areas of conflicting authority to areas without precedent.

EC 7-3. Where the bounds of law are uncertain, the action of a lawyer may depend on whether he is serving as advocate or adviser. A lawyer may serve simultaneously as both advocate and adviser, but the two roles are essentially different. In asserting a position on behalf of his client, an advocate for the most part deals with past conduct and must take the facts as he finds them. By contrast, a lawyer serving as adviser primarily assists his client in determining the course of future conduct and relationships. While serving as advocate, a lawyer should resolve in favor of his client doubts as to the bounds of the law. In serving a client as adviser, a lawyer in appropriate circumstances should give his professional opinion as to what the ultimate decisions of the courts would likely be as to the applicable law.

Duty of the Lawyer to a Client

EC 7-4. The advocate may urge any permissible construction of the law favorable to his client, without regard to his professional opinion as to the likelihood that the construction will ultimately prevail. His conduct is within the bounds of the law, and therefore permissible, if the position taken is supported by the

law or is supportable by a good faith argument for an extension, modification, or reversal of the law. However, a lawyer is not justified in asserting a position in litigation that is frivolous.

EC 7-5. A lawyer as adviser furthers the interest of his client by giving his professional opinion as to what he believes would likely be the ultimate decision of the courts on the matter at hand and by informing his client of the practical effect of such decision. He may continue in the representation of his client even though his client has elected to pursue a course of conduct contrary to the advice of the lawyer so long as he does not thereby knowingly assist the client to engage in illegal conduct or to take a frivolous legal position. A lawyer should never encourage or aid his client to commit criminal acts or counsel his client on how to violate the law and avoid punishment therefor.

EC 7-6. Whether the proposed action of a lawyer is within the bounds of the law may be a perplexing question when his client is contemplating a course of conduct having legal consequences that vary according to the client's intent, motive, or desires at the time of the action. Often a lawyer is asked to assist his client in developing evidence relevant to the state of mind of the client at a particular time. He may properly assist his client in the development and preservation of evidence of existing motive, intent, or desire; obviously, he may not do anything furthering the creation or preservation of false evidence. In many cases a lawyer may not be certain as to the state of mind of his client, and in those situations he should resolve reasonable doubts in favor of his client.

EC 7-7. In certain areas of legal representation not affecting the merits of the cause or substantially prejudicing the rights of a client, a lawyer is entitled to make the decisions on his own. But otherwise the authority to make decisions is exclusively that of the client and, if made within the framework of the law, such decisions are binding on his lawyer. As typical examples in civil cases, it is for the client to decide whether he will accept a settlement offer or whether he will waive his right to plead an affirmative defense. A defense lawyer in a criminal case has the duty to advise his client fully on whether a particular plea to a charge appears to be desirable and as to the prospects of success on appeal, but it is for the client to decide what plea should be entered and whether an appeal should be taken.

EC 7-8. A lawyer should exert his best efforts to insure that decisions of his client are made only after the client has been informed of relevant considerations. A lawyer ought to initiate this decision-making process if the client does not do so. Advice of a lawyer to his client need not be confined to purely legal considerations. A lawyer should advise his client of the possible effect of each legal alter-

native. A lawyer should bring to bear upon this decision-making process the fullness of his experience as well as his objective viewpoint. In assisting his client to reach a proper decision, it is often desirable for a lawyer to point out those factors which may lead to a decision that is morally just as well as legally permissible. He may emphasize the possibility of harsh consequences that might result from assertion of legally permissible positions. In the final analysis, however, the lawyer should always remember that the decision whether to forego legally available objectives or methods because of non-legal factors is ultimately for the client and not for himself. In the event that the client in a non-adjudicatory matter insists upon a course of conduct that is contrary to the judgment and advice of the lawyer but not prohibited by Disciplinary Rules, the lawyer may withdraw from the employment.

EC 7-9. In the exercise of his professional judgment on those decisions which are for his determination in the handling of a legal matter, a lawyer should always act in a manner consistent with the best interests of his client. However, when an action in the best interest of his client seems to him to be unjust, he may ask his client for permission to forego such action.

EC 7-10. The duty of a lawyer to represent his client with zeal does not militate against his concurrent obligation to treat with consideration all persons involved in the legal process and to avoid the infliction of needless harm.

EC 7-11. The responsibilities of a lawyer may vary according to the intelligence, experience, mental condition or age of a client, the obligation of a public officer, or the nature of a particular proceeding. Examples include the representation of an illiterate or an incompetent, service as a public prosecutor or other government lawyer, and appearances before administrative and legislative bodies.

EC 7-12. Any mental or physical condition of a client that renders him incapable of making a considered judgment on his own behalf casts additional responsibilities upon his lawyer. Where an incompetent is acting through a guardian or other legal representative, a lawyer must look to such representative for those decisions which are normally the prerogative of the client to make. If a client under disability has no legal representative, his lawyer may be compelled in court proceedings to make decisions on behalf of the client. If the client is capable of understanding the matter in question or of contributing to the advancement of his interests, regardless of whether he is legally disqualified from performing certain acts, the lawyer should obtain from him all possible aid. If the disability of a client and the lack of a legal representative compel the lawyer to make decisions for his client, the lawyer should consider all circumstances then prevailing and act with care to safeguard and ad-

vance the interests of his client. But obviously a lawyer cannot perform any act or make any decision which the law requires his client to perform or make, either acting for himself if competent, or by a duly constituted representative if legally incompetent.

EC 7-13. The responsibility of a public prosecutor differs from that of the usual advocate; his duty is to seek justice, not merely to convict. This special duty exists because: (1) the prosecutor represents the sovereign and therefore should use restraint in the discretionary exercise of governmental powers, such as in the selection of cases to prosecute; (2) during trial the prosecutor is not only an advocate but he also may make decisions normally made by an individual client, and those affecting the public interest should be fair to all; and (3) in our system of criminal justice the accused is to be given the benefit of all reasonable doubts. With respect to evidence and witnesses, the prosecutor has responsibilities different from those of a lawyer in private practice: the prosecutor should make timely disclosure to the defense of available evidence, known to him, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment. Further, a prosecutor should not intentionally avoid pursuit of evidence merely because he believes it will damage the prosecution's case or aid the accused.

EC 7-14. A government lawyer who has discretionary power relative to litigation should refrain from instituting or continuing litigation that is obviously unfair. A government lawyer not having such discretionary power who believes there is lack of merit in a controversy submitted to him should so advise his superiors and recommend the avoidance of unfair litigation. A government lawyer in a civil action or administrative proceeding has the responsibility to seek justice and to develop a full and fair record, and he should not use his position or the economic power of the government to harass parties or to bring about unjust settlements or results.

EC 7-15. The nature and purpose of proceedings before administrative agencies vary widely. The proceedings may be legislative or quasi-judicial, or a combination of both. They may be *ex parte* in character, in which event they may originate either at the instance of the agency or upon motion of an interested party. The scope of an inquiry may be purely investigative or it may be truly adversary looking toward the adjudication of specific rights of a party or of classes of parties. The foregoing are but examples of some of the types of proceedings conducted by administrative agencies. A lawyer appearing before an administrative agency, regardless of the nature of the proceeding it is conducting, has the continuing duty to advance the cause of his client within the bounds of the law. Where the applicable rules of the agency impose specific obligations upon a lawyer, it is his duty to comply therewith, unless the lawyer has a legitimate basis

for challenging the validity thereof. In all appearances before administrative agencies, a lawyer should identify himself, his client if identity of his client is not privileged, and the representative nature of his appearance. It is not improper, however, for a lawyer to seek from an agency information available to the public without identifying his client.

EC 7-16. The primary business of a legislative body is to enact laws rather than to adjudicate controversies, although on occasion the activities of a legislative body may take on the characteristics of an adversary proceeding, particularly in investigative and impeachment matters. The role of a lawyer supporting or opposing proposed legislation normally is quite different from his role in representing a person under investigation or on trial by a legislative body. When a lawyer appears in connection with proposed legislation, he seeks to affect the lawmaking process, but when he appears on behalf of a client in investigatory or impeachment proceedings, he is concerned with the protection of the rights of his client. In either event, he should identify himself and his client, if identity of his client is not privileged, and should comply with applicable laws and legislative rules.

EC 7-17. The obligation of loyalty to his client applies only to a lawyer in the discharge of his professional duties and implies no obligation to adopt a personal viewpoint favorable to the interests or desires of his client. While a lawyer must act always with circumspection in order that his conduct will not adversely affect the rights of a client in a matter he is then handling, he may take positions on public issues and espouse legal reforms he favors without regard to the individual views of any client.

EC 7-18. The legal system in its broadest sense functions best when persons in need of legal advice or assistance are represented by their own counsel. For this reason a lawyer should not communicate on the subject matter of the representation of his client with a person he knows to be represented in the matter by a lawyer, unless pursuant to law or rule of court or unless he has the consent of the lawyer for that person. If one is not represented by counsel, a lawyer representing another may have to deal directly with the unrepresented person; in such an instance, a lawyer should not undertake to give advice to the person who is attempting to represent himself, except that he may advise him to obtain a lawyer.

Duty of the Lawyer to the Adversary System of Justice

EC 7-19. Our legal system provides for the adjudication of disputes governed by the rules of substantive, evidentiary, and procedural law. An adversary presentation counters the natural human tendency to judge too swiftly in terms of the familiar that which is not yet fully known; the advocate, by his zealous preparation and presentation of facts and law, enables

the tribunal to come to the hearing with an open and neutral mind and to render impartial judgments. The duty of a lawyer to his client and his duty to the legal system are the same: to represent his client zealously within the bounds of the law.

EC 7-20. In order to function properly, our adjudicative process requires an informed, impartial tribunal capable of administering justice promptly and efficiently according to procedures that command public confidence and respect. Not only must there be competent, adverse presentation of evidence and issues, but a tribunal must be aided by rules appropriate to an effective and dignified process. The procedures under which tribunals operate in our adversary system have been prescribed largely by legislative enactments, court rules and decisions, and administrative rules. Through the years certain concepts of proper professional conduct have become rules of law applicable to the adversary adjudicative process. Many of these concepts are the bases for standards of professional conduct set forth in the Disciplinary Rules.

EC 7-21. The civil adjudicative process is primarily designed for the settlement of disputes between parties, while the criminal process is designed for the protection of society as a whole. Threatening to use, or using, the criminal process to coerce adjustment of private civil claims or controversies is a subversion of that process; further, the person against whom the criminal process is so misused may be deterred from asserting his legal rights and thus the usefulness of the civil process in settling private disputes is impaired. As in all cases of abuse of judicial process, the improper use of criminal process tends to diminish public confidence in our legal system.

EC 7-22. Respect for judicial rulings is essential to the proper administration of justice; however, a litigant or his lawyer may, in good faith and within the framework of the law, take steps to test the correctness of a ruling of a tribunal.

EC 7-23. The complexity of law often makes it difficult for a tribunal to be fully informed unless the pertinent law is presented by the lawyers in the cause. A tribunal that is fully informed on the applicable law is better able to make a fair and accurate determination of the matter before it. The adversary system contemplates that each lawyer will present and argue the existing law in the light most favorable to his client. Where a lawyer knows of legal authority in the controlling jurisdiction directly adverse to the position of his client, he should inform the tribunal of its existence unless his adversary has done so; but, having made such disclosure, he may challenge its soundness in whole or in part.

EC 7-24. In order to bring about just and informed decisions, evidentiary and procedural rules have been established by tribunals to permit the inclusion of relevant evidence and ar-

gument and the exclusion of all other considerations. The expression by a lawyer of his personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused is not a proper subject for argument to the trier of fact. It is improper as to factual matters because admissible evidence possessed by a lawyer should be presented only as sworn testimony. It is improper as to all other matters because, were the rule otherwise, the silence of a lawyer on a given occasion could be construed unfavorably to his client. However, a lawyer may argue, on his analysis of the evidence, for any position or conclusion with respect to any of the foregoing matters.

EC 7-25. Rules of evidence and procedure are designed to lead to just decisions and are part of the framework of the law. Thus while a lawyer may take steps in good faith and within the framework of the law to test the validity of rules, he is not justified in consciously violating such rules and he should be diligent in his efforts to guard against his unintentional violation of them. As examples, a lawyer should subscribe to or verify only those pleadings that he believes are in compliance with applicable law and rules; a lawyer should not make any prefatory statement before a tribunal in regard to the purported facts of the case on trial unless he believes that his statement will be supported by admissible evidence; a lawyer should not ask a witness a question solely for the purpose of harassing or embarrassing him; and a lawyer should not by subterfuge put before a jury matters which it cannot properly consider.

EC 7-26. The law and Disciplinary Rules prohibit the use of fraudulent, false, or perjured testimony or evidence. A lawyer who knowingly participates in introduction of such testimony or evidence is subject to discipline. A lawyer should, however, present any admissible evidence his client desires to have presented unless he knows, or from facts within his knowledge should know, that such testimony or evidence is false, fraudulent, or perjured.

EC 7-27. Because it interferes with the proper administration of justice, a lawyer should not suppress evidence that he or his client has a legal obligation to reveal or produce. In like manner, a lawyer should not advise or cause a person to secrete himself or to leave the jurisdiction of a tribunal for the purpose of making him unavailable as a witness therein.

EC 7-28. Witnesses should always testify truthfully and should be free from any financial inducements that might tempt them to do otherwise. A lawyer should not pay or agree to pay a non-expert witness an amount in excess of reimbursement for expenses and financial loss incident to his being a witness; however, a lawyer may pay or agree to pay an expert witness a reasonable fee for his services as an expert. But in no event should a lawyer

pay or agree to pay a contingent fee to any witness. A lawyer should exercise reasonable diligence to see that his client and lay associates conform to these standards.

EC 7-29. To safeguard the impartiality that is essential to the judicial process, veniremen and jurors should be protected against extraneous influences. When impartiality is present, public confidence in the judicial system is enhanced. There should be no extrajudicial communication with veniremen prior to trial or with jurors during trial by or on behalf of a lawyer connected with the case. Furthermore, a lawyer who is not connected with the case should not communicate with or cause another to communicate with a venireman or a juror about the case. After the trial, communication by a lawyer with jurors is permitted so long as he refrains from asking questions or making comments that tend to harass or embarrass the juror or to influence actions of the juror in future cases. Were a lawyer to be prohibited from communicating after trial with a juror, he could not ascertain if the verdict might be subject to legal challenge, in which event the invalidity of a verdict might go undetected. When an extrajudicial communication by a lawyer with a juror is permitted by law, it should be made considerably and with deference to the personal feelings of the juror.

EC 7-30. Vexatious or harassing investigations of veniremen or jurors seriously impair the effectiveness of our jury system. For this reason, a lawyer or anyone on his behalf who conducts an investigation of veniremen or jurors should act with circumspection and restraint.

EC 7-31. Communications with or investigations of members of families of veniremen or jurors by a lawyer or by anyone on his behalf are subject to the restrictions imposed upon the lawyer with respect to his communications with or investigations of veniremen and jurors.

EC 7-32. Because of his duty to aid in preserving the integrity of the jury system, a lawyer who learns of improper conduct by or towards a venireman, a juror, or a member of the family of either should make a prompt report to the court regarding such conduct.

EC 7-33. A goal of our legal system is that each party shall have his case, criminal or civil, adjudicated by an impartial tribunal. The attainment of this goal may be defeated by dissemination of news or comments which tend to influence judge or jury. Such news or comments may prevent prospective jurors from being impartial at the outset of the trial and may also interfere with the obligation of jurors to base their verdict solely upon the evidence admitted in the trial. The release by a lawyer of out-of-court statements regarding an anticipated or pending trial may improperly affect the impartiality of the tribunal. For these reasons, standards for permissible and prohibited conduct of a lawyer with respect to trial publicity have been established.

EC 7-34. The impartiality of a public servant in our legal system may be impaired by the receipt of gifts or loans. A lawyer, therefore, is never justified in making a gift or a loan to a judge, a hearing officer, or an official or employee of a tribunal if the gift or loan is likely to, or may appear to others to be likely to, influence his judgment or obtain some benefit for the lawyer or his client. Likewise, campaign contributions should be handled discreetly so as to avoid the appearance of impropriety.

EC 7-35. All litigants and lawyers should have access to tribunals on an equal basis. Generally, in adversary proceedings a lawyer should not communicate with a judge relative to a matter pending before, or which is to be brought before, a tribunal over which he presides in circumstances which might have the effect or give the appearance of granting undue advantage to one party. For example, a lawyer should not communicate with a tribunal by a writing unless a copy thereof is promptly delivered to opposing counsel or to the adverse party if he is not represented by a lawyer. Ordinarily an oral communication by a lawyer with a judge or hearing officer should be made only upon adequate notice to opposing counsel, or, if there is none, to the opposing party. A lawyer should not condone or lend himself to private importunities by another with a judge or hearing officer on behalf of himself or his client.

EC 7-36. Judicial hearings ought to be conducted through dignified and orderly procedures designed to protect the rights of all parties. Although a lawyer has the duty to represent his client zealously, he should not engage in any conduct that offends the dignity and decorum of proceedings. While maintaining his independence, a lawyer should be respectful, courteous, and above-board in his relations with a judge or hearing officer before whom he appears. He should avoid undue solicitude for the comfort or convenience of judge or jury and should avoid any other conduct calculated to gain special consideration.

EC 7-37. In adversary proceedings, clients are litigants and though ill feeling may exist between clients, such ill feeling should not influence a lawyer in his conduct, attitude, and demeanor towards opposing lawyers. A lawyer should not make unfair or derogatory personal reference to opposing counsel. Haranguing and offensive tactics by lawyers interfere with the orderly administration of justice and have no proper place in our legal system.

EC 7-38. A lawyer should be courteous to opposing counsel and should accede to reasonable requests regarding court proceedings, settings, continuances, waiver of procedural formalities, and similar matters which do not prejudice the rights of his client. He should follow local customs of courtesy or practice, unless he gives timely notice to opposing counsel of his intention not to do so. A lawyer should be

punctual in fulfilling all professional commitments.

EC 7-39. In the final analysis, proper functioning of the adversary system depends upon cooperation between lawyers and tribunals in utilizing procedures which will preserve the impartiality of the tribunal and make their decisional processes prompt and just, without impinging upon the obligation of the lawyer to represent his client zealously within the framework of the law.

DISCIPLINARY RULES

DR 7-101. Representing a Client Zealously

(A) A lawyer shall not intentionally:

(1) Fail to seek the lawful objectives of his client through reasonably available means permitted by law and the Disciplinary Rules, except as provided by DR 7-101(B). A lawyer does not violate this Disciplinary Rule, however, by acceding to reasonable requests of opposing counsel which do not prejudice the rights of his client, by being punctual in fulfilling all professional commitments, by avoiding offensive tactics, or by treating with courtesy and consideration all persons involved in the legal process.

(2) Fail to carry out a contract of employment entered into with a client for professional services, but he may withdraw as permitted under DR 2-110, DR 5-102, and DR 5-105.

(3) Prejudice or damage his client during the course of the professional relationship, except as required under DR 7-102(B).

(B) In his representation of a client, a lawyer may:

(1) Where permissible, exercise his professional judgment to waive or fail to assert a right or position of his client.

(2) Refuse to aid or participate in conduct that he believes to be unlawful, even though there is some support for an argument that the conduct is legal.

DR 7-102. Representing a Client Within the Bounds of the Law

(A) In his representation of a client, a lawyer shall not:

(1) File a suit, assert a position, conduct a defense, delay a trial, or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another.

(2) Knowingly advance a claim or defense that is unwarranted under existing law, except that he may advance such claim or defense if it can be supported by good faith argument for an extension, modification, or reversal of existing law.

(3) Conceal or knowingly fail to disclose that which he is required by law to reveal.

(4) Knowingly use perjured testimony or false evidence.

(5) Knowingly make a false statement of law or fact.

(6) Participate in the creation or preservation of evidence when he knows or it is obvious that the evidence is false.

(7) Counsel or assist his client in conduct that the lawyer knows to be illegal or fraudulent.

(8) Knowingly engage in other illegal conduct or conduct contrary to a Disciplinary Rule.

(B) A lawyer who receives information clearly establishing that:

(1) His client has, in the course of the representation, perpetrated a fraud upon a person or tribunal shall promptly call upon his client to rectify the same, and if his client refuses or is unable to do so he shall reveal the fraud to the affected person or tribunal.

(2) A person other than his client has perpetrated a fraud upon a tribunal shall promptly reveal the fraud to the tribunal.

DR 7-103. Performing the Duty of Public Prosecutor or Other Government Lawyer

(A) A public prosecutor or other government lawyer shall not institute or cause to be instituted criminal charges when he knows or it is obvious that the charges are not supported by probable cause.

(B) A public prosecutor or other government lawyer in criminal litigation shall make timely disclosure to counsel for the defendant, or to the defendant if he has no counsel, of the existence of evidence, known to the prosecutor or other government lawyer, that tends to negate the guilt of the accused, mitigate the degree of the offense, or reduce the punishment.

DR 7-104. Communicating With One of Adverse Interest

(A) During the course of his representation of a client a lawyer shall not:

(1) Communicate or cause another to communicate on the subject of the representation with a party he knows to be represented by a lawyer in that matter unless he has the prior consent of the lawyer representing such other party or is authorized by law to do so.

(2) Give advice to a person who is not represented by a lawyer, other than the advice to secure counsel, if the interests of such person are or have a reasonable possibility of being in conflict with the interests of his client.

DR 7-105. Threatening Criminal Prosecution

(A) A lawyer shall not present, participate in presenting, or threaten to present criminal

charges solely to obtain an advantage in a civil matter.

DR 7-106. Trial Conduct

(A) A lawyer shall not disregard or advise his client to disregard a standing rule of a tribunal or a ruling of a tribunal made in the course of a proceeding, but he may take appropriate steps in good faith to test the validity of such rule or ruling.

(B) In presenting a matter to a tribunal, a lawyer shall disclose:

(1) Legal authority in the controlling jurisdiction known to him to be directly adverse to the position of his client and which is not disclosed by opposing counsel.

(2) Unless privileged or irrelevant, the identities of the clients he represents and of the persons who employed him.

(C) In appearing in his professional capacity before a tribunal, a lawyer shall not:

(1) State or allude to any matter that he has no reasonable basis to believe is relevant to the case or that will not be supported by admissible evidence.

(2) Ask any question that he has no reasonable basis to believe is relevant to the case and that is intended to degrade a witness or other person.

(3) Assert his personal knowledge of the facts in issue, except when testifying as a witness.

(4) Assert his personal opinion as to the justness of a cause, as to the credibility of a witness, as to the culpability of a civil litigant, or as to the guilt or innocence of an accused; but he may argue, on his analysis of the evidence, for any position or conclusion with respect to the matters stated herein.

(5) Fail to comply with known local customs of courtesy or practice of the bar or a particular tribunal without giving to opposing counsel timely notice of his intent not to comply.

(6) Engage in undignified or discourteous conduct which is degrading to a tribunal.

(7) Intentionally or habitually violate any established rule of procedure or of evidence.

DR 7-107. Trial Publicity

(A) A lawyer participating in or associated with the investigation of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that does more than state without elaboration:

(1) Information contained in a public record.

(2) That the investigation is in progress.

(3) The general scope of the investigation including a description of the offense and, if permitted by law, the identity of the victim.

(4) A request for assistance in apprehending a suspect or assistance in other matters and the information necessary thereto.

(5) A warning to the public of any dangers.

(B) A lawyer or law firm associated with the prosecution or defense of a criminal matter shall not, from the time of the filing of a complaint, information, or indictment, the issuance of an arrest warrant, or arrest until the commencement of the trial or disposition without trial, make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to:

(1) The character, reputation, or prior criminal record (including arrests, indictments, or other charges of crime) of the accused.

(2) The possibility of a plea of guilty to the offense charged or to a lesser offense.

(3) The existence or contents of any confession, admission, or statement given by the accused or his refusal or failure to make a statement.

(4) The performance or results of any examinations or tests or the refusal or failure of the accused to submit to examinations or tests.

(5) The identity, testimony, or credibility of a prospective witness.

(6) Any opinion as to the guilt or innocence of the accused, the evidence, or the merits of the case.

(C) DR 7-107(B) does not preclude a lawyer during such period from announcing:

(1) The name, age, residence, occupation, and family status of the accused.

(2) If the accused has not been apprehended, any information necessary to aid in his apprehension or to warn the public of any dangers he may present.

(3) A request for assistance in obtaining evidence.

(4) The identity of the victim of the crime.

(5) The fact, time, and place of arrest, resistance, pursuit, and use of weapons.

(6) The identity of investigating and arresting officers or agencies and the length of the investigation.

(7) At the time of seizure, a description of the physical evidence seized, other than a confession, admission, or statement.

(8) The nature, substance, or text of the charge.

(9) Quotations from or references to public records of the court in the case.

(10) The scheduling or result of any step in the judicial proceedings.

(11) That the accused denies the charges made against him.

(D) During the selection of a jury or the trial of a criminal matter, a lawyer or law firm associated with the prosecution or defense of a criminal matter shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by means of public communication and that relates to the trial, parties, or issues in the trial or other matters that are reasonably likely to interfere with a fair trial, except that he may quote from or refer without comment to public records of the court in the case.

(E) After the completion of a trial or disposition without trial of a criminal matter and prior to the imposition of sentence, a lawyer or law firm associated with the prosecution or defense shall not make or participate in making an extrajudicial statement that a reasonable person would expect to be disseminated by public communication and that is reasonably likely to affect the imposition of sentence.

(F) The foregoing provisions of DR 7-107 also apply to professional disciplinary proceedings and juvenile disciplinary proceedings when pertinent and consistent with other law applicable to such proceedings.

(G) A lawyer or law firm associated with a civil action shall not during its investigation or litigation make or participate in making an extrajudicial statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication and that relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal record of a party, witness, or prospective witness.

(3) The performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) His opinion as to the merits of the claims or defenses of a party, except as required by law or administrative rule.

(5) Any other matter reasonably likely to interfere with a fair trial of the action.

(H) During the pendency of an administrative proceeding, a lawyer or law firm associated therewith shall not make or participate in making a statement, other than a quotation from or reference to public records, that a reasonable person would expect to be disseminated by means of public communication if it is made outside the official course of the proceeding and relates to:

(1) Evidence regarding the occurrence or transaction involved.

(2) The character, credibility, or criminal record of a party, witness, or prospective witness.

(3) Physical evidence or the performance or results of any examinations or tests or the refusal or failure of a party to submit to such.

(4) His opinion as to the merits of the claims, defenses, or positions of an interested person.

(5) Any other matter reasonably likely to interfere with a fair hearing.

(I) The foregoing provisions of DR 7-107 do not preclude a lawyer from replying to charges of misconduct publicly made against him or from participating in the proceedings of legislative, administrative, or other investigative bodies.

(J) A lawyer shall exercise reasonable care to prevent his employees and associates from making an extra judicial statement that he would be prohibited from making under DR 7-107.

DR 7-108. Communication with or Investigation of Jurors

(A) Before the trial of a case of a lawyer connected therewith shall not communicate with or cause another to communicate with anyone he knows to be a member of the venire from which the jury will be selected for the trial of the case.

(B) During the trial of a case:

(1) A lawyer connected therewith shall not communicate with or cause another to communicate with any member of the jury.

(2) A lawyer who is not connected therewith shall not communicate with or cause another to communicate with a juror concerning the case.

(C) DR 7-108(A) and (B) do not prohibit a lawyer from communicating with veniremen or jurors in the course of official proceedings.

(D) After discharge of the jury from further consideration of a case with which the lawyer was connected, the lawyer shall not ask questions of or make comments to a member of that jury that are calculated merely to harass or embarrass the juror or to influence his actions in future jury service.

(E) A lawyer shall not conduct or cause, by financial support or otherwise, another to conduct a vexatious or harassing investigation of either a venireman or a juror.

(F) All restrictions imposed by DR 7-108 upon a lawyer also apply to communications with or investigations of members of a family of a venireman or a juror.

(G) A lawyer shall reveal promptly to the court improper conduct by a venireman or a juror, or by another toward a venireman or a juror or a member of his family, of which the lawyer has knowledge.

DR 7-109. Contact with Witnesses

(A) A lawyer shall not suppress any evidence that he or his client has a legal obligation to reveal or produce.

(B) A lawyer shall not advise or cause a person to secrete himself or to leave the jurisdiction of a tribunal for the purpose of making him unavailable as a witness therein.

(C) A lawyer shall not pay, offer to pay, or acquiesce in the payment of compensation to a witness contingent upon the content of his testimony or the outcome of the case. But a lawyer may advance, guarantee, or acquiesce in the payment of:

(1) Expenses reasonably incurred by a witness in attending or testifying.

(2) Reasonable compensation to a witness for his loss of time in attending or testifying.

(3) A reasonable fee for the professional services of an expert witness.

DR 7-110. Contact with Officials

(A) A lawyer shall not give or lend anything of more than nominal value to a judge, official, or employee of a tribunal, but a lawyer is not prohibited hereby from making contributions to a fund for filing fees or campaign expenses of a judge or official seeking election or reelection to a public office.

(B) In an adversary proceeding, a lawyer shall not communicate, or cause another to communicate, as to the merits of the cause with a judge or an official before whom the proceeding is pending, except:

(1) In the course of official proceedings in the cause.

(2) In writing if he promptly delivers a copy of the writing to opposing counsel or to the adverse party if he is not represented by a lawyer.

(3) Orally upon adequate notice to opposing counsel or to the adverse party if he is not represented by a lawyer.

(4) As otherwise authorized by law.

Canon 8

A Lawyer Should Assist in Improving the Legal System

ETHICAL CONSIDERATIONS

EC 8-1. Changes in human affairs and imperfections in human institutions make necessary constant efforts to maintain and improve our legal system. This system should function in a manner that commands public respect and fosters the use of legal remedies to achieve redress of grievances. By reason of education and experience, lawyers are especially qualified to recognize deficiencies in the legal system and to initiate corrective measures therein. Thus they should participate in proposing and supporting legislation and programs to improve the system, without regard to the general interests or desires of clients or former clients.

EC 8-2. Rules of law are deficient if they are not just, understandable, and responsive to the needs of society. If a lawyer believes that the

existence or absence of a rule of law, substantive or procedural, causes or contributes to an unjust result, he should endeavor by lawful means to obtain appropriate changes in the law. He should encourage the simplification of laws and the repeal or amendment of laws that are outmoded. Likewise, legal procedures should be improved whenever experience indicates a change is needed.

EC 8-3. The fair administration of justice requires the availability of competent lawyers. Members of the public should be educated to recognize the existence of legal problems and the resultant need for legal services, and should be provided methods for intelligent selection of counsel. Those persons unable to pay for legal services should be provided needed services. Clients and lawyers should not be penalized by undue geographical restraints upon representation in legal matters, and the bar should address itself to improvements in licensing, reciprocity, and admission procedures consistent with the needs of modern commerce.

EC 8-4. Whenever a lawyer seeks legislative or administrative changes, he should identify the capacity in which he appears, whether on behalf of himself, a client, or the public. A lawyer may advocate such changes on behalf of a client even though he does not agree with them. But when a lawyer purports to act on behalf of the public, he should espouse only those changes which he conscientiously believes to be in the public interest.

EC 8-5. Fraudulent, deceptive, or otherwise illegal conduct by a participant in a proceeding before a tribunal or legislative body is inconsistent with fair administration of justice, and it should never be participated in or condoned by lawyers. Unless constrained by his obligation to preserve the confidences and secrets of his client, a lawyer should reveal to appropriate authorities any knowledge he may have of such improper conduct.

EC 8-6. Judges and administrative officials having adjudicatory powers ought to be persons of integrity, competence, and suitable temperament. Generally, lawyers are qualified, by personal observation or investigation, to evaluate the qualifications of persons seeking or being considered for such public offices, and for this reason they have a special responsibility to aid in the selection of only those who are qualified. It is the duty of lawyers to endeavor to prevent political considerations from outweighing judicial fitness in the selection of judges. Lawyers should protest earnestly against the appointment or election of those who are unsuited for the bench and should strive to have elected or appointed thereto only those who are willing to forego pursuits, whether of a business, political, or other nature, that may interfere with the free and fair consideration of questions presented for adjudication. Adjudicatory officials, not being wholly free to defend themselves, are entitled to receive the support of the bar against unjust

criticism. While a lawyer as a citizen has a right to criticize such officials publicly, he should be certain of the merit of his complaint, use appropriate language, and avoid petty criticisms, for unrestrained and intemperate statements tend to lessen public confidence in our legal system. Criticisms motivated by reasons other than a desire to improve the legal system are not justified.

EC 8-7. Since lawyers are a vital part of the legal system, they should be persons of integrity, of professional skill, and of dedication to the improvement of the system. Thus a lawyer should aid in establishing, as well as enforcing, standards of conduct adequate to protect the public by insuring that those who practice law are qualified to do so.

EC 8-8. Lawyers often serve as legislators or as holders of other public offices. This is highly desirable, as lawyers are uniquely qualified to make significant contributions to the improvement of the legal system. A lawyer who is a public officer, whether full or part-time, should not engage in activities in which his personal or professional interests are or foreseeably may be in conflict with his official duties.

EC 8-9. The advancement of our legal system is of vital importance in maintaining the rule of law and in facilitating orderly changes; therefore, lawyers should encourage, and should aid in making, needed changes and improvements.

DISCIPLINARY RULES

DR 8-101. Action as a Public Official

(A) A lawyer who holds public office shall not:

(1) Use his public position to obtain, or attempt to obtain, a special advantage in legislative matters for himself or for a client under circumstances where he knows or it is obvious that such action is not in the public interest.

(2) Use his public position to influence, or attempt to influence, a tribunal to act in favor of himself or of a client.

(3) Accept any thing of value from any person when the lawyer knows or it is obvious that the offer is for the purpose of influencing his action as a public official.

DR 8-102. Statements Concerning Judges and Other Adjudicatory Officers

(A) A lawyer shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office.

(B) A lawyer shall not knowingly make false accusations against a judge or other adjudicatory officer.

Canon 9

A Lawyer Should Avoid Even the Appearance of Professional Impropriety

ETHICAL CONSIDERATIONS

EC 9-1. Continuation of the American concept that we are to be governed by rules of law requires that the people have faith that justice can be obtained through our legal system. A lawyer should promote public confidence in our system and in the legal profession.

EC 9-2. Public confidence in law and lawyers may be eroded by irresponsible or improper conduct of a lawyer. On occasion, ethical conduct of a lawyer may appear to laymen to be unethical. In order to avoid misunderstandings and hence to maintain confidence, a lawyer should fully and promptly inform his client of material developments in the matters being handled for the client. While a lawyer should guard against otherwise proper conduct that has a tendency to diminish public confidence in the legal system or in the legal profession, his duty to clients or to the public should never be subordinate merely because the full discharge of his obligation may be misunderstood or may tend to subject him or the legal profession to criticism. When explicit ethical guidance does not exist, a lawyer should determine his conduct by acting in a manner that promotes public confidence in the integrity and efficiency of the legal system and the legal profession.

EC 9-3. After a lawyer leaves judicial office or other public employment, he should not accept employment in connection with any matter in which he had substantial responsibility prior to his leaving, since to accept employment would give the appearance of impropriety even if none exists.

EC 9-4. Because the very essence of the legal system is to provide procedures by which matters can be presented in an impartial manner so that they may be decided solely upon the merits, any statement or suggestion by a lawyer that he can or would attempt to circumvent those procedures is detrimental to the legal system and tends to undermine public confidence in it.

EC 9-5. Separation of the funds of a client from those of his lawyer not only serves to protect the client but also avoids even the appearance of impropriety, and therefore commingling of such funds should be avoided.

EC 9-6. Every lawyer owes a solemn duty to uphold the integrity and honor of his profession; to encourage respect for the law and for the courts and the judges thereof; to observe the Code of Professional Responsibility; to act as a member of a learned profession, one dedicated to public service; to cooperate with his brother lawyers in supporting the organized bar through the devoting of his time, efforts, and financial support as his professional standing and ability reasonably permit; to

conduct himself so as to reflect credit on the legal profession and to inspire the confidence, respect, and trust of his clients and of the public; and to strive to avoid not only professional impropriety but also the appearance of impropriety.

DISCIPLINARY RULES

DR 9-101. Avoiding Even the Appearance of Impropriety

(A) A lawyer shall not accept private employment in a matter upon the merits of which he has acted in a judicial capacity.

(B) A lawyer shall not accept private employment in a matter in which he had substantial responsibility while he was a public employee.

(C) A lawyer shall not state or imply that he is able to influence improperly or upon irrelevant grounds any tribunal, legislative body, or public official.

DR 9-102. Preserving Identity of Funds and Property of a Client

(A) All funds of clients paid to a lawyer or law firm, other than advances for costs and expenses, shall be deposited in one or more identifiable bank accounts maintained in the state in which the law office is situated and no funds belonging to the lawyer or law firm shall be deposited therein except as follows:

(1) Funds reasonably sufficient to pay bank charges may be deposited therein.

(2) Funds belonging in part to a client and in part presently or potentially to the lawyer or law firm must be deposited therein, but the portion belonging to the lawyer or law firm may be withdrawn when due unless the right of the lawyer or law firm to receive it is disputed by the client, in which event the disputed portion shall not be withdrawn until the dispute is finally resolved.

(B) A lawyer shall:

(1) Promptly notify a client of the receipt of his funds, securities, or other properties.

(2) Identify and label securities and properties of a client promptly upon receipt and place them in a safe deposit box or other place of safekeeping as soon as practicable.

(3) Maintain complete records of all funds, securities, and other properties of a client coming into the possession of the lawyer and render appropriate accounts to his client regarding them.

(4) Promptly pay or deliver to the client as requested by a client the funds, securities, or other properties in the possession of the lawyer which the client is entitled to receive.

b. **Definitions.**¹ As used in the above Disciplinary Rules of the Code of Professional Responsibility:

(1) "Differing interest" include every interest that will adversely affect either the judgment or the loyalty of a lawyer to a client, whether it be a conflicting, inconsistent, diverse, or other interest.

(2) "Law firm" includes a professional legal corporation.

(3) "Person" includes a corporation, an association, a trust, a partnership, and any other organization or legal entity.

(4) "Professional legal corporation" means a corporation, or an association treated as a corporation, authorized by law to practice law for profit.

(5) "State" includes the District of Columbia, Puerto Rico, and other federal territories and possessions.

(6) "Tribunal" includes all courts and all other adjudicatory bodies.

(7) "A bar association representative of the general bar" includes a bar association of specialists as referred to in DR 2-105(A)(1) or (4).

Adopted Dec. 20, 1971.

¹"Confidence" and "secret" are defined in DR 4-101(A).

Sec. 9. Professional Misconduct

a. Professional misconduct consists of any of the following:

(1) Misconduct as specified in DR 1-102, Code of Professional Responsibility; and

(2) A violation of Art. 430, Penal Code (Barratry).

b. Professional Misconduct constitutes grounds for disciplinary action regardless of whether the act or acts in question may constitute an offense under the Penal Code of this State, and whether the accused member is being prosecuted for, or has been acquitted of the violation of the Penal Code.

c. Disbarment shall be compulsory as provided in Sec. 6 of Art. 320a-1 (State Bar Act).

d. The Code of Professional Responsibility is cumulative of all laws of the State of Texas relating to the professional conduct of lawyers and to the practice of law.

[Jan. 22, 1957; Dec. 20, 1971.]

Sec. 10. Four-year Limitation Rule and Exceptions

Except in cases where disbarment is compulsory under Section 9, no member shall be reprimanded, suspended, or disbarred for misconduct occurring more than four years prior to the time of filing of a complaint with the Grievance Committee; but limitation will not run where fraud or concealment is involved until such misconduct is discovered or should have been discovered by reasonable diligence. The complaint shall be considered as filed when made in writing to the Committee or any member thereof.

In cases where the accused attorney has been found guilty of professional misconduct,

evidence may be introduced after the close of the trial, relating to misconduct otherwise barred by limitation, for consideration in determining the punishment to be decreed.

[Jan. 22, 1957.]

Sec. 11. Complaints, Filing of

It shall be the duty of each District Grievance Committee and its members to receive complaints of professional misconduct, alleged to have been committed by an attorney within the district, or by an attorney having his office or residence therein; and each Committee member shall report to his committee any case of professional misconduct which shall come or be brought to his attention. The Committee may, in any case, require a sworn statement setting forth the matter complained of as a condition to taking further action.

[Jan. 22, 1957.]

Sec. 12. Complaints, Investigation of

The Committee shall make such investigation of each complaint as it may deem appropriate under the circumstances of the case, preliminary to taking action as set forth under Section 16. In conducting a hearing as a part of any investigation, the Committee may require testimony to be given under oath or affirmation. The name of the accused member and the proceedings shall be kept private, so far as is consistent with development of the facts. Where the complaint appears to be of such nature as will not call for disciplinary action and can probably be dismissed without the necessity of hearing the accused attorney, the Committee need not notify him of the filing of the complaint.

[Jan. 22, 1957.]

Sec. 13. Notices Issued to Witnesses

In any investigation or hearing before the Grievance Committee, it may require the attendance of witnesses and the production of documentary or other evidence by issuing notices to witnesses, ordering them to appear and testify or to produce said documentary or other evidence. Such notices shall be issued at the request of the Committee, or the accused attorney, but in the latter case without expense to the State Bar. Such notice must be in writing and signed by the presiding member of the Committee, and shall notify the witness of the time and place he is to appear. If the witness is commanded to produce documentary or other evidence, the notice shall contain a brief description of such evidence.

[Jan. 22, 1957.]

Sec. 14. Service of Notices to Witnesses

Notice to a witness shall be served on the witness personally or by mailing the same to him by registered mail, return receipt requested. Proof of service may be made by certificate of the person making the same, with return receipt attached when made by registered mail.

[Jan. 22, 1957.]

Sec. 15. Examination of Witness before District Judge; Procedure

If any witness, other than the accused attorney, after such notice has been given, fails or refuses to appear before the Committee, or to produce books, papers, documents, letters, or other evidence described in the notice, or refuses to be sworn, or testify, or if a witness is not a resident of, or is not to be found in, the county in which the hearing is being held, such witness shall be compelled by a Judge of any district court to appear and testify at a hearing before such judge in the same manner as witnesses may be compelled to appear and testify in a civil suit in the district court. Application for such hearing may be filed by any party to such proceeding in any district court of the county in which such witness resides or may be found. The judge shall fix by order a time and place for such hearing and shall provide for such notice to the Grievance Committee and the accused attorney as he deems proper. If such witness fails to appear, or testify, or produce such documentary or other evidence as may be requested, he shall be punished as in cases of contempt.

[Jan. 22, 1957.]

Sec. 16. Complaints, Action on, after Investigation

At the conclusion of its investigation, the Committee shall take action on the complaint in one of the following ways:

(a) If the Committee shall be of the opinion that no disciplinary action is warranted, it shall dismiss the complaint and notify the complainant, and the accused attorney also, if he shall have had notice of the complaint.

(b) If, in a case where the accused has had notice of the complaint and opportunity to be heard, the Committee shall decide that he should be reprimanded, the reprimand shall be reduced to writing. At its discretion, the Committee may require the accused to appear before it for delivery of the reprimand, or it may send a copy thereof to him by registered mail; and it shall determine what publicity, if any, shall be given the reprimand.

If the accused shall deem the reprimand unwarranted, he may, within ten days after delivery or mailing thereof, file suit in the district court of the county of his residence to set the same aside, failing which, the reprimand shall become final, and a copy thereof, together with a copy of the complaint, shall be mailed to the Clerk of the Supreme Court, also to the Secretary of the State Bar, and a memorandum of the reprimand shall be made on the membership rolls kept by said Clerk. At the discretion of the Committee, a third copy of the reprimand may be delivered to the Clerk of the District Court of the residence or office address of the attorney for entry upon the minutes of the court.

(c) If the Committee shall be of the opinion that the license of the accused should be revoked, or suspended for a period not to exceed three years, and shall have reason to believe the accused will accept its action as final, it shall prepare a form of judgment and submit the same to him; and upon his agreement to its entry, evidenced by memorandum in writing signed and acknowledged by him, the Committee shall enter judgment accordingly, and the same shall have the force and effect of a judgment of the District Court of the county of the residence of the accused. Copies of the judgment, together with copies of the complaint, shall be mailed to the Secretary of the State Bar, the Clerk of the Supreme Court, and the Clerk of the District Court of the county of residence of the accused, in the last case for entry upon the minutes of court. If the attorney's license has been revoked, the Clerk of the Supreme Court shall strike his name from the rolls; if suspended, the said Clerk shall strike the name from the rolls for the time suspended.

(d) In other cases, the Committee shall direct procedure by Formal Complaint as hereinafter set forth.

[Jan. 22, 1957.]

Sec. 17. Grievance Committee Forms, Style of

Grievance Committee papers may be commenced as follows:

BEFORE THE GRIEVANCE COMMITTEE OF
THE STATE BAR OF TEXAS FOR DISTRICT NO.

COMPLAINT AGAINST REPRIMAND
....., TEXAS.

[Jan. 22, 1957.]

Sec. 18. Reprimand, Form of

A reprimand should set forth the pertinent findings of fact and the conclusions of the Committee. It may state the reasons why no more severe action is taken and contain the warning that no leniency may be expected in event of future misconduct. It should show where copies thereof are to be filed, and what publicity, if any, shall be given thereto. It shall be signed as follows:

GRIEVANCE COMMITTEE OF THE STATE
BAR OF TEXAS FOR DISTRICT NO.

BY

The Chairman or any other member may sign for the Committee.

[Jan. 22, 1957.]

Sec. 19. Grievance Committee Judgment, Form of

A judgment of the Grievance Committee entered under Section 9(c) should in general follow the ordinary form of a court judgment. It may recite filing of the complaint and hearing thereon by the Committee, submission of the

form of judgment to the accused and his consent to its entry, pertinent findings of fact and the conclusion that by reason thereof the Committee finds the accused guilty of professional misconduct calling for his disbarment or suspension for the period stated, as the case may be. The order should be to the effect that license of the party to practice law in the State of Texas is thereby revoked, or suspended for the period stated, as the case may be, and that copies of the judgment be transmitted pursuant to Section 16(c). The judgment should be signed by the Chairman of the Committee.

[Jan. 22, 1957.]

Sec. 20. Consent to Grievance Committee Judgment, Form of

Consent to entry of judgment by the Grievance Committee under Section 16(c) should be addressed to the Committee and may be in form in substance as follows:

"In connection with charges of professional misconduct filed against me and heard by your Committee, I hereby consent to entry of judgment in the form submitted to me pursuant to Article XII, Section 16(c) of the State Bar Rules, revoking my license to practice law in the State of Texas (or suspending my license to practice law in the State of Texas for a period of)."

The consent shall be signed and acknowledged by the accused.

[Jan. 22, 1957.]

C. PROCEDURE BY FORMAL COMPLAINT

Sec. 21. Rules of Civil Procedure to Govern, Except When in Conflict

The Texas Rules of Civil Procedure shall govern the procedure in all proceedings under Formal Complaint except where in conflict with specific provisions hereof.

[Jan. 22, 1957.]

Sec. 22. When Regular Judge Is Disqualified

When the regular judge of the District is disqualified or recuses himself, the Presiding Judge of the Administrative Judicial District of the county of residence of the accused attorney shall appoint for trial of the case another District Judge of the Administrative Judicial District in accordance with the statutes relative to Administrative Judicial Districts.

[Jan. 22, 1957.]

Sec. 23. Counsel for Prosecution of Disciplinary Actions

The Committee may appoint counsel for the prosecution of disciplinary actions. Such counsel may be compensated from State Bar funds upon action by the Board of Directors, who may authorize payment of a retainer when the matter is first presented to them, and the remainder of the fee when counsel's services have been fully performed. Also, upon request made by the Committee to the District Attorney of the county in which the action is to be

tried, it shall be his duty to represent it in such actions, either alone or in association with counsel for the Committee, at the option of the Committee.

[Jan. 22, 1957.]

Sec. 24. Requisites of Formal Complaint

The Formal Complaint shall be the pleading by which the proceeding is instituted. The Formal Complaint shall be filed in the name of the STATE OF TEXAS as Plaintiff against the accused attorney as defendant and shall set forth the professional misconduct with which the defendant is charged. The prayer may be that the defendant be "disbarred, suspended, or reprimanded as the facts shall warrant."

[Jan. 22, 1957.]

Sec. 25. Answer of Defendant

The answer of the defendant to the Formal Complaint shall either admit or deny each allegation of the complaint, except where the defendant is unable to admit or deny the allegation, in which case defendant shall set forth the reasons why he cannot admit or deny.

[Jan. 22, 1957.]

Sec. 26. Amendment in Order to Include Additional Misconduct

To avoid multiplicity of actions, the Formal Complaint may be amended, by leave of the trial judge, at any time prior to the conclusion of the trial, to include additional misconduct coming to the attention of the Committee.

[Jan. 22, 1957.]

Sec. 27. Preferred Setting

Proceedings under Formal Complaint shall be entitled to preferred setting at the request of either party.

[Jan. 22, 1957.]

Sec. 28. Judgment

If the court shall find from the evidence in a case tried without a jury, or from the verdict of the jury, if there be one, that the defendant is guilty of no professional misconduct, he shall enter judgment so declaring and dismiss the complaint; but if he shall find the defendant guilty, he shall determine whether the party shall be (a) reprimanded, or (b) suspended from practice (in which case he shall fix the term of suspension), or (c) disbarred; and he shall enter judgment accordingly.

If the judgment be one finding the defendant guilty as aforesaid, it shall direct transmittal of certified copies of the judgment and complaint to the Secretary of the State Bar and the Clerk of the Supreme Court; and the latter shall make proper notation on the membership rolls.

[Jan. 22, 1957.]

Sec. 29. Costs Adjudged against Plaintiff

Any costs adjudged against the plaintiff shall be paid by the State Bar.

[Jan. 22, 1957.]

Sec. 30. Appeal. No Supersedeas

Either party to such proceeding shall have the right of appeal to the Court of Civil Appeals, but if the judgment appealed from be one suspending or disbarring the defendant, he shall not be entitled to practice law in any form while the appeal is pending, and he shall have no right to supersede the judgment by bond or otherwise.

[Jan. 22, 1957.]

Sec. 31. Plaintiff Exempt from Cost Bond

No cost bond shall be required of the plaintiff in any court in a proceeding under Formal Complaint. In lieu thereof, when cost bond would otherwise be required, memorandum shall be filed setting forth the exemption under this Rule.

[Jan. 22, 1957.]

D. REINSTATEMENT

Sec. 32. Petition for Reinstatement After Disbarment

At any time after the expiration of five years from the date of final judgment of disbarment of a member, he may petition the District Court of the county of his residence for reinstatement. The petition shall allege in substance that petitioner at the time of filing is of good moral character, and since his disbarment, has been living a life of generally good conduct, and that he has made full amends and restitution to all persons, if any, naming them, who may have suffered pecuniary loss by reason of the misconduct for which he was disbarred. The petition shall state the name and address of the Chairman of the District Grievance Committee and the name and address of the Secretary of the State Bar.

[Jan. 22, 1957.]

Sec. 33. Notice, Hearing and Judgment

The court shall examine the petition and, if satisfied that it states sufficient grounds to authorize reinstatement under these rules, shall fix by order endorsed on the petition a time and place for a hearing, and shall direct the clerk to serve each of the parties required to be named in the petition, by mailing to each of them by registered mail, return receipt requested, a certified copy of such petition and order. Thereafter, in term time or vacation, after the expiration of not less than fifteen days from the date of mailing of such notices, the court shall proceed without the aid of a jury to hear testimony both for and against the petitioner. Any of the parties named in such petition may contest the granting of such petition and may introduce evidence in opposition. If the court is satisfied that all the material allegations in the petition are true and that the ends of justice will be subserved, the court may reinstate the petitioner and enter judgment accordingly.

No judgment of reinstatement shall be entered by default, but the court in all cases shall hear evidence on such petition before

rendering judgment. Either party to such hearing shall have the right of appeal from the judgment as provided in this Article. After final judgment granting reinstatement, the petitioner shall furnish both the Clerk of the Supreme Court and the Secretary of the State Bar a certified copy of such judgment, and shall pay all membership dues for the current fiscal year. His name, as a member of the State Bar, shall be entered then on the rolls of the Clerk of the Supreme Court.

[Jan. 22, 1957.]

E. MENTAL INCOMPETENCE

Sec. 34. Suspension and Reinstatement

The license to practice of any member who is mentally unfit and attempting to conduct the practice of law, may be suspended as provided in this rule:

a. Grounds for suspension. The license to practice of any member shall be suspended upon a finding that the member: (1) has been judicially declared to be mentally incompetent, or (2) is mentally unfit to practice law and that such member is attempting to conduct the practice of law.

b. Procedure. The procedure for suspension under this rule is the same procedure provided for the discipline of members for professional misconduct, subject to the following provisions:

(1) A member not represented by counsel shall be represented by counsel appointed by the Court.

(2) Suspension under this rule shall not be for a definite period of time but shall be until the member is reinstated in accordance with the provisions of this rule.

(3) Disciplinary proceedings may not be instituted or maintained against a member while his license to practice is suspended under this rule, provided, however, the period of limitations specified in Section 10 is tolled during the time such suspension is in effect.

c. Reinstatement. A member whose license to practice has been suspended under this rule may be reinstated upon application, as follows:

(1) Application. Application for reinstatement shall be by written petition, verified and filed in the District Court of the county of residence of the applicant or in the District Court that suspended the applicant's license to practice. The application shall state the name, age, residence and address of the applicant, the court in which he was suspended together with the number and style of that case, a detailed description of applicant's activities since suspension including the

facts of any employment, the details concerning hospitalization and medical treatment of applicant since his suspension, the facts and circumstances that in the opinion of applicant entitle him to be reinstated, and any other matters believed by applicant to be relevant to his application. The application shall also state the name and address of the Chairman of the District Grievance Committees where he presently resides and where his license to practice was suspended and the name and address of the Executive Director of the State Bar.

(2) Supporting documents. If the applicant has been restored to competency by an order of a court of competent jurisdiction, a certified copy of the order shall accompany his application. If applicant has been treated by a physician with respect to matters involved in his suspension, a letter from the physician concerning the current condition of the applicant shall accompany his application. An applicant who is unable to supply a supporting document required by this rule shall satisfy the court that applicant in good faith and with due diligence attempted to supply the supporting document.

(3) Time for filing application. An applicant's first application for reinstatement may be filed at any time after his license to practice has been suspended under the rule. If the first application is denied after a hearing on its merits, a second application for reinstatement may be filed at any time after the expiration of six months from the date of denial of the first application. Subsequent applications shall not be filed until after the expiration of one year from the date of denial on its merits of the next proceeding application.

(4) Notice, hearing and judgment. The procedure for reinstatement under this rule is the same as provided in Section 33 of Article XII of the State Bar Rules.

[Dec. 20, 1971.]

F. MISCELLANEOUS PROVISIONS

Sec. 35. Non-liability of State Bar and Its Members

Neither the State Bar nor its Grievance Committee or any member thereof shall be liable to any member of the State Bar, or to any other person charged or investigated by said Committees, for any damages incident to such investigation, or any complaint, charge, prosecution, proceeding, or trial.

[Jan. 22, 1957.]

Sec. 36. Expense of Grievance Committees

All traveling expenses, court costs, and all other expenses reasonably incurred in the discharge of the duties of the Grievance Committees, and of individual members thereof, when approved by the Chairman of the Committee and the Secretary of the State Bar, shall be paid out of the State Bar funds, after filing of itemized statement thereof with the Secretary.

Clerks of court, sheriffs, and other officers shall receive the same fee for their services in carrying out the applicable provisions of these rules as such officers would receive if performing similar services in connection with other suits.

[Jan. 22, 1957.]

**ARTICLE XIII. UNAUTHORIZED
PRACTICE OF LAW**

Order of the Supreme Court dated December 20, 1971, amended Articles XII and XIII by promulgating a new Code of Professional Responsibility in Section 8 of Article XII, consisting of nine Canons of Ethics, to replace the forty-three canons appearing in Article XIII, Section 3, and by making other changes in these articles in conformity therewith.

Article XIII incorporates the provisions of former sections 34 and 37 to 41 of Article XII.

A. GRIEVANCE COMMITTEE MAY ACT

It shall be the duty of each Grievance Committee and its members to receive complaints of unauthorized practice of the law by laymen and lay agencies, and the participation of attorneys therein. In each case, the Committee shall make such investigation as it deems appropriate, in which connection it shall have the benefit of Sections 13, 14 and 15.

Each Grievance Committee may institute and prosecute suits or proceedings to suppress, prohibit, or prevent such unauthorized practice, or take such other action as it may deem advisable. Authority to file suit in the name of the Committee may be conferred by resolution adopted at a meeting, or without a meeting, by individual authorization of a majority of the members. Section 23, with reference to representation by counsel, shall also apply in unauthorized practice suits or proceedings, but nothing herein shall be construed as requiring procedure by Formal Complaint, except in actions against attorneys seeking suspension or disbarment.

The Board of Directors may from time to time employ a suitable person or persons to make investigation of the unauthorized practice of law, or of the participation of attorneys therein, or to perform such other duties as the Board may require, such persons to receive compensation as fixed by the Board.

These rules shall be cumulative of all other laws relating to the unauthorized or the unlaw-

ful practice of the law, and nothing herein shall be construed as affecting the right of any lawyer or group or association of lawyers to sue on behalf of the profession.

**B. UNAUTHORIZED PRACTICE
COMMITTEE****Sec. 37. Unauthorized Practice Committee,
Appointment of**

The President shall appoint an Unauthorized Practice Committee of the State Bar, to consist of seven members who, except as herein provided, shall serve for a term of three years, beginning with the adjournment of the annual meeting of the State Bar, all members of the Committee being eligible to re-appointment. The President shall designate each year which member shall act as Chairman. A majority of the Committee shall constitute a quorum.

Since the Committee as constituted at present consists of nine members with staggered terms of three years, the President, in making the first appointment after this amended rule has been adopted and become effective, shall appoint but one member. The following year, the President shall appoint one member for a two-year term and two for three-year terms, to the end that thereafter the terms of no fewer than two or more than three members shall expire each year.

**Sec. 38. Unauthorized Practice Committee,
Functions of**

The Unauthorized Practice Committee shall keep itself and the State Bar informed with respect to the unauthorized practice of the law by laymen and lay agencies and the participation of attorneys therein, and concerning methods for the prevention thereof. The Committee shall seek the elimination of such unauthorized practice by such action and methods as may be appropriate for that purpose, including the cooperation with, and advice and assistance to, the Grievance Committee and to Bar association committees.

**Sec. 39. Unauthorized Practice Committee,
Suits by**

The Unauthorized Practice Committee shall have concurrent jurisdiction with the Grievance Committees so far as concerns institution of unauthorized practice suits and proceedings, as set forth under the State Bar Rules, and authority to file suit in the name of the Committee may be conferred by resolution adopted at a meeting, or without a meeting, by individual authorization of a majority of the members.

Sec. 40. Conferences with Lay Groups

Conferences with representatives of lay groups, whose activities may approach the practice of law, for the purpose of promoting the cooperation of such groups shall be under the supervision of the Unauthorized Practice Committee. Upon request by the Chairman, the President shall appoint a special Conference

Committee for conference with a specific lay group. Any Statements of Principles (or Policies) entered into in such conferences, along the line of those promulgated by National Conference Committees, shall be entered into subject to the approval of the Board of Directors.

Sec. 41. Application of Miscellaneous Provisions to Unauthorized Practice Committee

The Miscellaneous Provisions of Article XII of the State Bar Rules (Sections 35 and 36) shall apply also with respect to the Unauthorized Practice Committee and its operations.

TITLE 15

ATTORNEYS—DISTRICT AND COUNTY

1. DISTRICT ATTORNEYS

- | Article | Article |
|---|--|
| 321. Term of Office. | 326k-12. Counties of 70,000 to 220,000 and 39,000 to 50,000 and McLennan County; Assistants, Investigators and Stenographer; Automobile. |
| 322. Districts Shall Elect. | 326k-13. 7th Judicial District; Abolition of District Attorney's Office. |
| 322a. Repealed. | 326k-14. 53rd Judicial District; District Attorney, Assistants and Personnel. |
| 322a-1. 26th Judicial District Attorney. | 326k-15. 79th Judicial District; District Attorney, Assistants and Stenographer. |
| 322b. 6th Judicial District; Abolition of District Attorney's Office; Stenographer. | 326k-16. 106th Judicial District; Assistants, Investigators and Stenographer. |
| 322c. 66th Judicial District Attorney. | 326k-17. Repealed. |
| 323. Bond. | 326k-18. 51st and 119th Judicial Districts; Assistants, Investigators and Stenographer. |
| 324. City of 39,000 to 49,000 in Judicial District of 3 or More Counties; Assistant, Investigator and Stenographer. | 326k-19. Stenographer in Districts of Two or More Counties. |
| 324a. Counties of 37,500 to 100,000; Appointment and Payment of Deputies or Assistants. | 326k-20. 100th Judicial District; Stenographer. |
| 324b. County over 70,000, Judicial District of More Than One County; Assistant and Investigator. | 326k-21. 27th Judicial District; Assistant and Stenographer. |
| 325. 6th Judicial District; Assistant. | 326k-22. Smith County Criminal District Attorney. |
| 325a. 8th Judicial District; Compensation of District Attorney. | 326k-23. Brazoria County Criminal District Attorney. |
| 325b. 31st or 8th Judicial District; Compensation of District Attorney. | 226k-24. 109th Judicial District; Compensation of District Attorney. |
| 326. Hudspeth and Culberson Counties; Payments to El Paso County. | 326k-25. 30th Judicial District; Compensation of District Attorney. |
| 326a. Repealed. | 326k-26. Harris County District Attorney for Criminal District Court. |
| 326b. 34th Judicial District; Assistants, Stenographers, Etc. | 326k-27. 118th Judicial District; Investigator and Adult Probation Officer. |
| 326c, 326d. Repealed. | 326k-28. Galveston County Criminal District Attorney. |
| 326e. 34th Judicial District; Use of Funds from El Paso County. | 326k-29. 105th Judicial District; Compensation of District Attorney. |
| 326f. Counties over 150,000 Having County Attorney; District Attorney, Assistants, Investigators and Stenographer. | 326k-29a. 105th Judicial District; Compensation of District Attorney. |
| 326g. Counties over 150,000 Having No County Attorney; Assistants, Investigators and Stenographers; Automobiles. | 326k-30. Midland County Special Judicial District; Investigator and Stenographer. |
| 326h. City of 50,000 or More in Judicial District of More Than One County; Assistants. | 326k-30a. 142nd Judicial District of Midland County; Assistants, Investigators and Stenographers; Compensation of District Attorney. |
| 326i. Counties of 22,000 or More; Assistants and Investigators. | 326k-31. 109th Judicial District; Investigators or Assistants. |
| 326j. Repealed. | 326k-32. Cass County Criminal District Attorney. |
| 326k. 90th Judicial District; District Attorney and Stenographer. | 326k-33. Harrison County Criminal District Attorney. |
| 326k-1. Criminal District Attorney in Counties Constituting Three or More Judicial Districts. | 326k-34. Repealed. |
| 326k-2. Unconstitutional. | 326k-35. 70th and 161st Judicial Districts; Compensation of District Attorney. |
| 326k-3. Judicial District of Five or More Counties of 98,740 to 98,750; District Attorney and Assistant. | 326k-36. Randall County Criminal District Attorney. |
| 326k-4. 7th Judicial District; Compensation of District Attorney. | 326k-36a. 47th Judicial District; Compensation of District Attorney; Assistants and Investigators. |
| 326k-5. 12th Judicial District; Compensation of District Attorney. | 326k-37. 70th Judicial District; Assistants, Investigators and Stenographers. |
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| 326k-6. Investigators of District or County Attorneys; Powers of Arrest and Process; Responsibility. | 326k-38a. 49th Judicial District; Compensation of District Attorney; Assistants, Investigator and Stenographer. |
| 326k-7. Repealed. | 326k-39. Repealed. |
| 326k-8. Counties Under 25,000 with Tax Valuation Over \$75,000,000; Assistant District Attorney. | 326k-40. 30th Judicial District; Assistants, Investigators and Stenographers. |
| 326k-9. Counties of 75,001 to 77,100 and 30,900 to 30,950; Criminal District Attorney. | 326k-41. 121st Judicial District Attorney. |
| 326k-10. Districts of One County of 50,500 to 55,000 with Tax Value Over \$70,000,000; Assistants and Stenographer. | 326k-41a. 121st Judicial District; Assistants, Investigators and Stenographer. |
| 326k-11. County Attorneys Designated Criminal District Attorneys. | 326k-42. Roberts County District Attorney. |
| | 326k-43. 27th Judicial District; Compensation of District Attorney. |

Article

- 326k-43a. 27th Judicial District; Assistants, Investigators and Stenographers; Compensation of District Attorney.
- 326k-44. Borden County District Attorney.
- 326k-45. 24th Judicial District; Compensation of District Attorney; Assistants; Investigators and Stenographers.
- 326k-45a. Calhoun County Criminal District Attorney.
- 326k-46. 38th and Second 38th Judicial Districts; Compensation of District Attorney.
- 326k-47. 23rd Judicial District; Compensation of District Attorney.
- 326k-48. 81st Judicial District; Compensation of District Attorney.
- 326k-48a. 81st Judicial District; Stenographer or Clerk.
- 326k-49. 1st Judicial District; Compensation of District Attorney.
- 326k-49a. 112th Judicial District; Compensation of District Attorney.
- 326k-50. Bexar County Criminal District Attorney.
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- 326k-52. 64th Judicial District; Stenographer.
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- 326k-54. 118th Judicial District; Stenographer.
- 326k-55. 36th Judicial District; Compensation of District Attorney.
- 326k-56. 19th, 54th, 74th and 170th Judicial Districts; Compensation of District Attorney.
- 326k-56a. 75th Judicial District; Compensation of District Attorney.
- 326k-57. 25th Judicial District; Compensation of District Attorney.
- 326k-58. Bowie County Criminal District Attorney.
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- 326k-60. 88th Judicial District; Stenographer.
- 326k-60a. 88th Judicial District; Compensation of District Attorney.
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- 326k-62. 42nd and 104th Judicial Districts; Criminal District Attorney.
- 326k-63. Navarro County Criminal District Attorney.
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- 326k-65. 22nd Judicial District; Assistants and Employees.
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- 326k-67. Collin County Criminal District Attorney.
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- 326k-70. 84th Judicial District; Appointment and Compensation of Assistant.
- 326k-71. Kaufman County Criminal District Attorney.
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- 326l. 72nd Judicial District; Assistant District Attorney.
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- 326m. Districts of 5 Counties with Population of 74,427 to 74,428.
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- 326p. Repealed.
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2. COUNTY ATTORNEYS

Article

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330. Bond.
331. Assistants.
- 331a. County of 100,000 to 150,000 with City over 75,000; Assistants and Stenographer.
- 331b. Counties of 49,600 to 49,700; Assistants to County Attorney Performing Duties of District Attorney.
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- 331c. Counties of 37,500 to 100,000 Having No District Attorney; Fees; Assistants and Stenographer.
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- 331h. County Attorney of Harris County.
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3. GENERAL PROVISIONS

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- 332c. Representation of County Officials and Employees by District, County or Private Attorneys.
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1. DISTRICT ATTORNEYS

Art. 321. Term of Office

District Attorneys and criminal district attorneys shall hold office for the term of two years.

[Acts 1925, S.B. 84.]

Increase in Terms of Office

Const. art. 5, § 21 was amended in November 1954 to increase the terms of office of County Attorneys and District Attorneys from two to four years.

Const. art. 5, § 30 was added in November 1954 to increase the terms of office for all Judges of all courts of county-wide jurisdiction and of all Criminal District Attorneys from two to four years.

Art. 322. Districts Shall Elect

Sec. 1. The following Judicial Districts in this state shall each respectively elect a District Attorney, viz.: 1st, 2nd, 3rd, 5th, 7th, 8th, 9th, 12th, 21st, 22nd, 23rd, 24th, 25th, 27th, 29th, 30th, 31st, 32nd, 33rd, 34th, 35th, 36th, 38th, 39th, 46th, 47th, 49th, 50th, 51st, 52nd, 53rd, 63rd, 64th, 69th, 70th, 72nd, 75th, 76th, 79th, 81st, 83rd, 90th, 100th, and 106th.

Sec. 2. There shall also be elected a Criminal District Attorney for Harris County, a Criminal District Attorney for Dallas County, a Criminal District Attorney for Tarrant County, one Criminal District Attorney for the Counties of Nueces, Kleberg, Kenedy, Willacy, and Cameron, and one Criminal District Attorney for the Counties of Callahan, Jones, and Taylor.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 222, ch. 151; Acts 1933, 43rd Leg., p. 74, ch. 43; Acts 1933, 43rd Leg., Spec.L., p. 150, ch. 107; Acts 1943, 48th Leg., p. 457, ch. 306, § 1; Acts 1963, 58th Leg., p. 1312, ch. 501, § 12, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1203, ch. 538, § 2, eff. Aug. 28, 1967.]

Art. 322a. Repealed by Acts 1971, 62nd Leg., p. 2338, ch. 707, § 7, eff. Aug. 30, 1971

See, now, articles 322a-1 and 326k-14.

Art. 322a-1. 26th Judicial District Attorney

Sec. 1. The office of district attorney for the 26th Judicial District is established.

Sec. 2. The district attorney for the 26th Judicial District shall represent the State in all criminal cases in the district court for the 26th Judicial District and perform other duties provided by law governing district attorneys.

Sec. 3. The district attorney shall receive compensation for his services in an amount as may be fixed by the general law relating to the salaries paid to district attorneys by the State.

Sec. 4. On or as soon as possible after the effective date of this Act, the Governor shall appoint a district attorney for the 26th Judicial District, who shall serve until January 1 following the next general election and until his successor is elected and has qualified. Thereafter, a district attorney shall be elected every four years for a four-year term beginning January 1 following his election.

Sec. 5. The district attorney, with the approval of the Commissioners Court of Williamson County, may appoint assistants, investigators, and office personnel as he deems necessary. The salary of each person appointed shall be set by the district attorney with the approval of the Commissioners Court.

Sec. 6. The salary of each person appointed by the district attorney and the other operating expenses of the office of district attorney shall be paid from county funds by the Commissioners Court of Williamson County.

[Acts 1971, 62nd Leg., p. 2338, ch. 707, §§ 1 to 6, eff. Aug. 30, 1971.]

Art. 322b. 6th Judicial District; Abolition of District Attorney's Office; Stenographer

The office of District Attorney in the Sixth Judicial District of Texas is hereby abolished

and the County Attorney of each county composing said district, to wit: Fannin and Lamar Counties, shall represent the State of Texas in all matters wherein the State of Texas is a party in his respective county and shall receive such fees and compensation for his services as is now, and may hereafter, be provided by General Laws of the State of Texas; and provided further that each said County Attorney may employ a stenographer by and with the consent of the Commissioners Court of his county, to be paid such salary from county funds as shall be fixed by order of the Court.

[Acts 1926, 39th Leg., 1st C.S., p. 11, ch. 6, § 1; Acts 1941, 47th Leg., p. 419, ch. 248, § 1.]

Art. 322c. 66th Judicial District Attorney

Sec. 1. There is hereby created the office of District Attorney in the 66th Judicial District of Texas composed of Hill County, created by House Bill No. 487, Acts 1905, Twentieth¹ Legislature, Regular Session, page 37, as amended.²

Sec. 2. There shall be elected at the next general election after the effective date of this Act and at each general election thereafter a District Attorney for the 66th Judicial District of Texas composed of Hill County, who shall represent the State of Texas in all criminal cases in the 66th District Court and perform such other duties as are or may be provided by law governing District Attorneys and he shall receive such compensation as is allowed by law to other District Attorneys in this State. The Governor shall appoint a qualified licensed attorney to serve as District Attorney for the 66th Judicial District from September 1, 1949, until the next general election and until his successor is duly elected and qualified.

[Acts 1949, 51st Leg., p. 688, ch. 360.]

¹ Should read "Twenty-ninth".

² See article 199, subd. 66.

Art. 323. Bond

Each district attorney, before entering on the duties of his office, shall give bond, payable to the Governor in the sum of five thousand dollars, with two or more good and sufficient sureties, to be approved by the district judge of their respective districts, conditioned that such district attorney will faithfully pay over, in the manner prescribed by law, all money which he may collect or which may come to his hands for the State or for any county. Such bond shall be deposited in the office of the Comptroller.

[Acts 1925, S.B. 84.]

Art. 324. City of 39,000 to 49,000 in Judicial District of 3 or More Counties; Assistant, Investigator and Stenographer

Sec. 1. In any Judicial District of this State consisting of three (3) or more Counties, in which there is situated a City of not less than thirty-nine thousand (39,000) inhabitants and not more than forty-nine thousand (49,000) inhabitants, according to the last preceding Federal Census, the District Attorney shall appoint one (1) Assistant District Attorney, provided

that the District Attorney shall furnish data to the County Judge of the County in which said above-mentioned City is located that he is in need of an Assistant and is himself unable to attend to all the duties required of him by law and that it is necessary and to the best interests of the State that an Assistant District Attorney be appointed. Said Assistant District Attorney so appointed shall be a qualified resident of the District in which said appointment is made and shall give bond and take the official oath; the said Assistant District Attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the District Attorney under the laws of this State; said appointment shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one (1) month. Said Assistant District Attorney shall be paid by the County in which said above-mentioned City is located for the time of actual service rendered at the rate of Three Thousand Dollars (\$3,000) per annum, in twelve (12) equal monthly installments out of the County Funds by warrants drawn upon such County Funds. Said sum shall be paid upon certificate of the District Attorney of said District, that said Assistant District Attorney of said District has performed his duties and is entitled to pay. The District Attorney of any such District, at any time he deems said Assistant unnecessary or finds that he is not attending to his duties as required by law, may remove said person from office by merely writing to said County Judge to that effect.

Sec. 2. Said District Attorney is hereby authorized, with the consent of the County Judge and the Commissioners Court of the County where said City of between thirty-nine thousand (39,000) and forty-nine thousand (49,000) population is located, to appoint one (1) Assistant in addition to his legal assistant provided for in this Act, which Assistant shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said Assistant shall be known as Special Investigator, and who shall perform such duties as may be assigned to him by the District Attorney and who shall receive as compensation a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Said Special Investigator shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Sec. 3. The District Attorney is hereby authorized with the consent of the County Judge and the Commissioners Court to appoint one (1) stenographer who may or who may not possess the qualifications prescribed by law for District and County Attorneys, and who shall perform the necessary stenographic work as

may be assigned to him by the District Attorney, and who shall receive as compensation a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, payable monthly out of the County Funds by warrants drawn on such County Funds.

Sec. 4. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute books, but shall be cumulative thereof, and providing further shall be cumulative of all laws not in conflict with the provisions hereof.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 32, ch. 23, § 1; Acts 1929, 41st Leg., p. 529, ch. 254, § 1; Acts 1931, 42nd Leg., p. 232, ch. 137, § 1; Acts 1941, 47th Leg., p. 384, ch. 215, § 1; Acts 1947, 50th Leg., p. 49, ch. 38, § 1.]

Art. 324a. Counties of 37,500 to 100,000; Appointment and Payment of Deputies or Assistants

The provision of this Act¹ relating to the appointment and payment of deputies, or assistants, by the county attorneys and the district attorneys, in counties having a population in excess of one hundred thousand inhabitants, shall also apply to counties where one county composes a judicial district, and the population of the county is more than thirty-seven thousand five hundred, and less than one hundred thousand inhabitants, as shown by the last United States Census, and counties where the county attorney performs the duties of the county attorney and district attorney, as provided by law.

[Acts 1925, S.B. 84.]

¹ Probably refers to art. 3902.

Art. 324b. County over 70,000, Judicial District of More Than One County; Assistant and Investigator

In any judicial district in this State consisting of more than one county in which there may be a county having a population in excess of 70,000 inhabitants, according to the last census of the United States, and according to any United States census which may hereafter be taken, the district attorney of each district in connection with and for the purpose of conducting his office in such county shall be and is hereby authorized, with the approval of the county commissioners court of such county to appoint one assistant district attorney, who shall receive a salary to be fixed by said commissioners court of such county, not to exceed \$2400.00 per annum. Such district attorney shall likewise be authorized, with the approval of such county commissioners court of such county, to appoint one special investigator, at a salary to be fixed by said commissioners court, not to exceed \$2400.00 per annum. The salary of such assistant and special investigator, above provided for, shall be paid by the county having a population of more than 70,000, by warrant drawn on the general funds thereof, all salaries payable monthly.

The assistant district attorney above provided for, when appointed, shall take the oath of office and be authorized to represent the

State in any court or proceeding in said county in which such district attorney is, or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and such assistants and special investigators shall be subject to removal at the will of said district attorney. Said assistant district attorney shall be authorized to perform any official act devolving upon or authorized to be performed by such district attorney in said county, this Article is not intended to repeal any other law now existing, but is cumulative thereof.

[Acts 1925, S.B. 84.]

Art. 325. 6th Judicial District; Assistant

The district attorney of the Sixth Judicial District of Texas is hereby authorized to appoint an assistant district attorney, whose qualifications and authority shall be the same as now required by law for district attorneys, and he shall take the oath and execute the bond required by law. Said assistant shall receive a salary of not exceeding two thousand dollars per year to be paid out of excess fees of said office as the same accrue under the law.

[Acts 1925, S.B. 84.]

Abolition of office

Acts 1926, 39th Leg., 1st C.S., p. 11, ch. 6, § 1, abolished the office of district attorney of the Sixth Judicial District. See article 322b.

Art. 325a. 8th Judicial District; Compensation of District Attorney

The salary of the District Attorney for the 8th Judicial District of Texas composed of the Counties of Hunt, Hopkins, Delta and Rains shall be \$4,000.00 per year, and shall be paid by the State in monthly installments upon warrants drawn by the Comptroller of Public Accounts.

[Acts 1929, 41st Leg., p. 537, ch. 260, § 1.]

Art. 325b. 31st or 8th Judicial District; Compensation of District Attorney

The District Attorney of the 31st Judicial District or the 8th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising such Districts, or any one or more of such Commissioners Courts; providing, however, that the total salary of each of such District Attorneys shall not be supplemented to exceed the salary paid to the highest paid County Attorney of any county in the said 31st Judicial District or the said 8th Judicial District or the sum of Eleven Thousand Dollars (\$11,000), whichever is highest. The Commissioners Courts of the counties comprising said Districts, or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above.

[Acts 1961, 57th Leg., p. 524, ch. 251, § 1.]

Art. 326. Hudspeth and Culberson Counties; Payments to El Paso County

The commissioners courts of Hudspeth and Culberson Counties shall pay to El Paso County the sum of One Hundred Dollars each per month, to be used by El Paso County as provided in Section 6, Chapter 9, General Laws, Acts of the 39th Legislature, 1st Called Session, 1926.¹

[Acts 1925, S.B. 84; Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(b), eff. Sept. 1, 1969.]

¹ Article 326e.

Art. 326a. Repealed by Acts 1973, 63rd Leg., p. 121, ch. 60, § 3, eff. April 26, 1973

See, now, art. 326b.

Art. 326b. 34th Judicial District; Assistants, Stenographers, Etc.

Sec. 1. The District Attorney of the 34th Judicial District shall represent the State of Texas in all criminal cases before all the District Courts of the 34th Judicial District and all District Courts having jurisdiction in El Paso County, Texas.

Sec. 2. The District Attorney in connection with, and for the purpose of conducting his office in the 34th Judicial District may appoint two First Assistant District Attorneys, or one First Assistant District Attorney and one First Assistant Administrative District Attorney, and such other Assistant District Attorneys as shall be necessary to the proper performance of his official duties. The number of Assistants to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of El Paso County, Texas. The First Assistant District Attorneys, and other Assistant District Attorneys, shall be duly licensed to practice law in the State of Texas and shall be authorized to perform any official act devolving upon or authorized to be performed by the District Attorney, under the direction of the District Attorney, and shall be subject to removal at the will of the District Attorney.

Sec. 3. The District Attorney of the 34th Judicial District may appoint as many stenographers, secretaries, investigators, and other office personnel as shall be necessary to the proper performance of his official duties. The number of office personnel shall be with the approval of the Commissioners Court of El Paso County, Texas.

Sec. 4. The District Attorney of the 34th Judicial District and all Assistant District Attorneys of the District Attorney and investigators of the 34th Judicial District shall be compensated in accordance with the salary provision set out in Section 1, Chapter 12, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 3886h, Vernon's Texas Civil Statutes). Office personnel of the office of the District Attorney shall be compensated in an amount determined by the Commissioners Court of El Paso County, Texas.

[Acts 1926, 39th Leg., 1st C.S., p. 14, ch. 9, § 3; Acts 1971, 62nd Leg., p. 2496, ch. 818, § 2, eff. June 8, 1971,

Acts 1973, 63rd Leg., p. 126, ch. 60, § 2, eff. April 26, 1973.]

Arts. 326c, 326d. Repealed by Acts 1973, 63rd Leg., p. 121, ch. 60, § 3, eff. April 26, 1973

See, now, art. 326b.

Art. 326e. 34th Judicial District; Use of Funds from El Paso County

El Paso County is hereby authorized to set aside each year a sum to be approved by the commissioners court to be expended by said district attorney in preparation and conduct of criminal affairs of said office and all sums of money now required by Article 326, Revised Civil Statutes of Texas, 1925, to be paid by Hudspeth and Culberson Counties to El Paso County shall be paid into the fund provided for in this Article and shall be used as directed. This fund to be expended upon sworn claims of said district attorney and approved by the commissioners court of El Paso County.

[Acts 1926, 39th Leg., 1st C.S., p. 14, ch. 9, § 6; Acts 1969, 61st Leg., p. 2299, ch. 776, § 1(c), eff. Sept. 1, 1969.]

Art. 326f. Counties over 150,000 Having County Attorney; District Attorney, Assistants, Investigators and Stenographer

Compensation of District Attorney

Sec. 1. In any county having a population in excess of 150,000 inhabitants, according to the last census of the United States and according to any United States census which may hereafter be taken and having a county attorney, the district attorney of such county shall receive a salary of five hundred dollars from the State of Texas, as provided in the Constitution of the State of Texas, and all fees, commissions and perquisites earned by such office; provided, that the amount of said salary, fees, commissions and perquisites to be so received and retained by him, shall not exceed the sum of ten thousand dollars in any one year, and provided further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of said salary during each and every fiscal year shall be paid into the county treasury of said county in accordance with the terms and provisions of the Maximum Fee Bill¹, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, assistants, stenographers, investigators or other employees and incidental expenses of such office, as hereinafter provided.

Assistants, Stenographer, Investigators; Appointment, Powers and Salary

Sec. 2. Such district attorney, in connection with and for the purpose of conducting his office in such county, shall be and is hereby authorized to appoint seven assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum, three of whom shall receive a salary not to exceed thirty-six hundred dollars per annum each; two of whom shall receive a salary not to exceed three thousand dollars per annum each, one of whom shall receive a salary

not to exceed twenty-eight hundred dollars per annum, all salaries payable monthly. He shall also be authorized to employ one stenographer, who shall receive a salary not to exceed two thousand five hundred dollars per annum, and one stenographer who shall receive a salary not to exceed two thousand dollars per annum, payable monthly. He shall also be authorized to employ four investigators, one of whom shall receive a salary not to exceed three thousand dollars per annum, and the others shall receive a salary of not to exceed twenty-two hundred dollars per annum, payable monthly. Said investigators shall have the power and shall be authorized to make arrests and to execute all processes in criminal cases. The salaries of assistants, deputies, stenographers and investigators, and other employes above provided for, shall be paid by said county by warrant drawn from the general funds thereof.

Additional Assistants and Employees; Appointment and Salary

Sec. 3. Should such district attorney be of the opinion that the number of deputies, assistants, stenographers, investigators or other employes above provided for are insufficient or inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may appoint such additional assistants and employes, and fix their salaries, provided such salaries shall in no event exceed the maximum provided herein to be paid to such assistants or other employes, but such additional assistants and employes, so appointed, before qualifying and entering upon the duties of such office and employment, shall be confirmed by the commissioners' court of the county court in which such appointments are made.

Payment of Salaries

Sec. 4. The salaries for the additional assistants and employes, as hereinabove provided for herein, shall be paid monthly out of the excess fees collected by such district attorney and his office, which would otherwise go to said county, a detailed itemized statement under oath of which he shall include in his annual report, as provided to be made in the Maximum Fee Bill; and in no event shall said county be liable for the salaries of such additional assistants or employes.

Authority and Removal of Assistants, Etc.

Sec. 5. The assistant district attorneys above provided for, when appointed, shall take the oath of office and be authorized to represent the State in any court or proceeding in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and such assistants, deputies, stenographers, investigators and employes, whether regular or additional, shall be subject to removal at the will of said district attorney. Each of said assistant district attorneys shall be authorized to perform any official act devolving upon or authorized to be performed by such district attorney in said county.

Application of Act

Sec. 7. The provisions of this Act² shall apply to every district attorney within the State of Texas, within counties of a population of more than 150,000 inhabitants and having a county attorney, to be determined as above provided, whether the said district attorney be of and for a judicial district called and known by number, or whether called and known as a criminal judicial district, or whether of and for any court called or known as a criminal district court; and whether such district attorney be called and known as a district attorney or a criminal district attorney, or a criminal district attorney of any named county or court.

[Acts 1927, 40th Leg., p. 93, ch. 67.]

¹ Article 3883 et seq.

² This article and Vernon's Ann.C.C.P.1925, art. 367b (see, now, art. 19.36).

Art. 326g. Counties over 150,000 Having No County Attorney; Assistants, Investigators and Stenographers; Automobiles

Assistants, Stenographers, Investigators; Appointment and Salaries

Sec. 1. That in any county having a population in excess of 150,000 inhabitants, according to the last census of the U. S., and according to any U. S. census which may be hereafter taken, and in which there is no county attorney, the district attorney or criminal district attorney may appoint 7 assistant district attorneys, one of whom shall receive a salary not to exceed forty-eight hundred dollars per annum; one of whom shall receive a salary not to exceed forty-two hundred dollars per annum; one of whom shall receive a salary not to exceed thirty-six hundred dollars per annum; two of whom shall receive a salary not to exceed three thousand dollars per annum each; two of whom shall receive a salary not to exceed twenty-four hundred dollars per annum each. He may employ two stenographers, who shall receive a salary not to exceed two thousand four hundred dollars per annum each. He may employ three investigators who shall receive a salary not to exceed two thousand four hundred dollars per annum each. The salaries of assistants, stenographers and investigators, and other employees, above provided for, shall be paid monthly by said county, by warrant drawn from the general funds thereof.

Additional Assistants and Employees; Appointment and Salaries

Sec. 2. Should such district attorney be of the opinion that the number of deputies, assistants, stenographers, investigators or other employees above provided for are inadequate for the proper investigation of crime and the efficient performance of the duties of said office, he may appoint such additional assistants and employees, and fix their salaries, provided such salaries shall in no event exceed the maximum provided herein to be paid to such assistants or other employees, but such additional assistants and employees, so appointed, before qualifying and entering upon the duties of such office and employment, shall be confirmed by the

commissioners court of the county in which such appointments are made.

Payment of Salaries for Additional Assistants and Employees

Sec. 3. The salaries for such additional assistants and employees shall be paid monthly out of the excess fees collected by such district attorney and his office, which would otherwise go to said county, a detailed sworn itemized statement of which he shall include in his annual report, as provided, to be made in the Maximum Fee Bill.¹ In no event shall said county be liable for the salaries of such additional assistants or employees.

Authority and Removal of Assistants, Etc.

Sec. 4. The assistant district attorneys above provided for, when appointed, shall take the oath of office and be authorized to represent the State in any court or proceeding in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney. Any such assistant, stenographer, investigator, or employee, whether regular or additional, shall be subject to removal at the will of said district attorney or criminal district attorney.

Automobiles; Purchase and Expense

Sec. 5. The commissioners' court of the county of the district attorney's or criminal district attorney's residence may, upon the written sworn application of the district attorney or criminal district attorney, stating the necessity therefor, allow one or more automobiles to be used by the district attorney or criminal district attorney in the discharge of his official duties, which if purchased shall be bought by the county in the manner prescribed by law for the purchase of supplies, and paid out of the general fund, and they shall be and remain the property of the county. The amount to be expended for the purchase of an automobile or automobiles shall not exceed the sum of twelve hundred dollars for the first year, and shall not exceed the sum of five hundred dollars for any year thereafter. The expense of the maintenance and operation of such automobile or automobiles as may be allowed shall be paid for by the district attorney or the criminal district attorney from fees of office, and the amount thereof shall be reported in detail by the district attorney or the criminal district attorney on a monthly report, as is now required by law in reporting expenses incurred by him in the conduct of his office, and shall be deducted by him from the amount due by him to the county in the same manner as the other expenses are deducted which are provided for by law. Such expense account for the maintenance and operation of such automobile or automobiles shall be subject to the audit of the county auditor, and if it appears that any item of such expense was not incurred by such officer, or that such item was not necessary thereto, such item may be by such auditor or court rejected, in which case the correctness or necessity of such item may

be adjudicated in any court of competent jurisdiction.

Application of Act

Sec. 6. The provisions of this Act shall apply to every district attorney within the State of Texas within counties of a population of more than one hundred and fifty thousand inhabitants, and in which there is no county attorney to be determined as above provided, whether the said district attorney be of and for a judicial district called and known by number or whether called and known as a criminal judicial district, or whether of and for any court called or known as a criminal district court; and whether such district attorney be called and known as a district attorney, or a criminal district attorney, or a criminal district attorney of any named county or court.

[Acts 1927, 40th Leg., p. 111, ch. 74; Acts 1929, 41st Leg., p. 231, ch. 96, § 1.]

¹ Article 3883 et seq.

Art. 326h. City of 50,000 or More in Judicial District of More Than One County; Assistants

Sec. 1. In any judicial district in this State composed of more than one county and in which there is a city having an actual population of 50,000 inhabitants or more, the district attorney shall have authority, with the approval of the commissioners' court of such county in which said city is situated, to appoint not more than two assistants, who shall be licensed to practice law in this State, and shall perform such duties as shall be required of them by the district attorney; and under the direction of the district attorney shall have all the authority that may be exercised by the district attorney. The district attorney shall use one of said assistants as an investigator to assist in the performance of the duties of his office, in addition to whatever other duties may be required of such assistant. Said assistants shall take the constitutional oath of office and serve at the will of the district attorney, not to exceed under any one appointment the maximum time fixed by the Constitution for such officers.

Sec. 2. The salary of each of said assistants shall not exceed three thousand dollars (\$3,000.00) per year, to be paid by the county in which said city is situated by warrant drawn on the general fund thereof, all salaries payable monthly. The district attorney shall ascertain the population of any city in his district necessary to be ascertained under this Act by making application to the mayor of any such city for a certificate as to the population of such city. It shall be the duty of any such mayor to ascertain by some reasonable accurate estimate the population of any such city, and his certificate to same under oath shall authorize the district attorney to assume its correctness and act upon the information contained in such certificate in making any appointment of an assistant or assistants under this Act.

[Acts 1927, 40th Leg., p. 82, ch. 58.]

Art. 326i. Counties of 22,000 or More; Assistants and Investigators

Sec. 1. The district attorney of any criminal district court only for more than one county may appoint one assistant district attorney of each county containing a population of 22,000 or more as shown by the last preceding census of the United States, provided said district attorney shall furnish data to the judge of said criminal district court that he is in need of said assistants and it is necessary for the investigation and prosecution of crime and the efficient enforcement of law and to the best interest of the State that such assistant district attorneys be appointed. And when said data is furnished to said judge of said criminal district court he shall forthwith certify the same to the commissioners' court of the county in which such appointment is to be made.

And said district attorney is hereby authorized, with the approval of the commissioners' court of such county, to appoint one assistant district attorney for each county, as provided above, who shall receive a salary to be fixed by said commissioners' court in such county not to exceed \$2,400.00 per annum. The salary of such assistant district attorneys above provided for shall be paid by the county for which said assistant is appointed, by warrant drawn on the general funds thereof, all salaries payable monthly.

Every person so appointed shall be a qualified resident attorney of the county and district in which such appointment is made, and shall give bond and take the oath of office required of district attorneys of this State, and shall have the power and authority to perform all the acts and duties of district attorneys under the law of this State, and said appointments shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month.

Sec. 2. The assistant district attorneys, above provided for when appointed and qualified, shall be authorized to represent the State in any court or proceeding in said district in which such district attorney is or shall be authorized to represent the State, such authority to be exercised under the direction of said district attorney, and said assistant district attorneys shall be authorized to perform any official act devolving upon or authorized by said district attorney in said district.

Sec. 3. Said district attorney may likewise be, and he is hereby authorized, with the approval of such county commissioners' court of each county wherein an assistant district attorney may be appointed as provided by this Act, to appoint one special investigator for each of said counties wherein an assistant district attorney may be appointed as provided by this Act, at a salary to be fixed by said commissioners' court not to exceed \$2,400.00 per annum. The salary of such special investigator above provided for shall be paid by each county in which a special investigator is appointed, by warrant drawn on the general funds thereof,

all such salaries to be payable monthly. Said assistant district attorneys and special investigators shall be subject to removal at the will of said district attorney. This article is not intended to repeal any other law now existing, but is cumulative thereof.

[Acts 1927, 40th Leg., p. 95, ch. 68.]

Art. 326j. Repealed by Acts 1927, 40th Leg., p. 222, ch. 151

The Supreme Court, in *Townsend v. Terrell*, 118 T. 463, 16 S.W.2d 1063, held that this article, derived from Acts 1927, 40th Leg., p. 195, ch. 127, § 1, was repealed by Acts 1927, 40th Leg., p. 222, ch. 151, which amended art. 322.

Art. 326k. 90th Judicial District; District Attorney and Stenographer

Sec. 1. The office of district attorney for the 90th Judicial District of Texas is hereby created, and the person now holding said office and acting as such district attorney shall continue to hold and exercise the duties of such office for the remainder of the term for which he was elected and until his successor is duly elected and qualified, and he shall receive such salary as now or hereafter provided by law for district attorneys in districts containing two or more counties.

Sec. 2. Said District Attorney may appoint a stenographer to assist said District Attorney for said 90th Judicial District whose salary shall not exceed the sum of Fifteen Hundred (\$1500.00) Dollars per annum, and which shall be paid out of the General Funds of Stephens County, at such time and on such terms and conditions as may be prescribed by the Commissioners' Court of Stephens County.

[Acts 1927, 40th Leg., 1st C.S., p. 171, ch. 60; Acts 1929, 41st Leg., p. 206, ch. 88, § 1.]

Art. 326k-1. Criminal District Attorney in Counties Constituting Three or More Judicial Districts

Creation of Office; Election and Term; Qualifications; Oath; Bond

Sec. 1. In those counties in this State which within themselves constitute three or more separate Judicial Districts, and in which there is not now a District Attorney the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. A Criminal District Attorney shall be elected in each such county at the next general election, and at each succeeding general election after the passage of this Act. He shall hold his office for the period of two years and until his successor is elected and qualified. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys; and it is further provided and directed that the¹ present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the af-

fairs of the office of Criminal District Attorney of such county, and appoint assistants as provided in this Act, and receive the fees provided for in this Act for such office until the next general election and until his successor shall be elected and qualified.

¹ So in enrolled bill. Session Law omits word "the."

Powers and Duties

Sec. 2. The Criminal District Attorney of any such county shall have and exercise, all such powers, duties and privileges within such county as are by law now conferred or which may hereafter be conferred upon District and County Attorneys.

Fees; Limitation and Distribution

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same fees allowed by law for County Attorneys in misdemeanor cases and shall also receive a salary of five hundred (\$500.00) dollars per annum, to be paid by the State in the manner provided by law for paying the salaries of District Attorneys, and in addition thereto shall be paid the following fees by the State in the manner provided by law for paying the fees of County and District Attorneys;

For each conviction of felonious homicide and for each conviction where the punishment fixed by the Statute may be death, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases where the defendant does not appeal or dies or escapes after appeal and before final judgment of the Court of Criminal Appeals or where upon appeal the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and punishment in a house of correction and reformatory, his fee shall be fifteen dollars. For representing the State in each case of habeas corpus where the defendant is charged with a felony, the sum of twenty dollars; For representing the State in each examining trial, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall receive fees for other services rendered by him as is now or may hereafter be authorized by law to be paid to District and County Attorneys in this State and for such services including the same fee now fixed and allowed by law in misdemeanor cases to County Attorneys, fees allowed by law for ex-officio services, said ex-officio fees may be allowed in addition to other fees herein provided, in an amount not to exceed fifteen hundred dollars per annum by the Commissioners' Court of the county and in the same manner as provided for county officers. The Criminal District Attorney shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one-fourth of the gross excess of all such fees in excess of three thousand five hundred dollars

per annum to an amount not in excess of two thousand dollars. After deducting the three thousand five hundred dollars and one-fourth of the remaining gross the remaining amount is to be applied first for the payment of the salaries of his assistants and the actual and necessary expenses incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary expenses, and the balance remaining to be paid over to the county in accordance with the terms and provisions of the fee bill; provided that in arriving at the amount collected by him he shall include fees arising from all classes of criminal cases, whether felony or misdemeanor, arising in any of the Justice, County or District Courts or which may hereafter be created, including habeas corpus hearing, fines and forfeitures, but shall not include the five hundred dollars annual salary paid by the State; provided that on the first day of January, or as soon thereafter as practicable each year, he shall make a full and complete report and account, as is now provided by law for officers required to make annual reports of fees collected, of all such fees so collected by him; provided that in addition to the above he shall receive ten per cent for the collection of delinquent fees due the county, bond forfeitures, and money collected for the State and county as is now provided by law relating to the collection of fees by County and District Attorneys; such fees to be included in the report herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act; and provided further that the Criminal District Attorney shall represent the State and county in all tax suits, including suits for inheritance tax, as is now provided for District and County Attorneys. He shall receive the same fees as received by District and County Attorneys and the said fees in delinquent tax and inheritance tax suits shall be exempt to him as now provided for fees exempt to District and County Attorneys, and all such tax fees shall not be accounted for nor included in his annual report.

Assistants; Appointment; Compensation;
Powers; Removal

Sec. 4. The Criminal District Attorney shall appoint as many assistants as shall be necessary to properly administer the affairs of the office of Criminal District Attorney and to enforce the law, not to exceed five assistants, said appointments to be made by the said Criminal District Attorney and ratified by the Commissioners' Court. One of said assistants shall receive a salary not to exceed three thousand dollars per annum, two of said assistants shall receive a salary not to exceed two thousand four hundred dollars per annum and two of said assistants shall receive a salary not to exceed twenty-one hundred dollars per annum, each payable monthly. Assistant Criminal District Attorney¹ shall be appointed by the Criminal District Attorney and when confirmed by

the Commissioners' Court shall take the oath of office and be authorized to represent the State in all of the courts of the county in which the Criminal District Attorney is authorized by this Act to represent the State, such authority to be exercised under the direction of the Criminal District Attorney, and which said assistants shall be subject to removal at the will of the Criminal District Attorney. Each of said assistants shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury and generally perform any duty devolving upon the Criminal District Attorney, and to exercise any power conferred by law upon County and District Attorneys and the Criminal District Attorney when by him so authorized. The Criminal District Attorney shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services had been rendered by himself.

¹ Probably should read "Attorneys".

Additional Assistants and Employees

Sec. 5. Should the work of the Criminal District Attorney require additional assistants and investigators and other employees provided for in this Act to properly investigate and punish offenders, and for the efficient performance of the duties incumbent upon the Criminal District Attorney, he may appoint such additional assistants and employees and fix their salaries, provided such salary shall in no event exceed the maximum provided herein to be paid to assistants so appointed; but such additional assistants and employees before qualifying and entering upon the duties of such office shall be confirmed by the Commissioners' Court of the county, upon a written application of the Criminal District Attorney, setting out under oath the necessity and facts requiring such additional appointment.

Assistants as Special Investigators; Compensation

Sec. 6. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court to appoint not to exceed two assistants in addition to his regular assistants provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for District or County Attorneys, which said two assistants shall be known as special investigators, and who shall perform such duties as may be assigned to them by the Criminal District Attorney and who shall receive as their compensation a salary not to exceed twenty-four hundred dollars per annum, payable monthly out of the county funds, by warrants drawn on such county funds; and providing further that said investigators for the Criminal District Attorney shall be allowed a sum of money by order of the Commissioners' Court for traveling and other expenses incident to the duties they shall perform under the direction of the Criminal District Attorney, which said sum of money so allowed by the said Commissioners' Court shall not exceed seventy-five dollars per month, as in the judgment of the

Commissioners' Court may be deemed necessary to properly administer the duties of such office and investigation of criminal cases in said Criminal District Attorney's office and incident thereto; provided further that such amount as may be thus necessarily incurred shall be paid by the Commissioners' Court upon affidavit made by the Criminal District Attorney, showing the necessity of such expenditure and for what the same was incurred. The Commissioners' Court may also require any further evidence as in their opinion may be necessary to show the necessity of such expenditure, but they shall be the sole judge as to the necessity of such expenditure and their judgment allowing same shall be final.

Stenographers; Appointment and Compensation

Sec. 7. The Criminal District Attorney is authorized, with the consent of the County Judge and the Commissioners' Court to appoint not to exceed two stenographers, who may or who may not possess the qualifications prescribed by law for District and County Attorneys and who shall perform the necessary stenographic duties as may be assigned to them by the Criminal District Attorney, and who shall receive as their compensation not to exceed eighteen hundred dollars per annum each, to be paid in monthly installments out of the county funds by warrants drawn on such county funds.

Monthly Report of Expenses

Sec. 8. The Criminal District Attorney shall at the close of each month of the tenure of such office make as a part of the report required by this Act an itemized and sworn statement of the actual and necessary expenses incurred by him in the conduct of said office, such as stamps, stationery, books, telephone, traveling expenses, and any and all other necessary expenses. If such expenses be incurred in connection with any particular case, such statement shall name such case, such expense account shall be subject to the audit of the County Auditor and if it appears that any item of such expense was not incurred by such officer or that such item was not necessary thereto, such item may be by said Auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expenses shall be deducted by the Criminal District Attorney in making his report from the amount, if any, due by him to the county under the provisions of this Act.

Application of Act

Sec. 9. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, but shall be cumulative thereof, and providing further shall be cumulative of all laws not in conflict with the provisions hereof. This Act shall not apply to any county in this State having two or more incorporated cities each having a population of more than 20,000, according to the latest United States census.

[Acts 1929, 41st Leg., p. 25, ch. 9; Acts 1929, 41st Leg., 1st C.S., p. 54, ch. 20, § 1.]

Art. 326k-2. Unconstitutional

This article, derived from Acts 1929, 41st Leg., 2nd C.S., p. 134, ch. 66, § 1, provided that district attorneys in judicial districts composed of two or more counties should receive certain compensation from the state in addition to the sum of \$500 per annum, provided by the Constitution. In *Witterspoon v. Sheppard*, 123 T. 93, 67 S.W.2d 1037, the Commission of Appeals, in an opinion adopted by the Supreme Court, held that the act violated Const. art. 5, § 21.

Art. 326k-3. Judicial District of Five or More Counties of 98,740 to 98,750; District Attorney and Assistant

Compensation of District Attorney

Sec. 1. District Attorneys in each judicial district in this State containing five or more counties having a combined population, according to the Fourteenth Census of the United States of the year 1920, of not less than 98,740 nor in excess of 98,750, shall receive from the State as pay for their services the sum of Five Hundred (\$500.00) Dollars per annum, as provided by the constitution, and in addition thereto, and in lieu of the fees, commissions, and perquisites provided by law, shall receive from the State the sum of Ten (\$10.00) Dollars for each of the first 350 days of every calendar year as compensation for attending examining trials, Habeas Corpus hearings, the sessions of the District Court of the district they represent, and for performing such other duties as imposed by law. The compensation provided for in this Act shall be paid monthly by the State upon warrants drawn by the Comptroller of Public Accounts, and it shall not be necessary for the District Attorney to file any account with the District Judge or the Comptroller of Public Accounts. Nothing in this Act shall be construed so as to deprive District Attorneys of the traveling expense allowances now provided by law, nor shall this Act affect the salary or compensation of any District Attorney fixed by special law. All commissions, perquisites and fees allowed to and collected by District Attorneys in districts composed of five or more counties, having the population as herein provided, shall be paid to the District Clerk of the County where said fees, commissions and perquisites are collected, who shall pay the same over to the State Treasury.

Assistant; Appointment; Qualifications; Bond; Oath; Removal

Sec. 2. That in each of said Judicial Districts, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney who shall serve as such Assistant District Attorney for the same term as the district attorney is elected, and in case of a vacancy, the District Attorney, with the consent of the district judge of the District, may make an appointment to fill out the unexpired term. The district attorney of said district, at any time he deems said assistant unnecessary, or finds that he is not attending to his duties as required by law, may remove such assistant district attorney from office by giving him writ-

ten notice to that effect. Said assistant district attorney shall give a bond in the sum of Five Thousand Dollars, and take the oath of office, and shall have authority to perform all of the acts and duties of the district attorney under the laws of this State. Said assistant district attorney shall be a qualified resident attorney of the judicial district.

Compensation of Assistant

Sec. 3. The assistant district attorney provided for in Section 1 of this Act shall receive an annual salary of three thousand six hundred dollars, to be paid monthly by the comptroller out of the funds appropriated for the payment of the salaries and fees of the district attorneys of the State of Texas or out of any money not otherwise appropriated, said salary to be paid upon the sworn account of such assistant district attorney approved by the district attorney and the district judge of said district; and in addition to this salary the assistant district attorney shall also be paid the amount of expenses incurred by said assistant district attorney in attending the courts of other counties than his residence in the performance of his duties as such assistant district attorney the same amount as is now paid district attorneys out of the funds appropriated for the payment of expenses of the district attorneys of the State.

[Acts 1929, 41st Leg., 2nd C.S., p. 144, ch. 71.]

Art. 326k-4. 7th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 7th Judicial District shall receive for the actual and necessary discharge of his duties in the District Court of the 7th Judicial District of Texas, and/or in the Special District Court of Smith County, Texas, the same per diem now allowed by the Acts of the Regular Session of the 43rd Legislature, for not to exceed fifty (50) days during each of the calendar years 1935, 1936, 1937 and 1938, respectively, in addition to the maximum number of days for which he may be paid under provisions of the Acts of the Regular Session of the 43rd Legislature. Payment of said additional compensation shall be made in the same manner as is provided for payment of compensation provided for by the Acts of the Regular Session of the 43rd Legislature.

Sec. 2. Nothing herein shall be construed as preventing the District Attorney of the 7th Judicial District of Texas from receiving his actual and necessary expenses while serving as said District Attorney in said district outside of the county of his residence, as now provided by law.

[Acts 1935, 44th Leg., p. 153, ch. 65, § 1.]

Abolition of Office

Acts 1949, 51st Leg., p. 264, ch. 143, § 1, incorporated herein as Article 326k-13, abolished the office of District Attorney in the 7th Judicial District. Section 2 of the

1949 Act repealed all conflicting laws and parts of laws.

Art. 326k-5. 12th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 12th Judicial District of Texas shall receive for the actual and necessary discharge of his duties in the District Court of the 12th Judicial District of Texas, for not to exceed fifty (50) days each year in addition to the maximum number of days for which he may be paid under the Acts of the Regular Session of the 43rd Legislature. Payment of said additional compensation shall be made in the same manner as is provided for payment of compensation provided for by the Acts of the Regular Session of the 43rd Legislature.

Sec. 2. Nothing herein shall be construed as preventing the District Attorney of the 12th Judicial District of Texas from receiving his actual and necessary expenses while serving as said District Attorney in said district outside of the county of his residence, as now provided by law.

[Acts 1935, 44th Leg., p. 367, ch. 133.]

Art. 326k-5a. 12th Judicial District; Deputy

Appointment of Deputy

Sec. 1. The district attorney of the 12th Judicial District, with the consent of each of the commissioners courts of the counties comprising the 12th Judicial District, may appoint a deputy district attorney.

Qualifications; Duties

Sec. 2. A deputy district attorney appointed under the provisions of this Act shall be a qualified licensed attorney and shall serve at the will and pleasure of the district attorney. The deputy district attorney may perform all the acts and duties of the district attorney under the laws of this state.

Salary; Expenses

Sec. 3. A deputy district attorney appointed under the provisions of this Act shall be paid a salary set by the district attorney, with the approval of the commissioners courts of the several counties included within the 12th Judicial District, and shall be allowed a reasonable amount for expenses incurred traveling about the district on the call of duty.

Payment of Salary and Expenses; Participation in Retirement System

Sec. 4. The salary and expenses provided for in this Act shall be paid by the counties composing the 12th Judicial District in proportion to the population of each for the last preceding federal census, out of the officers salary fund of the county. The salary shall be paid in 12 equal monthly installments and expense claims shall be paid at the end of each month. The salary is subject to participation fully in the Texas County and District Retirement System.

[Acts 1973, 63rd Leg., p. 233, ch. 109, eff. May 18, 1973.]

Art. 326k-6. Investigators of District or County Attorneys; Powers of Arrest and Process; Responsibility

Sec. 1. Any and all investigators appointed by a District Attorney or County Attorney where said County Attorney performs the duties of a District Attorney or Criminal District Attorney, as provided by law, shall have the same authority as the sheriff of the county to make arrests anywhere in the county, and to serve anywhere in the county, warrants, capias, subpoenas in criminal cases, and all other processes in criminal cases issued by any District Court, County Court, or Justice Court in the State, but such investigators shall not be under the authority and direction of the sheriff, and shall only be under the authority and direction of the said District Attorney or County Attorney where said County Attorney performs the duties of a District Attorney or Criminal District Attorney; and such investigators shall not be allowed to draw any fees of any character for performing such duties.

Sec. 1-a. Said District Attorney or County Attorney where said County Attorney performs the duties of a District Attorney or Criminal District Attorney shall be responsible for the official acts of such investigators and they shall have power to require from such investigators, bond and security, and they shall have the same remedies against their investigators and the sureties of said investigators as any person can have against a District Attorney or County Attorney where said County Attorney performs the duties of a District Attorney and his sureties.

[Acts 1935, 44th Leg., p. 495, ch. 206.]

Art. 326k-7. Repealed by Acts 1969, 61st Leg., p. 157, ch. 56, § 2, eff. April 3, 1969

See, now, article 326k-14.

Art. 326k-8. Counties Under 25,000 with Tax Valuation Over \$75,000,000; Assistant District Attorney

In any county in this State having a population less than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, and having a tax valuation exceeding Seventy-five Million Dollars (\$75,000,000) according to the last tax roll which has been approved as required by law, the District Attorney or Criminal District Attorney in said county is hereby authorized to appoint, in addition to the other assistants allowed by law, a Special Assistant District Attorney or Assistant Criminal District Attorney, whose powers and duties shall be the same as those of other Assistant District Attorneys or other Assistant Criminal District Attorneys, and in addition whose special duty shall be to assist said District Attorney or Criminal District Attorney in all civil matters arising in and connected with the efficient conduct of said office, including the investigation of all records, preparation of and filing of suits for the collection of all delinquent taxes of whatever kind or character due such county. Such Special As-

sistant District Attorney or Special Assistant Criminal District Attorney shall be paid the sum of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) monthly installments, out of the General Fund of said county by warrant drawn upon such a Fund. Said salary shall be payable as herein provided when said District Attorney or Criminal District Attorney shall certify to the Judge of the County Court in such a county that any or all services enumerated herein have been performed and were necessary to the proper and efficient conduct of said office.

[Acts 1937, 45th Leg., p. 72, ch. 43, § 1.]

Art. 326k-9. Counties of 75,001 to 77,100 and 30,900 to 30,950; Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond; Election

Sec. 1. In those counties in this State having a population of not less than seventy-five thousand and one (75,001), and not more than seventy-seven thousand, one hundred (77,100) inhabitants, and not containing a city of more than forty thousand (40,000) inhabitants, as determined by the last preceding Federal Census, and in which counties there are one or more Judicial Districts, and in counties of this State having a population of not less than thirty thousand, nine hundred (30,900), and not more than thirty thousand, nine hundred and fifty (30,950) inhabitants, as determined by the last preceding Federal Census, and in which the County Attorney performs the duties of County Attorney and District Attorney, and in which there is not now a District Attorney, the office of Criminal District Attorney is hereby created, and shall exist from and after the passage of this Act. Such officer shall be known as Criminal District Attorney of such county. He shall possess all the qualifications and take the oath and give the bond required by the Constitution and Laws of this State for other District Attorneys. And it is further provided and directed that the person who is the present County Attorney of any such county shall continue in office and take the oath and give the bond required by the Constitution and Laws for other District Attorneys, and assume the duties and be known as the Criminal District Attorney of the county, and proceed to organize and arrange the affairs of the office of Criminal District Attorney of such county, and appoint assistants as provided in this Act. Provided further, that the present County Attorneys in such counties shall continue to hold the office created by this Act, for a period in no event less than the time such officer would have held his office as County Attorney had this Act not been passed. A Criminal District Attorney shall be elected in each such county at the General Election of the year immediately preceding the termination of the term of the Criminal District Attorney provided for such counties in this Act. Thereafter, a Criminal District Attorney in such counties shall be regularly elected as provided by law.

Powers and Duties

Sec. 2. The Criminal District Attorney of any such county shall have and exercise all such powers, duties, and privileges within such county as are by law now conferred, or which may hereafter be conferred upon District and County Attorneys, and such Criminal District Attorney shall act as and perform the duties of District Attorney for all Judicial Districts in such counties, and shall act as and perform the duties of County Attorney for all County Courts of such counties.

Salary; Deputies and Assistants

Sec. 3. The Criminal District Attorney in each county affected by this Act shall receive the same salary allowed other Criminal District Attorneys, as provided in Section 13 of Chapter 465,¹ Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Deputies, assistants, and clerks shall be hired by the Criminal District Attorney in such counties, and their compensation shall be fixed as provided by Subsection 4 of Section 14, Chapter 465,² Acts of the Forty-fourth Legislature, Second Called Session, or as may hereafter be provided by law.

Law Governing

Sec. 4. The provisions of Chapter 465³ of the Acts of the Forty-fourth Legislature, Second Called Session, shall apply to and govern the offices of Criminal District Attorney created by this Act to the same extent and in the same manner that such Chapter would have applied had such offices been created prior to the passage of said Act.

Intention of Act as to Creation of Office

Sec. 5. It is not the intention of this Act to create any office of District Attorney, nor any other Constitutional office, and the office of Criminal District Attorney is hereby declared to be a separate and distinct office from the Constitutional office of District Attorney, and no Criminal District Attorney shall draw or be entitled to any salary whatsoever from the State of Texas.

Act Cumulative

Sec. 6. This Act is not intended and shall not be considered or construed as repealing any law now in the Statute Books, except those in conflict herewith, but shall be cumulative thereof.

[Acts 1937, 45th Leg., p. 202, ch. 107.]

¹ Article 3912e, § 13.

² Article 3902, subd. 4.

³ Articles 3912e, 3896 to 3899, 3901, 3902.

Art. 326k-10. Districts of One County of 50,500 to 55,000 with Tax Value Over \$70,000,000; Assistants and Stenographer

From and after the passage of this Act, in Judicial Districts composed of and confined to one County only and in which said Judicial District and County the population as deter-

mined by the last preceding Federal Census is not less than fifty thousand five hundred (50,500) and not more than fifty-five thousand (55,000) inhabitants and in which said Judicial District and County the tax value exceeds Seventy Million (\$70,000,000.00) Dollars according to the last approved tax roll, the District Attorney or Criminal District Attorney of said Judicial District and County may appoint not to exceed two (2) Assistants who shall possess the qualifications of a District Attorney and one stenographer, one (1) of said Assistants to receive a salary of Three Thousand (\$3,000.00) Dollars per annum and one of said Assistants to receive a salary of Twenty-seven Hundred Fifty (\$2750.00) Dollars per annum, and the said stenographer to receive a salary of Fifteen Hundred (\$1500.00) Dollars per annum, the salaries of said Assistants and the stenographer to be paid in the manner now prescribed by law for the payment of salaries of like Assistants and deputies.

[Acts 1941, 47th Leg., p. 40, ch. 28, § 1.]

Art. 326k-11. County Attorneys Designated Criminal District Attorneys

Sec. 1. In any county in this State not embraced in or constituting either a Criminal District Attorney's District or a District Attorney's District, and wherein the duty of representing the State in all criminal matters arising in such county devolves upon the County Attorney of such county, the Commissioners' Court thereof, upon petition of such County Attorney at any time during a non-election year, may, by appropriate action spread upon the minutes of such Commissioners' Court, designate the office of County Attorney in such county as the office of Criminal District Attorney of such County, and the incumbent of such office as the Criminal District Attorney of such County; and thereafter and until such time as such county shall be included within a regularly created and constituted District Attorney's District or Criminal District Attorney's District, such office shall be designated as the office of Criminal District Attorney of such county, and the incumbent thereof shall be designated as the Criminal District Attorney of such county; providing that such change in the designation and appellation of such office and the incumbent thereof, as aforesaid, shall in no manner alter or affect either the previous election and qualifications of the incumbent thereof, nor shall the same thereafter alter or affect either the rights, duties, or emoluments of such office or the incumbent thereof; and providing further that in all elections thereafter held to fill such office, and so long as the same shall be so designated, the said office shall be designated upon the ballot and in the election as the office of Criminal District Attorney of such county; and providing further that in the event any such county be thereafter embraced in or constitute a regularly created District Attorney's District or Criminal District Attorney's District, the designation of County Attorney shall

be restored to such office unless the office of County Attorney be abolished in such county.

Sec. 2. It is not the intention of this Act to create any office of District Attorney or any other Constitutional office; but it is the intention of this Act merely to authorize a change in the name and appellation of the office of County Attorney and the incumbent thereof in certain counties, without otherwise changing or affecting the rights, duties, or emoluments either of such office or the incumbent thereof.

Sec. 3. This Act is not intended and shall not be considered or construed as repealing any law now in the statute books, except those in conflict therewith; but it shall be cumulative thereof.

[Acts 1941, 47th Leg., p. 477, ch. 300.]

Art. 326k-12. Counties of 70,000 to 220,000 and 39,000 to 50,000 and McLennan County; Assistants, Investigators and Stenographer; Automobile

Assistants and Investigators; Appointment, Salary and Qualifications

Sec. 1. From and after the passage of this Act, in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than seventy thousand (70,000) and not more than two hundred and twenty thousand (220,000) inhabitants, and in which county there are two (2) or more District Courts, the District Attorney or the Criminal District Attorney, with the consent of the combined majority of the District Judges and Commissioners Court of such County, is hereby authorized to appoint at their discretion, not more than six (6) investigators or assistants; and in a Judicial District composed of one (1) or more counties and in which the population in any one (1) of said counties, as determined by the last preceding Federal Census, is not less than thirty-nine thousand (39,000) and not more than fifty thousand (50,000) inhabitants, and in which county there are two (2) or more District Courts the District Attorney or the Criminal District Attorney with the consent of a majority of the District Judges, is hereby authorized to appoint at their discretion, one (1) investigator or assistant. Such investigators or assistants shall receive a salary of not more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum, nor less than Three Thousand Dollars (\$3,000) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges; such investigators or assistants, as well as the District Attorney or Criminal District Attorney, shall be allowed a reasonable amount for expenses not to exceed Six Hundred Dollars (\$600), each, per annum. The assistants to the District Attorney or Criminal District Attorney must be duly and legally licensed to practice law in the State of Texas, however, the investigators need not be duly

and legally licensed to practice law in the State of Texas.

Automobile; Purchase and Upkeep

Sec. 1a. The Commissioners Court in its discretion may authorize the purchase of an automobile or automobiles by the county for the use of investigators of the District Attorney or Criminal District Attorney in their official duties and may authorize the payment by the county of all expenses incidental to the upkeep and operation of such automobile or automobiles.

Stenographer; Appointment and Salary

Sec. 2. Said District Attorney and Criminal District Attorney shall also be authorized to appoint a stenographer who shall receive a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, the amount of such salary to be fixed by the District Attorney or Criminal District Attorney and approved by a majority of the District Judges.

Sec. 2a. Repealed by Acts 1967, 60th Leg., p. 1207, ch. 542, § 2, eff. June 14, 1967 [See, now, art. 326k-40.]

Investigators and Assistants for Criminal District Attorney of McLennan County; Salary

Sec. 2b. The salary of the investigators and assistants appointed by the Criminal District Attorney of McLennan County shall be fixed at a sum of not more than Fifteen Thousand Dollars (\$15,000) per annum.

Payment; Bond; Powers of Arrest and Process

Sec. 3. The salary of such investigators or assistants and stenographer, and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of such county out of the General Fund of the county or, at the discretion of the Commissioners Court, out of the Jury Fund of said county; said investigators or assistants may be required to give bond and shall have authority under the direction of the District Attorney or Criminal District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

Repealer

Sec. 3a. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of the conflict only.

[Acts 1947, 50th Leg., p. 364, ch. 206; Acts 1949, 51st Leg., p. 916, ch. 495, § 1; Acts 1957, 55th Leg., p. 830, ch. 358, § 1; Acts 1959, 56th Leg., p. 564, ch. 255, § 1, eff. May 26, 1959; Acts 1967, 60th Leg., p. 179, ch. 93, § 1, eff. April 22, 1967; Acts 1969, 61st Leg., p. 1373, ch. 415, § 1, eff. June 2, 1969; Acts 1971, 62nd Leg., p. 2461, ch. 800, § 2, eff. June 8, 1971.]

Art. 326k-13. 7th Judicial District; Abolition of District Attorney's Office

The office of District Attorney in the 7th Judicial District of Texas is hereby abolished, and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall

receive such fees and compensation for his services as is provided by the General Laws of the State of Texas.

[Acts 1949, 51st Leg., p. 264, ch. 143, § 1.]

Art. 326k-14. 53rd Judicial District; District Attorney, Assistants and Personnel

Representation of State

Sec. 1. The District Attorney of the 53rd Judicial District shall represent the State of Texas in all criminal cases before all the District Courts of Travis County, Texas.

Assistants; Appointment; Qualifications; Removal

Sec. 2. The District Attorney of the 53rd Judicial District shall appoint a First Assistant District Attorney and such other Assistant District Attorneys as shall be necessary to the proper performance of his official duties. The number of assistants to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas. The First Assistant District Attorney and other Assistant District Attorneys shall be duly licensed to practice law in the State of Texas and shall be authorized to perform any official act delving upon or authorized to be performed by the District Attorney, under the direction of the District Attorney, and shall be subject to removal at the will of the District Attorney.

Office Personnel

Sec. 3. The District Attorney of the 53rd Judicial District shall appoint as many stenographers, secretaries, investigators and other office personnel to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Travis County, Texas.

Compensation

Sec. 4. The District Attorney of the 53rd Judicial District shall be paid a salary in an amount equal to the total salary paid from State and County Funds to the Judge of the 53rd Judicial District Court of Travis County, Texas, excluding any compensation paid to the Judge of the 53rd Judicial District Court of Travis County, Texas, with reference to juvenile board matters. The First Assistant District Attorney shall be paid a salary not to exceed Fifteen Thousand Dollars (\$15,000.00) per year, and the other Assistant District Attorneys shall be paid a salary not to exceed Twelve Thousand-Five Hundred Dollars (\$12,500.00) per year. The Commissioners Court of Travis County, Texas is hereby authorized to supplement the salaries of the District Attorney and the Assistant District Attorneys paid by the State of Texas in such an amount that the total salaries paid shall not exceed the maximum provided herein.

[Acts 1951, 52nd Leg., p. 85, ch. 55; Acts 1957, 55th Leg., p. 89, ch. 43, § 1; Acts 1963, 58th Leg., p. 502, ch. 187, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., p. 157, ch. 56, § 1, eff. April 3, 1969.]

3 West's Tex. Stats. & Codes—26

Art. 326k-15. 79th Judicial District; District Attorney, Assistants and Stenographer

Compensation of District Attorney

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

Assistants; Appointment; Qualifications; Oath; Bond; Salary; Term

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

Stenographer; Appointment and Compensation

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

Payment of Salaries; Proration

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

Assignment of Assistants and Salary Payments

Sec. 5. The District Attorney of the 79th Judicial District may specially assign one of his authorized Assistant District Attorneys to one or more counties of the 79th Judicial District. The Commissioners Court of one or more counties of the 79th Judicial District may, in its discretion, pay the whole or any amount greater than the proportionate part of the sala-

ry of any Assistant District Attorney who may be specially assigned by the District Attorney of the 79th Judicial District to that particular county or counties; and to the extent that any one or more counties may through its Commissioners Court agree to pay more than its proportionate part of the salary of the Assistant District Attorney specially assigned to it, the other counties in the 79th Judicial District to whom this Assistant is not specially assigned shall be relieved from their proportionate part of his salary.

[Acts 1951, 52nd Leg., p. 91, ch. 58; Acts 1957, 55th Leg., p. 566, ch. 266, § 1.]

Art. 326k-16. 106th Judicial District; Assistants, Investigators and Stenographer

Assistants and Investigators; Appointment and Salary

Sec. 1. From and after the passage of this Act, the district attorney of the 106th Judicial District, composed of the Counties of Terry, Lynn, Garza, Dawson, Gaines, and Yoakum, with the consent of the district judge of the 106th Judicial District and the combined majority of the Commissioners Courts of the Counties composing the 106th Judicial District, is hereby authorized to appoint not more than two (2) investigators or assistants. Such investigators or assistants shall receive a salary of not less than Three Thousand Dollars (\$3,000) and not to exceed Four Thousand Dollars (\$4,000) per annum each. The salaries shall be fixed by the Commissioners Court of the several Counties composing the 106th Judicial District.

Qualifications

Sec. 2. The assistants to the district attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be duly and legally licensed to practice law in the State of Texas.

Expenses

Sec. 3. The investigators or assistants provided for in this Act shall be allowed a reasonable amount for expenses not to exceed Twelve Hundred Dollars (\$1200) per annum.

Stenographer; Appointment and Salary

Sec. 4. The district attorney of the 106th Judicial District shall be authorized to employ a stenographer, who shall receive a salary not to exceed Twenty-four Hundred Dollars (\$2400) per annum, such salary to be fixed by the district judge.

Payment of Salaries and Expenses; Proration

Sec. 5. The salary of the investigators, assistants, and stenographer provided for in this Act and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the 106th Judicial District out of the Officers' Salary Fund of the county. Such salary and expenses shall be prorated according to the population of the respective counties.

Bond; Powers of Arrest and Process

Sec. 6. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1951, 52nd Leg., p. 113, ch. 68.]

Art. 326k-17. Repealed by Acts 1957, 55th Leg., p. 142, ch. 62, § 6

See, now, article 326k-38a.

Art. 326k-18. 51st and 119th Judicial Districts; Assistants, Investigators and Stenographer

Appointments for 51st Judicial District

Sec. 1. The district attorney for the 51st Judicial District, composed of the Counties of Tom Green, Irion, Schleicher, Coke, and Sterling, with the consent of the district judges of the 51st Judicial District and the 119th Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such district.

Appointments for 119th Judicial District

Sec. 2. The district attorney for the 119th Judicial District, composed of the Counties of Coleman, Concho, Runnels, and Tom Green, with the consent of the district judges of the 119th Judicial District and the 51st Judicial District, is hereby authorized to appoint an assistant district attorney and an investigator for the district attorney of such District.

Qualifications; Bond; Powers of Arrest and Process

Sec. 3. The assistant district attorneys provided for in this Act must be duly and legally licensed to practice law in this State. The investigators provided for in this Act need not be licensed to practice law. The assistants or investigators may be required to give bond and shall have authority under the direction of the district attorney to make arrests and to execute process in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Salary

Sec. 4. In addition to the assistants and investigators provided for in this Act the District Attorney of the 51st Judicial District and the District Attorney of the 119th Judicial District shall each be authorized to employ a stenographer who shall receive a salary not to exceed Forty-eight Hundred Dollars (\$4800.00) per annum, such salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges of the 51st and 119th Judicial Districts.

Assistants and Investigators; Salary and Expenses

Sec. 5. The assistants and investigators provided for in this Act shall receive a salary of not less than Five Thousand Dollars (\$5000.00) nor more than Nine Thousand Dollars (\$9000.00) per annum each, said salary to be fixed by the District Attorney of the respective Districts and approved by the District Judges

of the 51st and 119th Judicial Districts. The assistants and investigators may be assigned to one or more counties by the District Attorney concerned and will be compensated accordingly by the County or Counties to which assigned. In addition to their salaries the investigators, assistants and district attorneys shall be allowed the actual and necessary expense incurred in the proper discharge of their duties never to exceed Eleven Hundred Dollars (\$1100.00) per annum each.

Payment of Salary and Expenses; Proration

Sec. 6. The salaries and expenses of the assistant district attorneys, investigators, and stenographers provided for in this Act shall be paid out of the general fund of the county, prorated according to the population of the counties composing the Judicial Districts.

[Acts 1951, 52nd Leg., p. 598, ch. 352; Acts 1969, 61st Leg., p. 675, ch. 228, § 1, eff. May 16, 1969.]

Art. 326k-19. Stenographer in Districts of Two or More Counties

Any district attorney in the State of Texas in a judicial district composed of two or more counties may employ a stenographer or clerk who shall receive a salary not to exceed \$4,800 per year, to be fixed by the district attorney for such district subject to the approval of the combined majority of the commissioners courts of the counties composing the judicial district. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the commissioners court of each county composing the judicial district, prorated in proportion to the population of each county as determined by the last preceding Federal census.

[Acts 1951, 52nd Leg., p. 617, ch. 365, § 1; Acts 1961, 57th Leg., p. 710, ch. 335, § 1, eff. June 16, 1961; Acts 1967, 60th Leg., p. 1239, ch. 562, § 1, eff. June 14, 1967; Acts 1969, 61st Leg., p. 1670, ch. 533, § 1, eff. June 10, 1969.]

Art. 326k-20. 100th Judicial District; Stenographer

The District Attorney of the 100th Judicial District of Texas is hereby authorized to appoint a stenographer who shall receive a salary not to exceed Twenty-four Hundred (\$2400.00) Dollars per annum. Said salary shall be fixed and determined by the District Attorney of said Judicial District, and the District Attorney shall file with the Commissioners Court of each county in said District a statement specifying the amount of salary to be paid said stenographer. Said salary shall be paid monthly by the Commissioners Court of each county comprising said District in the manner and on the same pro-ratio basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the county in which the District Attorney resides shall furnish the District Attorney with adequate office space and the supplies necessary to the efficient operation of said office.

[Acts 1951, 52nd Leg., p. 640, ch. 374.]

Art. 326k-21. 27th Judicial District; Assistant and Stenographer

From and after the passage of this Act the District Attorney of the 27th Judicial District, with the consent of each of the Commissioners Courts comprising such judicial district, is authorized to appoint an Assistant District Attorney and a stenographer for such district. The Assistant District Attorney shall be paid an annual salary not to exceed Five Thousand, Five Hundred Dollars (\$5,500) per annum and the stenographer shall be paid an annual salary not to exceed Four Thousand, Two Hundred Dollars (\$4,200) per annum. The salaries of such Assistant District Attorney and stenographer shall be paid from the Officers Salary Fund of the counties comprising said judicial district and the amount to be paid by each county shall be determined according to population. The Assistant District Attorney must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the District Attorney by law.

[Acts 1951, 52nd Leg., p. 802, ch. 445, § 1; Acts 1959, 56th Leg., p. 876, ch. 401, § 1.]

Art. 326k-22. Smith County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney for Smith County is hereby created, and said Criminal District Attorney of Smith County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Smith County, Texas, at the general election in November, 1954, and at the general election every two (2) years thereafter, an attorney for said district who shall be styled the Criminal District Attorney of Smith County, who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Smith County or his assistants, as herein provided, to be in attendance upon each term and all sessions of the District Courts of Smith County, Texas, and all of the sessions and terms of all of the inferior courts of Smith County, held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said courts and to represent Smith County in all matters pending before such courts and any other court where Smith County has pending business of any kind, matter or interest. The Criminal District Attorney of Smith County shall have and exercise, in addition to the specific powers given and the

duty imposed upon him by this Act, all such powers, duties, and privileges within Smith County as are now by law conferred, or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commission and perquisites as are now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Salary

Sec. 4. The Criminal District Attorney of Smith County, Texas, shall be commissioned by the Governor and shall receive a salary to be determined by the Commissioners Court and to be paid out of the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

Assistants, Stenographers and Receptionists; Appointment and Salary

Sec. 5. The Criminal District Attorney of Smith County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint a First Assistant District Attorney and such other assistants, stenographers, and receptionists as may be necessary. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be determined by the Commissioners Court of Smith County. All of the salaries shall be paid from the officers salary fund of Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the officers salary fund. All employees of the office of Criminal District Attorney of Smith County, whether assistants, stenographers, or receptionists, shall be removable at the will of the Criminal District Attorney.

Assistants; Oath, Powers and Duties

Sec. 6. The Assistant Criminal District Attorneys of Smith County, when so appointed, shall take the constitutional oath of office and the Criminal District Attorney of Smith County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Smith County, Texas, except in the City Courts of the City of Tyler and the other incorporated cities and towns in Smith County. Said Assistant Criminal District Attorneys of Smith County are hereby authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally perform any duty devolving upon the Criminal District Attorney of Smith County and exercise any power, and perform any duty conferred by law upon the Criminal District Attorney of Smith County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 7. Upon the effective date of this Act the Governor of Texas shall immediately appoint a criminal District Attorney of Smith County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Smith County is abolished from and after the effective date of this Act.

[Acts 1953, 53rd Leg., p. 44, ch. 36; Acts 1967, 60th Leg., pp. 1184, 1185, ch. 529, §§ 2 to 4, eff. June 14, 1967.]

Art. 326k-23. Brazoria County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of Criminal District Attorney for Brazoria County is hereby created and said Criminal District Attorney of Brazoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Brazoria County at its general election in November 1954 and at the general election every two years thereafter an attorney for said county who shall be styled the Criminal District Attorney of Brazoria County, and who shall hold office for a period of two years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Brazoria County or his assistants as herein provided to be in attendance upon each term and all sessions of the District Courts of Brazoria County and all of the sessions and terms of the inferior courts of Brazoria County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Brazoria County in all matters pending before such courts and any other court where Brazoria County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Brazoria County as are by law now conferred, or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Compensation

Sec. 4. The Criminal District Attorney of Brazoria County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following: a salary of Five Hundred (\$500) Dollars from the State of

Texas for the salary of District Attorneys, and a sum of not less than Seventeen Thousand Five Hundred (\$17,500) Dollars and not more than Eighteen Thousand Five Hundred (\$18,500) Dollars a year to be paid out of the Officers' Salary Fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers' Salary Fund. The effective date of this Section is January 1, 1972.

Assistants and Stenographers; Appointment and Compensation; Office Expenses

Sec. 5. The Criminal District Attorney of Brazoria County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one First Assistant and two Assistants and fix their salaries as follows, and no less: said First Assistant shall receive the sum of not less than Twelve Thousand (\$12,000) Dollars per annum. Each of said Assistants shall receive the sum of not less than Ten Thousand (\$10,000) Dollars per annum.

The Criminal District Attorney of Brazoria County may employ four stenographers and fix their salaries at not less than Forty-Eight Hundred (\$4,800) Dollars per annum. All of the salaries mentioned in this section shall be payable from the Officers' Salary Fund of Brazoria County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers' Fund.

In addition to the salaries provided the Criminal District Attorney, his First Assistant, Assistants, and Stenographers, the Commissioners Court of Brazoria County, Texas, shall provide such Criminal District Attorney of Brazoria County, Texas, such reasonable and necessary expenses for the operation of the Office of Criminal District Attorney of Brazoria County, Texas, as the Commissioners Court of Brazoria County, Texas, may deem necessary for the proper operation of the Office of the Criminal District Attorney of Brazoria County, Texas, and said expenses shall be paid as provided by law for such expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks as provided above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Brazoria County, Texas.

Oath of Assistant and Investigators; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Brazoria County and the investigator or investigators, when so appointed shall

take the constitutional oath of office, and said Criminal District Attorney of Brazoria County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Brazoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Brazoria County as well as perform the other statutory or constitutional duties of District and County Attorneys.

Said Assistant Criminal District Attorneys of Brazoria County are authorized to administer oaths, file informations, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney of Brazoria County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Brazoria County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Brazoria County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Brazoria County is abolished from and after the effective date of this Act.

District Attorney of 23rd Judicial District

Sec. 9. Upon the effective date of this Act the District Attorney of the 23rd Judicial District of Texas shall only represent the State of Texas in the counties of Fort Bend, Wharton and Matagorda.

The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the counties of Fort Bend, Wharton and Matagorda, and the District Attorney of the 23rd Judicial District shall continue to perform his duties in the counties of Fort Bend, Wharton and Matagorda as before, and it is specifically understood that this bill applies only to Brazoria County and not to the counties of Fort Bend, Wharton and Matagorda.

From the effective date of this bill the District Attorney of the 23rd Judicial District shall continue to fulfill the duties of District Attorney in the counties of Wharton, Fort Bend, and Matagorda, but his duties in the County of Brazoria shall be divested from him and invested in the resident Criminal District Attorney of Brazoria County, Texas, as created by this bill.

The District Attorney of the 23rd Judicial District shall only stand for election and be elected from the counties of Ford Bend, Wharton and Matagorda at the next general election, and a District Attorney for the 23rd Judicial District shall be elected every two years from the Counties of Fort Bend, Wharton and Matagorda at the general election every two years thereafter, but it is specifically understood that the present District Attorney of the 23rd

Judicial District shall continue in office as such District Attorney in the counties of Fort Bend, Wharton and Matagorda until the next general election and until his successor is elected and qualified.

[Acts 1953, 53rd Leg., p. 409, ch. 118; Acts 1965, 59th Leg., p. 1037, ch. 513, § 1, eff. June 16, 1965; Acts 1971, 62nd Leg., p. 2620, ch. 860, § 1, eff. Jan. 1, 1972; Acts 1971, 62nd Leg., p. 2621, ch. 860, § 2, eff. June 9, 1971.]

Art. 326k-24. 109th Judicial District; Compensation of District Attorney

Salary

Sec. 1. The district attorney of the 109th Judicial District is entitled to receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Supplemental Compensation

Sec. 2. The commissioners courts of the counties comprising the 109th Judicial District may pay the district attorney supplemental compensation from county funds in an amount not to exceed \$2,000 per year.

Pro Rata Basis for Supplemental Compensation

Sec. 3. The supplemental compensation paid to the district attorney of the 109th Judicial District shall be paid by the several counties comprising the district in proportion to the population of each county at the last preceding federal census.

[Acts 1953, 53rd Leg., p. 567, ch. 212; Acts 1967, 60th Leg., p. 863, ch. 368, § 1, eff. June 8, 1967.]

Art. 326k-25. 30th Judicial District; Compensation of District Attorney

Additional Salary

Sec. 1. The District Attorney of the Thirtieth Judicial District of this State may be compensated for his services by an additional salary of not more than Five Thousand Dollars (\$5,000) per year. This is in addition to the salary now allowed by law.

Determination and Payment

Sec. 2. The salary to be paid as provided in Section 1 of this Act, may be fixed and determined by the Commissioners Court of Wichita County, Texas, and may be paid from the officers salary fund of said County, if adequate. If inadequate, the Commissioners Court may transfer the necessary funds from the general fund of the County to the officers salary fund.

[Acts 1953, 53rd Leg., p. 590, ch. 232; Acts 1963, 58th Leg., p. 979, ch. 403, § 1, eff. Aug. 23, 1963.]

Art. 326k-26. Harris County District Attorney for Criminal District Court

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of District Attorney for the Criminal District Court of Harris County is hereby created, effective September 1, 1953, and said District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Harris County, Texas, at the General Election in November, 1954, and at the General Election every two (2) years thereafter an attorney for said district who shall be styled the District Attorney for the Criminal District Court of Harris County, and who shall hold office for a period of two (2) years and until his successor is elected and qualified.

Powers and Duties

Sec. 3. It shall be the duty of the District Attorney, or his assistants, as herein provided to be in attendance upon each term and all sessions of the district courts of Harris County, Texas, and the District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal cases pending in the district and inferior courts of Harris County, Texas. The District Attorney shall also have control of any and all cases heard on habeas corpus before any civil district court of Harris County as well as before the Criminal Courts of said county. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all such powers, duties and privileges within Harris County as are now by law conferred and which may hereafter be conferred on District Attorneys in various counties and judicial districts of this State relative to criminal matters for and in behalf of the State of Texas.

Commission and Compensation

Sec. 4. The District Attorney shall be commissioned by the Governor and shall receive as compensation therefor, out of funds provided in the biennial Appropriation Act, and from the officers salary fund of Harris County an annual sum, the total of which shall be fixed by the Commissioners Court of Harris County at not less than Nine Thousand, Nine Hundred Dollars (\$9,900) nor more than Eleven Thousand, Eight Hundred Dollars (\$11,800). The allocation heretofore made under the provisions of Subsection B, Section 13 and Section 15, Subsection A of Chapter 465, Section 6(a), Second Called Session, Acts, Forty-fourth Legislature,¹ to the Criminal District Attorney of Harris County shall be made and allocated on the same basis to the District Attorney for the Criminal District Court of Harris County in the biennial Appropriation Act.

Assistants, Investigators, Reporters and Secretaries; Appointment and Salary

Sec. 5. Whenever the District Attorney shall require the services of assistants, investigators, reporters and secretaries in the performance of his duties, he shall apply to the Commissioners Court for authority to appoint such assistants, investigators, reporters and secretaries, stating by sworn application the number needed, the position to be filled, the duties to be performed and the amount to be paid. The Court shall make its order authorizing the appointment of such assistants, investi-

gators, reporters, and secretaries and fix the compensation to be paid them, and determine the number to be appointed as in the discretion of said Court may be proper. Provided that in no case shall the Commissioners Court, or any member thereof, attempt to influence the appointment of any person as assistant, investigator, reporter or secretary in the District Attorney's office. All of the salaries payable by Harris County provided for in this Act shall be paid from the officers salary fund if adequate. If inadequate, the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Oath and Powers of Assistants

Sec. 6. The Assistant District Attorneys of Harris County, when so appointed, shall take the constitutional oath of office, and they are hereby authorized to administer oaths, file information, examine witnesses before the grand jury, and perform any duty devolving upon the District Attorney and shall exercise any power and perform any duty conferred by law upon the District Attorney relative to criminal matters.

Appointment and Term

Sec. 7. On September 1, 1953, the Governor of Texas shall immediately appoint the District Attorney for the Criminal District Court of Harris County, who shall hold office until the next General Election and until his successor is duly elected and qualified.

Abolition of Criminal District Attorney's Office

Sec. 8. The constitutional office of Criminal District Attorney of Harris County is abolished from and after September 1, 1953, and on September 1, 1953, the Criminal District Attorney for the Criminal District Court of Harris County shall transfer all criminal matters that his office is handling to the District Attorney including papers, documents, and instruments in connection with each and every criminal case. On September 1, 1953, the Criminal District Attorney of Harris County shall transfer all civil matters to the County Attorney of Harris County.

[Acts 1953, 53rd Leg., p. 784, ch. 315.]

¹ See art. 3912e.

Art. 326k-27. 118th Judicial District; Investigator and Adult Probation Officer

Sec. 1. The District Attorney of the 118th Judicial District is hereby authorized to appoint an investigator to perform such duties as may be assigned to him by the District Attorney. The investigator need not be licensed to practice law. He shall have authority to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He may be required to make a bond in an amount to be fixed by the District Attorney.

The investigator shall receive an annual salary in an amount to be fixed by the District

Attorney of the 118th Judicial District not to exceed the amount paid to the Chief Deputy Sheriff, Howard County, or such greater sum as determined by the District Attorney with the approval of the County Commissioners, Howard County. In addition to his salary, the investigator shall be furnished an automobile for his use in the performance of his official duties, or, in the discretion of the County Commissioners of Howard County, shall be allowed the actual and necessary travel expense incurred by him in the proper discharge of his duties, not to exceed One Thousand, Two Hundred Dollars (\$1,200) a year. All claims for travel expense shall be approved by the District Attorney. The salary and automobile expense shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Howard County.

Sec. 2. The investigator shall also serve as adult probation officer in Howard County under the direction of the District Judge of the 118th Judicial District. For these services he may receive an additional annual salary not to exceed Three Hundred Dollars (\$300), subject to the approval of the Commissioners Court of Howard County, which shall be payable monthly and which shall be paid out of the General Fund, the Officers' Salary Fund, or any other available fund of Howard County.

[Acts 1955, 54th Leg., p. 367, ch. 85; Acts 1962, 57th Leg., 3rd C.S., p. 193, ch. 72, § 1.]

Art. 326k-28. Galveston County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of Criminal District Attorney for Galveston County is hereby created and said Criminal District Attorney of Galveston County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of the 10th and 56th Judicial Districts of Galveston County at the general election in November, 1956, an attorney for said Judicial Districts and county who shall be styled the Criminal District Attorney of Galveston County and who shall hold office for the remainder of the Constitutional term of office of Criminal District Attorney of Galveston County. Thereafter, the qualified electors of said Judicial District and Galveston County shall elect a Criminal District Attorney at the general election in November, 1958, and every four years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Galveston County or his assistants as herein provided to be in attendance upon each term and all sessions of the district courts of Galveston County and all of the sessions and terms of the inferior courts of

Galveston County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Galveston County in all matters pending before such courts and any other court where Galveston County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Galveston County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this State.

Representation of County Employees

Sec. 3a. It shall be the duty of the Criminal District Attorney of Galveston County to represent any county official or employee other than members of the commissioners court of Galveston County in any civil matter pending in any district court in Galveston County or in any inferior court in Galveston County which arises out of the performance of official duties by such official or employee.

Commission and Compensation

Sec. 4. The Criminal District Attorney of Galveston County shall be commissioned by the Governor and shall receive that salary and compensation from the State of Texas as provided in the statutes and Constitution of the State of Texas and such additional sum to be paid out of the general fund of Galveston County as will bring the total salary, including the salary provided in the Constitution and statutes to an amount not less than the amount paid district judges from the General Revenue Fund of the State of Texas, but in no event to an amount more than the total salary, including supplements, paid any district judge in and for Galveston County. If the officers' salary fund of Galveston County is inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Assistants and Secretaries; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Galveston County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint one (1) first assistant and one (1) second assistant and fix their salaries as follows: said first and second assistant shall receive not less than Eight Thousand Four Hundred Dollars (\$8,400) per annum nor more than Eleven Thousand Dollars (\$11,000) per annum. The Criminal District Attorney of Galveston County, Texas, shall be and he is hereby authorized to appoint four (4) additional assistants in addition to the first

and second assistant and fix their salaries as follows: two (2) of said additional assistants shall receive not less than Six Thousand Nine Hundred Dollars (\$6,900) per annum nor more than Nine Thousand Dollars (\$9,000) per annum, and two (2) assistants shall receive not less than Six Thousand One Hundred Eighty Dollars (\$6,180) per annum nor more than Eight Thousand Dollars (\$8,000) per annum.

The Criminal District Attorney of Galveston County may employ three (3) secretaries and pay said employees not less than Three Thousand Six Hundred Dollars (\$3,600) per annum nor more than Four Thousand Eight Hundred Dollars (\$4,800) per annum. All of the salaries mentioned in this Section shall be payable from the officers salary fund, if adequate, if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

In addition to the salaries provided the Criminal District Attorney and his assistants, the Commissioners Court of Galveston County may allow such Criminal District Attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable and said expenses shall be paid as provided by law for such other claims of expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks, as provided above, is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Galveston County, Texas.

Oath; Powers and Duties of Assistant and Investigator

Sec. 7. The Assistant Criminal District Attorneys of Galveston County and the investigator, when so appointed shall take the Constitutional oath of office, and said Criminal District Attorney of Galveston County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Galveston County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Galveston County as well as perform the other statutory or Constitutional duties of district and county attorneys.

Said Assistant Criminal District Attorneys of Galveston County are authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Galveston County.

Appointment and Term; Abolition of
County Attorney's Office

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Galveston County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Galveston County is abolished from and after the effective date of this Act.

[Acts 1955, 54th Leg., p. 454, ch. 124; Acts 1961, 57th Leg., p. 332, ch. 178, § 1; Acts 1963, 58th Leg., p. 922, ch. 353, § 1, eff. Aug. 23, 1963; Acts 1969, 61st Leg., 2nd C.S., p. 135, ch. 33, §§ 1, 2, eff. Dec. 9, 1969; Acts 1973, 63rd Leg., p. 1041, ch. 405, § 1, eff. Aug. 27, 1973.]

Art. 326k-29. 105th Judicial District; Compensation of District Attorney

Salary

Sec. 1. The District Attorney of the 105th Judicial District of this state shall be compensated for his services by a salary in an amount not to exceed \$12,000.00 per year, to be paid from state and county funds.

Supplemental Salary

Sec. 2. The Commissioners Courts of the counties which compose the 105th Judicial District of Texas are hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of said 105th Judicial District, in such amount or amounts as they may determine, provided that the total salary shall not exceed the maximum provided in Section 1 hereof.

Determination and Payment

Sec. 3. The salary to be paid as provided in Section 1 of this Act may be fixed and determined by the Commissioners Courts of the various counties in the 105th Judicial District of Texas and may be paid from the Officers Salary Funds of said counties, if adequate. If inadequate, the respective Commissioners Courts may transfer the necessary funds from the general fund of the county to the Officers Salary Fund.

Pro Rata Basis for Supplementary Salary

Sec. 4. The supplementary salary to be paid to the District Attorney of the 105th Judicial District of Texas by the counties that comprise such Judicial District shall be paid on a pro rata basis according to the population of each county as determined by the last preceding Federal Census.

[Acts 1955, 54th Leg., p. 528, ch. 161; Acts 1965, 59th Leg., p. 145, ch. 60, § 1, eff. Aug. 30, 1965.]

Art. 326k-29a. 105th Judicial District; Compensation of District Attorney

Salary

Sec. 1. The District Attorney of the 105th Judicial District of Texas shall be compensated for his services by an annual salary which shall be an amount equal to the salary paid to District Attorneys by the State of Texas plus the salary supplementation herein provided.

Supplemental Salary

Sec. 2. The supplemental salary to be paid the District Attorney of the 105th Judicial District shall be the sum of not less than \$3,000 but not more than \$6,000, to be paid by the Commissioners Courts of the counties comprising the 105th Judicial District, which sum shall be paid to the District Attorney in addition to all compensation which he is authorized to receive by law from the State of Texas.

Pro Rata Basis for Supplemental Salary; Payment

Sec. 3. The supplemental salary herein provided for the District Attorney of the 105th Judicial District shall be paid by the several counties comprising said District on a pro rata basis according to the population of each county as determined by the last preceding Federal Census. Such supplement may be paid from the Officers Salary Funds of said counties; or, if said funds are inadequate for such purpose, the respective Commissioners Courts may transfer the necessary funds to pay said supplement from the general funds of such counties to the Officers Salary Funds.

[Acts 1971, 62nd Leg., p. 1301, ch. 341, eff. May 24, 1971.]

Sections 4 and 5 of the 1971 act provided:

"Sec. 4. Acts 1955, 54th Legislature, Regular Session, Page 528, Chapter 161; and Acts 1965, 59th Legislature, Regular Session, Page 145, Chapter 60; and all other laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict. It is specifically provided that the provisions hereof shall govern the compensation of the District Attorney of the 105th Judicial District to the exclusion of all other laws or parts of laws now in effect on the same subject.

"Sec. 5. Should any Section, paragraph or other part of this Act be declared unconstitutional or invalid for any reason, such declaration shall not affect the constitutionality or validity of any other Section, paragraph or part of this Act; and the Legislature specifically declares that it would have passed the remainder of this Act notwithstanding the omission therefrom of any Section, paragraph or other part held or declared to be unconstitutional or invalid."

Art. 326k-30. Midland County Special Judicial District; Investigator and Stenographer

Investigator; Appointment, Qualifications and Powers

Sec. 1. The District Attorney of the Special Judicial District of Midland County, with the approval of the Commissioners Court of Midland County, is hereby authorized to appoint an investigator to perform such duties as may be assigned to him by the District Attorney. The investigator need not be licensed to practice law. He shall have authority to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He may be required to make a bond in an amount to be fixed by the District Attorney.

Salary and Expenses

Sec. 2. The investigator shall receive an annual salary, payable monthly, in an amount to be fixed by the District Attorney of the Special Judicial District of Midland County with the approval of the Commissioners Court of Midland County. In addition to his salary, the investigator may be allowed the actual and necessary travel expense incurred in the prop-

er discharge of his duties, not to exceed the amount fixed by the Commissioners Court of Midland County. All claims for travel expense shall be approved by the District Attorney. The salary and travel expense of the investigator shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Midland County.

Stenographer; Appointment and Salary

Sec. 3. The District Attorney of the Special Judicial District of Midland County is hereby authorized to appoint a stenographer, with the approval of the Commissioners Court of Midland County, who shall receive an annual salary, payable monthly, in an amount to be fixed by the District Attorney with the approval of the Commissioners Court. The salary of the stenographer shall be paid from the General Fund, the Officers' Salary Fund, or any other available fund of Midland County.

Expiration of District; Appointment of Investigator and Stenographer

Sec. 4. In the event the Special Judicial District of Midland County is abolished or expires by operation of law, the District Attorney of the Judicial District exercising jurisdiction in Midland County shall be authorized to appoint an investigator and a stenographer to serve in Midland County under the same terms as provided in Sections 1, 2 and 3 of this Act. [Acts 1955, 54th Leg., p. 529, ch. 162.]

Art. 326k-30a. 142nd Judicial District of Midland County; Assistants, Investigators and Stenographers; Compensation of District Attorney

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 1. Whenever the District Attorney of the 142nd Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of Midland County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of Midland County may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of the Commissioners Court may be proper. In no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the District Attorney of the 142nd Judicial District shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of Midland County provided that the compensation paid each of said employees shall not be less

than the minimum nor exceed the maximum amounts prescribed in Sections 2 and 3 of this Act.

Salary of Stenographers

Sec. 2. Each stenographer of the District Attorney in the 142nd Judicial District shall be paid a salary of not more than Seven Thousand Five Hundred Dollars (\$7,500) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Salary of Assistants and Investigators

Sec. 3. Each assistant of the District Attorney of the 142nd Judicial District shall be paid a salary of not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County. Each investigator shall be paid a salary of not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of Midland County, to be paid in equal monthly installments out of the officers' salary fund, the general fund, or any other available fund of Midland County.

Qualifications of Assistants; Duties

Sec. 4. The assistants to the District Attorney of the 142nd Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the District Attorney by law.

Qualifications of Investigators; Powers and Duties; Expenses

Sec. 5. Investigators for the District Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. In addition to their salaries, investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties, not to exceed the amount fixed by the Commissioners Court of Midland County, Texas. All claims for travel expenses for the investigators shall be paid from the General Fund, the Officer's Salary Fund, or any other available fund of Midland County, Texas.

Automobile; Office Furniture and Supplies

Sec. 6. The Commissioners Court of Midland County, Texas, is authorized to furnish an automobile or automobiles for use of the District Attorney's office in carrying out the official duties of the office, and to provide for the maintenance thereof. It is further authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as it deems necessary to carry out the official duties of the District Attorney's office,

and to pay the necessary and essential expenses incident to carrying out the official duties of the District Attorney and his office.

Bond

Sec. 7. The stenographers, special investigators, and assistants to the District Attorney may be required by the Commissioners Court of Midland County, Texas, to give bond in such amount as the court may direct.

Compensation of District Attorney

Sec. 8. The District Attorney of the 142nd Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Court of Midland County. The Commissioners Court of Midland County in its discretion is authorized to pay the supplemental salary in such amount as it may determine.

[Acts 1959, 56th Leg., p. 868, ch. 394, eff. May 30, 1959; Acts 1967, 60th Leg., p. 1990, ch. 737, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 3366, ch. 1028, § 1, eff. June 15, 1971.]

Art. 326k-31. 109th Judicial District; Investigators or Assistants

Appointment and Salary

Sec. 1. The District Attorney of the 109th Judicial District is hereby authorized to appoint not more than two (2) investigators or assistants to serve in the counties of the district in which the Commissioners Courts of the respective counties approve the appointment. Each of such investigators or assistants shall receive a salary of not less than Three Thousand, Six Hundred Dollars (\$3,600) and not more than Five Thousand, Two Hundred Dollars (\$5,200) per annum. The Commissioners Court of each county approving the appointment shall pay to each investigator or assistant approved by it an amount annually of not less than its pro rata part of Three Thousand, Six Hundred Dollars (\$3,600), prorated among the counties which approve the appointment on the basis of the total number of criminal cases filed in the 109th District Court in the respective counties during the preceding Calendar year.

Qualifications

Sec. 2. The assistants to the District Attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be licensed to practice law.

Expenses; Proration Among Counties

Sec. 3. Each investigator or assistant provided for in this Act shall be allowed a reasonable amount for expenses not to exceed One Thousand, Two Hundred Dollars (\$1,200) per annum, prorated among the counties approving his appointment on the basis of the total number of criminal cases filed in the 109th District Court in the respective counties during the preceding Calendar year.

Payment of Salary and Expenses

Sec. 4. The salary and expenses of the investigators or assistants provided for in this Act shall be paid monthly by the Commissioners Court of each county approving such appointment, out of the Officers' Salary Fund of the county.

Bond; Powers of Arrest and Process

Sec. 5. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1955, 54th Leg., p. 589, ch. 198.]

Art. 326k-32. Cass County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney of Cass County, Texas, is hereby created and said Criminal District Attorney of Cass County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other district attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Cass County at the General Election in November, 1956, an attorney for said County who shall be styled the Criminal District Attorney of Cass County and who shall hold office for the remainder of the constitutional term of office of Criminal District Attorney of Cass County. Thereafter, the qualified electors of Cass County shall elect a Criminal District Attorney at the General Election in November, 1958, and every four (4) years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Cass County, as herein provided, to be in attendance upon each term and all sessions of the District Court of Cass County and all of the sessions and terms of the inferior courts of Cass County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Cass County in all matters pending before such courts and any other court where Cass County has pending business of any kind, nature or interest and in addition to the specified powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within Cass County as are now by law conferred or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now or hereafter may be provided by law for similar services rendered by district and county attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Cass County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following: The salary of the Criminal District Attorney of Cass County shall be set by the Commissioners Court at a sum of not less than Five Thousand Dollars (\$5,000) nor more than Seven Thousand Five Hundred Dollars (\$7,500) per annum to be paid out of the Officers Salary Fund of Cass County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers Salary Fund.

Secretary; Appointment and Salary

Sec. 5. The Criminal District Attorney of Cass County, for the purpose of conducting the affairs of his office and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint one (1) secretary and fix her salary at not less than Twelve Hundred Dollars (\$1200) per annum to be paid out of the General Fund of Cass County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 6. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Cass County who shall hold office until the next General Election and until his successor is duly elected and qualified. The office of County Attorney of Cass County is abolished from and after the effective date of this Act.

District Attorney of 5th Judicial District

Sec. 7. Upon the effective date of this Act the District Attorney of the Fifth Judicial District of Texas shall only represent the State of Texas in the County of Bowie. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the County of Bowie and the District Attorney shall continue to perform his duties in the County of Bowie as before, and it is specifically understood that this Act only applies to Cass County and not to the County of Bowie.

From the effective date of this Act the District Attorney of the Fifth Judicial District shall continue to fulfill the duties of District Attorney in the County of Bowie but his duties in the County of Cass shall be divested from him and invested in the resident Criminal District Attorney of Cass County, Texas, as created by this Act.

The District Attorney of the Fifth Judicial District shall only stand for election and be elected in the County of Bowie at the next General Election in 1956 and every four (4) years thereafter, but it is specifically understood that the present District Attorney of the Fifth Judicial District shall continue in office as such District Attorney in the County of Bowie until the next General Election and until his successor is elected and qualified.

[Acts 1955, 54th Leg., p. 824, ch. 306.]

Abolition of Office

Acts 1967, 60th Leg., p. 853, ch. 362, § 8 abolished the office of district attorney of the Fifth Judicial District, effective January 1, 1969. See article 326k-58, § 8.

Art. 326k-33. Harrison County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of Criminal District Attorney for Harrison County is hereby created and said Criminal District Attorney of Harrison County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of the 71st Judicial District of Harrison County at its general election in November, 1956, and at the general election every four (4) years thereafter an attorney for said Judicial District and County who shall be styled the Criminal District Attorney of Harrison County and who shall hold office for a period of four (4) years and until his successor is elected and qualified.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Harrison County or his assistants as herein provided to be in attendance upon each term and all sessions of the District Courts of Harrison County and all of the sessions and terms of the inferior Courts of Harrison County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said Courts and to represent Harrison County in all matters pending before such Courts and any other Court where Harrison County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Harrison County as are by law now conferred, or which may hereafter be conferred upon the District and County Attorneys in the various Counties and Judicial Districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Compensation; Private Practice of Law

Sec. 4. (a) The Criminal District Attorney of Harrison County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following, and no more: an annual sum of not more than Eighteen Thousand Dollars (\$18,000) to be paid out of the officers salary fund of Harrison County, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

(b) The Criminal District Attorney of Harrison County, if paid at least Sixteen Thousand Dollars (\$16,000) per year, and his assistants, if paid at least Ten Thousand Dollars (\$10,000) per year, may not engage in the private practice of civil law and may not refer legal business to others engaged in the private practice of law. This subsection does not apply to those acts required in the performance of the official duties as Criminal District Attorney.

Assistants, Investigator and Stenographers; Appointment, Salary and Expenses

Sec. 5. (a) The Criminal District Attorney of Harrison County, for the purpose of conducting the affairs of his office, and with the approval of the Commissioners Court shall be and is hereby authorized to appoint assistants and fix their annual salary as follows: Said assistants shall receive not more than Twelve Thousand Dollars (\$12,000).

(b) The Criminal District Attorney of Harrison County may employ one investigator and he may employ two (2) stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Harrison County, Texas. All the salaries mentioned in this section shall be payable from the officers salary fund, if adequate; if inadequate the Commissioners Court shall transfer the necessary funds from the general fund of the County to the officers salary fund.

(c) In addition to the salaries provided the Criminal District Attorney, his assistants and investigators, the Commissioners Court of Harrison County may allow such Criminal District Attorney, his assistants and investigators, such necessary expenses as within the discretion of the Court seems reasonable and said expenses shall be paid as provided by law for such other claims of expenses.

Additional Assistants and Employees

Sec. 6. Should the Criminal District Attorney be of the opinion that the number of assistants, investigators, stenographers, or clerks, as provided above, is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court appoint additional assistants, investigators, clerks or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Harrison County, Texas.

Oath of Assistant and Investigator; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Harrison County and the investigator, when so appointed shall take the Constitutional oath of office, and said Criminal District Attorney of Harrison County and his assistants shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the Courts of Harrison County, Texas, and any and all civil matters in any Court anywhere involving interest, crime or right of Harrison County as well as perform the other statutory or Con-

stitutional duties of District and County Attorneys.

Said Assistant Criminal District Attorneys of Harrison County are authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the Criminal District Attorney and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Harrison County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 8. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Harrison County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Harrison County is abolished from and after the effective date of this Act.

[Acts 1955, 54th Leg., p. 964, ch. 375; Acts 1971, 62nd Leg., p. 2647, ch. 870, §§ 1, 2, eff. Aug. 30, 1971.]

Art. 326k-34. Repealed by Acts 1967, 60th Leg., p. 1832, ch. 709, § 4, eff. Aug. 28, 1967

The repealed article was derived from Acts 1955, 54th Leg., p. 980, ch. 381.
Acts 1967, 60th Leg., p. 1832, ch. 709, § 1 provided: "The office of Criminal District Attorney of Polk County is abolished."
See, now, art. 331k.

Art. 326k-35. 70th and 161st Judicial Districts; Compensation of District Attorney

Sec. 1. The District Attorney for the 70th and 161st Judicial Districts shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Court of Ector County. The Commissioners Court of Ector County in its discretion is authorized to pay the supplemental salary in such amount as it may determine.

Sec. 2. Repealed by Acts 1967, 60th Leg., p. 1989, ch. 737, § 2, eff. Aug. 28, 1967. [See, now, art. 326k-30a.]

[Acts 1955, 54th Leg., p. 1055, ch. 398; Acts 1967, 60th Leg., p. 1989, ch. 737, § 2, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 741, ch. 321, § 1, eff. June 12, 1973.]

Art. 326k-36. Randall County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney of Randall County, Texas, is hereby created and said Criminal District Attorney of Randall County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this State of other District Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Randall County at the general election in November, 1956, an attorney for said county who shall be styled the Criminal District Attorney of Randall County and who

shall hold office for the remainder of the constitutional term of office of Criminal District Attorney of Randall County. Thereafter, the qualified electors of Randall County shall elect a Criminal District Attorney at the general election in November, 1958, and every four years thereafter.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Randall County or his assistant, as herein provided, to be in attendance upon each term and all sessions of the district courts of Randall County and all of the sessions and terms of the inferior courts of Randall County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Randall County in all matters pending before such courts and any other court where Randall County has pending business of any kind, nature or interest and in addition to the specified powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within Randall County as are now by law conferred or which may hereafter be conferred upon the District and County Attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now or hereafter may be provided by law for similar services rendered by District and County Attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Randall County, Texas shall be commissioned by the Governor and shall receive as salary and compensation the following: A salary of Five Hundred (\$500.00) Dollars from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys and the sum of not less than Five Thousand (\$5,000.00) Dollars nor more than Seven Thousand, Five Hundred (\$7,500.00) Dollars per annum to be paid out of the Officers Salary Fund of Randall County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund.

Assistant and Secretary; Appointment and Salary; Expenses

Sec. 5. The Criminal District Attorney of Randall County, for the purpose of conducting the affairs of his office and with the approval of the Commissioners Court, shall be and is hereby authorized to appoint one assistant, when needed, the salary of whom shall be fixed at a reasonable sum by the Commissioners Court of Randall County. The Criminal District Attorney of Randall County, with the approval of the Commissioners Court, is hereby authorized to appoint one secretary, when needed, the salary of whom shall be fixed at a reasonable sum by the Commissioners Court of Randall County. In addition to the salaries provided for the Criminal District Attorney,

his assistant and secretary, the Commissioners Court of Randall County may allow such Criminal District Attorney, his assistant and secretary such necessary expenses as within the discretion of the court seem reasonable, and said expenses shall be paid as provided by law for other such claims or expenses.

Oath of Assistant; Powers and Duties

Sec. 6. The Assistant Criminal District Attorney of Randall County, when so appointed, shall take the Constitutional oath of office and said Criminal District Attorney of Randall County and his assistant shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Randall County, Texas and any and all civil matters in any court anywhere involving interest or right of Randall County as well as the performance of the other Statutory and Constitutional duties imposed upon District and County Attorneys. Said Assistant Criminal District Attorney of Randall County is authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney of Randall County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney of Randall County.

Appointment and Term; Abolition of County Attorney's Office

Sec. 7. Upon the effective date of this Act the Governor of Texas shall immediately appoint a Criminal District Attorney of Randall County who shall hold office until the next general election and until his successor is duly elected and qualified. The office of County Attorney of Randall County is abolished from and after the effective date of this Act.

District Attorney of 47th Judicial District

Sec. 8. Upon the effective date of this Act the District Attorney of the 47th Judicial District of Texas shall only represent the State of Texas in the Counties of Potter and Armstrong. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the Counties of Potter and Armstrong and the District Attorney shall continue to perform his duties in the Counties of Potter and Armstrong as before, and it is specifically understood that this Act only applies to Randall County and not to the Counties of Potter and Armstrong.

From the effective date of this Act the District Attorney of the 47th Judicial District shall continue to fulfill the duties of District Attorney in the Counties of Potter and Armstrong, but his duties in the County of Randall shall be divested from him and invested in the resident Criminal District Attorney of Randall County, Texas as created by this Act.

The District Attorney of the 47th Judicial District shall only stand for election and be elected in the Counties of Potter and Armstrong at the next general election in 1956 and

every four years thereafter, but it is specifically understood that the present District Attorney of the 47th Judicial District shall continue in office as such District Attorney in the Counties of Potter and Armstrong until the next general election and until his successor is elected and qualified.

[Acts 1955, 54th Leg., p. 1213, ch. 485.]

Art. 326k-36a. 47th Judicial District; Compensation of District Attorney; Assistants and Investigators

Supplemental Salary of District Attorney

Sec. 1. The District Attorney of the 47th Judicial District shall be compensated for his services by a supplemental salary in addition to that paid by the State of Texas, in an amount not more than \$8,500 per year.

Appointment of Assistants and Investigators

Sec. 2. The district attorney shall appoint a first assistant district attorney and such other assistants and investigators as shall be necessary to the proper performance of his official duties. The number of assistants and investigators to be appointed and the compensation to be paid shall be with the approval of the Commissioners Court of Potter County.

Compensation of Assistants and Investigators

Sec. 3. The first assistant district attorney shall receive a salary of not more than \$15,000 per year, and other assistant district attorneys shall receive salaries of not more than \$12,000 per year. Investigators shall receive salaries of not more than \$10,000 per year.

Qualifications and Duties of Assistants

Sec. 4. The assistants to the district attorney shall be licensed to practice law in the State of Texas and shall be authorized to perform all the duties imposed by law on the District Attorney of the 47th Judicial District.

Payment of Salaries

Sec. 5. The Commissioners Court of Potter County is hereby authorized to pay the salaries provided for in this Act to the District Attorney of the 47th Judicial District and his assistants and investigators from the officers salary fund, the general fund, or any other available fund, or any combination thereof at the discretion of the commissioners court.

Payment Through County Funds

Sec. 6. Any supplements or increases in salary authorized hereunder shall be paid exclusively through the funds of the county involved, and no such supplements or increases shall ever be charged on the State of Texas. [Acts 1961, 57th Leg., p. 751, ch. 348, eff. June 16, 1961; Acts 1969, 61st Leg., p. 250, ch. 97, § 1, eff. April 28, 1969.]

Art. 326k-37. 70th Judicial District; Assistants, Investigators and Stenographers

Employment of Assistants, Investigators and Stenographers

Sec. 1. From and after the effective date of this Act the District Attorney of the 70th Judi-

cial District is hereby authorized to employ stenographers, assistants and investigators in the manner prescribed in Section 2 of this Act.

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

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

Salaries and Qualifications

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

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

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

Expenses

Sec. 4. The investigators or assistants provided for in this Act shall be allowed their reasonable and necessary expenses incurred in the conduct of their official duties; provided, however, said expenses shall be paid only after ap-

proval of the District Attorney and the Commissioners Court of Ector County.

Bond; Powers of Arrest and Process

Sec. 5. The investigators or assistants provided for in this Act may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1957, 55th Leg., p. 9, ch. S.]

Art. 326k-38. Repealed by Acts 1961, 57th Leg., p. 11, ch. 7, § 6, eff. Feb. 23, 1961

See, now, article 326k-38a.

Art. 326k-38a. 49th Judicial District; Compensation of District Attorney; Assistants, Investigator and Stenographer

Salary of District Attorney

Sec. 1. The District Attorney of the 49th Judicial District may be paid a salary, at the discretion of the Commissioners Court, in an amount not to exceed Ten Thousand Dollars (\$10,000) per annum by the County of Webb for the handling and prosecution of all misdemeanor cases in Webb County, and the Commissioners Court of Webb County is hereby authorized to pay said salary in supplementation of the salary paid by the State, in equal monthly payments out of the county funds by warrants drawn on such county funds.

Assistants; Appointment; Qualifications; Oath; Powers and Duties; Compensation; Removal

Sec. 2. Said District Attorney is hereby authorized to appoint two (2) Assistant District Attorneys for Webb County, provided that the District Attorney shall furnish data to the Commissioners Court of Webb County that he is in need of two Assistants and that it is necessary and to the best interests of the State and said County that said Assistant District Attorneys be appointed. Said Assistant District Attorneys so appointed shall be qualified residents of Webb County and shall give bond and take the official oath; and said Assistant District Attorneys shall be qualified licensed attorneys and shall have authority to perform all the acts and duties of the District Attorney in Webb County under the laws of this State. Said appointments shall be for such time as the District Attorney shall deem best in the enforcement of the law, not to be less than one month. Each Assistant District Attorney shall be paid by Webb County for the time of actual service rendered at a rate not to exceed Fifteen Thousand Dollars (\$15,000) per annum, in twelve (12) equal monthly installments out of county funds by warrants drawn upon such county funds. The District Attorney of said District, at any time he deems said Assistants unnecessary or finds that they, or either one of them, are not attending to their duties as required by law, may remove either one, or both, from office by giving written notice to the Assistant or Assistants and to the Commissioners Court to that effect.

Special Investigator; Compensation; Powers and Duties; Removal

Sec. 3. Said District Attorney is hereby authorized to appoint one full-time assistant to serve in Webb County, in addition to his two (2) regular assistants, provided for in this Act, which assistant need not be licensed to practice law. Said assistant shall be known as a Special Investigator, and shall perform such duties as may be assigned to him by the District Attorney. Said assistant shall receive as compensation a salary not to exceed Eight Thousand, Five Hundred Dollars (\$8,500) per annum, payable monthly out of county funds by warrants drawn on such county funds. Said Special Investigator shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. He shall serve at the will of the District Attorney and may be removed from office by written notice by the District Attorney to the Special Investigator and to the Commissioners Court to that effect.

Stenographer-Secretaries; Appointment; Duties; Compensation

Sec. 4. The District Attorney is hereby authorized to appoint two (2) Stenographer-Secretaries, who shall keep the records of the District Attorney's office and perform the necessary stenographic and secretarial work, as may be assigned to such person by the District Attorney, and who shall receive as compensation a salary not to exceed Seven Thousand Dollars (\$7,000) per annum, payable monthly out of county funds by warrants drawn on such county funds.

Payment and Determination of Salaries

Sec. 5. The Commissioners Court of Webb County is hereby authorized to pay the salaries provided in Sections 2, 3 and 4 of this Act, and to supplement the salary of the District Attorney of the 49th Judicial District paid by the State of Texas in the amount set out in Section 1 hereof. The salaries of the Assistant District Attorneys, the Special Investigator, and the Stenographer-Secretaries shall be fixed by the Commissioners Court at its discretion.

[Acts 1961, 57th Leg., p. 11, ch. 7; Acts 1965, 59th Leg., p. 854, ch. 414, § 1, eff. June 14, 1965; Acts 1969, 61st Leg., p. 1848, ch. 620, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1972, ch. 610, § 1, eff. June 2, 1971; Acts 1973, 63rd Leg., p. 1374, ch. 526, § 1, eff. June 14, 1973.]

Art. 326k-39. Repealed by Acts 1961, 57th Leg., p. 1026, ch. 452, § 1, eff. Aug. 28, 1961

The repealed article authorized the appointment of an assistant district attorney for the 42nd and 104th judicial districts and was derived from Acts 1957, 55th Leg., p. 391, ch. 192.

Acts 1967, 60th Leg., p. 1201, ch. 538, § 3, abolished the offices of district attorney for the 42nd and 104th judicial districts, effective January 1, 1969.

Art. 326k-40. 30th Judicial District; Assistants, Investigators and Stenographers

Sec. 1. From and after the effective date of this Act, the District Attorney of the 30th Ju-

dicial District, with the consent of the Commissioners Court of Wichita County, shall appoint investigators and assistants as he deems necessary for the performance of his duties. Each investigator and assistant shall receive a salary to be fixed by the Commissioners Court.

Sec. 2. From and after the effective date of this Act, the District Attorney of the 30th Judicial District, with the consent of the Commissioners Court of Wichita County, shall appoint stenographers as he deems necessary for the performance of his duties. Each stenographer shall receive a salary to be fixed by the Commissioners Court.

[Acts 1957, 55th Leg., p. 1227, ch. 403; Acts 1961, 57th Leg., p. 126, ch. 69, § 1; Acts 1967, 60th Leg., p. 1207, ch. 542, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., p. 1058, ch. 217, § 1, eff. May 17, 1971.]

Art. 326k-41. 121st Judicial District Attorney

There is hereby created the office of District Attorney for the 121st Judicial District of Texas. Said District Attorney shall represent the State of Texas in all criminal cases in the District Court in each County within the District and shall perform such other duties as are or may be provided by General Law governing District Attorneys, and he shall receive such compensation as allowed other District Attorneys under the Laws of this State.

[Acts 1959, 56th Leg., p. 425, ch. 190, § 6.]

Section 7 of Acts 1959, 56th Leg., p. 425, ch. 190 provided: "Immediately upon the effective date of this Act, the Governor shall appoint a qualified attorney to serve as District Attorney for the 121st Judicial District until the next General Election, at which time a District Attorney shall be elected to serve a term of four (4) years."

Art. 326k-41a. 121st Judicial District; Assistants, Investigators and Stenographer

The District Attorney of the 121st Judicial District, with the consent of the District Judge of the 121st Judicial District and the combined majority of the Commissioners Courts of the counties composing the 121st Judicial District, is hereby authorized to appoint not more than two (2) investigators or assistants. Such investigators or assistants shall receive a salary not to exceed Ten Thousand Dollars (\$10,000) per annum each. The salaries shall be fixed by the Commissioners Courts of the several counties composing the 121st Judicial District, provided, however, that the salaries may not be reduced by the Commissioners Courts of the several counties unless approval is first obtained from the District Attorney of the 121st Judicial District. The assistants to the District Attorney must be duly and legally licensed to practice law in the State of Texas; however, the investigators need not be licensed attorneys. The investigators or assistants provided for in this Act shall be allowed a reasonable amount for expenses not to exceed Twelve Hundred Dollars (\$1,200) per annum. The District Attorney of the 121st Judicial District shall be authorized to employ a stenographer, who shall receive a salary not to exceed Five Thousand, Four Hundred Dollars (\$5,400) per annum. The salary of the investigators, assistants, and

stenographer provided for in this Act and the expenses provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the 121st Judicial District out of the Officers' Salary Fund of the county. Such salary and expenses shall be prorated according to the population of the respective counties.

[Acts 1959, 56th Leg., p. 425, ch. 190, § 8; Acts 1961, 57th Leg., p. 25, ch. 15, § 1, eff. March 6, 1961; Acts 1971, 62nd Leg., p. 1189, ch. 288, § 1, eff. Aug. 30, 1971.]

Art. 326k-42. Roberts County District Attorney

The District Attorney for Roberts County shall represent the state in all criminal cases before the County Court of Roberts County, Texas. The County Commissioners Court of Roberts County may supplement the salary of the District Attorney for Roberts County, and may pay his reasonable and necessary expenses in connection with his duties in Roberts County.

[Acts 1959, 56th Leg., p. 772, ch. 351, § 1.]

Art. 326k-43. 27th Judicial District; Compensation of District Attorney

The Commissioners Court of Bell County, Texas, in the 27th Judicial District of the State of Texas, is hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of the 27th Judicial District of the State of Texas, by an additional salary of One Thousand, Five Hundred Dollars (\$1,500) per year. This supplemental salary that may be paid by the said Commissioners Court of Bell County, Texas, may be paid in addition to the salary paid said District Attorney by the State of Texas under existing law. The amount of any such supplemental salary that may be paid by the said Commissioners Court of said County shall be fixed and determined by the Commissioners Court of said County.

[Acts 1959, 56th Leg., p. 936, ch. 432, § 1.]

Art. 326k-43a. 27th Judicial District; Assistants, Investigators and Stenographers; Compensation of District Attorney

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment

Sec. 1. Whenever the District Attorney of the 27th Judicial District shall require the services of assistants, investigators or stenographers in the performance of his duty, he shall apply to the Commissioners Court of any one or more of the counties comprising said 27th Judicial District for authority to appoint such assistants, investigators or stenographers, stating by written application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court or Commissioners Courts applied to may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them.

Qualifications and Duties of Assistants

Sec. 2. The assistants to the District Attorney of the 27th Judicial District must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the District Attorney of the 27th Judicial District by law.

Qualifications and Powers of Investigators

Sec. 3. Investigators for the District Attorney need not be licensed to practice law. They shall have authority to make arrests and execute process in criminal cases, and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Office Furniture and Supplies; Expenses

Sec. 4. Any one or more of the Commissioners Courts of the counties comprising the 27th Judicial District are authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as may be deemed necessary to carry out the official duties of the District Attorney's office, and to pay necessary and essential expenses incident to carrying out the official duties of the District Attorney and his office. In addition to their salaries, the District Attorney, his assistants and investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties. The provisions of this Section shall not apply to that portion of the compensation and travel expense paid by the State of Texas to district officials and employees.

Supplemental Salary of District Attorney

Sec. 5. The Commissioners Court of Bell County, Texas, in the 27th Judicial District of the State of Texas, is hereby authorized to supplement the salary paid by the State of Texas to the District Attorney of the 27th Judicial District of the State of Texas, by an additional salary of not less than One Thousand Five Hundred Dollars (\$1,500.00) per year. The amount of any such supplemental salary that may be paid by said Commissioners Court of said County shall be fixed and determined by the Commissioners Court of said Bell County. This supplemental salary that may be paid by the said Commissioners Court of Bell County, Texas, shall be paid in addition to the salary paid said District Attorney by the State of Texas under existing law or any amendments or additions thereto.

Payment of Salaries and Expenses

Sec. 6. Only the Commissioners Court or Commissioners Courts of the counties within the 27th Judicial District that authorize the employment of assistants, investigators and stenographers as provided in Section 1 hereof shall be responsible for the payment of their salaries and payment of expenses thereof and of the District Attorney as provided for in Section 4 of this Act. Any such expense agreed upon by the Commissioners Courts of more than one such county within said district shall be determined according to population of the

counties. The salaries of any assistants, investigators, and stenographers as provided in Section 1 of this Act, and any expenditure authorized in Section 4 of this Act, and the supplemental salary of the District Attorney as provided in Section 5 of this Act, shall be paid from the Officers Salary Fund of the county or counties obligated by the terms of this Act, or the General Fund or any combination thereof at the discretion of the said Commissioners Courts. The compensation paid from county funds of the three counties comprising the 27th Judicial District to any person affected by this Act shall not be set at a figure lower than that actually paid to that person, or to any other person serving in that position, from such funds on the effective date of this Act.

[Acts 1963, 58th Leg., p. 923, ch. 354.]

Art. 326k-44. Borden County District Attorney

Until a resident County Attorney is elected and qualified in Borden County, the District Attorney for Borden County shall represent the State in all criminal cases before the County Court of Borden County, Texas. The County Commissioners Court of Borden County shall supplement the salary of the District Attorney for Borden County, and may pay his reasonable and necessary expenses in connection with his duties in Borden County.

[Acts 1961, 57th Leg., p. 209, ch. 107, § 1.]

Art. 326k-45. 24th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers

Compensation of District Attorney

Sec. 1. The District Attorney of the 24th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary to be paid District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising such District, in the manner specified in succeeding Sections of this Act.

Supplemental Salary

Sec. 2. The Commissioners Courts of the counties comprising the 24th Judicial District are hereby authorized to pay in equal monthly payments the supplement to the salary paid the District Attorney by the State of Texas in such amounts that they approve and deem proper.

Payment of Salaries and Expenses

Sec. 3. The supplemental salary and the expenses to be paid the District Attorney, and the salary to be paid the investigator or Assistant District Attorney, shall be paid by the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County, in proportion to the population of the counties, except Victoria County, according to the last preceding Federal Census.

Stenographer; Appointment and Salary; Office

Sec. 4. The District Attorney of the 24th Judicial District is hereby authorized to ap-

point one Stenographer whose salary shall be fixed and determined by the District Attorney with the approval of the Commissioners Court of each County of said Judicial District and the District Attorney shall file with the Commissioners Court of each County in said District a statement specifying the amount of salary to be paid said Stenographer. Said salary shall be paid monthly by the Commissioners Court of each County comprising said District in the manner and on the same pro rata basis as that contained in the order of the District Judge of such Districts for the payment of the salary of the official shorthand reporter.

The Commissioners Court of the County in which the District Attorney resides shall furnish the District Attorney with adequate office space and the supplies necessary to the efficient operation of said office.

Investigator or Assistant; Appointment and Salary

Sec. 5. The District Attorney of the 24th Judicial District is authorized to appoint an Investigator or Assistant District Attorney for the district with the approval and consent of the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County. The salary of the Investigator or Assistant District Attorney shall be fixed and determined by the District Attorney with the approval and consent of the Commissioners Courts of the counties comprising the 24th Judicial District, except Victoria County and the District Attorney shall file with the Commissioners Court of each county comprising the district, except Victoria County, a statement specifying the amount of the salary to be paid to the Investigator or Assistant District Attorney. The salary shall be paid monthly by the Commissioners Court of each County in the proportion prescribed by Section 3 of this Act. The Assistant District Attorney must be duly and legally licensed to practice law in the State of Texas, and he is authorized to perform all duties imposed upon the District Attorney by law.

Expenses

Sec. 6. In addition to the salary prescribed by law, the District Attorney of the 24th Judicial District may be allowed the actual and necessary expenses, not to exceed Two Thousand Dollars (\$2,000) per year, incurred by him in the proper discharge of his duties; and each County shall pay a proportion of these expenses as prescribed by Section 3 of this Act.

Additional Employees; Appointment and Salary

Sec. 7. Should the District Attorney of the 24th Judicial District be of the opinion that the number of investigators, assistants, stenographers, clerks, or employees as provided is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the Commissioners Court of each County comprising the District, except Victoria County, appoint additional investigators, assistants, stenographers, clerks or employees

and pay same such compensation as may be fixed by the Commissioners Courts of said District, except Victoria County.

[Acts 1961, 57th Leg., p. 671, ch. 310, eff. June 14, 1961; Acts 1971, 62nd Leg., p. 1587, ch. 431, § 1, eff. May 26, 1971.]

Art. 326k-45a. Calhoun County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. (a) The constitutional office of Criminal District Attorney of Calhoun County is created.

(b) The criminal district attorney shall possess the qualifications, take the oath, and give the bond required by the constitution and laws of this state of district attorneys.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 2. (a) The criminal district attorney or his assistants shall be in attendance on each term and all sessions of any district court in Calhoun County held for the transaction of criminal business and in attendance on each term and all sessions of the inferior courts of Calhoun County held for the transaction of criminal business, except the city court of an incorporated city. The criminal district attorney or his assistants shall exclusively represent the State of Texas in all criminal matters before such courts and shall represent Calhoun County in all matters before such courts or any other court where Calhoun County has pending business of any kind, matter, or interest. However, nothing in this Act shall be construed as preventing Calhoun County from retaining other legal counsel in civil matters at any time it sees fit to do so.

(b) The criminal district attorney shall have and exercise, in addition to the specific powers given and duties imposed on him and his assistants by this Act, all powers, duties, and privileges within Calhoun County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and State of Texas.

(c) The criminal district attorney shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Salary; Payment

Sec. 3. The Criminal District Attorney of Calhoun County shall receive as compensation an annual salary from the State of Texas in such amount as may be fixed by the general laws of this state relating to the salary to be paid to the district attorneys of this state. In addition, the commissioners court may, in its discretion, supplement the salary paid by the state. The sum paid by the county shall be paid out of the officers salary fund of the county, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers salary fund.

Assistants and Stenographers; Appointment and Compensation; Expenses

Sec. 4. (a) The criminal district attorney, for the purpose of conducting the affairs of his office, may appoint such assistant criminal district attorneys as the Calhoun County Commissioners Court may authorize. An assistant criminal district attorney shall be paid a salary of not less than \$4,800 per annum to be fixed by the criminal district attorney with the approval of the commissioners court. In addition to the salaries paid the criminal district attorney and his assistants, the commissioners court may allow the criminal district attorney and his assistants such necessary expenses as within the discretion of the court seem reasonable, which expenses shall be paid as provided by law for other such claims of expenses.

(b) The criminal district attorney may employ as many stenographers as the Commissioners Court of Calhoun County may authorize and fix their salaries at not less than \$3,000, with the approval of the commissioners court.

(c) The salaries provided for in this section shall be paid by the county out of the officers' salary fund, if adequate, and if inadequate, the commissioners court shall transfer the necessary funds from the general revenue fund to the officers' salary fund.

Oath of Assistants; Powers and Duties

Sec. 5. An assistant criminal district attorney appointed under the provisions of this Act shall take the constitutional oath of office, shall be a person licensed to practice law in this state, and may perform any duty devolving on the criminal district attorney of Calhoun County.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Calhoun County is abolished from and after the effective date of this Act.

Appointment; Election and Term

Sec. 7. (a) On the effective date of this Act, the governor shall appoint a criminal district attorney for Calhoun County, who shall hold office until the next general election and until his successor is duly elected and has qualified.

(b) At the general election in 1974 and every four years thereafter, this officer shall be elected to a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney for Calhoun County shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

District Attorney of 24th Judicial District; Application of Act

Sec. 8. (a) From and after the effective date of this Act, the District Attorney of the 24th Judicial District shall only represent the State of Texas in the counties of Jackson,

DeWitt, Refugio, and Goliad. The provisions of this Act apply only to Calhoun County and do not affect the office of district attorney or the duties and powers of the district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad. The District Attorney of the 24th Judicial District shall continue to fulfill the duties of district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad, but his duties in the County of Calhoun are divested from him and invested in the Criminal District Attorney of Calhoun County.

(b) From and after the effective date of this Act, the District Attorney of the 24th Judicial District shall only stand for election and be elected from the counties of Jackson, DeWitt, Refugio, and Goliad. The present district attorney for the 24th Judicial District shall continue in office as the district attorney in the counties of Jackson, DeWitt, Refugio, and Goliad until the general election in 1976 and until his successor is elected and qualified.

[Acts 1973, 63rd Leg., p. 822, ch. 373, eff. Aug. 27, 1973.]

Art. 326k-46. 38th and Second 38th Judicial Districts; Compensation of District Attorneys

The District Attorneys of the 38th Judicial District and of the Second 38th Judicial District shall be compensated for their services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the State, and in addition their salaries may be supplemented by the Commissioners Courts of the Counties comprising the 38th Judicial District and of the Second 38th Judicial District or any one or more of such Commissioners Courts; providing, however, that the total salary of such District Attorneys shall not be supplemented to exceed the sum of Eleven Thousand Dollars (\$11,000) per annum. The Commissioners Courts of the Counties comprising the 38th Judicial District and the Second 38th Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above.

[Acts 1961, 57th Leg., p. 759, ch. 350, § 1.]

Art. 326k-47. 23rd Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 23rd Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the District of the District Attorney of the 23rd Judicial District, so that the total salary of the District Attorney of the 23rd Judicial District may be the sum of Twelve Thousand Dollars (\$12,000.00) per annum.

Sec. 2. The Commissioners Courts of the counties comprising the District of the District Attorney of the 23rd Judicial District are hereby authorized to pay said supplement to the

salary paid the District Attorney of the 23rd Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Sec. 3. The supplemental salary to be paid the District Attorney of the 23rd Judicial District by the Commissioners Courts of the counties comprising the District of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census.

[Acts 1961, 57th Leg., 1st C.S., p. 129, ch. 26.]

Art. 326k-48. 81st Judicial District; Compensation of District Attorney

The District Attorney of the 81st Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to the salary paid to District Attorneys by the State, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the 81st Judicial District, or any one or more of such Commissioners Courts; providing, however, that the total salary of such District Attorney shall not be supplemented to exceed the sum of Nineteen Thousand Dollars (\$19,000.00) per annum. The Commissioners Courts of the counties comprising the 81st Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the limit fixed above.

[Acts 1963, 58th Leg., p. 419, ch. 143, § 1, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1010, ch. 440, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 704, ch. 69, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 844, ch. 380, § 1, eff. June 12, 1973.]

Art. 326k-48a. 81st Judicial District; Stenographer or Clerk

Sec. 1. The District Attorney of the 81st Judicial District of Texas is hereby authorized to employ a stenographer or clerk who may receive a salary not to exceed Four Thousand Five Hundred Dollars (\$4,500.00) per annum, to be fixed by the District Attorney of the said Judicial District and approved by the combined majority of the Commissioners Courts of the counties composing his Judicial District. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Court of each county composing the Judicial District, prorated apportionately to the population of the county.

Sec. 2. The Commissioners Court in each county of the Judicial District affected by this Act may enter an order so as to increase the compensation being paid by the county to such stenographer in an amount not to exceed thirty-five per cent (35%) of the sum being paid at the effective date of this Act.

[Acts 1967, 60th Leg., p. 1009, ch. 439, eff. Aug. 28, 1967.]

Art. 326k-49. 1st Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 1st Judicial District shall be compensated for his services in such amounts as may be fixed by the General Law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the Commissioners Courts of the counties comprising the district of the District Attorney of the 1st Judicial District, so that the total salary of the District Attorney of the 1st Judicial District may be the sum of Eleven Thousand Dollars (\$11,000) per annum.

Sec. 2. The Commissioners Courts of the counties comprising the District of the District Attorney of the 1st Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 1st Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

Sec. 3. The supplemental salary to be paid the District Attorney of the 1st Judicial District by the Commissioners Courts of the counties comprising the district of said District Attorney shall be paid on a pro rata basis according to the population of each county listed in the last preceding Federal Census.

[Acts 1963, 58th Leg., p. 926, ch. 356.]

Art. 326k-49a. 112th Judicial District; Compensation of District Attorney

Sec. 1. The District Attorney of the 112th Judicial District shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the state, and the counties comprising the District of the District Attorney of the 112th Judicial District may supplement the same by an additional salary of Four Thousand Eight Hundred Dollars (\$4,800.00).

Sec. 2. The Commissioners Courts of the counties, or any one or more of them, comprising the District of the Attorney of the 112th Judicial District are hereby authorized to pay said supplement to the salary paid the District Attorney of the 112th Judicial District by the state, out of the Officer's Salary Funds of said counties, if adequate; if inadequate, the said Commissioners Courts shall transfer the necessary funds from the General Funds of said counties to the Officer's Salary Funds of said counties.

[Acts 1969, 61st Leg., p. 2127, ch. 731, eff. Sept. 1, 1969.]

Art. 326k-50. Bexar County Criminal District Attorney

Purpose of Act

Sec. 1. In view of the fact that presently there are a large number of statutes which regulate the office of Criminal District Attorney of Bexar County, Texas, some contained in numerous bracket laws and others in enact-

ments involving the creation of various courts of Bexar County, and, in view of the fact that such statutes governing the operation of this office should be harmonized and one clear mode for operation of this office should be set out, the following is hereby enacted by the Legislature of this state as a Special Law after due publication in accordance with the Constitution of Texas.

Creation of Office; Election and Term; Qualifications; Oath; Bond

Sec. 2. In Bexar County, there is hereby created the office of Criminal District Attorney of Bexar County, which officer shall be a Constitutional Criminal District Attorney. The present Criminal District Attorney of Bexar County shall fill this office until the 1st day of January, 1967, or until his successor is elected, and qualified, unless a vacancy in this office shall occur by death, resignation or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law. Thereafter such officer shall be elected every four years in accordance with the Constitution of this state. The said Criminal District Attorney of Bexar County shall possess the qualifications and take the oath and give the bond required by the Constitution and laws of this state of other District Attorneys.

Powers and Duties

Sec. 3. It shall be the duty of said Criminal District Attorney of Bexar County, or his assistants as herein provided, to be in attendance upon each term and all sessions of the District and County and Justice Courts of Bexar County, as hereinafter provided, held for the transaction of criminal business, and to exclusively represent the State of Texas in all matters pending before said courts and to represent Bexar County in all matters pending before such courts and any other court where Bexar County has pending business of any kind, matter or interest. The Criminal District Attorney of Bexar County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such county, as are now by law conferred or which may hereafter be conferred upon District and County Attorneys under any law of this state. He shall collect such fees, commissions and perquisites as is now or may hereafter be provided by law for similar services rendered by District and County Attorneys of this state which funds shall be paid into the proper county funds as provided by law.

Compensation and Commission

Sec. 4. Repealed by Acts 1973, 63rd Leg., p. 1293, ch. 482, § 2, eff. Aug. 27, 1973.

District Attorney of 37th, 45th, 57th, 73rd, 131st, 144th, 150th and 175th Judicial Districts

Sec. 5. The Criminal District Attorney of Bexar County shall be and function as the District Attorney of the 37th, 45th, 57th, 73rd, 131st, 150th, 144th, and 175th Judicial District Courts of Texas, and in addition thereto shall

be and function as the District Attorney for any future Judicial District which may be created which has as its territorial jurisdiction that area that lies within the boundaries of Bexar County, Texas.

Assistants and Employees; Salaries; Removal

Sec. 6. The Criminal District Attorney of Bexar County shall appoint assistants, stenographers, investigators and other employees of this office. The number of such positions in each class of employment, and the amount of salary that shall be paid to the person holding each position shall be designated by the Criminal District Attorney and be subject to the approval of the Commissioners Court of Bexar County. All of the salaries shall be paid from the Officers Salary Fund if adequate; if inadequate, the Commissioners Court may pay salaries out of the General Fund, the Jury fund, or any other funds available for the purpose. All employees of the office of Criminal District Attorney of Bexar County, whether assistants, stenographers, investigators, or any other class of employment, shall be removable at the will of the Criminal District Attorney.

Assistants and Investigators; Oath; Powers and Duties

Sec. 7. The Assistant Criminal District Attorneys of Bexar County, and the investigators, when so appointed, shall take the Constitutional Oath of office and the said Criminal District Attorney of Bexar County and his assistants shall have the exclusive right and it shall be their duty, to represent the State of Texas in all Criminal cases pending in any and all of the Courts of Bexar County, Texas, except in the Corporation Courts of the various cities and towns in Bexar County. Said Assistant Criminal District Attorneys of Bexar County are hereby authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty involving upon the Criminal District Attorney of Bexar County, which assistants shall act subject to and under the direction of the Criminal District Attorney of Bexar County.

Office Space

Sec. 8. The Commissioners Court is authorized upon the request of the Criminal District Attorney to provide office space for such officers, his assistants, investigators and other staff.

Automobile Expense

Sec. 9. The Commissioners Court is hereby authorized to allow such automobile expense to any officer, investigator, or employee in the performance of his official duties as they may deem necessary.

Qualifications of Assistants and Investigators

Sec. 10. The assistants to the Criminal District Attorney of Bexar County must be duly and legally licensed to practice law in the State of Texas; however, the investigators or other classes of employees need not be duly and legally licensed to practice law in the State of Texas.

Special Counsel

Sec. 11. The Commissioners Court of Bexar County shall have the authority to employ special counsel, learned in the law, to represent the county in all suits brought by or against such county involving condemnations or eminent domain proceedings, and particularly with authority to render aid and work with the Commissioners Court, the County Engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways, and other proper purposes where the right of eminent domain is given to counties. The Commissioners Court of Bexar County and the Criminal District Attorney of Bexar County, acting in conjunction and upon the approval of both, shall employ any such special counsel and such employment shall be made for such time and on such terms as they may jointly deem necessary, expedient and proper. Termination of employment of such special counsel shall be governed by the law regulating removal of Assistant Criminal District Attorneys, investigators and other classes of employees of the office of the Criminal District Attorney of Bexar County, as provided in this Act.

[Acts 1963, 58th Leg., p. 1312, ch. 501; Acts 1965, 59th Leg., p. 1627, ch. 697, § 3; Acts 1973, 63rd Leg., p. 1293, ch. 482, § 2, eff. Aug. 27, 1973.]

Acts 1963, 58th Leg., p. 1312, ch. 501, § 12 amended article 322; section 13 provided:

"Sections 12, 13, 14, 15, 15a and 16 of Article 52-161, Vernon's Code of Criminal Procedure [see, now, art. 199(37)], all of which relate to the Criminal District Attorney of Bexar County, if not repealed by Chapter 262, page 730 #4, 54th Legislature, are hereby repealed, and any other law in direct conflict with this Act is hereby repealed to the extent of such conflict."

Sections 14 and 15 of Acts 1963, 58th Leg., p. 1312, ch. 501 repealed two sentences in article 199(37) and (150) relating to the criminal district attorney of Bexar County as district attorney of the 37th, 45th, 57th, 73rd, 131st and 150th judicial district courts; section 16 of the act was a savings provision; section 17 provided: "That this is a Special Law passed in accordance with the Constitution relating to the office of Criminal District Attorney of Bexar County only, and shall not be construed to repeal nor is it intended by the Legislature to repeal any laws relating to the District Attorneys or Criminal District Attorneys in any other area, and shall be construed as cumulative of all other existing statutes not specifically in conflict herewith."

Art. 326k-51. Upshur County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney of Upshur County, Texas, is hereby created. The Criminal District Attorney of Upshur County shall possess all the qualifications and shall take the oath of office and give the bond required by the Constitution and laws of this State of other district attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Upshur County at the General Election in November, 1964, a Criminal District Attorney of Upshur County for the remainder

of the constitutional term of office expiring on December 31, 1966. At the General Election in 1966 and every four (4) years thereafter, there shall be elected a Criminal District Attorney of Upshur County for the full constitutional term of four (4) years.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Upshur County or his assistant as herein provided to be in attendance upon each term and all sessions of the district courts of Upshur County and all of the sessions and terms of the inferior courts of Upshur County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts, and to represent Upshur County in all matters pending before such courts or any other court where Upshur County has pending business of any kind, matter or interest. In addition to the specified powers given and the duties imposed upon him by this Act, he is invested with such powers, duties and privileges within Upshur County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this State.

Commission and Salary

Sec. 4. The Criminal District Attorney of Upshur County shall be commissioned by the Governor. He shall be compensated for his services in such amount as may be fixed by the General Law relating to the salary paid to District Attorneys by the State. The Commissioners Court of Upshur County may supplement the amount paid to the Criminal District Attorney. The total annual salary paid by the county and the state may not exceed \$16,000.

Assistants, Investigators, Etc.; Appointment and Salary

Sec. 5. The Criminal District Attorney of Upshur County, with the approval of the Commissioners Court, may appoint assistants, investigators, stenographers, clerks, and other personnel for the purpose of conducting the affairs of his office. All personnel employed under authority of this Section shall receive a salary to be fixed by the Commissioners Court of Upshur County.

Oath of Assistant; Powers and Duties

Sec. 6. The Assistant Criminal District Attorney of Upshur County, when so appointed, shall take the constitutional oath of office, and shall be authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally to exercise any power and perform any duty devolving upon the Criminal District Attorney of Upshur County.

Expenses

Sec. 7. In addition to the salaries provided the Criminal District Attorney and his assist-

ant, the Commissioners Court of Upshur County may allow the Criminal District Attorney and his assistant such necessary expenses as within its discretion seems reasonable, to be paid as provided by law for such other claims of expenses.

**Appointment and Term; Abolition of County
Attorney's Office**

Sec. 8. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney of Upshur County, who shall hold office until the next General Election and until his successor is duly elected and qualified. The office of County Attorney of Upshur County is abolished from and after the effective date of this Act. [Acts 1963, 58th Leg., p. 1345, ch. 508, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2467, ch. 806, § 1, eff. June 8, 1971.]

Art. 326k-52. 64th Judicial District; Stenographer

(a) The district attorney of the 64th Judicial District may hire a stenographer.

(b) The district attorney shall, with the approval of a majority of the commissioners courts in the district, set the stenographer's salary at not more than \$3,000 a year.

(c) The commissioners court of each county in the 64th Judicial District shall pay a proportionate part of the salary based on the ratio of the population of the county to the population of the district.

(d) The commissioners court of any one or more of the counties in the 64th Judicial District may supplement the salary of the district attorney's stenographer.

(e) The total annual compensation of the district attorney's stenographer may not exceed \$4,200.

[Acts 1965, 59th Leg., p. 371, ch. 177, § 1.]

Art. 326k-53. 132nd Judicial District; Compensation of District Attorney and District Judge

The District Attorney and the District Judge of the 132nd Judicial District shall be compensated for their services in such amounts as may be fixed by the general law relating to the salaries paid to district attorneys and district judges by the state, and in addition their salaries may be supplemented by the commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of such commissioners courts. The total amount of each supplemental salary to be paid by the commissioners court or courts for the district attorney and the district judge shall not exceed the sum of \$3,000 per year. The commissioners courts of the counties comprising the 132nd Judicial District, or any one or more of them, may pay the supplemental salaries herein authorized, in such amount within the limit fixed above, out of the officers salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the nec-

essary funds from the general funds of such counties to the officers salary funds.

[Acts 1965, 59th Leg., p. 429, ch. 215, § 1.]

Art. 326k-54. 118th Judicial District; Stenographer

The stenographer of the district attorney of the 118th Judicial District is entitled to an annual salary of not more than \$3,600, to be fixed by the district attorney and approved by the combined majority of the commissioners courts of the counties composing the district. The salary shall be paid monthly by the commissioners court of each county, prorated proportionally to the population of the county.

[Acts 1965, 59th Leg., p. 430, ch. 216, § 1.]

Art. 326k-55. 36th Judicial District; Compensation of District Attorney

(a) The general law of the State of Texas regarding compensation of district attorneys shall apply to the District Attorney of the 36th Judicial District.

(b) The commissioners court of any one or more of the counties in the 36th Judicial District may supplement the compensation paid the District Attorney under the general law.

(c) The District Attorney's total annual compensation may not exceed \$11,000.

[Acts 1965, 59th Leg., p. 973, ch. 468, § 1, eff. June 16, 1965.]

Art. 326k-56. 19th, 54th, 74th and 170th Judicial Districts; Compensation of District Attorney

(a) The General Law of the State of Texas regarding compensation of district attorneys shall apply to the district attorney of the 19th, 54th, 74th, and 170th Judicial Districts.

(b) The commissioners court of McLennan County may supplement the compensation paid the district attorney of the 19th, 54th, 74th, and 170th Judicial Districts under the General Law over and above that paid by the State of Texas.

(c) There is hereby appropriated from the General Revenue Fund of the state an amount equal to that sum set in the General Appropriation Bill as the state's portion of the salary of the district attorneys of the State of Texas.

[Acts 1965, 59th Leg., p. 1663, ch. 716, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 178, ch. 92, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 2461, ch. 800, § 1, eff. June 8, 1971.]

Art. 326k-56a. 75th Judicial District; Compensation of District Attorney

The district attorney of the 75th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to salaries paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court of the counties comprising the 75th Judicial District, or any one of the commissioners courts. The total amount of supplemental salary to be paid by the commissioners court or

courts for the district attorney shall not exceed \$5,000.00 per year. Any supplemental salary shall be paid 40 percent by the Chambers County Commissioners Court and 60 percent by the Liberty County Commissioners Court out of the officers salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the necessary funds from the general funds of the counties to the officers salary funds.

[Acts 1969, 61st Leg., p. 2212, ch. 754, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1952, ch. 593, § 1, eff. June 2, 1971.]

Art. 326k-57. 25th Judicial District; Compensation of District Attorney

The District Attorney of the 25th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to the salary paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners courts of the counties comprising the 25th Judicial District, or any one or more of such commissioners courts; providing, however, that the total salary of such district attorney shall not be supplemented to exceed the sum of \$11,000 per annum. The commissioners courts of the counties comprising the 25th Judicial District or any one or more of them, are hereby authorized to pay the supplemental salary herein authorized, in such amount within the fixed above.

[Acts 1967, 60th Leg., p. 115, ch. 59, § 1, eff. Aug. 28, 1967.]

Art. 326k-58. Bowie County Criminal District Attorney

Creation of Office

Sec. 1. The office of criminal district attorney of Bowie County is created, effective January 1, 1969.

Election and Term

Sec. 2. A criminal district attorney shall be elected by the qualified electors of Bowie County in the general election of November 1968. The term of office of the first elected criminal district attorney expires on December 31, 1970.

Duties

Sec. 3. The criminal district attorney shall represent the state in all cases in the district and inferior courts of Bowie County, and he shall perform all other duties required of district and county attorneys by general law.

Applicability of General Laws

Sec. 4. All general laws relating to county and district attorneys apply to the criminal district attorney of Bowie County.

Salary

Sec. 5. The criminal district attorney shall receive from the state as salary such amount as may be provided in the general appropriations act. The commissioners court shall supplement any salary paid by the state in the amount required to make his total salary \$12,-

500 a year. If the state fails to appropriate funds for the salary of the criminal district attorney the county shall pay the total salary of \$12,500 a year. The salary paid by the county shall be paid from the officers salary fund of the county in 12 equal monthly installments.

Assistants, Investigators, Etc.

Sec. 6. (a) The criminal district attorney of Bowie County, for the purpose of conducting the affairs of that office, may appoint assistant criminal district attorneys, investigators, court reporters, stenographers, secretaries, and other employees he deems adequate and necessary, subject to the approval of the commissioners court. All persons appointed under this section are entitled to be paid out of county funds the salaries, other compensation, and reimbursements approved by the criminal district attorney and the commissioners court of Bowie County.

(b) The assistant criminal district attorneys of Bowie County, and investigators, when appointed, shall take the constitutional oath of office, and the assistant criminal district attorneys shall exercise the powers and perform the duties conferred and imposed by law upon the criminal district attorney, under the supervision and direction of the criminal district attorney of Bowie County.

Abolition of County Attorney's Office

Sec. 7. The office of county attorney of Bowie County is abolished, effective January 1, 1969.

Abolition of District Attorney's Office

Sec. 8. The office of district attorney of the Fifth Judicial District is abolished, effective January 1, 1969.

[Acts 1967, 60th Leg., p. 853, ch. 362, eff. Aug. 28, 1967.]

Art. 326k-59. Victoria County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The constitutional office of Criminal District Attorney for Victoria County is hereby created and said Criminal District Attorney of Victoria County shall possess all the qualifications and take the oath of office and give the bond required by the Constitution and laws of this state of other district attorneys.

Appointment; Election and Term

Sec. 2. Upon the effective date of this Act, the Governor of Texas shall immediately appoint a Criminal District Attorney for Victoria County, Texas, who shall hold office until the next general election, and until his successor is duly elected and qualified. The Criminal District Attorney for Victoria County shall stand for election and be elected by the qualified electors of Victoria County at the general election in November, 1968, and every four years thereafter. The office of County Attorney of Victoria County is abolished from and after the effective date of this Act.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney of Victoria County or his assistants as herein provided to be in attendance upon each term and all sessions of the district courts of Victoria County and all of the sessions and terms of the inferior courts of Victoria County held for the transaction of criminal business, and to exclusively represent the State of Texas in all criminal matters pending before said courts and to represent Victoria County in all matters pending before such courts and any other court where Victoria County has pending business of any kind, matter or interest, and in addition to the specified powers given and the duties imposed upon him by this Act all such powers, duties, and privileges within Victoria County as are by law now conferred, or which may hereafter be conferred upon the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now, or may hereafter be, provided by law for similar services rendered by district and county attorneys of this state.

Salary; Payment

Sec. 4. The criminal district attorney shall receive a salary not to exceed \$14,000 per year, to be fixed by the commissioners court and paid out of the officers' salary fund of Victoria County, if adequate; if inadequate, the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

Assistant and Stenographers; Appointment and Salary; Expenses

Sec. 5. The Criminal District Attorney of Victoria County, for the purpose of conducting the affairs of his office, and with the approval of the commissioners court shall be and is hereby authorized to appoint one assistant and fix the salary as follows: Said assistant shall receive not less than \$4,800 per annum.

The Criminal District Attorney of Victoria County may employ two stenographers and fix their salaries at not less than \$3,000 per annum, and he may employ one chief clerk and fix her salary at not less than \$3,600 per annum. All of the salaries mentioned in this section shall be payable from the officers' salary fund, if adequate; if inadequate the commissioners court shall transfer the necessary funds from the general fund of the county to the officers' salary fund.

In addition to the salaries provided the criminal district attorney and his assistant, the Commissioners Court of Victoria County may allow such criminal district attorney, and his assistants, such necessary expenses as within the discretion of the court seems reasonable and said expenses shall be paid as provided by law for other such claims of expenses.

Additional Assistants, Clerks or Stenographers

Sec. 6. Should the criminal district attorney be of the opinion that the number of assistants, stenographers, or clerks as provided

above is not adequate for the proper investigation and prosecution of crime and the effective performance of the duties of his office, he may with the approval of the commissioners court appoint additional assistants, clerks, or stenographers and pay said employees such compensation as may be fixed by the Commissioners Court of Victoria County, Texas.

Oath of Assistant; Powers and Duties

Sec. 7. The Assistant Criminal District Attorney of Victoria County, when so appointed shall take the constitutional oath of office, and said Criminal District Attorney of Victoria County and his assistant shall have the exclusive right and it shall be their duty to represent the State of Texas in all criminal cases pending in any and all of the courts of Victoria County, Texas, and any and all civil matters in any court anywhere involving interest, crime or right of Victoria County as well as perform the other statutory or constitutional duties of district and county attorneys.

District Attorney of 24th Judicial District

Sec. 8. Upon the effective date of this Act the District Attorney of the 24th Judicial District of Texas shall only represent the State of Texas in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

The provisions of this Act shall not affect the office of district attorney or the duties and powers of such district attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, and the District Attorney of the 24th Judicial District shall continue to perform his duties in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad as before, and it is specifically understood that this bill applies only to Victoria County and not to the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad.

From the effective date of this bill the District Attorney of the 24th Judicial District shall continue to fulfill the duties of District Attorney in the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad, but his duties in the County of Victoria shall be divested from him and invested in the resident Criminal District Attorney of Victoria County, Texas, as created by this bill.

The District Attorney of the 24th Judicial District shall only stand for election and be elected from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the next general election, and a District Attorney for the 24th Judicial District shall be elected every four years from the counties of Jackson, Calhoun, DeWitt, Refugio, and Goliad at the general election every four years thereafter, but it is specifically understood that the present District Attorney of the 24th Judicial District shall continue in office as such District Attorney in the counties of Calhoun, Jackson, DeWitt, Refugio, and Goliad until the next general election and until his successor is elected and qualified.

[Acts 1967, 60th Leg., p. 907, ch. 398, eff. Aug. 28, 1967.]

Art. 326k-60. 88th Judicial District; Stenographer

(a) The District Attorney of the 88th Judicial District of Texas is authorized to employ a stenographer or clerk who may receive a salary not to exceed Six Thousand, Five Hundred Dollars (\$6,500.00) per annum, to be fixed by the District Attorney and approved by the combined majority of the Commissioners Courts of Hardin and Tyler counties. The salary of such stenographer or clerk provided for in this Act shall be paid monthly by the Commissioners Courts of Hardin and Tyler counties, prorated apportionately to the population of the county.

(b) The Commissioners Courts of Hardin and Tyler counties may enter an order so as to increase the compensation being paid by the counties to such stenographer in an amount not to exceed twenty-five per cent (25%) of the sum being paid at the effective date of this Act.

[Acts 1967, 60th Leg., p. 1200, ch. 537, § 1, eff. June 14, 1967; Acts 1973, 63rd Leg., p. 238, ch. 113, § 2, eff. May 18, 1973.]

Art. 326k-60a. 88th Judicial District; Compensation of District Attorney

The District Attorney of the 88th Judicial District shall be compensated for his services in such amount as may be fixed by the general law relating to salaries paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court of the counties comprising the 88th Judicial District, or any one of the commissioners courts. The total amount of supplemental salary to be paid by the commissioners court or courts for the district attorney shall not exceed \$5,000 per year. Any supplemental salary shall be paid 30 percent by the Tyler County Commissioners Court and 70 percent by the Hardin County Commissioners Court out of the officers' salary fund of such county or counties, if adequate; if inadequate, the commissioners courts may transfer the necessary funds from the general funds of the counties to the officers' salary funds.

[Acts 1973, 63rd Leg., p. 238, ch. 113, § 1, eff. May 18, 1973.]

Art. 326k-61. 85th Judicial District Attorney

Sec. 1. The office of district attorney in the 85th Judicial District of Texas composed of Brazos County is created.

Sec. 2. The qualified electors of the 85th Judicial District shall elect a district attorney at the next general election after the effective date of this Act and at every second general election thereafter.

Sec. 3. The district attorney in the 85th Judicial District shall represent the state in all criminal cases in the 85th District Court and perform other duties as are or may be provided by law governing district attorneys.

Sec. 4. The district attorney is entitled to compensation for his services in an amount as

may be fixed by the general law relating to the salary paid to district attorneys by the state. [Acts 1967, 60th Leg., p. 1794, ch. 683, eff. Aug. 28, 1967.]

Art. 326k-61a. 229th Judicial District Attorney

Creation of Office; Powers and Duties; Appointment; Election and Term

(a) The office of District Attorney for the 229th Judicial District is established. The district attorney has the powers and duties prescribed by law for district attorneys. On the effective date of this Act, the Governor shall appoint a district attorney for the 229th Judicial District who shall serve until the general election in 1970, and until his successor is elected and has qualified. A District Attorney for the 229th Judicial District shall be elected at the general election in 1970 for the remainder of a term expiring on December 31, 1972. Thereafter, beginning with the general election in 1972, he shall be elected every four years for a four-year term beginning on January 1 following his election.

Supplemental Salary; Payment

(b) The District Attorney of the 229th Judicial District may be paid a supplemental salary, at the discretion of the District Judge of the 229th Judicial District, in an amount not to exceed \$5,100 per annum. The Commissioners Courts of Duval, Starr, and Jim Hogg counties are authorized to pay the salary in supplementation of the salary paid by the state, in equal monthly payments out of the county funds by warrants drawn on the county funds.

Assistant; Appointment; Qualifications; Bond; Oath; Powers and Duties; Compensation; Removal

(c) The district attorney is hereby authorized to appoint one assistant district attorney for the 229th Judicial District provided that the district attorney shall furnish data to the Commissioners Courts of Duval, Starr, and Jim Hogg counties, that he is in need of an assistant and that it is necessary and to the best interests of the state and the counties that an assistant district attorney be appointed. The assistant district attorney shall be a qualified resident of the 229th Judicial District and shall give bond and take the official oath; and the assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney in the 229th Judicial District under the laws of this state. The appointment shall be for such time as the district attorney shall deem best in the enforcement of the law, not to be less than one month. The assistant district attorney shall be paid by Duval, Starr, and Jim Hogg counties at a rate not to exceed \$8,400 per annum, in 12 equal monthly installments out of county funds by warrants drawn upon such county funds. The district attorney, at any time he deems the assistant unnecessary or finds that he is not attending to his duties as required by law, may remove the person from

office by giving written notice to the assistant and to the commissioners courts to that effect.

Additional Assistants; Appointment; Compensation; Powers and Duties; Removal

(d) The district attorney is hereby authorized to appoint one part-time assistant and one full-time assistant to serve in addition to his regular assistant, provided for in this Act, which assistants need not be licensed to practice law. The assistants shall be known as special investigators, and shall perform such duties as may be assigned to them by the district attorney. The part-time assistant shall receive as compensation a salary not to exceed \$3,600 per annum, and the full-time assistant shall receive as compensation a salary not to exceed \$7,200 per annum, payable monthly out of county funds by warrants drawn on such county funds. The special investigators shall have authority under the direction of the district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. They shall serve at the will of the district attorney and may be removed from office by written notice by the district attorney to the special investigator concerned and to the commissioners courts to that effect.

Stenographer-Secretary; Appointment and Compensation

(e) The district attorney is hereby authorized to appoint one stenographer-secretary, who shall keep the records of the district attorney's office and perform the necessary stenographic and secretarial work, as may be assigned by the district attorney, and who shall receive as compensation a salary not to exceed \$4,800 per annum, payable monthly out of county funds by warrants drawn on such county funds.

Payment and Apportionment of Salaries

(f) The supplemental salary of the district attorney, the salaries of the assistants and secretary, and the operating expenses of the office shall be paid by Duval, Starr, and Jim Hogg counties and shall be apportioned among the counties according to the following formula: The percentage of the total to be paid by each county shall be the same as that county's percentage of the total population of the three counties according to the last federal census. The judge of the 229th Judicial District shall determine the percentage for each county and notify the commissioners court of the amount to be paid by each county to each employee, and the amount of each county's share of the operating expenses.

[Acts 1969, 61st Leg., p. 697, ch. 239, § 6, eff. Sept. 1, 1969.]

Art. 326k-61b. 235th Judicial District Attorney

(a) The office of district attorney for the 235th Judicial District is established. The district attorney shall have the powers and duties prescribed by law for district attorneys.

(b) On the effective date of this Act, the Governor shall appoint a district attorney for the 235th Judicial District who shall serve until the general election in 1972 and until his successor is elected and has qualified. Thereafter, beginning with the general election in 1972, he shall be elected every four years for a four-year term beginning on January 1 following his election.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 4, eff. Sept. 1, 1971.]

Art. 326k-62. 42nd and 104th Judicial Districts; Criminal District Attorney

Creation of Office

(a) The office of criminal district attorney for the 42nd and 104th Judicial Districts is created.

Election and Term

(b) The qualified electors of Callahan, Jones, and Taylor counties shall elect a criminal district attorney for the 42nd and 104th Judicial Districts at the general election in November 1968 for a two-year term. At the general election in November 1970, and every four years thereafter, the qualified electors of Callahan, Jones, and Taylor counties shall also elect a criminal district attorney.

Qualifications; Bond; Vacancy

(c) The criminal district attorney for the 42nd and 104th Judicial Districts must have the qualifications prescribed for district attorneys by general law. The criminal district attorney shall execute the bond required of district attorneys. A vacancy in the office of the criminal district attorney is filled in the same manner as a vacancy in the office of a district attorney.

Duties

(d) The criminal district attorney shall perform in the 42nd and 104th Judicial Districts all duties required of district attorneys by general law. He shall also perform the duties of county attorney in Taylor County.

Office Space; Employment of Assistants, Investigators, Etc.

(e) The Commissioners Court of Taylor County shall provide suitable office space for the criminal district attorney in the county courthouse. The criminal district attorney, with the prior approval of the commissioners court, may employ as many assistant criminal district attorneys, investigators, court reporters, stenographers, clerks, and other personnel as are necessary to carry out the duties of his office.

Compensation and Expenses

(f) The criminal district attorney is entitled to the compensation paid district attorneys by the state which is provided in the general appropriations act. The Commissioners Court of Taylor County shall supplement his state compensation in an amount not less than \$4,000 a year. The commissioners court shall also determine and pay the salaries of all employees of

the criminal district attorney. The commissioners court may reimburse the criminal district attorney and his employees for their reasonable and necessary expenses incurred while performing the duties of the office. The Commissioners Courts of Jones and Callahan Counties shall reimburse Taylor County for a part of the salaries, office and travel expense as may be agreed upon by and between the commissioners courts. [Acts 1967, 60th Leg., p. 1201, ch. 538, § 1(6), eff. Aug. 28, 1967.]

Art. 326k-63. Navarro County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the Constitutional office of Criminal District Attorney of Navarro County. It shall be the duty of the criminal district attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the district court of Navarro County. The criminal district attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the district court and inferior courts of Navarro County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Navarro County as are now by law conferred and which may hereafter be conferred on county attorneys and district attorneys in various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The criminal district attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this state of other district attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The criminal district attorney shall appoint a first assistant criminal district attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the commissioners court. The assistants must be duly and legally licensed to practice law in this state. The assistants shall be subject to removal at the will of the criminal district attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the criminal district attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The criminal district attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for district or county attorneys. The assistant shall be known as special investigator, shall

perform such duties as may be assigned to him by the criminal district attorney, and shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The special investigator shall be subject to removal at the will of the criminal district attorney. The special investigator shall have authority under the direction of the criminal district attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Compensation; Removal

Sec. 5. The criminal district attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work as may be assigned by the criminal district attorney, and who shall receive as compensation a salary set by the commissioners court and payable out of the county funds. The stenographer shall be subject to removal at the will of the criminal district attorney.

Expenses

Sec. 6. Navarro County is hereby authorized to set aside each year a sum of money to be expended by the criminal district attorney in the preparation and conduct of criminal affairs of the office.

Compensation

Sec. 7. The criminal district attorney shall be compensated for his services by the state in such manner and in such amount as may be fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners court in such amount as it deems advisable.

County Attorney; Interim Status

Sec. 8. The present County Attorney of Navarro County shall fill the office of criminal district attorney herein created until January 1, 1971, and until his successor is elected and has qualified, unless a vacancy in the office of criminal district attorney shall occur by death, resignation, or other lawful cause, whereupon the remaining term of this office shall be filled in accordance with the law.

Severability

Sec. 9. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 10. The office of County Attorney of Navarro County is abolished from and after the effective date of this Act.

[Acts 1969, 61st Leg., p. 2656, ch. 876, eff. Sept. 1, 1969.]

Art. 326k-64. Deaf Smith County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the constitutional office of Criminal District Attorney of Deaf Smith County, Texas, to become operative on the date provided in Section 12 of this Act. It shall be the duty of the Criminal District Attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the District Court of Deaf Smith County. The Criminal District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the District Court and inferior courts of Deaf Smith County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Deaf Smith County as are now by law conferred and which may hereafter be conferred on County Attorneys and District Attorneys in various counties and judicial districts of this State relative to criminal and civil matters for and in behalf of the County and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The Criminal District Attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this State of other District Attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The Criminal District Attorney may appoint a first assistant Criminal District Attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the Commissioners Court. The assistants must be duly and legally licensed to practice law in this State. The assistants shall be subject to removal at the will of the Criminal District Attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the Criminal District Attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The Criminal District Attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for District or County Attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the Criminal District Attorney, and shall receive as compensation a salary set by the Commissioners Court and payable out of the County funds. The special investigator shall be subject to removal at the will of the Criminal District Attorney. The special investigator shall have authority under the direction of the Criminal District Attorney to make ar-

rests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Qualifications; Compensation; Duties; Removal

Sec. 5. The Criminal District Attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for District and County Attorneys, who shall perform the necessary stenographic work as may be assigned by the Criminal District Attorney, and who shall receive as compensation a salary set by the Commissioners Court and payable out of the County funds. The stenographer shall be subject to removal at the will of the Criminal District Attorney.

Expenses

Sec. 6. Deaf Smith County is hereby authorized to set aside each year a sum of money to be expended by the Criminal District Attorney in the preparation and conduct of criminal affairs of the office.

Commission and Compensation

Sec. 7. The Criminal District Attorney of Deaf Smith County, Texas, shall be commissioned by the Governor and shall receive as salary and compensation the following: A salary of Five Hundred Dollars (\$500.00) from the State of Texas as provided in the Constitution of the State of Texas for the salary of District Attorneys and the sum of not less than \$11,500.00 nor more than \$15,500.00 per annum to be paid out of the Officers Salary Fund of Deaf Smith County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the County to the Officers Salary Fund.

Election and Term

Sec. 8. (a) The qualified electors of Deaf Smith County shall, by majority vote, elect a Criminal District Attorney at a special election on May 18, 1971, for a term ending on December 31, 1974. The election shall be held jointly with the special election on proposed constitutional amendments which is ordered for that date. The election shall be ordered by the Governor and it shall be conducted under the procedures applying to a special election to fill a vacancy in the Legislature as prescribed in Section 32a and Subdivisions 1, 2, 3, and 5 of Section 32c, Texas Election Code (Article 4.10 and Subdivisions 1, 2, 3, and 5 of Article 4.12, Vernon's Texas Election Code), except that the certificate of election shall be issued by the Governor instead of the Secretary of State. The person elected is entitled to take office immediately upon receiving the certificate of election. If no candidate receives a majority of the votes in the first election, a second election shall be called and held in accordance with the provisions of Subdivision 3 of Section 32c of the Election code. Each candidate in the first election shall pay a filing fee of \$100, which shall accompany his application.

(b) At the general election in 1974 and every four years thereafter, the Criminal District Attorney shall be elected for a four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

**District Attorney of 69th Judicial District;
Application of Act**

Sec. 9. Upon the date that the office of Criminal District Attorney becomes operative, the District Attorney of the 69th Judicial District of Texas shall only represent the State of Texas in the Counties of Oldham, Moore, Hartley, Sherman, and Dallam. The provisions of this Act shall not affect the office of District Attorney or the duties and powers of such District Attorney in the Counties of Oldham, Moore, Hartley, Sherman, and Dallam, and the District Attorney shall continue to perform his duties in those counties as before, and it is specifically understood that this Act only applies to Deaf Smith County and not to the Counties of Oldham, Moore, Hartley, Sherman, and Dallam.

Severability

Sec. 10. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 11. The office of County Attorney of Deaf Smith County is abolished from and after the date that the office of the Criminal District Attorney becomes operative.

Operative Date

Sec. 12. The office of Criminal District Attorney of Deaf Smith County becomes operative upon the date that the initial holder of the office qualifies and assumes office following his election.

[Acts 1971, 62nd Leg., p. 65, ch. 34, eff. March 22, 1971.]

Art. 326k-65. 22nd Judicial District; Assistants and Employees

Appointment of Assistants and Employees

Sec. 1. The District Attorney of the 22nd Judicial District is hereby authorized to appoint such assistants, secretaries, stenographers, investigators, deputies and other necessary employees as the Commissioners Court of the county in the district where said employee would serve may authorize. Such employees shall serve at the pleasure of the District Attorney.

Number and Compensation of Employees

Sec. 2. The number of positions in each class of employment, and the salary or hourly wage payable to the person holding each position, shall be designated by the District Attorney with the consent of the Commissioners Courts of the counties within the district; provided that the County Commissioners Court of any county in the district may authorize addi-

tional employees, at the expense of such county, and designate the salary or hourly wage payable to such employees.

Office and Travel Expenses; Budget

Sec. 3. The District Attorney of the 22nd Judicial District, with the joint consent of the Commissioners Courts in the district, is hereby authorized to pay all necessary and proper expenses of the District Attorney's office, including but not limited to office equipment, rent, law books, supplies, postage, telephone, investigating equipment, and vehicles for transportation. And, in addition to their salaries, the District Attorney, his assistants and investigators may be allowed necessary travel expenses incurred in the proper discharge of their duties. Provided, however, that as a condition to receiving the consent of the Commissioners Courts for the expenditure of any funds for expenses, the District Attorney shall supply each Commissioners Court in the district with a budget of the proposed expenditures.

Payment of Salaries and Expenses

Sec. 4. All salaries, hourly wages and expenses provided for in this Act shall be borne by the counties composing the 22nd Judicial District in proportion to the population of each at the last preceding Federal Census, and shall be paid monthly from the officers salary fund, the general fund, or any other available county funds, or any combination thereof, at the discretion of the Commissioners Court; provided that salaries, hourly wages and expenses of any additional employees authorized in Section 2 of this Act shall be borne solely by the county which said employee serves. Salaries shall be paid in twelve (12) equal monthly installments.

**Assistants; Qualifications; Oath; Bond;
Powers and Duties**

Sec. 5. Assistant District Attorneys of the 22nd Judicial District shall be residents of a county within the district and shall be duly licensed to practice law in the State of Texas. They shall, when appointed, give bond and take the constitutional oath of office, which bond and oath shall be approved by the District Judge of the 22nd Judicial District and be filed with the County Clerk of the assistant's residence. Assistant District Attorneys who have complied with the provisions of this Act are hereby authorized to represent the State of Texas in the 22nd Judicial District and its courts, and to perform for the State and the several counties of the district all duties imposed by law on the District Attorney.

Compensation by State

Sec. 6. Nothing in this Act shall be construed so as to deprive the District Attorney or the counties of the district of any salary, compensation or expense allowance that is now, or may in the future be, paid by the State of Texas.

County Employment of Assistants, Etc.

Sec. 7. Nothing in this Act shall be construed as prohibiting any county or counties

within the district from employing at its or their expense, assistant district attorneys, secretaries, stenographers, investigators, deputies or other employees, or from paying salaries, wages or expenses of such persons in the same manner and from the same funds as provided in Section 2 and Section 4 of this Act.

[Acts 1971, 62nd Leg., p. 898, ch. 125, eff. May 10, 1971.]

Art. 326k-66. 69th Judicial District; Compensation of District Attorney; Assistants, Investigators and Stenographers

Compensation of District Attorney

Sec. 1. The district attorney of the 69th Judicial District shall be compensated for his services by the State of Texas in an amount fixed by the general law relating to the salary to be paid to district attorneys by the state, and in addition his salary may be supplemented by the commissioners courts of the counties comprising the 69th Judicial District, in an amount not to exceed \$8,500 per year.

The commissioners court of each county in the 69th Judicial District, in its discretion, may pay the supplemental salary herein authorized. The supplemental salary paid by each county shall be in such amount as the commissioners court may determine but shall not exceed the amount paid the county attorney in the county. If more than one county should pay a supplemental salary, then the amount of supplemental salary to be paid by each county shall be determined by a proration of the case load in the counties paying the supplemental salary, not to exceed the amount paid the county attorneys in the counties participating.

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 2. Whenever the district attorney of the 69th Judicial District shall require the services of assistants, investigators, or stenographers in the performance of his duty, he shall apply to the commissioners court or commissioners courts of the county or counties in the 69th Judicial District where the services are needed for authority to appoint the assistants, investigators, or stenographers, stating by sworn application the number needed, the position to be filled, the amount to be paid, and whether the services will apply to one or more counties. The district attorney may make application for such services to be used in one or all of the counties under his jurisdiction, but application shall be made only to the counties where such services will be used. Upon receipt of such application, the commissioners court or commissioners courts of the county or counties where the application is made may enter an order authorizing the employment of the assistants, deputies, and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of the commissioners court or commissioners courts may be deemed proper, provided that in no case shall the commissioners court or com-

missioners courts or any member thereof attempt to influence the employment of any person as assistant, investigator, or stenographer. Upon entry of the order, the district attorney of the 69th Judicial District may employ the assistants, investigators, and stenographers as authorized by the commissioners court or commissioners courts, provided that the compensation paid them shall not exceed the maximum amount prescribed in Section 3 of this Act.

Compensation of Assistants, Investigators and Stenographers; Qualifications and Duties

Sec. 3. Each stenographer of the district attorney in the 69th Judicial District shall be paid an annual salary of not less than \$2,400 and not more than \$7,000 as determined by the commissioners courts affected thereby.

Each assistant and each investigator of the district attorney of the 69th Judicial District shall be paid an annual salary of not less than \$4,800 and not more than \$15,000, as determined by the commissioners courts affected thereby.

The assistants to the district attorney of the 69th Judicial District shall be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed upon the district attorney provided by law. The investigators need not be duly and legally licensed to practice law in the State of Texas.

Expenses

Sec. 4. The investigators or assistants provided for in this Act shall be allowed their reasonable and necessary expenses incurred in their official duties. The expenses shall be paid only after approval of the district attorney and the commissioners courts affected thereby.

Payment of Salaries

Sec. 5. All salaries and supplemental salaries provided for herein shall be paid out of the officers salary fund of the respective counties of the 69th Judicial District, if adequate; if inadequate, the commissioners courts shall transfer the necessary funds from the general fund to the officers salary fund.

Bond; Powers of Arrest and Process

Sec. 6. The investigators and assistants provided for in this Act may be required to give bond and shall have authority under the discretion of the district attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws.

[Acts 1971, 62nd Leg., p. 1620, ch. 449, eff. May 26, 1971; Acts 1973, 63rd Leg., p. 11, ch. 9, § 1, eff. March 12, 1973.]

Art. 326k-67. Collin County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. (a) The constitutional office of Criminal District Attorney of Collin County is created.

(b) The criminal district attorney or his assistants shall be in attendance upon each term and all sessions of any district court in Collin County held for the transaction of criminal business. The criminal district attorney shall represent the state in criminal and civil cases, unless otherwise provided by law, pending in the district court and inferior courts having jurisdiction in Collin County.

(c) The criminal district attorney shall have and exercise, in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Collin County conferred on district attorneys and county attorneys in the various counties and judicial districts of this state relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The criminal district attorney shall possess the qualifications, take the oath, and give the bond required by the Constitution and laws of this state of district attorneys.

Salary

Sec. 3. The Criminal District Attorney of Collin County shall receive an annual salary to be set by the commissioners court in an amount not to exceed \$15,000.

Assistants and Other Personnel; Expenses

Sec. 4. (a) The criminal district attorney, for the purpose of conducting the affairs of his office, may appoint assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the commissioners court may provide. All salaries of the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be paid by the commissioners court in equal monthly installments from the officers salary fund of Collin County.

(b) In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the commissioners court may allow the criminal district attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Office; Payment of Expenses

Sec. 5. The commissioners court shall provide and furnish suitable office space and such office furniture, supplies, and equipment as necessary to carry out the duties of the criminal district attorney. The commissioners court shall pay the necessary expenses incident to carrying out the duties of the criminal district attorney.

Abolition of County Attorney's Office

Sec. 6. The office of County Attorney of Collin County is abolished from and after the effective date of this Act.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 7. (a) Upon the effective date of this Act, the county attorney of Collin County shall be commissioned as the criminal district attorney of Collin County. He shall fill the office of criminal district attorney until the general election in 1972 and until his successor is elected and has qualified.

(b) At the general election in 1972, there shall be elected a criminal district attorney for Collin County for a term ending on December 31, 1974. At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

(c) Any vacancy occurring in the office of the Criminal District Attorney of Collin County shall be filled by the Commissioners Court of Collin County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1971, 62nd Leg., p. 1775, ch. 519, eff. May 31, 1971.]

Art. 326k-68. Eastland County Criminal District Attorney

Creation of Office; Powers and Duties

Sec. 1. There is hereby created the constitutional office of Criminal District Attorney of Eastland County, Texas, to become operative on the date provided in Section 12 of this Act. It shall be the duty of the Criminal District Attorney, or his assistants, as provided herein, to be in attendance upon each term and all sessions of the District Court of Eastland County. The Criminal District Attorney and his assistants shall have the right and it shall be their primary duty to represent the State of Texas in criminal and civil cases pending in the District Court and inferior courts of Eastland County. He shall have and exercise in addition to the specific powers given and duties imposed upon him and his assistants by this Act, all powers, duties, and privileges within Eastland County as are now by law conferred and which may hereafter be conferred on county attorneys and district attorneys in various counties and judicial districts of this State relative to criminal and civil matters for and in behalf of the county and the State of Texas.

Qualifications; Oath; Bond

Sec. 2. The Criminal District Attorney shall possess the qualifications and take the oath and give bond required by the constitution and laws of this State of other district attorneys.

Assistants; Appointment; Compensation; Qualifications; Removal

Sec. 3. The Criminal District Attorney may appoint a first assistant Criminal District Attorney and other assistants necessary to the proper performance of his official duties. The assistants shall be paid a salary to be determined and paid by the Commissioners Court.

The assistants must be duly and legally licensed to practice law in this State. The assistants shall be subject to removal at the will of the Criminal District Attorney and shall be and are hereby authorized to perform any official act devolving upon or authorized to be performed by the Criminal District Attorney.

Special Investigator; Appointment; Qualifications; Compensation; Powers and Duties; Removal

Sec. 4. The Criminal District Attorney is hereby authorized to appoint one assistant in addition to his legal assistants provided for in this Act, which assistant shall not be required to possess the qualifications prescribed by law for district or county attorneys. The assistant shall be known as special investigator, shall perform such duties as may be assigned to him by the Criminal District Attorney, and shall receive as compensation a salary set by the Commissioners Court and payable out of the county funds. The special investigator shall be subject to removal at the will of the Criminal District Attorney. The special investigator shall have authority under the direction of the Criminal District Attorney to make arrests and execute process in criminal cases and shall have all the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws.

Stenographer; Appointment; Compensation; Removal

Sec. 5. The Criminal District Attorney is hereby authorized to appoint one stenographer who may or may not possess the qualifications prescribed by law for district and county attorneys, who shall perform the necessary stenographic work as may be assigned by the Criminal District Attorney, and who shall receive as compensation a salary set by the Commissioners Court and payable out of the county funds. The stenographer shall be subject to removal at the will of the Criminal District Attorney.

Office Expenses

Sec. 6. Eastland County is hereby authorized to set aside each year a sum of money to be expended by the Criminal District Attorney in the preparation and conduct of criminal affairs of the office.

Commission; Compensation; Payment

Sec. 7. The Criminal District Attorney of Eastland County, Texas, may be commissioned by the Governor and may receive as annual salary and compensation \$6,300 from the State of Texas. The Commissioners Court of Eastland County may, in its discretion, supplement the salary paid by the State but in no event may the total annual salary paid by the State and the county exceed \$15,500. The sum paid by the county shall be paid out of the Officers Salary Fund of Eastland County, if adequate; if inadequate, the Commissioners Court shall transfer the necessary funds from the General Fund of the county to the Officers Salary Fund.

Appointment; Election and Term

Sec. 8. On the effective date of this Act, the Governor shall appoint a Criminal District

Attorney for Eastland County who shall serve until the general election in 1972 and until his successor is elected and qualified. There shall be elected by the qualified electors of Eastland County at the general election in November, 1972, a Criminal District Attorney in and for Eastland County for a term ending on December 31, 1974. At the general election in 1974 and every four years thereafter this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

Service on Juvenile Board

Sec. 9. Upon the effective date of this Act the Criminal District Attorney of Eastland County, Texas, shall thereafter serve on the Eastland County Juvenile Board in lieu of the Eastland County Attorney.

Severability

Sec. 10. If any paragraph, phrase, clause, or section of this statute be held invalid, it shall not affect the balance of said statute, but it is expressly declared to be the intention of the Legislature that it would have passed the balance of said Act without such portion as may be held invalid.

Abolition of County Attorney's Office

Sec. 11. The office of County Attorney of Eastland County is abolished from and after the date that the office of the Criminal District Attorney becomes operative.

Operative Date

Sec. 12. The office of Criminal District Attorney of Eastland County becomes operative upon the date that the initial holder of the office qualifies and assumes office following his election.

[Acts 1971, 62nd Leg., p. 2377, ch. 738, eff. June 8, 1971.]

Art. 326k-69. Lubbock County Criminal District Attorney

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The office of the Criminal District Attorney in and for Lubbock County, Texas, is created to become operative on January 1, 1973. The Criminal District Attorney for Lubbock County shall be at least 25 years of age, a practicing attorney in this State for five years, and a resident of Lubbock County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Lubbock County during his term of office.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Lubbock County at the general election in November, 1972, a Criminal District Attorney in and for Lubbock County for a term beginning on January 1, 1973, and ending on December 31, 1974. At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

Powers and Duties; Fees, Commissions and Perquisites

Sec. 3. It shall be the duty of the Criminal District Attorney in and for Lubbock County or his assistants, as herein provided, to be in attendance upon each term and all sessions of the district courts in Lubbock County, and all of the sessions and terms of the inferior courts of Lubbock County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law upon the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are now, or may hereafter be provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney in and for Lubbock County shall be commissioned by the Governor, and shall receive as compensation an annual salary, payable in equal monthly installments. Such salary shall include the amount paid District Attorneys by the State of Texas, and shall be paid by the Comptroller of Public Accounts, as appropriated by the Legislature. In addition, the Criminal District Attorney of Lubbock County shall be paid in equal monthly installments out of the Officers' Salary Fund of Lubbock County an amount which, when added to the amount paid by the State of Texas as above, would equal an amount not less than 90 percent of the total salaries paid to the Judge of the 72nd Judicial District of Texas by the State of Texas and Lubbock County.

Assistants, Investigators, Etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney in and for Lubbock County, for the purpose of conducting the affairs of his office, is hereby authorized to appoint assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Lubbock County may provide. All salaries of the assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be paid by the Commissioners Court of Lubbock County in equal monthly installments from the Officers' Salary Fund of Lubbock County.

In addition to the salary provided the Criminal District Attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Lubbock County may allow the Criminal District Attorney, his assistants and investigators such necessary expenses as the commissioners court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Lubbock County shall take, upon appointment, the constitutional oath of office. The criminal district attorney and his assist-

ants shall have the exclusive right, and it shall be their duty, to represent the State of Texas in all criminal cases pending in any and all of the courts of Lubbock County, as well as perform other statutory or constitutional duties imposed upon district and county attorneys of this state. The assistant criminal district attorneys in and for Lubbock County are authorized to administer oaths, file informations, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney in and for Lubbock County and exercise any power and perform any duty conferred by law upon the Criminal District Attorney in and for Lubbock County.

Abolition of District and County Attorneys' Offices; Transfer of Duties

Sec. 7. On January 1, 1973, the office of District Attorney for the 72nd Judicial District and the office of County Attorney of Lubbock County are abolished. On January 1, 1973, the duties heretofore prescribed by law for the District Attorney of the 72nd Judicial District in Crosby County are transferred to the County Attorney of Crosby County. From and after January 1, 1973, the County Attorney of Crosby County shall perform all the duties of both district and county attorneys for the 72nd Judicial District in Crosby County.

Repealer

Sec. 8. All laws or parts of laws in conflict with the provisions of the Act are hereby expressly repealed.

Severability

Sec. 9. If any provisions of the Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Private Practice of Law

Sec. 10. The Criminal District Attorney in and for Lubbock County, Texas, and his assistants, shall not engage in the private practice of law while serving as Criminal District Attorney, or assistant criminal district attorney, in and for Lubbock County, Texas.

[Acts 1971, 62nd Leg., p. 2428, ch. 776, eff. June 8, 1971.]

Art. 326k-70. 84th Judicial District; Appointment and Compensation of Assistant**Appointment of Assistant**

Sec. 1. The district attorney for the 84th Judicial District, with the approval of the commissioners courts of the several counties included within the 84th Judicial District, may appoint an assistant district attorney for the 84th Judicial District.

Qualifications and Duties

Sec. 2. An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the

several counties included within the 84th Judicial District all duties imposed by law on the district attorney.

Salary and Bond

Sec. 3. The person appointed to the office of assistant district attorney may be paid a salary set by the district attorney, with the approval of the commissioners courts of the several counties included within the 84th Judicial District. The assistant district attorney shall execute a bond, in an amount fixed by the district attorney, conditioned on the faithful performance of his duties.

Travel Expenses

Sec. 4. In addition to a salary, the assistant district attorney may be allowed the actual and necessary travel expenses incurred in the proper discharge of the duties of the office, subject to the approval of all claims by the district attorney.

Payment of Salary or Expenses

Sec. 5. The salary or expenses provided for by the Act shall be paid by the counties included within the 84th Judicial District in proportion to the population of each for the last preceding federal census. The salary shall be paid in 12 equal monthly installments. Expense claims shall be paid at the end of each month upon approval by the district attorney. [Acts 1973, 63rd Leg., p. 121, ch. 61, eff. April 26, 1973.]

Art. 326k-71. Kaufman County Criminal District Attorney

Creation of Office

Sec. 1. The constitutional office of Criminal District Attorney of Kaufman County is created.

Qualifications; Oath; Bond; Residence

Sec. 2. The Criminal District Attorney of Kaufman County shall be at least 25 years of age, a practicing attorney in this state for five years, and a resident of Kaufman County. He shall possess all the qualifications, take the oath of office, and give the bond required of district attorneys by the constitution and general laws of this state. He shall reside in Kaufman County during his term of office.

Duties; Fees, Commissions and Perquisites

Sec. 3. It is the duty of the Criminal District Attorney of Kaufman County or his assistants to be in attendance on each term and all sessions of the district courts in Kaufman County and all sessions and terms of the inferior courts of Kaufman County held for the transaction of criminal business, and exclusively to represent the State of Texas in all criminal matters pending before those courts and perform such other duties as may be conferred by law on the district and county attorneys in the various counties and judicial districts of this state. He shall collect such fees, commissions, and perquisites as are provided by law for similar services rendered by district and county attorneys of this state.

Commission; Compensation; Payment

Sec. 4. The Criminal District Attorney of Kaufman County shall be commissioned by the governor, and shall receive as compensation an annual salary payable in equal monthly installments. The salary shall include the amount equal to the amount paid district attorneys by the State of Texas, and shall be paid by the comptroller of public accounts, as appropriated by the legislature. In addition, the Criminal District Attorney of Kaufman County shall be paid in equal bimonthly installments out of the officers' salary fund of Kaufman County an amount which, when added to the amount paid by the State of Texas, equals an amount not less than 90 percent of the total salaries paid to the Judge of the 86th Judicial District by the State of Texas and Kaufman, Van Zandt, and Rockwall counties.

Assistants, Investigators, Etc.; Appointment and Compensation; Expenses

Sec. 5. The Criminal District Attorney of Kaufman County, for the purpose of conducting the affairs of his office, may appoint a staff composed of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel as the Commissioners Court of Kaufman County may authorize. All salaries of assistant criminal district attorneys, investigators, stenographers, clerks, and other personnel shall be an amount set by the criminal district attorney with the approval of the commissioners court and shall be paid by the commissioners court in equal bimonthly installments from the officers' salary fund of Kaufman County. In addition to the salary provided the criminal district attorney, his assistants, investigators, stenographers, clerks, and other personnel, the Commissioners Court of Kaufman County may allow the criminal district attorney, his assistants and investigators such necessary expenses as the Commissioners Court deems reasonable. The expenses shall be paid as provided by law for other such claims of expenses.

Oath of Assistants; Powers and Duties

Sec. 6. The assistant criminal district attorneys of Kaufman County shall take, on appointment, the constitutional oath of office. The criminal district attorney and his assistants shall have the exclusive right and duty to represent the State of Texas in all criminal cases pending in any court of Kaufman County, as well as perform other statutory or constitutional duties imposed on district and county attorneys of this state. The assistant criminal district attorneys of Kaufman County are authorized to administer oaths, file information, examine witnesses before the grand jury, and generally perform any duty devolving upon the Criminal District Attorney of Kaufman County and exercise any power and perform any duty conferred by law on the Criminal District Attorney of Kaufman County.

Private Practice of Law

Sec. 7. The Criminal District Attorney of Kaufman County and his assistants shall not engage in the private practice of law while serving as criminal district attorney or assistant criminal district attorney of Kaufman County. This section becomes effective on January 1, 1975.

Abolition of County Attorney's Office

Sec. 8. The office of County Attorney of Kaufman County is abolished from and after the effective date of this Act.

County Attorney Commissioned; Election and Term; Vacancy

Sec. 9. (a) On the effective date of this Act, the County Attorney of Kaufman County shall be commissioned as the Criminal District Attorney of Kaufman County. He shall fill the office of criminal district attorney until the general election in 1974 and until his successor is lawfully elected and has qualified.

(b) At the general election in 1974 and every four years thereafter, this officer shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution.

(c) Any vacancy occurring in the office of Criminal District Attorney of Kaufman County after the office is filled initially by the County Attorney of Kaufman County, as provided in Subsection (a) of this section, shall be filled by appointment by the governor, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

[Acts 1973, 63rd Leg., p. 122, ch. 62, eff. Aug. 27, 1973.]

Art. 326k-72. 145th Judicial District Attorney

Secs. 1 to 3. [Amends art. 199, subs. 2 and 145; art. 326l-1]

Creation of Office

Sec. 4. The office of district attorney for the 145th Judicial District is created.

Powers and Duties

Sec. 5. The district attorney for the 145th Judicial District shall represent the state in all criminal cases in the district court for the 145th Judicial District and perform the other duties provided by law governing district attorneys.

Salary

Sec. 6. The district attorney shall receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Appointment; Election and Term

Sec. 7. On the effective date of this Act, the governor shall appoint a district attorney for the 145th Judicial District, who shall serve until the next general election and until his successor is elected and has qualified.

Assistants, Investigators and Stenographers; Appointment and Compensation

Sec. 8. (a) The district attorney for the 145th Judicial District, with the approval of the Commissioners Court of Nacogdoches County, may appoint such assistant district attorneys, investigators, and stenographers as are necessary to carry out the duties of his office.

(b) An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the county all duties imposed by law on the district attorney. An investigator appointed under the provisions of this Act need not be licensed to practice law.

(c) Each assistant district attorney, investigator, and stenographer shall receive a salary fixed by the district attorney, subject to the approval of the Commissioners Court of Nacogdoches County. In addition to a salary, each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties, subject to the approval of all claims by the district attorney.

(d) The salaries and expenses provided for by this Act may be paid by the county from county funds or from a grant or fund from other sources available for this purpose.

[Acts 1973, 63rd Leg., p. 790, ch. 353, eff. June 12, 1973.]

Art. 326k-73. 173rd Judicial District Attorney

Creation of Office

Sec. 1. The office of district attorney for the 173rd Judicial District is created.

Representation of State and Other Duties

Sec. 2. The district attorney for the 173rd Judicial District shall represent the state in all criminal cases in the district court for the 173rd Judicial District and perform the other duties provided by law governing district attorneys.

Salary

Sec. 3. The district attorney shall receive from the state the annual salary provided in the General Appropriations Act for district attorneys.

Appointment; Election and Term

Sec. 4. On the effective date of this Act, the governor shall appoint a district attorney for the 173rd Judicial District, who shall serve until the next general election and until his successor is elected and has qualified.

Assistants, Investigators and Personnel; Appointment and Compensation

Sec. 5. (a) The district attorney, with the approval of the commissioners courts of the counties comprising the 173rd Judicial District, may appoint assistants, investigators, and office personnel as he deems necessary. The salary of each person appointed shall be set by the district attorney with the approval of the

commissioners courts. The salary of each person appointed by the district attorney and the other operating expenses of the office of district attorney shall be paid by the commissioners courts of the counties comprising the 173rd Judicial District out of the general funds of the counties, prorated according to the population of the counties comprising the judicial district, as determined by the last preceding federal census.

(b) An assistant district attorney and investigator, when appointed, shall take the constitutional oath of office, and the assistant district attorney shall exercise the powers and perform the duties conferred and imposed by law upon the district attorney, under the supervision and direction of the district attorney of the 173rd Judicial District.

[Acts 1973, 63rd Leg., p. 1228, ch. 442, eff. June 14, 1973.]

Art. 326k-74. 29th Judicial District Attorney

Representation of State and Other Duties

Sec. 1. The district attorney for the 29th Judicial District shall represent the State of Texas in all criminal cases in the district court for the 29th Judicial District and perform other duties provided by law.

Assistants, Investigators, Secretaries, and other Personnel; Employment

Sec. 2. The district attorney may employ such assistant district attorneys, investigators, secretaries, and other office personnel as, in his judgment, are required for the proper and efficient operation and administration of the office.

Assistants; Qualifications; Oath; Duties

Sec. 3. Assistant district attorneys must be legally licensed to practice law in the State of Texas, shall take the constitutional oath of office, and shall be authorized to perform all duties imposed by law on the district attorney.

Bond of Assistants, Investigators and Secretaries; Removal of Personnel

Sec. 4. Assistant district attorneys, investigators, and secretaries to the district attorney may be required by the district attorney to have bond in such amount as the district attorney may direct, and all personnel shall be subject to removal at the will of the district attorney.

Salaries

Sec. 5. Salaries of the assistant district attorneys, investigators, secretaries and other office personnel shall be fixed by the district attorney, subject to the approval of the commissioners court of the county or counties composing the district.

Expenses

Sec. 6. Assistant district attorneys and investigators, in addition to their salaries, may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the district attorney and approved by the commissioners

court of the county or the counties composing the district. All claims for travel expenses may be paid from the general fund, officers' salary fund, or any other available funds of the county.

Office Equipment and Expenses; Automobiles

Sec. 7. The commissioners court of the county or the counties composing the district is authorized to furnish telephone service, typewriters, office furniture, office space, supplies, and such other items and equipment as are necessary to carry out the official duties of the district attorney's office, and to pay the expenses incident to the operation of the district attorney's office. The commissioners courts are further authorized to furnish automobiles for the use of the district attorney's office for the purpose of conducting the official duties of the office, and to provide the maintenance thereof.

Gifts and Grants

Sec. 8. The commissioners court of the county or the counties composing the district may accept gifts and grants from any foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution programs within the county or district. For the purposes of this Act, municipalities within the county or district are specifically authorized to allocate and grant such sums of money as their respective governing bodies may approve to their county government for the support and maintenance of an effective prosecution program.

[Acts 1973, 63rd Leg., p. 1358, ch. 515, eff. June 14, 1973.]

Art. 326l. 72nd Judicial District; Assistant District Attorney

Sec. 1. The District Attorney of the 72nd Judicial District of Texas, is hereby authorized to appoint one Assistant District Attorney.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall be a duly licensed Attorney at Law and shall be a bona fide resident of one of the counties composing the said 72nd Judicial District. Said Assistant District Attorney, when appointed, shall take the oath of office and shall be authorized to represent the State in any Court or proceeding in which the District Attorney is or shall be authorized to represent the State, said authority to be exercised by said Assistant under the direction of the District Attorney. The District Attorney shall have the power and authority to dismiss said Assistant, at his discretion, and to appoint another person to fill out the unexpired term, provided that any person appointed to fill out said term, shall possess the same qualifications as above mentioned.

Sec. 3. The Assistant District Attorney in the 72nd Judicial District of Texas shall receive an annual salary of Thirty-Eight Hundred (\$3800.00) Dollars, payable monthly, out of the General Revenue Fund of the state not otherwise appropriated, upon the sworn account of such Assistant District Attorney, approved

by the District Attorney of said 72nd Judicial District.

[Acts 1929, 41st Leg., p. 406, ch. 187; Acts 1931, 42nd Leg., p. 745, ch. 292; Acts 1947, 50th Leg., p. 397, ch. 225, § 1.]

Abolition of office

Acts 1971, 62nd Leg., p. 2428, ch. 776, § 7, abolished the office of district attorney for the 72nd Judicial District, effective January 1, 1973. See article 326k-69, § 7.

Art. 326l-1. Repealed by Acts 1973, 63rd Leg., p. 228, ch. 104, § 1, eff. May 18, 1973

[*This article was also amended by Acts 1973, 63rd Leg., p. 791, ch. 353, § 3. See article 326l-1, post.*]

Art. 326l-1. 2nd Judicial District; Assistants, Investigators and Stenographers

Sec. 1. The district attorney for the 2nd Judicial District, with the approval of the commissioners court, may appoint such assistant district attorneys, investigators, and stenographers as are necessary to carry out the duties of his office.

Sec. 2. An assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and may perform for the state and the county all duties imposed by law on the district attorney. An investigator appointed under the provisions of this Act need not be licensed to practice law.

Sec. 3. Each assistant district attorney, investigator, and stenographer shall receive a salary fixed by the district attorney, subject to the approval of the commissioners court. In addition to a salary, each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties, subject to the approval of all claims by the district attorney.

Sec. 4. The salaries and expenses provided for by this Act may be paid by the county from county funds or from a grant or fund from other sources available for this purpose.

[Acts 1965, 59th Leg., p. 1498, ch. 649, eff. June 17, 1965; Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 5.004, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 791, ch. 353, § 3, eff. June 12, 1973.]

[*This article was also repealed by Acts 1973, 63rd Leg., p. 228, ch. 104, § 1. See article 326l-1, ante.*]

Art. 326l-2. 9th Judicial District; Assistants, Investigators, Secretaries and Employees

Appointment; Removal

Sec. 1. The district attorney for the 9th Judicial District, with the approval of the commissioners court of one or more of the several counties included in the 9th Judicial District, is authorized to appoint such assistant district attorneys, investigators, secretaries, and other employees as are necessary to carry out the du-

ties of his office. Any assistant district attorney, investigator, secretary, or other employee appointed under the provisions of this Act is removable at the will of the district attorney.

Assistants; Qualifications; Bond

Sec. 2. Each assistant district attorney appointed under the provisions of this Act shall be a person licensed to practice law in this state and shall perform for the state and the several counties which have provided compensation for said attorney, included within the 9th Judicial District all duties imposed by law on the district attorney. Each assistant district attorney shall make bond in the amount fixed by the district attorney.

Investigators; Qualifications; Powers and Duties; Bond

Sec. 3. Each investigator appointed under the provisions of this Act need not be licensed to practice law. Any investigator may make arrests and execute process in criminal cases and has all the authority, rights, and duties of a peace officer. He shall make bond in the amount fixed by the district attorney.

Salary and Expenses

Sec. 4. Each assistant district attorney, investigator, secretary, or other employee shall receive a salary fixed by the commissioners courts of any county or counties included in the 9th Judicial District as provided in Section 5 of this Act. In addition to a salary, the district attorney and each assistant district attorney and investigator may be allowed the actual and necessary travel expenses incurred in the proper discharge of his duties and other necessary expenses incident to carrying out the official duties of the district attorney and his office, subject to the approval of the district attorney. The provisions of this section do not apply to that portion of the compensation and travel expense paid by the state to district officials and employees.

Payment of Salary and Expenses; Special Assignment

Sec. 5. (a) The salaries and expenses provided for by this Act shall be paid by the counties included in the 9th Judicial District in proportion to the population of each for the last preceding federal census, except as provided in Subsection (b) of this section.

(b) The district attorney of the 9th Judicial District may specially assign an assistant district attorney, investigator, secretary, or other employee, whether one or more, to one or more counties of the 9th Judicial District. The commissioners court of one or more counties of the 9th Judicial District may, in its discretion, pay the whole or any amount greater than the proportionate part of the salary or expenses of an assistant district attorney, investigator, secretary, or other employee who shall be specially assigned by the district attorney of the 9th Judicial District to that particular county or counties. To the extent that one or more counties, through its commissioners court, may agree to pay more than its proportionate part

of the salary or expenses of an assistant district attorney, investigator, secretary, or other employee specially assigned to it, the other counties in the 9th Judicial District to which the assistant district attorney, investigator, secretary, or other employee is not specially assigned shall be relieved from their proportionate part of his salary and expenses.

(c) The salaries, expenses, and supplemental compensation of the district attorney, assistant district attorneys, investigators, secretaries, and other employees, provided for in this Act shall be paid, at the regular pay period as used by each respective county, from the officers salary fund or the general fund or any combination thereof at the discretion of the commissioners courts. The compensation paid from county funds of the counties comprising the 9th Judicial District to any person affected by this Act shall not be set at a figure lower than that actually paid to that person, or to any other person serving in that position, from such funds on the effective date of this Act.

Office Equipment

Sec. 6. The commissioners courts of one or more of the counties comprising the 9th Judicial District may furnish telephones, typewriters, office furniture, office space, supplies, and such other items and equipment as are deemed necessary to carry out the official duties of the district attorney's office.

Supplemental Salary

Sec. 7. The Commissioners Court of any county or counties in the 9th Judicial District may supplement the salary paid by the State of Texas to the District Attorney of the 9th Judicial District. The amount of supplemental salary that may be paid by the commissioners court shall be fixed by the Commissioners Court of any county or counties of the 9th Judicial District and shall be paid in addition to the salary paid the district attorney by the State of Texas.

Gifts and Grants

Sec. 8. The commissioners court of one or more of the counties of the 9th Judicial District may accept gifts and grants from any individual, partnership, corporation, trust, foundation, association, or political subdivision for the purpose of financing adequate and effective prosecution, crime prevention, or rehabilitation programs within the county or district approved and administered by the district attorney.

[Acts 1967, 60th Leg., p. 1237, ch. 560, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2435, ch. 782, § 1, eff. June 8, 1971; Acts 1973, 63rd Leg., p. 1318, ch. 493, § 1, eff. June 14, 1973.]

Art. 326l-3. 3rd Judicial District; Assistant District Attorney

Sec. 1. The district attorney for the Third Judicial District, composed of the counties of Anderson, Henderson, and Houston, is hereby authorized to employ an assistant district attorney with the consent of the commissioners

courts of two or more counties within the district.

Sec. 2. Said assistant district attorney shall be a qualified licensed attorney and shall have authority to perform all the acts and duties of the district attorney under the laws of this state.

Sec. 3. If the commissioners courts of two or more counties in the Third Judicial District shall consent to the employment of an assistant district attorney, the salary of the same shall be paid as follows: one-third of the annual salary shall be paid by Anderson County, one-third of the annual salary shall be paid by Henderson County, and one-third of the annual salary shall be paid by Houston County.

Sec. 4. The district attorney of the Third Judicial District, subject to the consent of the commissioners courts of two or more counties in said district, shall fix the salary of the assistant district attorney.

[Acts 1969, 61st Leg., p. 2336, ch. 791, eff. Sept. 1, 1969.]

Art. 326m. District of 5 Counties with Population of 74,427 to 74,428

Sec. 1. That in all Judicial Districts in this State composed of five counties in which the aggregate population of said District as shown by the Federal Census of 1920 is in excess of 74,427 and not in excess of 74,428, the duly elected District Attorney shall have the right, with the consent of the Judge of said District Court to appoint an Assistant District Attorney, who shall hold his office one year.

Sec. 2. The Assistant District Attorney provided for in Section 1 of this Act shall receive an annual salary of \$3,000.00 to be paid monthly out of any money not otherwise appropriated, upon the sworn account of such Assistant District Attorney approved by the District Attorney and the Judge of said District.

[Acts 1929, 41st Leg., p. 665, ch. 297.]

Art. 326n. District Attorneys, Assistants and Investigators in Certain Judicial Districts

Compensation of District Attorney; Commissions and Fees

Sec. 1. District Attorneys in all Judicial Districts composed of only one county, in which county there are two or more District Courts with concurrent criminal jurisdiction, and which District Courts have exclusive jurisdiction of all prosecutions for failing or refusing to pay over money belonging to the State under Chapter Two (2) of Title Four (4) of the Penal Code of 1925,¹ and which District Courts further have concurrent jurisdiction with all District Courts in Texas in prosecutions involving the forging and uttering, using or passing of forged instruments in writing which concern or affect the title to land in this State, under Chapter Two (2) of Title Four (4) of the Code of Criminal Procedure of 1925,² shall hereafter receive from the State as pay for their services the sum of Five Hundred Dollars (\$500.00) per annum, as provided by the Constitution, and in addition thereto shall receive

the sum of Three Thousand Five Hundred Dollars (\$3,500.00) per annum, said salary to be paid in monthly installments in the same manner as now provided for the payment of the Five Hundred Dollars (\$500.00) fixed by the Constitution. All commissions and fees allowed District Attorneys by law, shall, when collected, be paid to the District Clerk of such counties, who shall pay the same over to the State Treasurer.

Assistant District Attorney

Sec. 2. In such Judicial Districts the District Attorney, with the consent of either of the District Judges, is hereby authorized to appoint one assistant District Attorney, who shall receive as salary Three Thousand Dollars (\$3,000.00) per annum payable by the state monthly.

Qualifications; Oath; Removal

Sec. 3. Said Assistant District Attorney shall have all of the qualifications that are now required by law of District Attorneys, shall take an oath of office before one of the District Judges of such District, shall be subject to removal at the will of the District Attorney and under the direction of the District Attorney, shall be authorized to perform any official act devolving upon or authorized to be performed by the District Attorney.

Investigators or Assistants and Stenographer; Appointment and Compensation

Sec. 4. In such Judicial Districts the District Attorney, with the consent of the District Judges and the County Judge of such County, is hereby authorized to appoint, at his discretion, not more than two (2) Investigators or Assistants, who may be duly and legally licensed to practice law in the State of Texas; who shall receive a salary of not more than Twenty-seven Hundred (\$2700.00) Dollars per annum, nor less than Eighteen Hundred (\$1800.00) Dollars per annum, the amount of such salary to be fixed by the District Attorney and approved by the said Judges. Such Investigators or Assistants as well as the District Attorney shall be allowed a reasonable amount for expenses, not to exceed Six Hundred (\$600.00) Dollars each per annum. Said District Attorney shall also be authorized to appoint a stenographer who shall receive a salary not to exceed Fifteen Hundred (\$1500.00) Dollars per annum. The salaries of such Investigators or Assistants, and stenographer, and the expenses, provided for in this section shall be paid monthly by the Commissioners' Court of the County comprising such Judicial Districts, out of the General Fund of the County, or in the discretion of the Commissioners' Court, out of the jury fund of said County upon the certificate of the District Attorney. Said Investigators or Assistants may be required to give bond and shall have authority under the direction of the District Attorney to make arrests and execute process in criminal cases and in cases growing out of the enforcement of all laws. Should the District Attorney

designate the persons appointed as Assistants, they shall be in addition to and shall have the same authority and qualifications and shall be subject to the same requirements as those Assistants provided for in Section 2 of this Act and Section 2 of Senate Bill No. 528 of the Regular Session of the 44th Legislature.³

[Acts 1931, 42nd Leg., p. 744, ch. 291; Acts 1941, 47th Leg., p. 172, ch. 124, § 1.]

¹ Penal Code, art. 86 et seq. (repealed).

² Code of Criminal Procedure 1925, art. 186 et seq. (repealed; see, now, art. 13.01 et seq.).

³ Article 326k-7, § 2 (repealed; see, now, art. 326k-14).

Art. 326o. 77th Judicial District; Abolition of District Attorney's Office

The office of District Attorney in the 77th Judicial District of Texas is hereby abolished and the County Attorney of each county composing said district shall represent the State of Texas in all matters wherein the State of Texas is a party, in his respective county, and shall receive such fees and compensation for his services, as is provided by the General Laws of the State of Texas.

[Acts 1933, 43rd Leg., Spec.L., p. 90, ch. 68.]

Art. 326p. Repealed by Acts 1933, 43rd Leg. Spec.L., p. 150, ch. 107

Art. 326q. Unconstitutional

This article, derived from Acts 1931, 42nd Leg., p. 844, ch. 354, as amended by Acts 1941, 47th Leg., p. 603, ch. 371, § 1, created the office of criminal district attorney in counties with a population of 33,500 to 75,000 and not containing a city of 50,000 inhabitants. It was held invalid in *Hill County v. Sheppard*, 142 T. 358, 178 S.W.2d 261.

Art. 327. Failure to Attend Court

When any district attorney shall fail to attend any term of the district court of any county in his district, the district clerk of such county shall certify the fact of such failure under his official seal to the Comptroller, and unless some satisfactory reason for such failure is shown to the Comptroller, such district attorney shall receive no salary for the time that he has so failed to attend.

[Acts 1925, S.B. 84.]

Art. 328. Vacancy in Office

When a vacancy occurs in the office of district attorney, the Governor shall appoint a qualified person, resident of the district, to fill the same.

[Acts 1925, S.B. 84.]

2. COUNTY ATTORNEYS

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and al-

lowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 329. Election

A county attorney for counties in which there is not a resident criminal district attorney, shall be biennially elected for a term of two years by the qualified voters of each county.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. art. 5, § 21 was amended in November, 1954 to increase the terms of office of County Attorneys and District Attorneys from two to four years.

Art. 330. Bond

Each county attorney shall execute a bond payable to the Governor in the sum of twenty-five hundred dollars, with at least two good and sufficient sureties to be approved by the commissioners court of his county, conditioned that he will faithfully pay over in the manner prescribed by law all moneys which he may collect or which may come to his hands for the State or any county.

[Acts 1925, S.B. 84.]

Art. 331. Assistants

County attorneys, by consent of the commissioners court, shall have power to appoint in writing one or more assistants, not to exceed three, for their respective counties who shall have the same powers, authority and qualifications as their principals, at whose will they shall hold office. Before entering on the duties of their offices, they shall each take the official oath which shall be indorsed upon their appointment, which oaths and appointments shall be recorded and deposited in the county clerk's office.

[Acts 1925, S.B. 84.]

Art. 331a. County of 100,000 to 150,000 with City Over 75,000; Assistants and Stenographer

Sec. 1. That in any county having a population of more than 100,000 and less than 150,000, and containing a city of more than 75,000 population, according to the United States Census for the year 1920, the County Attorney is hereby authorized to appoint two Assistant County Attorneys, each having the qualifications required of County Attorneys, one of whom shall receive a salary of \$3000.00 per annum, and one of whom shall receive a salary of \$2400.00 per annum. The said County Attorney is also hereby authorized to appoint one stenographer at a salary not to exceed \$1800.00 per annum. The salaries of the Assistants and stenographer above provided for shall be paid monthly by the county in which such appointments are made.

Sec. 2. Should such County Attorney be of the opinion that the number of assistants

above provided for are inadequate for the efficient performance of the duties of said office, he may appoint additional assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of 1925.

[Acts 1929, 41st Leg., p. 198, ch. 83.]

Art. 331b. Counties of 49,600 to 49,700; Assistants to County Attorney Performing Duties of District Attorney

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, providing that the provision of this bill shall apply only to counties in this State having a population of not less than 49600 and not more than 49700 according to the last government census of 1920.

[Acts 1929, 41st Leg., p. 512, ch. 246, § 1.]

Art. 331b-1. Counties of 42,900 to 43,000; Assistants to County Attorney Performing Duties of District Attorney

In all counties in which the county attorney performs the duties of the county attorney and district attorney, as provided by law, the county attorney may appoint one or more assistants who need not possess the qualifications required by law of county attorneys. The appointment of the assistants provided for by this act shall be governed by the provisions of Article 3902, whereby the number of assistants to be appointed and the compensation to be paid each shall be determined by the commissioners' court, provided that the provision of this bill shall apply only to counties in this State having a population of not less than 42900 and not more than 43000 according to the last government census of 1920.

[Acts 1929, 41st Leg., 2nd C.S., p. 135, ch. 67, § 1.]

Art. 331b-2. Certain Counties of 46,000 to 46,150; Assistants

Sec. 1. That in any county having a population of more than forty-six thousand (46,000) and less than forty-six thousand, one hundred and fifty (46,150) inhabitants, and containing a total taxable valuation not in excess of Thirty Million, Seven Hundred and Forty-two Thousand, Six Hundred and Sixty Dollars (\$30,742,660), as shown by the tax rolls for the preceding year, and in which there is a city of not more than forty-three thousand, one hundred and thirty-two (43,132) inhabitants, as shown by the last preceding Federal Census, the County Attorney is hereby authorized to appoint one Assistant County Attorney, having the qualifications required of County Attorneys, who shall receive a salary not to exceed

Eighteen Hundred Dollars (\$1,800) per annum, said salary to be paid in twelve (12) equal monthly installments (out of county funds) by each county in which such appointment is made, by warrants drawn on the General Fund thereof.

Sec. 2. Should such County Attorney be of the opinion that the efficient performance of the duties of said office necessitates the appointment of more than one Assistant, he may appoint additional Assistant under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of Texas, of 1925.

[Acts 1935, 44th Leg., p. 927, ch. 359.]

Art. 331b-3. Counties of 60,001 to 100,000 Having No District Attorney; Assistants

Sec. 1. In all counties of this State having a population of sixty thousand and one (60,001) and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the county attorneys in such counties which do not have a district attorney, and where the county attorney performs the duties of county attorney and district attorney, the county attorney in such counties shall apply to the county Commissioners Court of his county for authority to appoint such assistant county attorneys as he may require in the performance of his duties as such county attorney, stating by sworn application the number needed, the position to be filled and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expense of said office; and said Court shall make its order authorizing the appointment of such assistant county attorneys and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper. The compensation which may be allowed to the assistant county attorneys for their services shall be a reasonable one, not to exceed Thirty-six Hundred Dollars (\$3600) per annum, to be paid out of the officer's salary fund of such counties.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed.

[Acts 1945, 49th Leg., p. 253, ch. 187.]

Art. 331c. Counties of 37,500 to 100,000 Having No District Attorney; Fees; Assistants and Stenographer

That in any county having a population of not less than 37,500, and not more than 100,000 inhabitants, as determined by the last preceding Federal census, and each succeeding Federal census thereafter, and in which counties

there are one or more Judicial districts where there is no District Attorney, the County Attorney shall be allowed to retain out of the fees earned and collected by him, the sum of \$5,000.00 per annum, as his compensation, exclusive of the compensation of assistants, deputies and stenographers, and shall be allowed to retain any amount as may be incurred as expenses under the authority of Article 3899, Revised Statutes, 1925, and any other expenses allowed by law, including in addition to the items enumerated in the Statutes, expenses incurred in investigating crime and accumulating evidence in Criminal cases, and shall pay over all fees earned by such office in excess of \$5,000.00, and in excess of such expenses herein provided for, during each and every fiscal year, into the County Treasury in accordance with the provisions of the maximum fee bill. In arriving at the amount collected by him, he shall include the fees arising from all classes of Criminal cases, whether felonies or misdemeanors, arising in any court in such county, including habeas corpus hearings and fines and forfeitures, and including fees for representing the State in Criminal actions in Corporation Courts; such latter fees to be the same as those fixed by law for like services in Justice Courts. Each County Attorney may appoint not to exceed three Assistant County Attorneys, two of which shall receive a salary of not to exceed \$3,600.00 per annum, and one of whom shall receive a salary not to exceed \$2,400.00 per annum. He may appoint one stenographer, who shall receive a salary not to exceed \$1,500.00 per annum. The salaries of the assistants and stenographer shall be paid monthly by the County Attorney out of the fees of office.

[Acts 1929, 41st Leg., 1st C.S., p. 220, ch. 89, § 1.]

Art. 331d. Counties of 27,050 to 27,075 with Two or More District Courts; Assistants

Sec. 1. In any county having a population of not less than twenty-seven thousand and fifty (27,050) and not more than twenty-seven thousand and seventy-five (27,075) inhabitants according to the Federal census for the year 1940 and in which county there are two (2) or more District Courts, the County Attorney is hereby authorized to appoint one Assistant County Attorney who has the qualifications required of County Attorneys, and who shall receive a salary of not more than Four Thousand, Eight Hundred Dollars (\$4,800) per year and not less than Two Thousand, Four Hundred Dollars (\$2,400) per year. The salary of the Assistant above provided for shall be paid in equal monthly installments monthly by the county in which such appointment is made.

Sec. 2. Should such County Attorney be of the opinion that the number of Assistants above provided for is inadequate for the efficient performance of the duties of said office, he may appoint additional Assistants under the provisions and restrictions of Article 3902 of the Revised Civil Statutes of Texas, 1925.

Sec. 3. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment has been rendered.

[Acts 1949, 51st Leg., p. 357, ch. 181.]

Art. 331e. Counties of 50,900 to 60,000 Having No District Attorney; Assistants

Sec. 1. In all counties of this State having a population of fifty thousand, nine hundred (50,900) and not more than sixty thousand (60,000) inhabitants, according to the last preceding Federal Census, the county attorneys in such counties which do not have a district attorney, and where the county attorney also performs the duties of district attorney, the county attorney in such counties shall apply to the County Commissioners Court of his county for authority to appoint such assistant county attorneys as he may require in the performance of his duties as such county attorney, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Said application shall be accompanied by a statement showing the probable receipts from fees, commissions and compensation to be collected by said office during the fiscal year and the probable disbursements which shall include all salaries and expenses of said office; and said Court shall make its order authorizing the appointment of such assistant county attorneys and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of said Court may be proper. The compensation which may be allowed to the assistant county attorneys for their services shall be a reasonable one, not to exceed Thirty-six Hundred Dollars (\$3600) per annum, to be paid out of the officer's salary fund of such counties.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the Commissioners Court therein prescribed.

[Acts 1949, 51st Leg., p. 425, ch. 226.]

Art. 331f. Certain Counties over 13,000 on Mexican Border; Assistant and Secretary

In any county bordering on the international boundary between the United States and the Republic of Mexico, having more than thirteen thousand (13,000) inhabitants according to the last preceding Federal Census and having a taxable property valuation in excess of Twenty Million Dollars (\$20,000,000) according to the latest approved tax rolls and having a county attorney, the Commissioners Court of such county may employ an assistant county attorney and fix his salary at not to exceed Thirty-

six Hundred Dollars (\$3600) per annum and may employ a secretary to the county judge and fix his salary at not to exceed Twenty-seven Hundred Dollars (\$2700) per annum, such salaries to be payable out of the General Fund of said county in twelve (12) equal monthly installments.

[Acts 1949, 51st Leg., p. 763, ch. 410, § 1.]

Art. 331f-1. Counties of 64,191 to 100,000 on Mexican Border; Assistant and Secretary

Sec. 1. In all counties of this state having a population of not less than 64,191, and not more than 100,000 inhabitants, according to the last preceding federal census, and which counties border on the International Boundary between the United States and the Republic of Mexico, the county attorneys of such counties may appoint, with the approval of the commissioners court of such counties, an assistant county attorney and a secretary. The application for such appointment must be sworn to and be in writing stating a need for an assistant county attorney and secretary, if such application includes the services of a secretary. The compensation to be paid must be a reasonable amount fixed at the discretion of the commissioners court of such counties, but shall not exceed \$10,000 per annum for the assistant county attorneys and \$5,800 per annum for the secretaries, to be paid out of the officers' salary funds of such counties in 12 equal monthly installments.

Sec. 2. The provisions of this Act are cumulative of Article 3902 of the Revised Civil Statutes of Texas of 1925, as amended, and in nowise shall be considered as a limitation on the other powers and authority of the commissioners court therein prescribed.

[Acts 1967, 60th Leg., p. 1236, ch. 559, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1602, ch. 494, eff. Sept. 1, 1969.]

Art. 331g. Counties of Not Less Than 100,000 Having No District Attorney; Assistants and Investigator

Sec. 1. In all counties in this State having a population of not less than one hundred thousand (100,000) or more inhabitants, according to the last preceding Federal Census, in which there is no district attorney and where the county attorney performs the duties of the district attorney, the Commissioners Courts, upon recommendation of the county attorneys, are hereby authorized to appoint assistant county attorneys to aid such county attorneys in the performance of their duties, provided, however, that no Commissioners Court shall be authorized to appoint more than four (4) assistants.

Sec. 2. The Commissioners Court in such counties shall fix the salaries of the assistant county attorneys not to exceed the following amounts: The salaries of the first three (3) assistants, who shall be duly licensed attorneys at law, shall be fixed at any amount not to exceed Five Thousand Dollars (\$5,000) per annum each; the salary of the next assistant,

who shall be a duly licensed attorney at law, shall be fixed at a sum not to exceed Forty-five Hundred Dollars (\$4500) per annum.

Sec. 3. The assistant county attorneys provided for in this Act shall perform such duties as may be assigned to them by the county attorney.

Sec. 4. In addition to the assistants provided for in this Act, such Commissioners Courts are hereby authorized to employ an investigator and fix his salary at any sum not to exceed Thirty-six Hundred Dollars (\$3600) per annum, who shall perform such duties as are assigned to him by the county attorney.

Sec. 5. The investigator provided for in this Act, in addition to his salary, may be allowed repair and maintenance expense for any automobile owned and used by such investigator in the actual discharge of official duties never to exceed Fifty Dollars (\$50) per month. The automobile expense provided for herein shall be paid out of the Officers Fund when approved by the county attorney.

Sec. 6. All salaries provided for in this Act shall be paid by the county out of the Officers Salary Fund.

Sec. 7. If any section, subsection, sentence, clause or phrase of this Act is held unconstitutional, such invalid portion shall not affect the remaining portions of this Act, and the Legislature declares it would have enacted the remaining portion with the invalid portion omitted.

Sec. 8. This Act is hereby declared to be cumulative of all acts relating to the appointment of assistant county attorneys in the counties coming under the terms of this Act.

[Acts 1951, 52nd Leg., p. 365, ch. 230.]

Art. 331g-1. Counties over 37,000; Investigator

Sec. 1. In each county of this State which has a population of more than thirty-seven thousand (37,000) inhabitants, according to the preceding Federal Census, the county attorney may appoint an investigator, with the approval of the Commissioners Court. He may be required to make a bond in an amount to be fixed by the county attorney. He shall receive a salary in an amount to be fixed by the Commissioners Court, not to exceed Two Hundred and Fifty Dollars (\$250) per month, and he may also receive an expense allowance to be fixed by the Commissioners Court in an amount not to exceed Fifty Dollars (\$50) per month.

Sec. 2. This Act is cumulative of all other laws authorizing the appointment of investigators by county attorneys, and is also cumulative of all laws authorizing the appointment of other employees for the county attorney's office; but this Act shall not authorize the appointment of an additional investigator in any county in which an investigator with similar powers may be appointed under existing law.

Sec. 2a. Any investigator appointed by a county attorney under authority of this law

shall not by virtue of such appointment be permitted to carry arms in the conduct of his duties but he shall be subject to the prohibitions against carrying arms contained in Article 483 of the Penal Code of the State of Texas, as amended, and similar statutes, the same as any private citizen; and it is further provided that such investigator shall not by virtue of his official position be empowered to make arrests.

[Acts 1955, 54th Leg., p. 1201, ch. 475; Acts 1959, 56th Leg., p. 663, ch. 306, § 1.]

Art. 331g-2. Counties of 11,200 to 11,400; Special Investigator

Sec. 1. The commissioners court of any county having a population of not less than 11,200 nor more than 11,400, according to the last preceding federal census, may appoint a special investigator. The investigator shall work under the supervision of the county attorney for such law enforcement purposes as designated by the commissioners court.

Sec. 2. An investigator appointed under this Act shall receive an annual salary, not to exceed \$8,000, to be set by the commissioners court and paid in equal monthly installments. He shall receive a reasonable allowance for expenses to be set by the commissioners court.

Sec. 3. The investigator shall have all the authority of a peace officer of this state.

Sec. 4. The investigator shall post a bond in an amount, not to exceed \$10,000, to be set by the commissioners court and conditioned on his faithful performance of his duties under the direction of the county attorney. The bond shall be payable to the county judge.

Sec. 5. The office of such special investigator shall terminate two years from the effective date of this Act.

[Acts 1971, 62nd Leg., p. 2608, ch. 855, eff. June 9, 1971.]

Art. 331h. County Attorney of Harris County

Creation of Office; Qualifications; Oath; Bond

Sec. 1. The Constitutional office of County Attorney of Harris County is created effective September 1, 1953, and said County Attorney of Harris County shall possess all the qualifications, take the oath and give the bond required by the laws of this State of other County Attorneys.

Election and Term

Sec. 2. There shall be elected by the qualified electors of Harris County at the general election in 1954, and at the general election every two years thereafter, an attorney for said county who shall be styled the County Attorney of Harris County and who shall hold office for a period of two years and until his successor is elected and qualified.

Powers and Duties

Sec. 3. It shall be the primary duty of the County Attorney of Harris County or his assistants to represent the State of Texas, Harris County and the officials of such county in all civil matters pending before the courts of Har-

ris County and any other courts where the State of Texas, Harris County and the officials of such county have matters pending. It is understood that the County Attorney will represent the State of Texas, Harris County and the officials of such county in such civil matters as is now required by law of Criminal District Attorneys, District Attorneys, and County Attorneys with the exception that the County Attorney shall represent the Flood Control District of Harris County and perform any and all other duties imposed by this Act without any additional fee, compensation or perquisite other than that paid by Harris County out of its officers salary fund.

Commission and Salary

Sec. 4. The County Attorney of Harris County shall be commissioned in accordance with the law and he shall receive such annual salary as may be provided by general law.

Assistants; Oath; Powers and Duties

Sec. 5. The Assistant County Attorneys of Harris County, when appointed, shall take the constitutional oath of office and are authorized to perform any and all duties devolving upon the County Attorney of Harris County and may exercise any power and perform any duty conferred by law upon the County Attorney of Harris County.

Appointments; Payment of Salaries

Sec. 6. On September 1, 1953, the Commissioners Court of Harris County shall appoint a County Attorney of Harris County who shall hold office until the next general election and until his successor is duly elected and qualified. The Commissioners Court shall have authority from time to time to authorize the appointment of assistants, investigators and secretaries as said Commissioners Court shall deem necessary to the efficient operation of the office of County Attorney. The salaries of the County Attorney and such assistants, investigators and secretaries, as well as the operating expenses of the office, shall be paid out of county funds and in no way be an obligation of the revenues of the State of Texas.

Partial Invalidity

Sec. 7. If any part, Section, Subsection, paragraph, sentence, clause, phrase or word contained in this Act shall be held by the courts to be unconstitutional such holding shall not affect the validity of the remaining portion of the Act and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1953, 53rd Leg., p. 786, ch. 316.]

Art. 331i. County Attorney of Midland County; Assistants, Investigators and Stenographers

Application for Appointment of Assistants, Investigators or Stenographers; Order Authorizing Employment; Appointment

Sec. 1. Whenever the County Attorney of Midland County shall require the services of assistants, investigators or stenographers in

the performance of his duty, he shall apply to the Commissioners Court of such County for authority to appoint such assistants, investigators or stenographers, stating by sworn application the number needed, the position to be filled, and the amount to be paid. Upon receipt of such application the Commissioners Court of such County may enter an order authorizing the employment of such assistants, investigators and stenographers and fix the compensation to be paid them within the limitations herein prescribed and determine the number to be appointed as in the discretion of the Commissioners Court may be proper. In no case shall the Commissioners Court or any member thereof attempt to influence the employment of any person as assistant, investigator or stenographer. Upon entry of such order the County Attorney of such County shall be authorized to employ the assistants, investigators and stenographers as authorized by the Commissioners Court of such County provided that the compensation paid each of said employees shall not be less than the minimum nor exceed the maximum amounts prescribed in Sections 2 and 3 of this Act.

Salary of Stenographers

Sec. 2. Each stenographer of the county attorney of such county shall be paid a salary of not less than Four Thousand Dollars (\$4,000) per annum and not more than Seven Thousand Five Hundred Dollars (\$7,500) per annum as determined by the Commissioners Court of such county, to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Salary of Assistants and Investigators

Sec. 3. Each assistant of the county attorney of such county shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) per annum and not more than Twelve Thousand Dollars (\$12,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund or any other available fund of such county. Each investigator shall be paid a salary of not less than Four Thousand Eight Hundred Dollars (\$4,800) and not more than Nine Thousand Dollars (\$9,000) per annum as determined by the Commissioners Court of such county to be paid in equal monthly installments out of the officers salary fund, the general fund, or any other available fund of such county.

Qualifications and Duties of Assistants

Sec. 4. The assistants to the County Attorney of such County must be duly and legally licensed to practice law in the State of Texas and shall be authorized to perform all duties imposed on the County Attorney of such County by law.

Investigators; Authority; Expenses

Sec. 5. Investigators for the County Attorney need not be licensed to practice law. They

shall have authority to make arrests and execute process in criminal cases, and shall have the rights and duties of a peace officer in criminal cases and in cases growing out of the enforcement of all laws. In addition to their salaries, investigators may be allowed actual and necessary travel expenses incurred in the proper discharge of their duties, not to exceed the amount fixed by the Commissioners Court of such County. All claims for travel expenses for the investigators shall be paid from the General Fund, the Officer's Salary Fund, or any other available fund of such County.

Automobiles; Office Supplies and Equipment

Sec. 6. The Commissioners Court of such County is authorized to furnish an automobile or automobiles for use of the County Attorney's office in carrying out the official duties of the office, and to provide for the maintenance thereof. It is further authorized to furnish telephones, typewriters, office furniture, supplies, and such other items and equipment as it deems necessary to carry out the official duties of the County Attorney's office, and to pay the necessary and essential expenses incident to carrying out the official duties of the County Attorney and his office.

Bond

Sec. 7. The stenographers, special investigators, and assistants to the County Attorney may be required by the Commissioners Court of such County to give bond in such amount as the Court may direct.

Termination of Services

Sec. 8. All stenographers, special investigators and assistant County Attorneys appointed under the provisions hereof may have their services terminated at any time by the County Attorney of such County.

[Acts 1959, 56th Leg., p. 957, ch. 446; Acts 1969, 61st Leg., p. 841, ch. 278, § 1, eff. May 29, 1969.]

Art. 331j. Counties of 18,095 to 18,110; Secretary

The Commissioners Court of any county having a population of not less than eighteen thousand, ninety-five (18,095) nor more than eighteen thousand, one hundred ten (18,110), according to the last preceding federal census, may employ a secretary to the county attorney and fix the salary for such secretary at a sum not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum. The salary shall be paid out of the Officers' Salary Fund of the county in twelve (12) equal monthly installments.

[Acts 1961, 57th Leg., p. 1175, ch. 530, § 1, eff. June 17, 1961; Acts 1971, 62nd Leg., p. 1845, ch. 542, § 112, eff. Sept. 1, 1971.]

Art. 331k. County Attorney of Polk County

Abolition of Criminal District Attorney's Office

Sec. 1. The office of Criminal District Attorney of Polk County is abolished.

Election of County Attorney

Sec. 2. (a) At the general election in November 1968, and every four years thereafter,

the qualified electors of Polk County shall elect a County Attorney of Polk County.

(b) On the effective date of this Act the Commissioners Court of Polk County shall appoint a County Attorney to serve until the County Attorney elected in November 1968, has taken office in January 1969.

Powers, Duties and Functions of County and District Attorneys

Sec. 3. (a) On the effective date of this Act, the County Attorney of Polk County is invested with the powers, duties, and functions that were invested in that office before the office was abolished by the Act that created the office of Criminal District Attorney of Polk County.

(b) On the effective date of this Act, the District Attorney of the Ninth Judicial District is invested with the powers, duties, and functions that he exercised in Polk County before the Act creating the office of Criminal District Attorney of Polk County was effective.

Repealer

Sec. 4. Chapter 381, Acts of the 54th Legislature, 1955 (Article 326k-34, Vernon's Texas Civil Statutes) is repealed.

[Acts 1967, 60th Leg., p. 1832, ch. 709, eff. Aug. 28, 1967.]

Art. 331l. Grayson County Attorney; Private Practice of Law

The county attorney of Grayson County and any assistant county attorney shall not actively engage in the private practice of law while serving as county attorney or assistant county attorney in and for Grayson County.

[Acts 1973, 63rd Leg., p. 291, ch. 138, § 1, eff. May 18, 1973.]

3. GENERAL PROVISIONS

Art. 332. Qualifications

No person who is not a duly licensed attorney at law shall be eligible to the office of district or county attorney. District and county attorneys shall reside in the district and county, respectively, for which they were elected; and they shall, as soon as practicable after their election and qualification, notify the Attorney General and Comptroller of their post-office address.

[Acts 1925, S.B. 84.]

Art. 332a. Assistants and Personnel of Prosecuting Attorneys

"Prosecuting Attorney" Defined

Sec. 1. For the purpose of this Act, "prosecuting attorney" means a county attorney or a district attorney, and "district attorney" includes "criminal district attorneys."

Employment of Assistants and Personnel

Sec. 2. The prosecuting attorney may employ such assistant prosecuting attorneys, investigators, secretaries, and other office personnel as, in his judgment, are required for the

proper and efficient operation and administration of the office.

Qualifications and Duties of Assistants

Sec. 3. Assistant prosecuting attorneys must be duly and legally licensed to practice law in the State of Texas, shall take the Constitutional oath of office, and shall be authorized to perform all duties imposed by law on the prosecuting attorney.

Bond; Removal

Sec. 4. The assistant prosecuting attorneys, investigators, and secretaries to the prosecuting attorney may be required by the prosecuting attorney to have bond in such amount as the prosecuting attorney may direct, and all personnel shall be subject to removal at the will of the prosecuting attorney.

Salaries

Sec. 5. Salaries of assistant prosecuting attorneys, investigators, secretaries and other office personnel shall be fixed by the prosecuting attorney, subject to the approval of the commissioners court of the county or the counties composing the district.

Travel Expenses for Assistants and Investigators

Sec. 6. Assistant prosecuting attorneys and investigators, in addition to their salaries, may be allowed actual and necessary travel expenses incurred in the discharge of their duties, not to exceed the amount fixed by the prosecuting attorney and approved by the commissioners court of the county or the counties composing the district. All claims for travel expenses may be paid from the General Fund, Officers' Salary Fund, or any other available funds of the county.

Office Supplies and Expenses; Automobiles

Sec. 7. The commissioners court of the county or the counties composing the district is authorized to furnish telephone service, typewriters, office furniture, office space, supplies, and such other items and equipment as are necessary to carry out the official duties of the prosecuting attorney's office, and to pay the expenses incident to the operation of the prosecuting attorney's office. Such commissioners courts are further authorized to furnish automobiles for the use of the prosecuting attorney's office for the purpose of conducting the official duties of the office, and to provide the maintenance thereof.

Accepting Gifts and Grants

Sec. 8. The commissioners court of the county or the counties composing the district is hereby authorized to accept gifts and grants from any foundation or association for the purpose of financing adequate and effective prosecution programs within the county or district.

Repealer

Sec. 9. All laws and parts of laws in conflict with this Act are repealed to the extent of the conflict.

[Acts 1973, 63rd Leg., p. 275, ch. 127, eff. May 18, 1973.]

Art. 332b. Denton, Randall, Collin, Grayson, Victoria, Gregg and Orange Counties; Compensation of Criminal District or County Attorney

Sec. 1. Denton County, Randall County, Collin County, Grayson County, Victoria County, Gregg County, and Orange County, in all of which counties there is either the office of criminal district attorney or the office of county attorney performing the duties of a district attorney, shall receive annually from the state an amount equal to the compensation paid by the state to district attorneys as authorized by Article V, Section 21, Constitution of Texas. Such compensation shall be paid into the salary fund of each county in 12 equal monthly installments.

Sec. 2. Each criminal district attorney or county attorney performing the duties of a district attorney in a county provided for in Section 1 of this Act shall receive as his compensation an amount at least equal to the sum paid into the county by the state under the provisions of this Act, and such additional amount which the commissioners court of the county in its discretion fixes as adequate compensation for the criminal district attorney or county attorney performing the duties of a district attorney.

Sec. 3. The counties included in this Act shall not, in addition to the state compensation provided for in this Act, be entitled to the benefits of Subsection (b), Section 13, Chapter 465, Acts of the 44th Legislature, 2nd Called Session, 1935 (Article 3912e, Vernon's Texas Civil Statutes).

[Acts 1973, 63rd Leg., p. 879, ch. 396, eff. Aug. 27, 1973.]

Art. 332c. Representation of County Officials and Employees by District, County or Private Attorneys

Sec. 1. In this Act, "nonpolitical entity" means any person, firm, corporation, association, or other private entity, and does not include the state, a political subdivision of the state, a city, a special district, or other public entity.

Sec. 2. In any suit instituted by a nonpolitical entity against an official or employee of a county, the district attorney of the district in which the county is situated or the county attorney, or both, shall represent the official or employee of the county if the suit involves any act of the official or employee while in the performance of public duties.

Sec. 3. If additional counsel is necessary or proper for an official or employee provided legal counsel by Section 2 of this Act, the county commissioners court may employ and pay private counsel.

Sec. 4. Nothing in this Act requires a county official or employee to accept the legal counsel provided for him in this Act.

[Acts 1973, 63rd Leg., p. 1765, ch. 644, eff. June 16, 1973.]

Art. 333. To Report to Attorney General

District and County Attorneys shall, when required by the Attorney General, report to him at such times and in such form as he may direct, such information as he may desire in relation to criminal matters and the interests of the State, in their districts and counties.

[Acts 1925, S.B. 84.]

Art. 334. Shall Advise Officers

The district and county attorneys, upon request, shall give an opinion or advice in writing to any county or precinct officer of their district or county, touching their official duties.

[Acts 1925, S.B. 84.]

Art. 335. Collection and Fees

Whenever a district or county attorney has collected money for the State or for any county, he shall within thirty days after receiving the same, pay it into the treasury of the State or of the county in which it belongs, after deducting therefrom and retaining the commissions allowed him thereon by law. Such district or county attorney shall be entitled to ten per cent commissions on the first thousand dollars collected by him in any one case for the State or county from any individual or company, and five per cent on all sums over one thousand dollars, to be retained out of the money when collected, and he shall also be entitled to retain the same commissions on all collections made for the State or for any county. This article shall also apply to money realized for the State under the escheat law.

[Acts 1925, S.B. 84.]

Art. 336. Accepting Reward

No district or county attorney shall take any fee, article of value, compensation, reward or gift or any promise thereof, from any person whomsoever, to prosecute any case which he is required by law to prosecute, or consideration of or as a testimonial for his services in any case which he is required by law to prosecute, either before or after such case has been tried and finally determined.

[Acts 1925, S.B. 84.]

Art. 337. Collection Reports

On or before the last day of August of each year, each district or county attorney shall file in the office of the Comptroller or of the county treasurer, as the case may be, a sworn account of all money received by him by virtue of his office during the preceding year, payable into the State or county treasury.

[Acts 1925, S.B. 84.]

Art. 338. Register

Each district and county attorney shall keep in proper books, to be procured by them for that purpose at their own expense, a register of all their official acts and reports, and all actions or demands prosecuted or defended by them as such attorneys, and of all proceedings

had in relation thereto, and shall deliver such books to their successors in office; and the same shall at all times be open to the inspection of any person appointed by the Governor or by the county commissioners court of a county, to examine the same.

[Acts 1925, S.B. 84.]

Art. 339. To Prosecute Officers

When it shall come to the knowledge of any district or county attorney that any officer in his district or county entrusted with the collection or safe keeping of any public funds is in any manner whatsoever neglecting or abusing the trust confided in him, or in any way failing to discharge his duties under the law, he shall institute such proceedings as are necessary to compel the performance of such duties by such officer and to preserve and protect the public interests.

[Acts 1925, S.B. 84.]

Art. 340. Admissions

No admissions made by the district or county attorney in any suit or action in which the State is a party shall operate to prejudice the rights of the State.

[Acts 1925, S.B. 84.]

Art. 341. Population Determined

The preceding Federal census shall be the basis for determining population under any provisions of this title.

[Acts 1925, S.B. 84.]

4. PUBLIC DEFENDERS**Art. 341-1. Tarrant County; Appointment and Compensation; Entitlement of Indigents****Findings and Purpose**

Sec. 1. (a) Recent federal and state court decisions have emphasized the constitutional obligation of the state to afford needy persons the effective assistance of counsel in criminal actions. In some counties, the bar has partially met this obligation through creation of a nonprofit organization, primarily financed by federal grants, which provides counsel; in others, volunteers from the bar donate their services to defend needy persons. And in still other counties, the courts concerned appoint counsel under Articles 26.04 and 26.05, Code of Criminal Procedure, 1965.

(b) Especially in the metropolitan counties, the obligation to furnish competent counsel imposes a substantial burden on county financial resources. None of the alternative methods presently employed to furnish counsel has proved entirely satisfactory and the Legislature finds that a countywide public defender system, functioning either alone or in a combination with other methods, may better satisfy the constitutional and statutory obligations for providing counsel for the needy accused.

(c) In view of the findings and determinations expressed in Subsections (a) and (b) of

this section, there is established in Tarrant County the offices of Public Defender of Tarrant County, hereafter referred to as the "public defender."

Appointment of Public Defenders

Sec. 2. (a) Each criminal district judge of Tarrant County shall appoint one attorney to serve as a public defender and define his duties and responsibilities. A public defender serves at the pleasure of the appointing Judge.

(b) To be eligible for appointment as a public defender, a person must:

- (1) be a member of the State Bar of Texas;
- (2) have practiced law at least three years; and
- (3) be experienced in the practice of criminal law.

Compensation

Sec. 3. (a) The public defenders shall receive an annual salary of not less than \$10,000 to be fixed by the Commissioners Court of Tarrant County and paid from the appropriate county fund.

(b) The provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding daily appearance fees shall not apply to public defenders, however, all other provisions of Article 26.05, Code of Criminal Procedure, 1965, as amended, regarding fees and allowances shall apply to public defenders.

(c) A public defender may not engage in any criminal law practice other than that authorized in this Act and shall accept nothing of value, except as authorized in this Act, for any services rendered in connection with a criminal case.

(d) A violation of Subsection (c), Section 3 of this Act shall be cause for removal of the

public defender by the judge who appointed him.

Entitlement to Representation

Sec. 4. (a) Any indigent person charged with a criminal offense in a court in Tarrant County or any indigent person in Tarrant County who is a party in a juvenile delinquency proceeding shall be represented by a public defender or other practicing attorney appointed by a court of competent jurisdiction. If an attorney, other than a public defender, is appointed, he shall be compensated as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

(b) A public defender may inquire into the financial condition of any person whom he is appointed to represent and shall report any findings of the investigation to the court appointing him. The court may hold a hearing into the financial condition of the defendant and shall make a determination as to his indigency and to his entitlement to representation by a public defender.

Substitute Defender

Sec. 5. At any stage, including appeal or other post-conviction proceedings, the court concerned may assign a substitute attorney. The substitute attorney shall be entitled to compensation as provided in Article 26.05, Code of Criminal Procedure, 1965, as amended.

Severability

Sec. 6. If any provision of the Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1969, 61st Leg., p. 1621, ch. 501, eff. Sept. 1, 1969.]

TITLE 16

BANKS AND BANKING

TEXAS BANKING CODE OF 1943

Chapter	Article	Former Articles	New Articles
I. Scope of Act, Definitions, Finance Commission and State Banking Board	342-101	363 364 365 366	342-208 342-803 342-803 342-803
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III. Incorporation, Merger, Reorganization, Purchase of Assets of Another Bank, Disbursing Agent, Amendment of Articles of Association of State Banks, and Conversion	342-301	368 368 369 369a 370	342-412 342-803 342-803 342-815 Omitted
IV. Stock, Stockholders, By-laws, Directors, Officers, Employees	342-401	370a 370b	Omitted 342-702
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TEXAS BANKING CODE OF 1943

DISPOSITION TABLE

Showing where provisions of former articles of the Civil Statutes and Penal Code of 1925 are covered by the Texas Banking Code of 1943.

CIVIL STATUTES

Former Articles	New Articles
342	342-201
343	342-201
344	342-206
345	342-201
346	342-202
346	342-206
347	342-207
348	Repealed
349	342-207
349	342-813
350	342-204
350	342-208
351	342-203
351	342-204
352	342-206
353	342-204
354	342-203
355	342-211
356	342-210
356	342-211
357	Repealed
358	342-208
359	342-210
360	Omitted
361	342-208
362	342-203

Former Articles	New Articles	Former Articles	New Articles
397	Omitted	498	342-113
398	Omitted	499	342-409
399	Omitted	499	342-411
400	Omitted	500	Repealed
401	Omitted	501	Repealed
402	Omitted	501a	342-607
403	Omitted	502	342-313
404	Omitted	503	342-402
405	Omitted	504	342-402
406	Omitted	505	342-312
407	Omitted	506	Omitted
408	Omitted	507	342-601
409	342-710	508	342-410
410	342-710	509	342-601
411	342-906	510	342-503
412-429	Omitted	511	342-301
430	342-312	512	342-501
430	342-905	512a	342-501
431	342-905	513	Omitted
432	342-905	514	342-502
433	342-905	515	342-602
434	Omitted	516	Omitted
435	Omitted	517	342-603
436	Omitted	517a	342-603
437	Repealed	518	342-603
438	Omitted	519	342-603
439	342-115	520	342-904
440-449	Repealed	521	342-606
450	342-803	522	342-606
451	342-804	522a	Omitted
452	342-807	523	342-506
453	342-814	524	342-506
454	342-814	525	342-511
455	Repealed	526	342-509
456	342-802	527	342-409
456	342-808	528	342-411
457	342-814	529	342-211
458	Omitted	530	Omitted
459	342-810	531	342-801
459	342-811	532	342-605
460	342-806	533	Omitted
461	342-816	534	Omitted
462	342-813	535	342-401
463	342-814	536	342-410
463	342-815	537	Omitted
464	Repealed	538	342-903
465	342-815	539	342-802
466	Repealed	540	342-802
467	342-815	540a	342-608
468	342-815	541	342-902
469	342-815	541a	342-902
470	Repealed	541b	342-902
471	342-815	541c	Omitted
472	342-815	541d	342-710
473	342-815	541e	342-906
474	342-815	542	Omitted
475-489	Repealed	543	342-301
489a	Repealed	544	342-303
490	342-902	545	342-301
491	342-902	545	342-506
492	342-901	545	342-508
493	Omitted	546	Omitted
494	342-209	547	342-602
495	342-209	548	342-207
496	342-209	548a	342-311
497	342-209	548a	342-312

PENAL CODE OF 1925

Former Articles	New Articles
536-543	Omitted
544	342-413
545	342-414
546	342-509
546a	342-510
546b	342-510
547	342-412
547a	Omitted
547b	342-411
547b	342-412
547c	342-415
548	342-211
548a	342-211
549	342-416
550	Omitted
551	342-207
552	342-209
552	342-211
553	342-417
554	342-507
555	342-507
556, 557	Omitted
558	342-902
559	342-902
559a	342-414
560a	Omitted
567a	342-907

CHAPTER ONE. SCOPE OF ACT, DEFINITIONS, FINANCE COMMISSION AND STATE BANKING BOARD

Article	Description
342-101.	Scope of Act—Short Title.
342-101A.	Short Title of Amendatory Act.
342-102.	Definitions.
342-103.	Finance Commission—Banking Section and Building and Loan Section—Creation—General Powers.
342-104.	Finance Commission—Sections—Qualifications of Members.
342-105.	Finance Commission—Residence of Members.
342-106.	Finance Commission—Members—Appointment—Term.
342-107.	Finance Commission—Vacancies.
342-108.	Finance Commission—Confirmation of Appointments.
342-109.	Finance Commission—Expenses and Compensation of Members.
342-110.	Finance Commission—Disqualification of Members.
342-111.	Finance Commission—Sections—Meetings—Quorum—Minutes.
342-112.	Reports by Commissioner—Examinations and Audits—Fees, Penalties and Revenues—Expenses—Budgets—Reports to Governor and Legislature.
342-112A.	Transfers to General Revenue Fund.
342-113.	Banking Section—Rules and Regulations—Loans and Investments—Insurance—Preservation of Books and Records—Affairs Transacted by National Banks—Determination of Incidental Powers.
342-114.	Savings and Loan Section—Rules and Regulations—Loans and Investments—Advisory Powers.
342-115.	State Banking Board—Members—Duties—Rules of Practice—Appeal.

Art. 342-101. Scope of Act—Short Title

This code provides a complete system of laws governing the organization, operation, supervision and liquidation of state banks, and to the extent indicated by the context, governing private banks and national banks domiciled in this State; as authorized by Article 16, Section 16 of the Constitution of the State of Texas, and as provided by Article 3, Section 43 of the Constitution of the State of Texas. This Act, and all amendments thereto, may be cited as "The Texas Banking Code of 1943."

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 1.]

Art. 342-101A. Short Title of Amendatory Act

This Act may be cited as the "Banking Department Self-Support and Administration Act."

[Acts 1951, 52nd Leg., p. 233, ch. 139, § 14.]

Art. 342-102. Definitions

As used in this code the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

"Code"—The Texas Banking Code of 1943.

"Banking Department"—The Banking Department of Texas.

"Finance Commission" or "Commission"—The Finance Commission of Texas.

"Banking Section"—The Banking Section of The Finance Commission of Texas.

"Building and Loan Section"—The Building and Loan Section of The Finance Commission of Texas.

"Commissioner"—The Banking Commissioner of Texas.

"Deputy Commissioner"—The Deputy Banking Commissioner of Texas.

"Departmental Examiner"—The Departmental Bank Examiner of The Banking Department of Texas.

"Examiner"—Bank Examiner of The Banking Department of Texas.

"Assistant Examiner"—Assistant Bank Examiner of The Banking Department of Texas.

"State Bank"—Any corporation hereafter organized under this Code, and any corporation heretofore organized under the laws of the State of Texas, and which was, prior to the effective date of this Act,¹ subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as amended,² including banks, trust companies, bank and trust companies, savings banks and corporations subject to the provisions of Chapter 9, Title 16 of the Revised Civil Statutes of Texas, 1925, as amended.³

"Director, officer or employee"—Director, officer or employee of a state bank.

"Board"—Board of directors of a state bank.

"National Bank"—Any banking corporation organized under the provisions of Title 12, United States Code, Section 21 (U.S.Rev.Statutes, Section 5133) and the amendments thereto.⁴

"State Building and Loan Association" or "State Association"—Any building and loan or savings and loan association heretofore or hereafter organized under the laws of this State.

"Federal Savings and Loan Association"—Any savings and loan association heretofore or hereafter organized under the laws of the United States of America.

"District Court"—A district court of the county in which the bank involved is domiciled.

"City"—City, village, town, or similar community.

"Capital"—The common capital stock.

"Chapters and Articles"—Chapters and articles of this Code.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 2.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Former art. 342 et seq.

³ Former art. 542 et seq.

⁴ 12 U.S.C.A. § 21.

Art. 342-103. Finance Commission—Banking Section and Building and Loan Section—Creation—General Powers

There is hereby established and created The Finance Commission of Texas which shall consist of nine (9) members, and be divided into two (2) sections, namely: The Banking Section, consisting of six (6) members, and The Building and Loan Section, consisting of three (3) members. The Finance Commission and each section thereof shall serve as an advisory board to the Commissioner as to general policies and shall have such other duties, powers and authority as may be conferred upon them by law. The Banking Section and the Building and Loan Section shall make a thorough and intensive study of the Texas banking and building and loan statutes, respectively, with a view to so strengthening said statutes as to attain and maintain the maximum degree of protection to depositors, stockholders and shareholders, and shall report every two (2) years to the Legislature by filing with the Clerks of the Senate and the House of Representatives the results of its study, together with its recommendations.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 3.]

Art. 342-104. Finance Commission—Sections—Qualifications of Members

Four (4) members of the Banking Section shall be active bankers who shall have had not less than five (5) years executive experience next preceding their appointment in a State bank in a capacity not lower than cashier. Two (2) members of the Building and Loan Section shall be practical building and loan executives who shall have had not less than five (5) years full time employment experience in a State Building and Loan or Federal Savings and Loan Association in a capacity not lower than secretary next preceding their appointment. Provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner, or Examiner shall be deemed banking experience, and experience as Building and

Loan Supervisor or Building and Loan Examiner shall be deemed building and loan experience, within the meaning of this article. The Banking Section shall at all times include four (4) members, each of whom, at the time of his appointment, is an officer in a State bank which falls within one of the four (4) quartiles of the total number of State banks, according to and measured by the capital, certified surplus and undivided profits of such banks as of the last statement of condition published pursuant to the Commissioner's call in the year previous to the year in which the appointments are made. Each quartile shall at all times be represented by one (1) member on the Banking Section who, at the time of his appointment, is an officer in a State bank within such quartile, and each member shall continue to serve from his respective quartile throughout his term of office notwithstanding any adjustment of his bank's capital, certified surplus and undivided profits subsequent to the date of the appointment. The Commissioner shall divide the total number of State banks with as near an equal number of banks as mathematically possible being placed in each quartile and advise the Governor which State banks fall within each of the four (4) quartiles prior to any appointments of banker members of the Commission. The Building and Loan Section shall at all times consist of one (1) member who is a full time employed executive in a State association which, at the time of his appointment, had gross assets not exceeding Twenty Million Dollars (\$20,000,000) and one (1) member who is a full time employed executive in a State association which, at the time of his appointment, had gross assets exceeding Twenty Million Dollars (\$20,000,000). Two (2) members of the Banking Section and one (1) member of the Building and Loan Section shall be selected by the Governor upon the basis of recognized business ability.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 4; Acts 1961, 57th Leg., p. 1004, ch. 437, § 1, eff. Aug. 28, 1961; Acts 1967, 60th Leg., p. 743, ch. 312, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 875, ch. 109, § 1, eff. Aug. 30, 1971.]

Art. 342-105. Finance Commission—Residence of Members

No two (2) members of the same section of the Finance Commission shall be residents of the same State Senatorial District.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 5.]

Art. 342-106. Finance Commission—Members—Appointment—Term

The Governor of the State of Texas, subject to confirmation by the Senate, shall appoint the members of the Finance Commission, each of whom, except the initial appointees, shall serve for a term of six (6) years, and the term of one third of the members of each section shall expire each two (2) years; further provided that the Governor shall, promptly after the effective date of this Act,¹ appoint nine (9) members to the Finance Commission, and designate the term to be served by each appointee;

the term of two (2) members of the Banking Section and one (1) member of the Building and Loan Section to expire February 1, 1945, February 1, 1947, and February 1, 1949, respectively. Members of the Finance Commission shall, subject to the provisions of Article 7 of this Chapter,² serve until their successors are appointed and have qualified by taking oath in the form prescribed by the State Banking Board.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 6.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Article 342-107.

Art. 342-107. Finance Commission—Vacancies

The office of a member of the Commission shall be vacant if the member ceases to have the qualifications of employment and residence which were necessary to his original appointment, provided that the increase or decrease in the capital and surplus of his employing bank, or the increase or decrease in the gross assets of his employing building and loan association shall not create a vacancy. In event of a vacancy on the Finance Commission for any cause, the Governor shall appoint a qualified person to fill the unexpired term.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 7.]

Art. 342-108. Finance Commission—Confirmation of Appointments

In event of appointment of any member of the Finance Commission while the Legislature is in session, the appointment shall be promptly related to the Senate for confirmation, and in event of any such appointment while the Legislature is not in session, such appointment shall be promptly related to the Senate at the next meeting of the Legislature. If the Senate should refuse to confirm any appointment, the office shall thereupon become vacant.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 8.]

Art. 342-109. Finance Commission—Expenses and Compensation of Members

Each member of the Finance Commission shall be reimbursed all expenses incidental to travel incurred by him in connection with the performance of his official duties and in addition shall receive Twenty-five Dollars (\$25) per day compensation for his services for each day or fraction thereof while in attendance at any meeting of the Commission or either section thereof and while traveling to or from such meetings.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 9; Acts 1959, 56 Leg., p. 894, ch. 412, § 1.]

Art. 342-110. Finance Commission—Disqualification of Members

No member shall act at any meeting of the Commission or either section thereof, when the matter under consideration specifically relates to any corporation in which such member is an officer, director, or stockholder.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 10.]

Art. 342-111. Finance Commission—Sections—Meetings—Quorum—Minutes

The Finance Commission and each Section thereof shall hold at least two regular public meetings during each calendar year at such dates as are set by the Commission. At the first regular public meeting of the Finance Commission during each calendar year, the Commission shall elect a chairman from its members by majority vote. The chairman of the Finance Commission shall be entitled to vote on all matters. The term of office of the chairman of the Finance Commission shall begin on July 1 of each calendar year and shall expire on June 30 of the succeeding calendar year. No member of the Finance Commission shall serve consecutive terms as chairman of the Finance Commission. The chairman of the Finance Commission shall preside at all public meetings of the Finance Commission and shall cause adequate minutes of the proceedings of all public meetings to be kept. Special public meetings of the Commission may be called by the chairman or by any three members of the Commission. The Commission and each Section thereof may adopt internal requirements of procedure governing the time and place of meetings, the character of notice of special public meetings, the procedure by which all public meetings are to be conducted and other similar matters. A majority of the members of the Finance Commission shall constitute a quorum for the purpose of transacting any business coming before the Commission and a majority of each Section of the Commission shall constitute a quorum for the purpose of transacting any business coming before said Section.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 11; Acts 1969, 61st Leg., p. 885, ch. 299, § 1, eff. May 22, 1969; Acts 1973, 63rd Leg., p. 774, ch. 344, § 1, eff. Aug. 27, 1973.]

Section 2 of the 1973 amendatory act provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provisions or application, and to this end the provisions of this Act are declared to be severable."

Art. 342-112. Reports by Commissioner—Examinations and Audits—Fees, Penalties and Revenues—Expenses—Budgets—Reports to Governor and Legislature

The Commissioner shall, from time to time as directed by the Finance Commission, submit to such Commission a full and complete report of the receipts and expenditures of the Banking Department and the Finance Commission may from time to time examine the financial records of the Banking Department or cause them to be examined. In addition, the Banking Department shall be audited from time to time by the State Auditor in the same manner as other State Departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Banking Department. Fees, penalties and revenues collected by the Banking Department from every source whatsoever shall be retained and held by said De-

partment, and no part of such fees, penalties and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Banking Department shall be paid only from such fees, penalties and revenues, and no such expense shall ever be a charge against the funds of this State. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties and revenues of the Banking Department shall be expended; and the Finance Commission shall, as of December 31, 1951, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Banking Department for each calendar year; and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to banking.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 12; Acts 1951, 52nd Leg., p. 233, ch. 139, § 1.]

Art. 342-112A. Transfers to General Revenue Fund

The Banking Department shall cause to be transferred each year of the biennium the sum of Four Thousand Dollars (\$4,000) to the General Revenue Fund, to cover the cost of governmental service rendered by other departments.

[Acts 1951, 52nd Leg., p. 233, ch. 139, § 1-A.]

Sections 15, 17 and 18 of the amendatory Act of 1951, read as follows:

"Sec. 15. All fees and revenues collected by the Banking Department for all prior fiscal years which are on deposit in the State Treasury at the effective date of this Act, except fees and revenues against which State warrants are then outstanding, are hereby appropriated to the Banking Department, to be retained and held by said department under the provisions of this Act, and to be expended only for the expenses of said department. All moneys in the 'Cemetery Perpetual Care Enforcement Fund' in the State Treasury at the effective date of this Act, except moneys against which State warrants are then outstanding, are hereby appropriated to the Banking Department, to be held and expended by it as provided in Section 6 of this Act [912a-3].

"Sec. 17. All laws and parts of laws in conflict with any provision of this Act are hereby repealed.

"Sec. 18. If any portion of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the remaining portion of the Act, and the Legislature hereby declares that it would have passed the Act, and each part thereof, irrespective of the fact that some part thereof might be declared unconstitutional."

Art. 342-113. Banking Section—Rules and Regulations—Loans and Investments—Insurance—Preservation of Books and Records—Affairs Transacted by National Banks—Determination of Incidental Powers

The Banking Section, through resolution adopted by not less than four affirmative votes, may promulgate general rules and regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all state banks to effect the following ends and purposes:

1. To prevent state banks from concentrating an excessive or unreasonable portion of their resources in any particular

type or character of investment or in any single line of credit under any exception to Article 7, of Chapter V of this Code¹, thereby preventing the solvency or liquidity of such banks depending to an undue extent upon such type or character of investment or single line of credit.

2. To provide adequate fidelity coverage or insurance on the officers and employees of state banks, and fire, burglary, robbery and other casualty coverage for state banks, so as to prevent loss through theft, defalcation or other casualty, and to make certain that the insurer or surety is solvent and will be able to pay losses sustained.

3. To provide for the preservation of the books and records of the Banking Department and of banks during such time as said books and records are of value, and to permit the destruction or other disposition of such books and records after the same are no longer of any value.

4. To permit state banks to transact their affairs in any manner or make any loan or investment which they could do under existing or any future law, rule or regulation were they organized and operating as a National bank under the laws of the United States; but it is expressly provided that this authority is subject to the laws of this State and shall not be construed in any wise to confer authority to abridge such laws or diminish or limit any rights or powers specifically given to state banks by such laws; and it is further provided that, any provision of this Code to the contrary notwithstanding, the transaction of affairs and making of loans or investments permitted by valid rules and regulations shall not constitute a violation of any penal provision of the statutes of this state.

5. From time to time upon request of the Banking Commissioner, to define, identify and determine incidental powers which a state bank may exercise as necessary to its specific powers under Article 1, Chapter III of this Code.²

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 13; Acts 1971, 62nd Leg., p. 1687, ch. 481, § 1, eff. May 27, 1971.]

¹ Article 342-507.

² Article 342-301.

Sections 2 and 3 of the 1971 amendatory act provided:

"Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-114. Savings and Loan Section—Rules and Regulations—Loans and Investments—Advisory Powers

The Savings and Loan Section, through resolutions adopted by not less than two affirmative votes, may promulgate general rules and

regulations not inconsistent with the Constitution and Statutes of this State, and from time to time amend the same, which rules and regulations shall be applicable alike to all State associations, and may authorize savings and loan associations organized under the laws of this State to invest their funds in any manner and to the same extent which said association could invest such funds under existing or any future law, rule or regulation were they organized and operating as a Federal Savings and Loan Association under the laws of the United States, provided, however, that this authority shall not be construed in any wise to confer authority to abridge, or diminish or limit any rights or powers specifically given to State associations by the statutory laws of this State. In addition to such powers as may be conferred upon the Savings and Loan Section by this Act or by the Savings and Loan Act of Texas, as amended, the Savings and Loan Section shall have the following duties:

(a) When in the judgment of the Section, protection of investors in State associations requires additional regulations or limitations, to promulgate such additional rules and regulations as will in its judgment prevent State savings and loan associations from concentrating an excessive or unreasonable portion of their resources in any particular type or character of loan or security authorized by the Texas Savings and Loan Act.

(b) When in the judgment of the Section, establishment of standards or changes in existing standards for investment are necessary, to establish standards through rules and regulations for investments by State associations in the investments authorized under the provisions of Section 5.11 of the Texas Savings and Loan Act, which standards may also establish a limit in the amount which State associations may invest in any particular type or character of investment under said Subdivision to an amount or percentage based upon assets or reserves, permanent capital and undivided profits.

(c) To advise with the Savings and Loan Commissioner as to the forms to be prescribed for the filing of the annual statements with the Savings and Loan Department and the forms to be prescribed for the publication of the annual financial statements by State associations.

(d) To confer with the Savings and Loan Commissioner and with the President of the regional Federal Home Loan Bank of the district in which Texas State associations are members on general and special business and economic conditions affecting State associations.

(e) To request information and to make recommendations with respect to matters within the jurisdiction of the Savings and Loan Commissioner as relating to the savings and loan business, including recom-

mendations as to legislation affecting such institutions, providing, that no information regarding the financial condition of any State savings and loan association obtained through examination or otherwise shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to the files and records of the Department appertaining thereto; provided, further, however, that the Commissioner may disclose to the Savings and Loan Section any file or record pertinent to any hearing or matter pending before such Section.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 14; Acts 1969, 61st Leg., p. 885, ch. 299, § 2, eff. May 22, 1969.]

Art. 342-115. State Banking Board—Members—Duties—Rules of Practice—Appeal

1. The State Banking Board shall consist of three (3) members, to wit: the Banking Commissioner, who shall serve as Chairman; the State Treasurer; and a citizen of this State, who shall represent the interests of the general public, and who shall be appointed by the Governor for a term of two (2) years with the advice and consent of the Senate. The term of the citizen member appointed to fill the present vacancy shall expire on January 31, 1973, and on said date of every odd-numbered year thereafter.

2. The State Banking Board shall hear and determine applications for State banking charters, and shall make such other determinations and perform such other duties as are provided elsewhere in this Code.

3. The State Banking Board shall adopt and publish such rules and procedural regulations as may be necessary to facilitate the fair hearing and adjudication of charter applications and such other business to come before it, provided, however, that such Board shall be governed by, and shall implement by appropriate regulations, the following rules of practice and procedure:

(a) Notwithstanding any law or statute to the contrary, the State Banking Board shall enter into executive session and shall meet in private for their personal deliberations on the following questions, to wit: the proposed officers and directors of proposed banks, and their character and fitness; the good faith of the applicants; and the evidence concerning applications for conversion of national banks to State banks.

(b) The minutes of the meetings of the Board shall set forth the names of persons appearing as applicants, as opponents, and their respective counsel, representatives, and expert witnesses, together with the substance of their testimony or presentations. The decision of the Board shall be evidenced in the minutes by the vote of each Board member in respect to each of the five statutory requisites for issuance of a bank charter, and no member shall ab-

stain from voting unless he shall be disqualified for some ethical or personal reason, which ground of disqualification shall be stated in the record.

(c) No member of the Board shall be an officer, director or otherwise interested in the management or operation of any State or national bank or savings and loan association; provided further, that if any Board member shall own or otherwise control any shares of stock in any State or national bank, or savings and loan association, that he shall file with the chairman a list of all such stocks, describing the security, the quantity, and the value thereof, which list shall be a public record of the Banking Board.

(d) When either the State Treasurer or Commissioner is unable to personally attend an official meeting of the Board, the respective first deputy of such member may appear and vote in his stead, provided that the Board rules shall prescribe the deputy by name and title who is so authorized, and provided further, that two such deputies may not both sit as substitute members of the Board at the same meeting.

4. Any person, firm or corporation who is a party to, or is necessarily aggrieved by any final order, ruling or judgment of the State Banking Board shall have the right to appeal by filing a suit to set aside such order, ruling or judgment in the District Court of Travis County, Texas, within thirty (30) days following the date of rendition of such order, ruling or judgment. Provided, that in such cases the substantial evidence rule shall apply and govern the trial, as is the common practice in cases of appeal from administrative orders and as construed by the courts of this State. Pending final judgment of the court the order shall remain in effect, unless otherwise stayed or enjoined by the court upon proper application.

[Acts 1943, 48th Leg., p. 128, ch. 97, subch. I, art. 15; Acts 1963, 58th Leg., p. 1138, ch. 442, § 12, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2884, ch. 950, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

CHAPTER TWO. THE BANKING DEPARTMENT OF TEXAS

Article
 342-201. Banking Commissioner—Election—Qualification—Compensation.
 342-202. Deputy Commissioner—Appointment—Qualifications—Duties—Compensation.
 342-203. Departmental Examiner—Appointment—Qualifications—Compensation.
 342-204. Examiners—Assistant Examiners—Appointment—Qualifications—Compensation.

Article
 342-205. Savings and Loan Department—Savings and Loan Commissioner—Powers and Duties.
 342-206. Oath and Bond of Commissioner and Others—Premiums.
 342-207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General.
 342-208. Examination—May Administer Oath—Fees—Disposition.
 342-208A. Repealed.
 342-209. Call Statements—Filing—Publication—Posting—Penalty.
 342-210. Information Confidential—Privileged—Exceptions.
 342-211. Violation of Duty by Commissioner and Others—Penalty.

Art. 342-201. Banking Commissioner—Election—Qualification—Compensation

By and with the advice and consent of the Senate, the Finance Commission, by at least five (5) affirmative votes, shall elect a Commissioner who shall serve at the pleasure of the Finance Commission, provided that the Commissioner first elected shall take office at the expiration of the term of office of the present Commissioner. Said Commissioner shall be an employee of the Finance Commission and subject to its orders and directions. The Commissioner shall be a practical banker with not less than five (5) years experience within ten (10) years prior to his election, as an executive in a state bank in a grade not lower than cashier, provided that experience as Commissioner, Deputy Commissioner, Departmental Examiner or Examiner of the Banking Department of Texas shall be deemed banking experience within the meaning of this Article. The Commissioner shall receive such compensation as is fixed by the Finance Commission, but never to exceed the compensation now paid to the Governor of the State.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 1; Acts 1951, 52nd Leg., p. 233, ch. 139, § 9.]

Art. 342-202. Deputy Commissioner — Appointment — Qualifications — Duties — Compensation

The Commissioner shall appoint a Deputy Banking Commissioner who shall have the same qualifications as are required of the Commissioner and shall, during the absence or inability of the Commissioner, be vested with all of the powers and perform all of the duties of the Commissioner. The Deputy Commissioner shall receive such compensation as is fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 2; Acts 1951, 52nd Leg., p. 233, ch. 139, § 10.]

Art. 342-203. Departmental Examiner — Appointment — Qualifications — Compensation

The Commissioner shall appoint a Departmental Bank Examiner who shall be a bank accountant with not less than five (5) years experience as such or as an examiner in the Banking Department of Texas, the National Banking System, the Federal Deposit Insur-

ance Corporation or the Federal Reserve System. The Departmental Bank Examiner shall receive such compensation as is fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 3; Acts 1951, 52nd Leg., p. 233, ch. 139, § 11.]

Art. 342-204. Examiners—Assistant Examiners — Appointment — Qualifications — Compensation

The Commissioner shall appoint bank examiners and assistant bank examiners in sufficient number to fully perform his duties and responsibilities under the Code and the laws of this State. Such examiners shall have the qualifications required by the Banking Section of the Finance Commission. Each examiner and each assistant examiner shall receive such compensation as shall be fixed by the Finance Commission.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, § 4; Acts 1951, 52nd Leg., p. 233, ch. 139, § 12; Acts 1963, 58th Leg., p. 134, ch. 81, § 1, eff. May 24, 1963; Acts 1969, 61st Leg., p. 1630, ch. 507, § 1, eff. June 10, 1969.]

Art. 342-205. Savings and Loan Department—Savings and Loan Commissioner—Powers and Duties

(a) By and with the advice and consent of the Senate, the Finance Commission of Texas, by at least five (5) affirmative votes, two (2) of which must be by members of the Savings and Loan Section, shall elect a Savings and Loan Commissioner who shall serve at the pleasure of the Finance Commission and who shall be an employee of said Commission and subject to its orders and direction. The Savings and Loan Commissioner shall have had not less than five (5) years practical experience within the ten (10) years prior to his election in the executive management of a savings and loan association doing business in this State, provided that experience as Savings and Loan Supervisor, Deputy Savings and Loan Supervisor, Savings and Loan Examiner, or Savings and Loan Hearing Officer shall be deemed savings and loan experience within the meaning of this Section. The Savings and Loan Commissioner shall receive such compensation as is fixed by the Finance Commission but not in excess of that paid the Governor and such compensation shall be paid from funds of the Savings and Loan Department.

(b) The Savings and Loan Commissioner, subject to the approval of the Savings and Loan Section of the Finance Commission, shall appoint one or more Deputy Savings and Loan Commissioners, one of which shall be designated by the Savings and Loan Commissioner to be vested with all of the powers and perform all of the duties of the Savings and Loan Commissioner during the absence or inability of the Savings and Loan Commissioner. A Deputy Savings and Loan Commissioner shall have had practical experience in a savings and loan association doing business in this State or experience in the Savings and Loan Department in this State. The Savings and Loan Commis-

sioner may also appoint a Hearing Officer or Officers, who shall be full time employees of the Savings and Loan Department, to conduct such investigations or public hearings as may be required by law of the Savings and Loan Commissioner. The Hearing Officer or Officers shall be vested for the purpose of such investigations or public hearings with the power and authority as the Savings and Loan Commissioner would have if he were personally conducting such investigation or public hearing, provided that the Hearing Officer or Officers shall not be authorized to make any order upon the final subject matter of such investigation or hearing; and provided, further, that the record of any investigation or public hearing conducted before the Hearing Officer may be considered by the Savings and Loan Commissioner in the same manner and to the same extent as evidence that is adduced before him personally in any such proceeding. The Savings and Loan Commissioner shall also appoint Savings and Loan Examiners. Each Deputy Savings and Loan Commissioner, the Savings and Loan Examiners, each Hearing Officer, and all other officers and employees of the Savings and Loan Department shall receive such compensation as is fixed by the Finance Commission which shall be paid from the funds of the Savings and Loan Department.

(c) The Savings and Loan Commissioner, each Deputy Savings and Loan Commissioner, each Hearing Officer, each Savings and Loan Examiner, and every other officer and employee of the Savings and Loan Department specified by the Finance Commission, shall, before entering upon the duties of his office, take an oath of office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000) payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Each bond required under this Article shall be in the form approved by the Finance Commission. The premiums for such bonds shall be paid out of the funds of the Savings and Loan Department.

(d) Upon the appointment and qualification of a Savings and Loan Commissioner under this Act such Savings and Loan Commissioner shall in person or by and through the Deputy Savings and Loan Commissioner, Savings and Loan Examiners, or other officers of the Savings and Loan Department, supervise and regulate, in accordance with the rules and regulations promulgated by the Savings and Loan Commissioner together with the Building and Loan Section of the Finance Commission, all savings and loan associations doing business in this State (except Federal Savings and Loan Associations organized and existing under Federal Law), and he shall have and perform all of the duties and shall exercise all of the powers theretofore imposed upon the Banking Commissioner and upon the Building and Loan Supervisor under and by virtue of the laws of

this State with reference to savings and loan associations, and the Banking Commissioner shall be relieved of all responsibility and authority relating to the granting of charters and the regulation and supervision of such associations.

(e) The rule-making power of the Savings and Loan Commissioner and the Building and Loan Section of the Finance Commission shall not be exercised unless notice of the terms or substance of the proposed rule or regulation or amendment to existing rules or regulations has been given to all associations subject to regulation hereunder by certified mail, and, if within twenty (20) days after issuance of such notice, as many as five (5) associations request a hearing on such proposal, a public hearing shall be called by the Savings and Loan Commissioner at which any interested party may present evidence or argument relating to such proposal. After consideration of any relevant matter available from the files and records of the Banking Department or presented at any such hearing, any rule, regulation or amendment approved and adopted pursuant to such hearing shall be promulgated in written form and the effective date thereof fixed by the order of adoption and promulgation.

(f) The position of Building and Loan Supervisor is hereby abolished as of the effective date of this Act.

(g) The Savings and Loan Commissioner shall attend each meeting of the Savings and Loan Section of the Finance Commission, but he shall not vote. The Savings and Loan Section shall elect a Chairman in the same fashion and for the same term as required and provided for the Chairman of the Commission. Special meetings of the Section may be called by the Chairman, or any two (2) members of the Section.

(h) The Savings and Loan Commissioner shall collect all fees, penalties, charges and revenues required to be paid by savings and loan associations and shall from time to time as directed by the Finance Commission submit to such Commission a full and complete report of the receipts and expenditures of the Savings and Loan Department, and the Finance Commission may from time to time examine the financial records of the Savings and Loan Department or cause them to be examined. In addition, the Savings and Loan Department shall be audited from time to time by the State Auditor in the same manner as other State departments, and the actual costs of such audits shall be paid to the State Auditor from the funds of the Savings and Loan Department. Notwithstanding anything to the contrary contained in any other law of this State, all fees, penalties, charges and revenues collected by the Savings and Loan Department from every source whatsoever shall be retained and held by said Department, and no part of such fees, penalties, charges and revenues shall ever be paid into the General Revenue Fund of this State. All expenses incurred by the Savings

and Loan Department shall be paid only from such fees, penalties, charges and revenues, and no such expense shall ever be a charge against the funds of this State or the funds of the Banking Department. The Finance Commission shall adopt, and from time to time amend, budgets which shall direct the purposes, and prescribe the amounts, for which the fees, penalties, charges and revenues of the Savings and Loan Department shall be expended; and the Finance Commission shall, as of December 31, 1961, and annually thereafter, report to the Governor of the State of Texas the receipts and disbursements of the Savings and Loan Department for each calendar year and shall within the first sixty (60) days of each succeeding Regular Session of the Legislature make a report to the appropriate committees of the House and Senate charged with considering legislation pertaining to Savings and Loan Associations. The Finance Commission shall promulgate and adopt such rules and regulations as may be necessary to coordinate the operation of the Savings and Loan Department with the operation of the Banking Department.

(i) Insofar as the provisions of this Section may conflict with any other provisions of The Texas Banking Code of 1943, as amended, or Senate Bill No. 111, Acts 1929, 41st Legislature,¹ page 100, Chapter 61, as amended,² or the Texas Savings and Loan Act of 1963, Chapter 113, Acts 58th Legislature, 1963, page 269, et seq., as amended,³ the provisions of this Act shall control; except that the terms "Savings and Loan," "Savings and Loan Association," and "Savings and Loan Section of the Finance Commission" as used herein are intended to and shall have the same meaning as the terms "Building and Loan" and "Building and Loan Association" and "Building and Loan Section of the Finance Commission" as used in said Statutes, and the Building and Loan Section of the Finance Commission is hereby renamed as the Savings and Loan Section of the Finance Commission of Texas.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 5; Acts 1951, 52nd Leg., p. 233, ch. 139, § 13; Acts 1961, 57th Leg., p. 393, ch. 198, § 2, eff. Sept. 1, 1961; Acts 1969, 61st Leg., p. 885, ch. 299, § 3, eff. May 22, 1969; Acts 1973, 63rd Leg., p. 37, ch. 25, § 1, eff. April 6, 1973.]

¹ Probably refers to Second Called Session.

² Article 881a-1 et seq. (repealed; see, now, art. 852a).

³ Article 852a.

Section 1 of the amendatory act of 1961 provided: "The purpose of this Act is to create a Savings and Loan Department of Texas, such Department to be composed of a Savings and Loan Commissioner and such deputies, examiners and other officers and employees as may be authorized by the Finance Commission of Texas; and to make such changes in the Texas Banking Code of 1943 as are necessary to accomplish the purpose of this Act."

Art. 342-206. Oath and Bond of Commissioner and Others—Premiums

The Commissioner, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, and each examiner, assistant examiner, and special agent, the Building and Loan Supervisor and each building and loan examiner and each other officer and employee specified by the Commissioner shall, before entering upon the duties of his office, take an oath of

office and make a fidelity bond in the sum of Ten Thousand Dollars (\$10,000), payable to the Governor of the State of Texas, and his successors in office, in individual, schedule or blanket form, executed by a surety appearing upon the list of approved sureties acceptable to the United States Government. Any bond provided under this article shall be on a form approved by the Finance Commission. The premiums for such bonds shall be paid out of the funds appropriated for the operation of the Banking Department.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 6.]

Art. 342-207. Commissioner—General Powers—Duties—Liabilities of Commissioner and Others—Defense by Attorney General

The Commissioner shall supervise and shall regulate, as provided in this Code, all state banks and shall enforce the provisions of this Code in person or through the Deputy Commissioner, the Departmental Examiner or any examiner. The Commissioner, each member of the Finance Commission, each member of the State Banking Board, the Deputy Commissioner, the Departmental Examiner, the Liquidating Supervisor, each examiner, assistant examiner, and special agent, the Building and Loan Supervisor, each building and loan examiner, and each other officer and employee of the State Banking Department shall not be personally liable for damages occasioned by his official acts or omissions except when such acts or omissions are corrupt or malicious. The Attorney General shall defend any action brought against any of the above mentioned officers or employees by reason of his official act or omission, whether or not at the time of the institution of the action the defendant has terminated his service with the Department.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 7.]

Art. 342-208. Examination—May Administer Oath—Fees—Disposition

The Commissioner shall examine each state bank three times each twenty-four months and no more, unless he deems additional examinations necessary to safeguard the interest of depositors, creditors, and stockholders, and to enforce the provisions of the Banking Code of 1943. The Commissioner, Deputy Commissioner, Departmental Examiner and each examiner may administer oaths and examine any person under oath upon any subject which he deems pertinent to the financial condition of any state bank. The Commissioner shall assess and collect a fee in connection with each examination, based on the bank's total assets, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of the Banking Code of 1943, including but not limited to, the premium on the bond of the Commissioner and other officers and employees of the Banking Department, and such other fidelity or casualty insurance or coverage required or furnished pursuant to or in connection with the provi-

sions of the Banking Code of 1943, together with all other expenses of the Banking Department, which fee shall in no event be less than Fifty Dollars (\$50) for each examination so made. Such fees, together with any other fees, penalties or revenues collected by the Commissioner, pursuant to any law of this State, shall be retained by the Banking Department and shall be expended only for the expenses of said department.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 8; Acts 1951, 52nd Leg., p. 233, ch. 139, § 2; Acts 1969, 61st Leg., p. 1630, ch. 507, § 2, eff. June 10, 1969.]

Art. 342-208A. Repealed by Acts 1959, 56th Leg., p. 894, ch. 412, § 2, eff. May 30, 1959.

Repealed article was derived from Acts 1951, 52nd Leg., p. 233, ch. 139, § 16.

Art. 342-209. Call Statements—Filing—Publication—Posting—Penalty

The Commissioner shall at least twice each year call upon each state bank to make and publish a statement of its financial condition as of the close of business on a date specified in such call. Such statements shall be upon such form and reflect such information as may be prescribed by the Commissioner; shall be sworn to by any one of the following: the president, vice-president, cashier, assistant cashier, secretary, or treasurer, and attested by at least three directors; and shall be filed with the Commissioner within ten (10) days after such call. Such statement shall be published within twenty (20) days of the date of such call in some newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county, and a publisher's certificate reflecting such publication shall be filed with the Commissioner within thirty (30) days after such call. A copy of the latest called statement shall be kept posted in the lobby of the banking house at a point accessible to the public. Any state bank which fails to file or publish such statement or to file such publisher's certificate, within the periods herein prescribed, or to post such notice, shall be subject to a penalty not exceeding Five Hundred Dollars (\$500) to be collected by suit by the Attorney General on behalf of the Commissioner.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 9.]

Art. 342-210. Information Confidential—Privileged—Exceptions

Subject to the provisions of Section 5 of Chapter 183 of the Forty-fourth Legislature of Texas (1935), page 461 (Article 489b, Section 5), and any other statutory provision of this State, all information obtained by the Banking Department relative to the financial condition of state banks, whether obtained through examination or otherwise, except published statements, and all files and records of said Department relative thereto shall be confidential, and shall not be disclosed by the Commissioner or any officer or employee of said Department.

Further provided that no such information shall be divulged to any member of the Finance Commission, nor shall any member of the Finance Commission be given access to such files and records of the Banking Department; provided, however, that the Commissioner may disclose to the Finance Commission, or either section thereof, or to the State Banking Board information, files and records pertinent to any hearing or matter pending before such Commission or either section thereof or such Board. Further provided that upon request, the Commissioner may disclose to a Federal Reserve Bank any information relative to its members, and shall permit it access to any files and records or reports relating to its members. Further provided that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this State or the United States, and to the best interest of the public, divulge such information to any other department of the State or National Government, or any agency or instrumentality thereof.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 10.]

Art. 342-211. Violation of Duty by Commissioner and Others—Penalty

If the Commissioner or any officer or employee of the Banking Department shall give advance notice of any call to be made pursuant to Article 9 of this chapter;¹ or divulge information or permit access to any file or record of the Banking Department in violation of Article 10 of this chapter;² or knowingly be or become indebted to, or financially interested in, any state bank, directly or indirectly; or purchase any asset belonging to any state bank in the hands of the Commissioner for purposes of liquidation, he shall be deemed guilty of a misdemeanor in office, and shall upon conviction be fined not exceeding Two Hundred Dollars (\$200), and forfeit his office or employment.

[Acts 1943, 48th Leg., p. 134, ch. 97, subch. II, art. 11.]

¹ Article 342-209.

² Article 342-210.

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

Article

- 342-301. Powers.
- 342-302. Legislative Control.
- 342-303. Capital, Surplus and Reserve Requirements.
- 342-304. Articles of Association.
- 342-305. Application for and Granting of Charters—Approval.
- 342-306. Recordation of Articles of Association and Amendments.
- 342-307. Certificate of Authority—Posting—Revocation of Charter.
- 342-308. Merger—Trust Powers.
- 342-309. Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers.

Article

- 342-310. Purchase of Assets of Another Bank—Disbursing Agent.
- 342-311. Existing Corporations—Powers Retained.
- 342-312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital—Stock Option Plans.
- 342-313. Conversion of State Bank into National Bank.
- 342-313a. Conversion of National Bank into State Bank.
- 342-314. Change of Domicile.

Art. 342-301. Powers

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

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

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

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

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

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

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

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

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

A state bank shall have all incidental powers necessary to exercise its specific powers.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 1; Acts 1957, 55th Leg., p. 1162, ch. 388, § 8; Acts 1961, 57th Leg., p. 44, ch. 30, § 1.]

Art. 342-302. Legislative Control

The rights, privileges and powers conferred by this Code are held subject to the right of the Legislature to amend, alter or reform the same.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 2.]

Art. 342-303. Capital, Surplus and Reserve Requirements

No State bank shall be hereafter chartered with a capital less than the following requirements, nor shall any State bank be permitted to reduce its capital below such requirements, said requirements to be determined by the last Federal Census preceding the granting of the charter or the reduction in capital:

(a) If domiciled in a city or town with not over six thousand (6,000) population, a minimum capital of Fifty Thousand Dollars (\$50,000).

(b) If the population is over six thousand (6,000) and less than twenty-five thousand (25,000), a minimum capital of Seventy-five Thousand Dollars (\$75,000).

(c) If the population is over twenty-five thousand (25,000) and less than fifty thousand (50,000), a minimum capital of One Hundred Thousand Dollars (\$100,000).

(d) If the population is over fifty thousand (50,000), a minimum capital of Two Hundred Thousand Dollars (\$200,000).

Any State bank authorized to exercise the trust or other powers specified in Subsection (b), (c) or (d) of Article 1 of this Chapter¹ shall have at least Seventy-five Thousand Dollars (\$75,000) capital. The State Banking Board may, in granting a charter, require surplus to be paid in an amount not to exceed twenty-five per cent (25%) of the common capital and, in addition, require reserves to be paid in an amount not to exceed twenty-five per cent (25%) of the common capital.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 3; Acts 1959, 56th Leg., p. 894, ch. 412, § 3.]

¹ Article 342-301(b), (c), (d).

Art. 342-304. Articles of Association

The articles of association of a state bank shall be signed and acknowledged by each person subscribing to stock and shall contain:

1. The name of the corporation.
2. The city or town and the county of its domicile.
3. Such of the powers listed in Article 1 of this Chapter¹ as it shall choose to exercise.
4. The capital and the denomination and number of shares.
5. The name and address of each subscriber for stock and the number of shares subscribed for by him.
6. The number of directors.
7. The period of duration, which may be perpetual.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 4; Acts 1963, 58th Leg., p. 134, ch. 81, § 2.]

¹ Article 342-301.

Art. 342-305. Application for and Granting of Charters—Approval

A. Applications for a State bank charter shall be granted only upon good and sufficient proof that all of the following conditions presently exist:

(1) A public necessity exists for the proposed bank;

(2) The proposed capital structure is adequate;

(3) The volume of business in the community where such proposed bank is to be established is such as to indicate profitable operation of the proposed bank;

(4) The proposed officers and directors have sufficient banking experience, ability and standing to render success of the proposed bank probable; and

(5) The applicants are acting in good faith.

The burden to establish said conditions shall be upon the applicants.

B. Applicants desiring to incorporate a State bank shall file with the Banking Commissioner an application for charter, the proposed Articles of Association, and a written list of information as may tend to establish the above conditions of incorporation, all upon official forms prepared and prescribed by the Commissioner. All persons subscribing to the capital stock of the proposed bank shall sign and verify under oath a statement of such stock subscribed, and which statement shall truly report the number of shares and the amount to be paid in consideration; the names, identity, title and address of any other persons who will be beneficial owners of such stock or otherwise share an interest or ownership in said stock, or who will pay any portion of the consideration; whether said stock is to be pledged as security for any loan; whether a loan has been committed or is intended for the subscription and purchase of said stock, and if so, the name and address of such person or corporation which is intended to loan funds for said purchase; the names of any cosigners, guarantors, partners or other persons liable for the repayment of any loan financing the purchase of such stock. Provided, however, that the verified statement of subscribers to stock shall be confidential and privileged from public disclosure prior to the final determination by the Board of the application for a charter, unless the Board shall find that public disclosure prior to public hearing and final determination of the charter application is necessary to a full development of the factual record. Subject to the above qualification, the list of incorporators and proposed officers and directors who support the application for a charter shall be available to public inspection.

C. Upon the filing of said application the Commissioner may meet and confer with any applicants for charter, examine data submitted in support of the application, and request such further information and data as may be pertinent and necessary. The Commissioner shall require deposit of such charter fees as are required by law and shall proceed to conduct a thorough investigation of the application, the applicants and their personnel, and the charter conditions alleged. The actual expense of such investigation and report shall be paid by the applicants, and the Commissioner may require a deposit in an estimated amount, the balance to be paid in full prior to hearing of the application. Upon the conclusion of the investigation, and based upon the written report of such investigation, the Commissioner shall make his findings and report such findings, together with the investigation report, to the State Banking Board. The written report of investigation and the findings of the Commissioner shall also be made available to all interested parties at their request, provided that all sources of information contained in the investigation report shall be considered confidential and shall be privileged communications.

D. Upon completion of the investigation and findings the Commissioner shall promptly set the time and place for public hearing of the application for charter, giving the applicants and such other banks in the same trade area reasonable notice thereof. After full and public hearing the Board shall vote and determine whether the necessary conditions set out in Paragraph 1 above have been established. Should the Board, or a majority of the Board, determine all of the said conditions affirmatively, then the application shall be approved; if not, then the application shall be denied. If approved, and when the Commissioner receives satisfactory evidence that the capital has been paid in full in cash, the Commissioner shall deliver to the incorporators a certified copy of the Articles of Association, and the bank shall come into corporate existence. Provided however, that the State Banking Board may make its approval of any application conditional, and in such event shall set out such condition in the resolution granting the charter, and the Commissioner shall not deliver the certified copy of the Articles of Association until such condition has been met, after which the Commissioner shall in writing inform the State Banking Board as to compliance with such condition and delivery of the Articles of Association.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 5; Acts 1963, 58th Leg., p. 134, ch. 81, § 3, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2882, ch. 949, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-306. Recordation of Articles of Association and Amendments

The bank shall, upon receipt from the Commissioner of a certified copy of its articles of association and any amendment thereto, file the same with the County Clerk of the county of the bank's domicile for recordation in the Deed Records of said county.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 6.]

Art. 342-307. Certificate of Authority—Posting—Revocation of Charter

No state bank may do business until it receives a certificate of authority from the Commissioner, which shall not be delivered until it has elected the officers and directors named in the application for charter or other officers and directors approved by the Commissioner; shall have adopted by-laws approved by the Commissioner; and shall have complied with all the other requirements of this Code relative to the incorporation of state banks.

If any state bank does not open and actually engage in business within three months after the granting of its charter, or conditional approval of application for charter, the Commissioner may so inform the State Banking Board which may in its discretion forfeit the charter or cancel its conditional approval of application for charter, without any judicial action.

Each state bank shall keep its certificate of authority posted in its lobby at a point accessible to the public.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 7.]

Art. 342-308. Merger—Trust Powers

Any two or more state banks, or if national banks are hereafter authorized by the laws of the United States to participate in such a merger, any one or more state banks and any one or more national banks domiciled in this State may, with the approval of the Commissioner and the written consent of the owners of record of two-thirds of the capital of each of said banks, be merged. Said merging banks shall file with the Commissioner:

(1) A statement of the plan of merger approved by the board of directors of each merging bank, by a majority vote of the qualified directors.

(2) Written consent to such merger executed by the owners of record of two-thirds of the capital of each merging bank.

(3) Certificate of merger stating the facts required by Article 4 of this chapter¹ and executed and acknowledged by a majority of the qualified directors of each merging bank.

The Banking Commissioner shall thereupon investigate the condition of the merging banks and if he finds that the state bank which will result from the merger (hereafter called the "resulting bank") will be solvent and its capital unimpaired; that it will have adequate capital structure; that such merger is to the best interest of the depositors, creditors and stock-

holders of the merging banks and of the public in general; that the distribution of the stock of the resulting bank is to be upon an equitable basis; and that the resulting bank has in all respects complied with the laws of this State relative to the incorporation of State banks, he may approve such merger, and, if he so approves, he shall deliver to the resulting bank a certified copy of the certificate of merger, which certificate shall constitute the charter and articles of association of the resulting bank, and shall be filed as provided in Article 6 of this chapter.² The resulting bank shall be deemed a continuation in entity and identity of each of the banks involved in the merger; shall be subject to all the liabilities, obligations, duties and relations of each merging bank; and shall without the necessity of any conveyance, assignment or transfer become the owner of all of the assets of every kind and character formerly belonging to the merging banks; further, provided, that if any merging bank shall at the time of the merger be acting as trustee, guardian, executor, administrator, or in any other fiduciary capacity, the resulting bank shall, without the necessity of any judicial action or action by the creator of such trust, continue such office, trust or fiduciary relationship and shall perform all of the duties and obligations and exercise all of the powers and authority connected with or incidental to such fiduciary relationship in the same manner as though the resulting bank had been originally named or designated as such fiduciary.

The naming or designating by a testator, or the creator of a living trust, of any one of the merging banks to act as trustee, guardian, executor or in any other fiduciary capacity shall be considered the naming or designating of the bank resulting from the merger.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 8.]

¹ Article 342-304.

² Article 342-306.

Art. 342-309. Reorganization—Incorporation to Take Over Business of Other Banks—Trust Powers

A state bank may be incorporated to take over the business of any incorporated bank or banks, state or national, as a step in the reorganization of such bank or banks, (which bank or banks, whether one or more, will be hereafter referred to as the "reorganizing bank"), and shall, subject to the provisions of this article, be authorized to purchase assets from the reorganizing bank and as consideration therefor, assume all liabilities, known or unknown, of the reorganizing bank, other than its liability to stockholders as such.

Persons desiring to incorporate a state bank under the provisions of this article shall proceed in the manner provided in Article 5 of this Chapter,¹ and in addition, shall file with the Commissioner:

(1) The proposed contract whereby the state bank is to purchase the assets from

and assume the liabilities of the reorganizing bank, as above mentioned.

(2) Contracts, if any, whereby the proposed state bank is to purchase for cash the whole or any part of the right of any or all of the stockholders of the reorganizing bank to receive liquidating dividends upon liquidation of the reorganizing bank, which contracts shall expressly provide that they shall be binding and effective only in event the reorganizing bank is placed in voluntary liquidation within ten (10) days of the granting of the application for the charter applied for. Such contracts shall be executed on behalf of the proposed bank by the persons applying for the charter.

If the Commissioner, after investigation, determines that the proposed bank, if incorporated, will, after its capital has been paid in full and all contracts above mentioned finally consummated, be solvent, its capital adequate and unimpaired, that such reorganization is to the best interest of the reorganizing bank, its depositors, creditors and stockholders and the public in general, and that upon incorporation such bank will have in all other respects complied with the law, he shall recommend to the State Banking Board that the charter be granted.

If the State Banking Board concurs in the findings of the Commissioner, it shall grant the application, and the Commissioner shall deliver a certified copy of the articles of association in the manner provided in Article 5 of this chapter. Provided, however, that the Commissioner shall not deliver a certificate of authority until the contracts above mentioned have been fully consummated, and the requirements of Article 7 of this chapter² have been met. The state bank so incorporated shall be deemed a reorganization of the reorganizing bank, and a continuation of such bank in entity and identity, subject to all of its liabilities, obligations, duties and relations, save and except its liability to stockholders as such, and shall pay and perform each and every obligation, duty and liability of the reorganizing bank in exactly the same manner as the reorganizing bank was obligated to do; further provided that if the reorganizing bank was at the time of incorporation of the new state bank, named or acting as guardian, trustee, executor, administrator or in any other fiduciary capacity, such state bank shall, without the necessity of any judicial action, or action by the creator of such trust, continue the trusteeship or other fiduciary relation and perform all of the duties and obligations of the reorganizing bank and exercise all the powers and authority relative thereto; and neither the reorganization of such bank, nor any liquidation of such bank in connection therewith, shall be deemed a resignation or refusal to act. The naming or designating by a testator or the creator of a living trust of the reorganizing bank to act as trustee, guardian, executor, or in any other fiduci-

ary capacity shall be considered the naming or designating of the bank resulting from the reorganization.

The new state bank shall give notice of its assumption of the liabilities of the reorganizing bank by publishing notice thereof once each week for a period of two (2) weeks in some newspaper of general circulation published in the county of its domicile, or in event no such newspaper is published in said county, then in a newspaper of general circulation published in an adjacent county. The first notice shall be published within ten (10) days after the delivery of the certificate of authority to such bank.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 9.]

¹ Article 342-305.

² Article 342-307.

Art. 342-310. Purchase of Assets of Another Bank—Disbursing Agent

Any state bank may, with the consent of the Commissioner, purchase the whole or any part of the assets of any other state bank or of any national bank domiciled in this State, and may hold the purchase price and any additional funds delivered to it by the selling bank in trust for or as a deposit to the credit of the selling bank. The purchasing bank may act as agent of the selling bank in disbursing the funds so held in trust or on deposit by paying the depositors and creditors of the selling bank, provided that if the purchasing bank acts under written contract of agency which specifically names each depositor and creditor and the amount to be paid each, and if such agency is confined to the purely ministerial act of paying such depositors and creditors the amounts due them as determined by the selling bank and reflected in the contract of agency and involves no discretionary duties or authority other than the identification of the depositors and creditors named, and if such contract is approved by the Commissioner, then the purchasing bank may rely upon such contract of agency and the instructions included therein, and shall not be in any way liable or responsible for any error made by the selling bank in determining its liabilities, the depositors and creditors to whom such liabilities are due, or the amounts due such depositors and creditors; nor liable or in any way responsible for any preference which may result from the payments made pursuant to such contract of agency and the instructions included therein. Further provided that, in event the selling bank should, at any time after such sale of assets, be closed and come into the hands of the Commissioner or, if a national bank into the hands of a receiver, then the purchasing bank shall pay to the Commissioner as statutory liquidator or to the receiver of such national bank the balance of the funds held by it in trust or on deposit for the selling bank, not theretofore paid to the depositors and creditors of the selling bank, and shall thereupon stand discharged of any and all liabilities, obligations or responsibilities to the selling bank, its receiver, the

Commissioner as its statutory liquidator, or to the depositors, creditors or stockholders thereof. Provided further that payment to any depositor or creditor of the selling bank of the amount to be paid him under the terms of the contract of agency may be effected by the purchasing bank opening an account in the name of such depositor or creditor, crediting such account with the amount to be paid the depositor or creditor under the terms of such agency contract, and mailing a duplicate deposit ticket evidencing such credit to such depositor or creditor at his address as reflected by the records of the selling bank, or delivering it to him personally, and the relation of debtor to creditor shall thereupon arise between the purchasing bank and such depositors and creditors to the extent and only to the extent of the credit reflected by such deposit tickets. Further provided, that if any such depositor or creditor checks upon the credit so created, or if he does not within sixty (60) days of the mailing or the personal delivery of such deposit ticket protest the transaction and demand payment from the selling bank, he shall be deemed to have ratified the transaction and to the extent of the credit so created to have accepted the obligation of the purchasing bank as reflected by said deposit ticket in satisfaction of the obligation of the selling bank, and the obligation of the selling bank to the extent of such credit shall be deemed paid and satisfied within the meaning of this article.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 10.]

Art. 342-311. Existing Corporations—Powers Retained

All corporations which on the effective date of this Act¹ were subject to the provisions of Title 16 of the Revised Civil Statutes of Texas, 1925, as amended,² or any chapter thereof, shall retain the powers provided in their charters.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 11.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

² Article 342 et seq. (repealed).

Art. 342-312. Amendment of Articles of Association—Rights of Stockholders upon Increase in Capital—Stock Option Plans

Subject to the provisions of this Code, any state bank may amend its articles of association for any lawful purpose.

If the owners of record of two-thirds of the capital stock, at any regular meeting of stockholders, or any special meeting called for that purpose, vote to amend the charter, the board of directors shall prepare, execute in the manner provided for the execution of articles of association, and file with the Commissioner an amendment to the articles of association. If the Commissioner finds that the amendment is not violative of law and does not prejudice the interest of depositors and creditors or the public, he shall approve such amendment and deliver to the bank a certified copy thereof, and said amendment shall thereupon become effec-

tive; provided, however, that if a state bank does not have the power to receive demand deposits, no amendments of its articles of association adopting any power provided under Subsections (a), (b), (c), (d), or (f) of Article 1 of this Chapter¹ and no amendment changing the domicile of any state bank shall be effective until approved by the State Banking Board in the manner provided for the approval of an original application for charter. Any state bank may amend its articles of association to extend its corporate existence for a perpetual period or for any period of years.

Each stockholder of a state bank shall be entitled to his proportionate part of any increase of stock effected out of surplus funds or undivided profits, and shall be entitled to subscribe for his proportionate share of any capital increase to be paid in cash; provided, however, that each stockholder or his assignee, in event he elects to assign such rights of subscription, shall subscribe for and pay the amount of such subscription to the corporation within ten (10) days after the stockholders have adopted such amendment, otherwise the board of directors may allocate the unsubscribed or unpaid portion of the increase among the other stockholders or otherwise as they deem to the best interest of the bank.

With prior approval of the owners of record of two-thirds of the capital stock, shares of stock in a bank, which are created by a capital increase, may be allocated to and purchased by the bank out of its surplus which is not certified or out of its undivided profits to be held by the bank for fulfilling the requirements of an officer or employee stock option plan, whereby officers or employees, or both, of the bank are given options to purchase shares of the bank's capital stock at a specified price, subject to the following requirements and restrictions:

The number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of other stockholders. Stock option plans authorized under this Article may not extend beyond a period of ten years from the date of issuance and shall otherwise qualify under applicable sections of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan authorized by this Article.

[Acts 1943, 48th Leg., p. 137, ch. 97, subch. III, art. 12; Acts 1967, 60th Leg., p. 1772, ch. 673, § 1, eff. June 17, 1967; Acts 1967, 60th Leg., p. 1853, ch. 722, § 1, eff. June 18, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 3, eff. June 10, 1969.]

¹ Article 342-301(a), (b), (c), (d), (f).

Acts 1967, 60th Leg., p. 1772, ch. 673, § 2 added article 342-315; sections 3-5 are set out as notes under article 342-315.

Acts 1967, 60th Leg., p. 1853, ch. 722, §§ 2-6 amended articles 342-401, 342-406, 342-504, 342-505 and 4591d; section 7 of the 1967 act transferred the provisions of article 4591d to article 342-910a; sections 8 and 9 thereof provided:

"Sec. 8. If any provision, Section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 9. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-313. Conversion of State Bank into National Bank

The owners of record of two-thirds of the capital of any solvent state bank may, by vote or written consent, authorize its officers and directors to take such action as may be necessary under the laws of the United States to convert it into a national bank, provided, however, that the state bank shall not cease to be a state bank subject to the supervision of the Commissioner until (1) the Commissioner has been given written notice of the intention to convert for at least thirty (30) days, (2) such bank has published notice thereof at least once a week for four (4) weeks in a newspaper of general circulation published in the county of its domicile, or, if no such newspaper is published in the county, in an adjacent county, (3) the bank has filed with the Commissioner a transcript of the conversion proceedings, sworn to by a majority of the qualified directors and a publisher's certificate showing publication of the notice above provided, and (4) such bank has received a certificate of authority to do business as a national bank.

[Acts 1943, 48 Leg., p. 137, ch. 97, subch. III, art. 13.]

Art. 342-313a. Conversion of National Bank into State Bank

A national bank or association located in this state which follows the procedures prescribed by the laws of the United States to convert into a state bank, shall be granted a certificate of incorporation in the state when the State Banking Board finds that the bank meets the standards as to location of office, capital structure and business experience of officers and directors for the incorporation of a state bank. In considering the application for conversion from a national bank into a state bank the Board shall consider and determine that the new bank meets with all the requirements of a new state bank applicant. Included also in the application for conversion and to be considered along with the other information submitted shall be the terms of the transition from a national bank into a state bank which shall also show that the provisions of Public Law 706 of the 81st Congress of the United States¹ have been fully satisfied. Such conversion shall be governed by the provisions of this Article and shall not be governed by Article 9, now codified as Article 342-309, Vernon's Texas Civil Statutes.

[Acts 1955, 54th Leg., p. 663, ch. 234, § 1.]

¹ 12 U.S.C.A. § 214 et seq.

Art. 342-314. Change of Domicile

No state bank shall hereafter change its domicile without first having received approval

for such change from the State Banking Board in the manner provided for the approval of an original application for a charter.

[Acts 1967, 60th Leg., p. 1773, ch. 673, § 2, eff. June 17, 1967.]

Section 1 of Acts 1967, 60th Leg., p. 1772, ch. 673 amended article 342-312; sections 3 to 5 of the act of 1967 provided:

"Sec. 3. This Act shall have no application to any change of domicile of a state bank for which an application for approval of such change was filed with the Federal Deposit Insurance Corporation prior to April 6, 1967.

"Sec. 4. If any provision, Section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

CHAPTER FOUR. STOCK, STOCKHOLDERS, BY-LAWS, DIRECTORS, OFFICERS, EMPLOYEES

Article

- 342-401. Transfer of Stock—Notice to Commissioner.
- 342-402. Stockholders' Meetings—Quorum—Voting.
- 342-403. By-Laws—Adoption and Amendment.
- 342-404. Directors—Number—Change of Number—Advisory Directors.
- 342-405. Directors—Qualifications.
- 342-406. Directors' Election—Term—Failure to Elect—Vacancy—Failure to Fill Vacancy—Addition of Directors.
- 342-407. Directors—Oath and Acceptance.
- 342-408. Directors—Meetings—Chairman—Quorum.
- 342-409. Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Officers.
- 342-410. Directors, Officers and Employees—Liability—Reimbursement for Expenses.
- 342-411. Officers—Transfer of Securities—Bills Payable—Rediscunts—Sale of Notes.
- 342-412. Officers and Directors—Cease and Desist—Removal—Appeal.
- 342-413. Officers, Employees, Agents—Embezzlement, Abstraction and Misapplication—Penalty.
- 342-414. Officers, Employees, Directors—False Entries and Statements—Penalty.
- 342-415. Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty.
- 342-416. Officers, Employees—Certification of Check Without Funds—Penalty.
- 342-417. Officers, Directors and Employees—Accepting Bonuses—Penalty.

Art. 342-401. Transfer of Stock—Notice to Commissioner

Shares of stock in a state bank shall be personal property and transferable only upon its books, and it shall be the duty of the officers of a state bank to transfer such stock upon its books at the request of the transferee, supported by a transfer in writing or other legally effective transfer.

If title to more than ten percent (10%) of the total number of shares of stock outstanding is transferred, the transferee shall, within fifteen (15) days thereafter, give the Commissioner written notice of the date of the transfer, the number of shares transferred and the consideration therefor, and the names and addresses of the persons or corporations from

whom and to whom the stock was transferred. Where the title to the stock so transferred is to be held by the transferee in the capacity of agent or trustee, the transferee shall, within fifteen (15) days after title to the stock is transferred, give the Commissioner written notice of the name and address of each principal or each beneficiary having an interest therein. Information obtained hereunder by the Commissioner shall be confidential and shall not be disclosed by the Commissioner or any officer or employee of the Banking Department, except that the Commissioner may, in his discretion, if he deems it necessary or proper to the enforcement of the laws of this state or the United States, and to the best interest of the public divulge such information to any department of the state or national government, or any agency or instrumentality thereof.

Any transferee who willfully and knowingly fails or refuses to give the Commissioner notice as required by this Article, shall, upon conviction, be fined in an amount not exceeding One Thousand Dollars (\$1,000), or be confined in jail for a period not to exceed six (6) months, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 1; Acts 1967, 60th Leg., p. 1855, ch. 722, § 2, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 1689, ch. 482, § 1, eff. May 27, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided:
 "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-402. Stockholders' Meetings—Quorum—Voting

The stockholders of each State bank shall hold one regular meeting each year at the time prescribed in its bylaws, and such special meetings as may be deemed necessary after notice as prescribed in the bylaws. At all stockholders' meetings the owners of a majority of the capital stock, present in person or by proxy, shall constitute a quorum. In the absence of a quorum a stockholders' meeting may be adjourned from time to time without notice to the stockholders. Each stockholder of record shall be entitled to one vote for each share of stock owned by him, which he may cast in person or by proxy duly authorized in writing filed among the records of the bank. Stock owned of record by an estate shall be voted by its executor, administrator, guardian, trustee or personal representative, and stock held in a fiduciary capacity shall be voted by the fiduciary, but stock which is owned or held by the State bank in any such capacity and stock which is acquired by the State bank in any other lawful manner shall not be voted by the bank for any purpose and shall not be included in determining whether or not a quorum is present at any annual or special meeting of the stockholders; provided, however, if the voting rights to stock held in trust by a state bank are

vested in a person or third party other than the bank, such stock may be voted by such person or third party or their proxy and shall be included in determining whether or not a quorum is present at any annual or special meeting of the stockholders.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 2; Acts 1959, 56th Leg., p. 894, ch. 412, § 4, eff. May 30, 1959; Acts 1971, 62nd Leg., p. 1690, ch. 483, § 1, eff. May 27, 1971.]

Art. 342-403. By-Laws—Adoption and Amendment

The stockholders of a state bank shall adopt by-laws which may be amended at any regular annual meeting of the stockholders, or, if the purpose of the meeting is stated in the notice, at any special meeting of the stockholders called for that purpose. Neither the by-laws nor any amendment thereto shall be effective until filed with the Commissioner and approved by him.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 3.]

Art. 342-404. Directors—Number—Change of Number—Advisory Directors

A State bank shall have not less than five (5) nor more than twenty-five (25) directors, the majority of whom shall be residents of the State of Texas. The number of directors may be changed from time to time within the limits above prescribed, without amendment of the charter, by resolution adopted at any regular meeting of the stockholders or any special meeting of stockholders called for the purpose of electing directors, which resolution shall be spread on the minutes of the meeting, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged.

The board of directors with the approval of the stockholders may elect an advisory board of directors in any number designated by resolution of the stockholders, which advisory directors shall not be required to comply with Article 5 of this Chapter¹ and shall not have the right to vote as directors of the bank.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 4; Acts 1959, 56th Leg., p. 894, ch. 412, § 5.]

¹ Article 342-405.

Art. 342-405. Directors—Qualifications

No person shall serve as director of a state bank when (1) the bank holds a judgment against him, or (2) holds a charged-off note against him, or (3) he is not the bona fide owner in his own right of unpledged and unencumbered stock in said bank of a par value of One Thousand Dollars (\$1,000). Provided, however, if the capital stock is less than \$50,000 each director shall own in his own right unpledged and unencumbered stock in the bank as may be prescribed in its Articles of Association but the foregoing minimum requirement as to other banks shall not apply, or (4) he has been convicted of a felony.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 5; Acts 1969, 61st Leg., p. 1317, ch. 403, § 1, eff. Sept. 1, 1969.]

Art. 342-406. Directors' Election—Term—Failure to Elect—Vacancy—Failure to Fill Vacancy—Addition of Directors

Each state bank shall, at its regular annual meeting of stockholders, or at some adjournment thereof, or at a special meeting of stockholders called for such purpose, elect directors who shall serve until the next regular annual meeting of stockholders and until their successors have been elected and have qualified. If any state bank fails to elect directors within (60) days after its regular annual meeting, the Commissioner may, after ten (10) days notice by mail, call a meeting of stockholders for the purpose of electing directors, and if the stockholders do not elect directors at the meeting so called, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.¹

Any vacancy on the board of directors may be filled by a majority vote of the remaining directors, and any director so appointed shall hold his office until the next election; provided if the vacancy reduces the number of directors to less than that required by Article 4 of this Chapter,² it shall be filled within thirty (30) days from the date it occurs and upon the failure to fill such vacancy within the above prescribed time limit, the Commissioner may close the bank and liquidate it pursuant to the provisions of Chapter VIII of this Code.

A majority of the full board of directors of a state bank, when authorized by resolution adopted at any regular meeting of stockholders or at any special meeting of stockholders called for such purpose, may at any time increase the number of directors of a state bank and appoint persons to fill the resulting positions and the persons so appointed shall serve until the next regular annual meeting of stockholders; provided, however, that the board of directors shall not increase the number of directors by more than two (2) during any one year and the total number of directors shall never exceed the maximum number now or that may hereafter be authorized by law. The resolution of the stockholders, as herein provided, and any action of the board of directors pursuant thereto, shall be spread upon the minutes of the stockholders or directors meeting, as the case may be, and a certified copy shall be filed with the Commissioner, for which filing no fee shall be charged. This provision shall be cumulative of all existing laws relating to increasing the number of directors of a state bank and the filling of the positions thereby created.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 6; Acts 1959, 56th Leg., p. 894, ch. 412, § 6, eff. May 30, 1959; Acts 1967, 60th Leg., p. 1855, ch. 722, § 3, eff. June 18, 1967.]

¹ Article 342-801 et seq.

² Article 342-404.

Art. 342-407. Directors—Oath and Acceptance

Prior to taking office and within thirty (30) days after his election each director in a state bank shall take oath that he is the bona fide owner in his own right of at least the minimum

number of shares necessary for qualification; that such shares are not pledged or otherwise encumbered; that he accepts the position as director; and that he will not violate, nor knowingly permit any officer, director or employee of the bank to violate, the laws of the State of Texas in the conduct of the business of the bank; and that he will diligently perform his duties as director. Such affidavit shall be sworn and subscribed to before a notary public, spread upon the minutes of the directors' meeting, and a duplicate original thereof filed with the Commissioner. Failure to comply with any provision of this article shall forfeit the office and the same shall be deemed vacant.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 7.]

Art. 342-408. Directors—Meetings—Chairman—Quorum

The directors of a State bank shall hold at least one regular meeting each month as prescribed in the by-laws. Special meetings may be called in such manner and upon such notice as may be prescribed in the by-laws. The president of the bank shall be a qualified member of the board of directors and shall be the chairman thereof, but the board may designate a director in lieu of the president to be chairman of the board and to perform such duties as may be designated by the board. A majority of the qualified directors shall constitute a quorum.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 8; Acts 1959, 56th Leg., p. 894, ch. 412, § 7, eff. May 30, 1959.]

Art. 342-409. Directors—Duties—Approval of Loans and Expenses—Election, Term and Compensation of Officers

Subject to the by-laws the board of directors of a state bank shall supervise the conduct of its business and may promulgate rules and regulations relative thereto and prescribe the duties and responsibilities of the officers and employees. At each regular meeting the board shall review and approve or disapprove each loan and investment made and item of expense incurred since the last meeting; and shall examine and take appropriate action upon the over-draft, suspense and bills of exchange accounts. Such approval, disapproval or other action of the board shall be spread upon its minutes.

By a majority vote of its qualified members, the board shall elect a president, one or more vice presidents, and a cashier or secretary, and such other officers of the bank as may be prescribed by the by-laws or deemed necessary by the directors and fix their compensation; provided, however, that the president shall be a member of the board of directors. Each officer of the bank shall serve only during the pleasure of the board, and any contract for a fixed term of employment shall be void.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 9.]

Art. 342-410. Directors, Officers and Employees—Liability—Reimbursement for Expenses

Except as otherwise provided by statute, directors and officers of state banks shall be liable for financial losses sustained by state banks to the extent that directors and officers of other corporations are now responsible for such losses in equity and common law. Further provided that any officer or director who does not approve of any act or omission of the board, and desires to relieve himself from any personal liability for such act or omission shall promptly announce his opposition to such act or omission and cause such opposition to be spread upon the minutes of the directors' meeting. If for any reason such opposition is not spread upon the minutes of the directors' meeting, he shall promptly report the facts to the Commissioner.

Any person may be indemnified or reimbursed by a state bank, through action of its board, for reasonable expenses actually incurred by him in connection with any action, suit or proceeding to which he is a party by reason of his being or having been a director, officer or employee of said bank. If there is a compromise of such an action or threatened action, there shall be no indemnification or reimbursement for the amount paid to settle the claim or for reasonable expenses incurred in connection with such claim without the vote, or the written consent, of the owners of record of a majority of the stock of the bank. Provided, however, that no such person shall be indemnified or reimbursed if he has been finally adjudged to have been negligent in the performance of his duties or to have committed any act or to have failed to perform any duty for which there is a common law or statutory liability. This article shall not bar any right or action to which such person would be entitled at common law or any other statute of this State.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 10.]

Art. 342-411. Officers—Transfer of Securities—Bills Payable—Rediscounts—Sale of Notes

No officer of a state bank shall endorse, pledge, assign, transfer, rediscount or in anywise dispose of any note, bond, security or other obligation held by the bank, nor create any bills payable, unless he shall have previously been duly authorized to do so by the board of directors, as reflected by the minutes of its meeting.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 11.]

Art. 342-412. Officers and Directors—Cease and Desist—Removal—Appeal

1. If the Commissioner finds that an officer, director or employee of a State bank, or the State bank itself acting through any autho-

rized person, has committed any of the following violations or practices:

(a) violates the provisions of this Code or any other law or regulation applicable to State banks; or

(b) refuses to comply with the provisions of this code or any other law or regulation applicable to State banks; or

(c) wilfully neglects to perform his duties, or commits a breach of trust or of fiduciary duty.

(d) Commits any fraudulent or questionable practice in the conduct of the bank's business that endangers the bank's reputation or threatens its solvency; or

(e) refuses to submit to examination under oath; or

(f) conducts business in an unsafe or unauthorized manner; or

(g) violates any conditions of its charter or of any agreement entered with the Banking Commissioner or the Banking Department; then in such event the Commissioner shall give notice in writing to such bank and the offending officer, director or employee, stating the particular violations or practices complained of, and the Commissioner shall call a meeting of the directors of said bank and lay before them such findings and demand a discontinuance of such violations and practices as have been found.

2. If the Commissioner shall find that an order to cease and desist from such actions is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, then at the directors' meeting above provided or within thirty (30) days thereafter the Commissioner may serve on the State bank, its board of directors, and any offending officers, directors or employees, a written order to cease and desist from the violations and practices enumerated therein and to take such affirmative action as may be necessary to correct the conditions resulting from such violations or practices. Said cease and desist order shall be effective instantaneously if the Commissioner finds that immediate and irreparable harm is threatened to the bank, its depositors or stockholders; otherwise, said order shall state the effective date, not less than ten (10) days after delivery or mailing of the notice thereof. Unless the bank or directors shall file a notice of appeal with the Banking Section of the Finance Commission within ten (10) days after such delivery or mailing of notice, whichever is the case, the order shall be final. A copy of said order shall be entered upon the minutes of the directors, who shall thereafter certify to the Commissioner in writing that each has read and understood the order.

3. If the Commissioner subsequently finds by examination or other credible evidence that the offending officer, director or employee has

continued such violations or practices as previously charged and found by the Commissioner, after notice and demand made under Paragraph 1 above, and further finds that removal from office is necessary and in the best interests of such bank and its depositors, creditors and stockholders, then the Commissioner may serve such officer, director or employee with an order of removal from office. Said order shall state the grounds for removal with reasonable certainty and shall state the effective date of removal, not less than ten (10) days after delivery or mailing of the notice thereof. Unless the bank, the directors or the person removed shall file a notice of appeal with the Banking Section of the Finance Commission within ten (10) days after such delivery or mailing of notice, whichever is the case, the order of removal shall be effective and final and said person shall thereafter be prohibited from further holding office or employment by, or participating in the affairs of, the said State bank. A copy of said order shall be entered upon the minutes of the directors, and an officer shall acknowledge receipt of such order and certify to the Commissioner that such person has been removed from office.

4. Upon the timely filing of an appeal the Banking Section of the Finance Commission shall set a time and place for hearing such appeal, giving reasonable notice thereof to the appellants. The Banking Section may adopt such rules or procedure as may be necessary to govern the fair hearing and adjudication of the questions appealed, subject to the following conditions:

(a) Appeal from Cease and Desist Order. If the Banking Section finds that appellants have committed one or more of the violations or practices charged by the Commissioner, and further finds that an order to cease and desist from said actions is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, the said order of the Commissioner shall be affirmed and made final and effective. If the findings are otherwise, the Banking Section shall set aside the order of the Commissioner.

(b) Appeal from Order of Removal. If the Banking Section finds that appellant has committed one or more of the violations or practices charged by the Commissioner sufficient to justify his removal, and further finds that an order of removal from office is necessary and in the best interests of the bank involved and its depositors, creditors and stockholders, the said order of the Commissioner shall be affirmed and made final and effective. If the findings are otherwise, the Banking Section shall set aside the order of the Commissioner.

5. After a cease and desist order or an order of removal becomes effective and final, should a State bank or its board of directors or any duly authorized officer of said bank fail or

refuse to comply with such an order, then the Commissioner may, upon notice, assess a penalty against said State bank in an amount not to exceed Five Hundred Dollars (\$500) per day for each day the bank is in violation of said order of the Commissioner or the Banking Section of the Finance Commission. Failure to remit any penalty so assessed shall subject the bank to a suit for collection by the Attorney General of Texas to be instituted in the District Court of Travis County, Texas. In addition to the remedy above provided the Attorney General of Texas, upon the relation of the Banking Commissioner, may bring suit in the District Court of Travis County, Texas, against any bank in violation of the final orders of the Commissioner or the Banking Section to enjoin the further violation of said orders and the violations and practices charged by the Commissioner as the grounds for such orders.

6. Orders to cease and desist, orders for removal from office, and all copies of notices, correspondence or other records in the Banking Department relating to such orders concerning such violations or unsound practices shall be confidential and shall not be publicized or revealed to the public except in any lawsuit authorized by this Code or by other lawful order or authority.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 12; Acts 1971, 62nd Leg., p. 2872, ch. 946, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-413. Officers, Employees, Agents—Embezzlement, Abstraction and Misapplication—Penalty

Any officer, employee or agent of a state bank who embezzles, fraudulently abstracts or wilfully misapplies money, funds, credit or other asset of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than ten (10) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 13.]

Art. 342-414. Officers, Employees, Directors—False Entries and Statements—Penalty

Any officer, director or employee of a state bank who knowingly makes a false entry upon the books or records or in any report or statement of such bank, or knowingly gives a false answer to any question propounded to him while being examined under oath by the Commissioner, Deputy Commissioner, Departmental Examiner, or any Examiner, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than ten (10) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 14.]

Art. 342-415. Officers, Directors, Employees, Stockholders—Destruction of Bank Records—Penalty

Any officer, director, employee or stockholder of a state bank who, for the purpose of concealing any fact or information from the Banking Commissioner, Deputy Commissioner, Departmental Examiner or any Examiner, or for the purpose of suppressing any evidence material to any pending or anticipated suit or legal proceeding, abstracts, removes, destroys, or conceals any book or record of such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both. Destruction or disposition of any book or record of a state bank after the period which it is required to be preserved by any rule or regulation of the Banking Section under Article 13 of Chapter I¹ shall raise a rebuttable presumption that this article has not been violated.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 15.]

¹ Article 342-113.

Art. 342-416. Officers, Employees—Certification of Check Without Funds—Penalty

Any officer or employee of a state bank who certifies any check drawn upon such bank, if the drawer does not have sufficient credit in his checking account to pay such check, unless he acts in good faith with reason to believe that the credit is sufficient, shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 16.]

Art. 342-417. Officers, Directors and Employees—Accepting Bonuses—Penalty

Any officer, director or employee of a state bank who demands, or directly or indirectly receives a bonus, commission or other consideration on account of the making of a loan or investment or the purchase of any asset by such bank shall, upon conviction, be fined not exceeding Five Thousand Dollars (\$5,000), or confined in the penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 144, ch. 97, subch. IV, art. 17.]

CHAPTER FIVE. LOANS AND INVESTMENTS

Article

- 342-501. Domicile—Furniture and Fixtures—Depreciation—Exception.
- 342-501A. Parking Areas—Customers and Employees.
- 342-502. Other Real Estate—Depreciation—Exceptions.
- 342-503. Engaging in Commerce—Exceptions.
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- 342-505. Building and Loan Shares and Savings Accounts—Lawful Investment.
- 342-505a. Federal National Mortgage Association; Subscription for Stock in Connection with Sale of Mortgage Loans.
- 342-506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity.

Article

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 342-509b. Statements of Loans or Extensions of Credit Obtained by Officers of State Banks—Filing—Failure to File—Penalties.
 342-510. Loan of Trust Funds to Officers, Directors or Employees—Penalty.
 342-511. Same Powers as National Bank.

Art. 342-501. Domicile—Furniture and Fixtures—Depreciation—Exception

No state bank shall, without prior written consent of the Commissioner, invest an amount in excess of fifty per cent (50%) of its capital and certified surplus in a domicile (including land and building) nor an amount in excess of fifteen per cent (15%) of its capital and certified surplus in its furniture and fixtures. Such domicile shall be depreciated each year not less than two and one-half per cent (2½%) of its cost to the bank until such domicile is charged down to twenty-five per cent (25%) of its cost, and the furniture and fixtures shall be depreciated each year not less than ten per cent (10%) of their cost to the bank until said account is charged down to One Dollar (\$1), provided that the Commissioner may permit a lesser percentage to be charged off during any year.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 1.]

Art. 342-501A. Parking Areas—Customers and Employees

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

[Acts 1957, 55th Leg., p. 370, ch. 175, § 1.]

¹ Article 342-501.

Art. 342-502. Other Real Estate—Depreciation—Exceptions

No State bank shall acquire real estate, other than its domicile, except in satisfaction or partial satisfaction of indebtedness, or in the ordinary course of the collection of loans and other obligations owing the bank, or for the use of the bank in future expansion of its banking house. No State bank shall assign an original book value to such real estate in excess of its reasonable value at the time of acquisition, and such real estate shall be depreciated each year ten per cent (10%) of such original book value until charged down to twenty-five per cent (25%) of its original book value; provided that the Commissioner may permit a lesser percentage to be depreciated during any year. If such real estate is ac-

quired for the use of the bank in future expansion of its banking house, such real estate shall be depreciated each year ten per cent (10%) of its original book value until such time as it is actually improved and occupied as a banking house, after which it shall be depreciated in accordance with the provisions of Article 1 of this Chapter.¹ The original book value of such real estate shall be included in determining whether the State bank has invested an amount in excess of fifty per cent (50%) of its capital and certified surplus in a domicile (including land and building) under the provisions of Article 1 of this Chapter. If such real estate acquired for the use of the bank in future expansion of its banking house is not improved and occupied as a banking house within three (3) years from the date of its acquisition, the bank shall sell or otherwise dispose of such property; provided that the Commissioner may for good cause shown grant an extension of time for a period of one year or more.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 2; Acts 1959, 56th Leg., p. 894, ch. 412, § 8, eff. May 30, 1959.]

¹ Article 342-501.

Art. 342-503. Engaging in Commerce—Exceptions

No state bank shall invest its funds in trade or commerce by buying and selling goods, wares, merchandise or chattels or by owning or operating an industrial plant except when necessary to avoid a loss on a loan or investment previously made in good faith. Provided that to the extent that national banks may now or hereafter have authority to do so, a state bank may become the owner and lessor of personal property acquired upon the specific request and for the use of a customer and may incur such additional obligations as may be incident to becoming an owner and lessor of such property.

Rental payments collected by the bank under the lease agreement shall be considered to be rent and shall not be deemed to be interest or compensation for the use of money loaned.

The aggregate of the bank's investment in properties so acquired shall not exceed limits prescribed by the Banking Section of the Finance Commission as they may be adjusted from time to time, and property so acquired shall not be retained more than six (6) months beyond the duration of the original lease period agreed to by the customer for whom the property was acquired, except with written permission of the Banking Commissioner.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 3; Acts 1969, 61st Leg., p. 1630, ch. 507, § 4, eff. June 10, 1969.]

Art. 342-504. Real Estate Loans—Limitations—Exceptions

State banks are authorized to make loans upon the security of real estate and invest their funds in obligations secured by real estate subject to such rules and regulations as may be imposed by the Banking Section of the

Finance Commission of Texas relating to margin requirements, repayment programs or terms, and the aggregate in the various types and classes of real estate loans; provided, however, that no state bank shall make a loan upon security of real estate or invest its funds in obligations secured by real estate unless:

1. The security is a first lien upon such real estate or the loan or investment made by the bank is wholly guaranteed by the Administrator of Veterans Affairs under Title III of the Serviceman's Readjustment Act of 1944,¹ as amended from time to time.

2. Such loan or obligation is supported by:

(a) either an attorney's opinion or a mortgagee's title insurance policy;

(b) evidence of payment of all taxes other than taxes for the current year;

(c) a written appraisal of such real estate signed by an appraiser; and

(d) if the improvements situated upon such real estate constitute an appreciable portion of the security, adequate coverage insuring the interest of the bank against loss by fire and tornado.

3. The limitations, restrictions and requirements of this Article shall not apply to a loan or obligation insured by the Federal Housing Administration, or to any loan or obligation which the United States of America has unconditionally guaranteed as to payment of both principal and interest through a federal agency or instrumentality, or to security taken to prevent loss on a loan or investment previously made in good faith.

4. Construction loans:

(a) The following loans made to finance the construction of buildings shall not be considered as loans secured by real estate within the meaning of this Article but shall be classed as ordinary commercial loans, provided that such loans shall be secured by a first lien on the real estate upon which the building or buildings are being constructed:

(1) loans having maturities which shall be fixed by the Banking Section of the Finance Commission, made to finance the construction of industrial or commercial buildings on which there are valid and binding agreements entered into by financially responsible lenders to advance the full amount of the bank's loan upon completion of the buildings, and

(2) loans made to finance the construction of residential or farm buildings having maturities which shall be fixed by the Banking Section of the Finance Commission from time to time.

(b) Such loans or obligations shall be supported by:

(1) either an attorney's opinion, a mortgagee's title insurance policy or a mortgagee's title insurance policy binder;

(2) evidence of payment of all taxes other than taxes for the current year;

(3) either a written appraisal of such real estate, signed by an appraiser, or a valid and binding agreement entered into by a financially responsible lender or lenders to advance the full amount of the bank's loan upon completion of the buildings; and

(4) insurance coverage upon the building or buildings under construction in an amount adequate to insure the interest of the bank against loss by fire, tornado and other casualties.

(c) No state bank shall invest its funds in, or be liable on, any such loans covered by this Section in an amount in excess of that prescribed by the Banking Section of the Finance Commission.

5. Loans made to established industrial or commercial businesses in which the Housing and Home Finance Administrator or the Small Business Administration cooperates or purchases a participation under the provisions of Section 102 or 102a of the Housing Act of 1948, as amended,² or of the Small Business Act of 1953,³ shall not be subject to the requirements, restrictions or limitations of this Article upon loans secured by real estate.

6. Loans made to businesses where the bank looks for repayment out of the operations of the borrower's business, relying primarily on the borrower's general credit standing and forecast of operations, with or without other security, but wishes to take a mortgage on the borrower's real estate as a precaution against contingencies, shall not be considered as real estate loans within the meaning of this Article but shall be classed as ordinary commercial loans.

7. Loans may be made to finance the construction of buildings during periods of construction which shall be fixed by the Banking Section of the Finance Commission from time to time upon the security of:

(a) a purchase contract entered into pursuant to the provisions of the Public Buildings Purchase Contract Act of 1954⁴ or the Post Office Department Property Act of 1954,⁵ or an assignment thereof irrevocably binding the Administrator of General Services or the Postmaster General to commence payments at a specified date not later than one month from the date of completion and acceptance of

the building and to continue such payments at least at annual intervals until the loan has been paid in full, and

(b) a bid and performance bond with one or more financially responsible sureties thereon in favor of the General Services Administration or the Post Office Department, jointly with the lender, without complying with the requirements, restrictions or limitations of this Article concerning loans secured by real estate, even though the lender may hold additional security in the form of a mortgage, deed of trust, title to the premises involved, or other such lien on such premises.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 4; Acts 1945, 49th Leg., p. 149, ch. 99, § 1; Acts 1959, 56th Leg., p. 894, ch. 412, § 9; Acts 1962, 57th Leg., 3rd C.S., p. 108, ch. 37, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 4, eff. Aug. 23, 1963; Acts 1967, 60th Leg., p. 1856, ch. 722, § 4, eff. June 18, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 5, eff. June 10, 1969; Acts 1973, 63rd Leg., p. 1517, ch. 548, § 1, eff. June 15, 1973.]

¹ See 38 U.S.C.A. § 1801 et seq.

² 12 U.S.C.A. §§ 1701g, 1701g-1.

³ 15 U.S.C.A. § 631 et seq.

⁴ 40 U.S.C.A. §§ 356, 357.

⁵ 39 U.S.C.A. § 2103 et seq.

Art. 342-505. Building and Loan Shares and Savings Accounts—Lawful Investment

A state bank may invest in, or lend on the security of, shares of stock or savings accounts insured by the Federal Savings and Loan Insurance Corporation which are issued by any building and loan association or savings and loan association domiciled in this state.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 5; Acts 1967, 60th Leg., p. 1856, ch. 722, § 5, eff. June 18, 1967.]

Art. 342-505a. Federal National Mortgage Association; Subscription for Stock in Connection with Sale of Mortgage Loans

Notwithstanding any other provisions of law, any bank or trust company organized under the laws of this State which has as one of its principal purposes the making or purchasing of loans secured by real estate mortgages, is authorized to sell such mortgage loans to the Federal National Mortgage Association, a corporation chartered by an Act of Congress, or any successor thereof, and in connection therewith to make payments of any capital contributions required pursuant to law, in the nature of subscriptions for stock of the Federal National Mortgage Association or any successor thereof, to receive stock evidencing such capital contributions, and to hold or dispose of such stock.

[Acts 1955, 54th Leg., p. 676, ch. 244, § 1.]

Art. 342-506. Own Stock—Security—Acquisition—Disposition—Investment Certificates—Maturity

No state bank shall acquire a lien by pledge or otherwise on its shares of stock nor purchase or acquire title to such stock, except to prevent loss upon a loan or investment pre-

viously made in good faith. Provided, however, that with the approval of the owners of record of two-thirds of the capital stock, a bank may purchase and carry as an asset its own shares for the purpose of fulfilling the requirements of an officer or employee stock option plan.

The number of shares so held shall not, at any time, exceed five per cent (5%) of the total number of shares outstanding in the hands of the other stockholders. Stock option plans authorized under this Article may not extend beyond a period of ten years from the date of issuance and shall otherwise qualify under applicable sections of the Internal Revenue Code of 1954, as it may be amended from time to time. No officer or employee who owns or controls more than five per cent (5%) of the bank's capital stock shall be eligible to participate or to continue participation in a stock option plan authorized by this Article.

If a state bank acquires a lien upon or title to its stock under the exception first provided for in this Article, it shall not permit such lien to continue for more than two (2) years, nor shall it hold title to such stock for more than one (1) year. Provided that the stock on which the bank has a lien plus the stock held by it as owner shall not exceed, in par value, the aggregate of all surplus accounts and undivided profits of said bank; provided, however, that any provision of this Code to the contrary notwithstanding, a state bank may make loans, charge or collect in advance interest thereon at a rate not exceeding that permitted by law, together with other charges permitted by this Code, and take as collateral thereof its investment certificates, issued simultaneously with the granting of the loans or otherwise, requiring weekly, semi-monthly, monthly or other regular periodic installments to be paid upon such certificates; such loans, subject to acceleration for specified causes, shall mature when the withdrawal value of the investment certificate or certificates securing the same equals the face amount of the note evidencing the loans, and shall be comparable in form and principle of operation to sinking-fund loans which building and loan associations are now authorized to make under the laws of this State.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 6; Acts 1969, 61st Leg., p. 1630, ch. 507, § 6, eff. June 10, 1969.]

Art. 342-507. Limit of Liability of Any One Borrower—Exceptions—Penalty

No state bank shall permit any person or any corporation to become indebted or in any other way liable to it in an amount in excess of twenty-five per cent (25%) of its capital and certified surplus. The phrase "indebted or in any other way liable" shall be construed to include liability as partner or otherwise. The above limitation shall not apply to the following classes of indebtedness or liability:

1. Liability as endorser or guarantor of commercial or business paper discounted

by or assigned to the bank by the actual owner thereof who has acquired it in the ordinary course of business.

2. Indebtedness evidenced by bills of exchange or drafts drawn against actually existing values and secured by a lien upon goods in transit with shippers' order bills of lading or comparable instruments attached.

3. Indebtedness evidenced by notes or other paper secured by liens upon agricultural products, manufactured goods, or other chattels in storage in bonded warehouses or elevators with warehouse or elevator receipts attached, cotton yard tickets, signed by a bonded weigher, when the value of the security is not less than one hundred twenty-five per cent (125%) of the indebtedness, and the bank's interest therein is adequately insured against loss, with insurance policies or certificates of insurance attached.

4. Deposit in a reserve depository, or a Federal Reserve Bank.

5. Indebtedness of another state or national bank arising out of short-term loans when such loans are made out of the excess cash reserve funds of the lending bank and have settlement periods of less than one week.

6. Indebtedness arising out of the daily transaction of the business of any clearing house association in this State.

7. Bonds and other legally created general obligations of any State or of any county, city, municipality or political subdivision thereof and indebtedness of the United States of America, or any instrumentality or agency of the United States Government.

8. Any portion of any indebtedness which the United States Government or any agency or instrumentality of the United States Government has unconditionally agreed to purchase or has unconditionally guaranteed as to payment of both principal and interest.

A state bank may permit any person, partnership, association or corporation to become indebted or in any other way liable to it in an amount equal to or less than fifteen per cent (15%) of its capital and certified surplus in addition to any indebtedness or liability of such person, partnership, association or corporation to the bank in an amount not in excess of twenty-five per cent (25%) of its capital and certified surplus, when such additional indebtedness or liability to the bank is secured by bonds or notes of the United States issued since April 24, 1917, certificates of indebtedness of the United States, Treasury bills of the United States, or obligations fully guaranteed both as to principal and interest by the United States, the market value of which security is at all times not less than one hundred twenty per

cent (120%) of such indebtedness or liability to the bank.

Any officer, director or employee of a state bank who knowingly violates or participates in the violation of any provision of this Article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 7; Acts 1949, 51st Leg., p. 532, ch. 294, § 1; Acts 1959, 56th Leg., p. 894, ch. 412, § 10, eff. May 30, 1959; Acts 1969, 61st Leg., p. 1630, ch. 507, § 7, eff. June 10, 1969.]

Art. 342-508. Loan Fees Prohibited—Exception

No bank shall charge or collect any loan fee or any other charge, by whatever name called, for the granting of a loan. Provided, however, a bank may require an applicant for a loan or discount to pay the cost of any abstract, attorney's opinion or title insurance policy, or other form of insurance, and filing or recording fees or appraisal fees. Expenses necessary or proper for the protection of the lender, and actually incurred in connection with the making of the loan may be charged, and further provided that a bank may charge any borrower the reasonable value of services rendered in connection with the making of any loan, including the drawing of notes, the taking of acknowledgments and affidavits, the preparation of financial statements, and the investigation or analysis of the financial responsibility of the borrower or any endorser, surety or co-signer, in an amount agreed upon, but not to exceed One Dollar (\$1) for each Fifty Dollars (\$50) or fractional part thereof loaned; but the charges for such services shall not be deemed a loan fee or interest or compensation for the use of the money loaned; and the last charge next above shall not be collected unless the loan is actually made.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 8.]

Art. 342-509. Loans to and Transactions with Officers and Directors—Penalty

Without the prior approval of a majority of the board of directors spread upon its minutes, no state bank shall: (1) permit any officer thereof to become indebted to it, directly or indirectly, in any sum whatsoever, nor any director who is not an officer thereof to become indebted to it, directly or indirectly, in a sum exceeding ten per cent (10%) of its capital and certified surplus, or (2) sell any of its assets to any of its officers or directors, or purchase any asset in which any officer or director has any interest. No director shall be qualified to vote on any resolution that relates to any loan or the purchase or sale of any asset in which transaction such director is interested. Any officer or director who knowingly participates in or permits any violation of any of the provisions of this article shall, upon conviction, be fined not more than Five Thousand Dollars

(\$5,000), or confined in the State penitentiary for not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 9.]

Art. 342-509a. Stockholders, Officers and Employees—Authority to Take Acknowledgments

No Notary Public or other Public Officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgment or proof of an instrument in writing in which a State bank, national bank or private bank is interested by reason of his ownership of stock in or employment by the State or national or private bank interested in such instrument, and any such acknowledgment heretofore taken is hereby validated.

[Acts 1963, 58th Leg., p. 134, ch. 81, § 5, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 1282, ch. 325, § 1, eff. May 24, 1971.]

Art. 342-509b. Statements of Loans or Extensions of Credit Obtained by Officers of State Banks—Filing—Failure to File—Penalties

(a) An officer of a State bank who obtains a loan or extension of credit from a bank shall file at the bank of which he is an officer within ten (10) days of obtaining the loan or extension of credit, a verified statement including the amount of the loan or extension of credit and the name and address of the bank from which it was obtained. The statement shall be entered in the minutes of the board of directors.

(b) Within ten (10) days of the effective date of this article, every officer of a State bank shall file with the bank of which he is an officer a verified statement of all loans or extensions of credit which he owes to any bank. The statement shall include the amount of each loan or extension of credit and the name and address of the creditor bank. The statement shall be entered in the minutes of the board of directors.

(c) A statement filed under this article is a privileged communication. It may not be disclosed to any person other than the Commissioner or his agent or representative; an examiner or assistant examiner, or a director of the bank.

(d) An officer who fails to file a statement as required by this article or who files a false statement is guilty of a misdemeanor and upon conviction is punishable by imprisonment in the county jail for not more than 30 days or by a fine or not more than \$250 or by both.

(e) Any State bank officer convicted of a violation of this article forfeits his office by operation of law upon conviction. He may not be an officer of a State bank within one year of conviction of a violation of this article.

[Acts 1971, 62nd Leg., p. 2880, ch. 948, § 2, eff. June 15, 1971.]

Art. 342-510. Loan of Trust Funds to Officers, Directors or Employees—Penalty

No state bank shall directly or indirectly lend any funds or money held by it in trust to any officer, director, or employee of such bank. Any officer, director or employee borrowing or participating in or permitting the lending of trust funds in violation of this article shall upon conviction be fined not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 148, ch. 97, subch. V, art. 10.]

Art. 342-511. Same Powers as National Bank

Any provision of this Code to the contrary notwithstanding, any state bank may make any loan or investment which such bank could make were it operating as a national bank, and the making of such loan or investment shall not constitute a violation of any penal provision of the statutes of the State.

[Acts 1943, 48th Leg., p. 148, c. 97, subch. V, art. 11.]

CHAPTER SIX. SURPLUS, DIVIDENDS, LIABILITIES, UNINVESTED TRUST FUNDS, PREFERENCES, RESERVES, DEBENTURES AND WITHDRAWALS

Article

- 342-601. Surplus—Certified Surplus—Mandatory Transfers.
- 342-602. Liability Limit—Exceptions.
- 342-603. Pledge of Assets—Securing Depositors.
- 342-604. Uninvested Trust Funds—Segregation.
- 342-605. Preferences.
- 342-606. Cash Reserve—Calculation—Reserve Depositories—Amount Carried.
- 342-607. Capital Notes or Debentures—Capital Defined.
- 342-608. Limitation Upon Withdrawals.

Art. 342-601. Surplus—Certified Surplus—Mandatory Transfers

Each state bank shall maintain an account to be known as "surplus," any part of which account may, from time to time, be certified, which portion of the surplus shall be known as "certified surplus," before declaring any dividend each state bank shall transfer to "certified surplus" an amount not less than ten per cent (10%) of the net profits of such bank earned since the last dividend was declared; provided, however, that this article shall not require a transfer to certified surplus of a sum which would increase the certified surplus to more than the capital of the bank. Except to absorb losses in excess of undivided profits and uncertified surplus, such certified surplus shall not be reduced without the prior written consent of the Commissioner. The Board of Directors shall, in connection with each transfer to or reduction in the certified surplus, promptly file with the Commissioner its certificate reflecting such transfer or reduction. The certified surplus accounts maintained by state banks on the effective date of this Act,¹ shall be deemed

"certified surplus" within the purview of this article.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 1.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

Art. 342-602. Liability Limit—Exceptions

No state bank shall without the prior written consent of the Commissioner be indebted or liable for an amount in excess of its capital and certified surplus except on account of the following:

1. Money on deposit with or collected by it.

2. Bills of exchange, checks or drafts drawn against money actually on deposit to the credit of the bank or due to said bank.

3. Liability to stockholders on account of the capital stock, surplus and undivided profits.

4. Liabilities arising under or pursuant to the provisions of the Federal Deposit Insurance Corporation Act,¹ the Federal Reserve Act,² the Federal Agricultural Credit Act of 1923,³ or pursuant to any or all amendments to any or all of said acts.

5. Indebtedness evidenced by investment certificates or certificates of indebtedness.

6. Liability on endorsement of notes, bills of exchange or other evidences of indebtedness actually owned by said bank and sold or endorsed with or without recourse, provided said sale or endorsement shall have been previously approved by the board of directors of said bank.

7. Liabilities to other banks arising out of short-term loan transactions when such liabilities are incurred for the purpose of fulfilling cash reserve requirements and have settlement periods of less than one week.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 2; Acts 1969, 61st Leg., p. 1630, ch. 507, § 8, eff. June 10, 1969.]

¹ 12 U.S.C.A. § 1811 et seq.

² 12 U.S.C.A. § 221 et seq.

³ 12 U.S.C.A. §§ 1151 to 1322 (repealed).

Art. 342-603. Pledge of Assets—Securing Depositors

No state bank shall pledge, or create any lien upon, any asset or in any way secure the repayment of any deposit except when specifically authorized to do so by law, except that it may pledge its assets to secure a deposit of or by the United States Government, the State of Texas, or any agency or instrumentality of either. This article does not prohibit the pledge of assets to secure the repayment of money borrowed. Any act, deed, conveyance, pledge or contract in violation of this article shall be void.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 3.]

Art. 342-604. Uninvested Trust Funds—Segregation

Unless the trust instrument provides otherwise, funds received in trust by a state bank awaiting investment shall be carried in a separate account and shall not be used by the bank in the conduct of its business, unless it shall first set aside in the trust department United States government bonds or other securities eligible under the laws of this State for the investment of funds by guardians or trustees of a market value equivalent to the amount so used. In event of the liquidation of such bank the owners of the funds held in trust for investment shall have a lien upon the bonds or other securities so set apart.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 4.]

Art. 342-605. Preferences

No state bank shall transfer, assign, convey, mortgage, or create any lien upon any asset belonging to it or make any payment in money or otherwise upon any indebtedness after the commission of any act of insolvency or in contemplation thereof, or while such bank is insolvent, with a view to prevent the application of its assets in accordance with the provisions of this Code, and any transfer, assignment, conveyance, mortgage, payment or other act in violation of this article shall be void.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 5.]

Art. 342-606. Cash Reserve—Calculation—Reserve Depositories—Amount Carried

Every State bank shall maintain a reserve of not less than fifteen per cent (15%) of its aggregate demand deposits and five per cent (5%) of all other deposits, provided that any member of the Federal Reserve System which maintains the reserves required by that System shall not be deemed to have violated the provisions of this article.

Such reserve shall be kept in the vaults of the bank or on deposit with Federal Reserve banks or with banks incorporated by any state or the United States with not less than Fifty Thousand Dollars (\$50,000) capital approved as reserve depositories by the Commissioner and such reserves may be calculated on the basis of the average daily deposit balances covering weekly periods. Items in the process of clearing through a clearing house association shall be considered as reserves on deposit with an approved reserve depository within the meaning of this article. If a State bank shall fail to maintain the total reserves required by this article, it shall be liable for and the Banking Commissioner may collect as a fee or penalty not more than Five Hundred Dollars (\$500) per week for the period of such failure as may be prescribed from time to time by the Banking Section of the Finance Commission of Texas; and upon relation of the Banking Commissioner of default in such payment, the Attorney General shall institute a suit to recover such fees or penalties and for such other relief as in the judgment of the Attorney General is proper

and necessary. No State bank shall deposit an amount in excess of twenty per cent (20%) of its capital, certified surplus and deposits in any one reserve depository.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 6; Acts 1959, 56th Leg., p. 894, ch. 412, § 11, eff. May 30, 1959; Acts 1967, 60th Leg., p. 2047, ch. 756, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1630, ch. 507, § 9, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 2886, ch. 951, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-607. Capital Notes or Debentures—Capital Defined

With the prior written approval of the Commissioner any state bank may, at any time, through action of its board of directors and without requiring any action of its stockholders, issue and sell its capital notes or debentures, which shall be subordinate and subject to the claims of depositors and may be subordinated and subjected to the claims of other creditors or the holders of investment certificates.

The term "capital" as used in this article relating to solvency of state banks shall be construed to embrace the amount of outstanding capital notes and debentures legally issued by any state bank and sold by it to the Reconstruction Finance Corporation or any other corporation or individual. The capital stock of any such bank may be deemed to be unimpaired when the amount of capital notes and debentures as represented by cash or sound assets exceeds the impairment as found by the Commissioner. Before any such capital notes or debentures are retired or paid by the bank, any existing deficiency of its capital (disregarding the notes or debentures to be retired) must be paid in cash, to the end that the sound capital assets shall at least equal the capital stock of the bank. Provided, in the event the net profits are not sufficient to meet the interest and retirement payments on the capital notes or debentures issued prior to the effective date of this Act,¹ the Commissioner may require the bank's stockholders to pay into the bank in cash an amount sufficient to meet the deficiency. Such capital notes or debentures shall in no case be subject to any assessment. The holders of such capital notes or debentures shall not be held individually responsible as such holders for any debts, contracts, or engagements of such bank, and shall not be held liable for assessments to restore impairment in the capital of such bank.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 7.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

Art. 342-608. Limitation Upon Withdrawals

Upon the request of any state bank which is suffering from or threatened with unusual and

excessive withdrawals due to financial conditions, panic or crisis, the Commissioner may, if he deems such action necessary in order to prevent unnecessary loss to or preference among the depositors and creditors of such bank, and to preserve the financial structure of the bank and its usefulness to the community, limit the right of withdrawal by or payment to depositors and creditors, and other persons to whom the bank is liable, provided, however, that such limitations shall be uniform in their application to each class of liability, and shall not defer any person in his right to full payment or withdrawal for more than ten (10) days.

[Acts 1943, 48th Leg., p. 152, ch. 97, subch. VI, art. 8.]

CHAPTER SEVEN. DEPOSITORY CONTRACTS

Article

- 342-701. Depository Contract—Limitation of Actions.
- 342-702. Brokered Funds Defined—Reporting—Commissioner's Authority.
- 342-703. Deposits—Discharge from Liability on Public Funds.
- 342-704. Deposits—Discontinuance or Reduction of Interest.
- 342-705. Adverse Claims to Deposits—Disclosure as to Amount Deposited.
- 342-706. Joint Deposits—Minors, Married Women—Trustees.

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed Articles 1 to 6, 11 and 12 of Subchapter VII of the Banking Code of 1943 [former articles 342-701 to 342-706, 342-711 and 342-712, respectively], effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it. See, now, Business and Commerce Code, § 4.101 et seq.

Acts 1971, 62nd Leg., p. 2875, ch. 947, §§ 1, 2, effective August 30, 1971, amended Subchapter VII of the Banking Code of 1943 by adding Article 2 [article 342-702], and by renumbering Articles 7, 7a to 10 [formerly numbered articles 342-707, 342-707a to 342-710] as Articles 1, 3 to 6 [articles 342-701, 342-703 to 342-706], respectively.

Art. 342-701. Depository Contract—Limitation of Actions

The contract of deposit between a bank and a depositor, whether evidenced by deposit tickets or otherwise shall be deemed a contract in writing within the purview of Article 5527 of the Revised Civil Statutes of Texas. The cause of action on any such depository contract, other than a time deposit, shall not accrue until the bank has denied liability and given the depositor notice thereof. Provided that the delivery to the depositor of a statement of his account or pass book reflecting the balance, or the mailing

of a statement of such account (with or without cancelled items) to the depositor at his address as reflected by the books of the bank, shall constitute a denial of any liability on the part of the bank in excess of the balance reflected by such statement or pass book, and notice thereof to the depositor, and, to the extent of any excess over the balance reflected shall accrue the cause of action.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 7; Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-702. Brokered Funds Defined—Reporting—Commissioner's Authority

For the purpose of this article, "brokered funds" are funds accepted by a bank on which a fee in money is paid or agreed to be paid, directly or indirectly, either to the depositor of such funds or a third party by such bank or a third party, in addition to any interest to be paid under the contract of repayment.

In the event that any bank shall accept brokered funds as defined herein, it shall forthwith notify the Commissioner in writing of the acceptance of such funds, the depositor and his address, any loans, if any, made in consideration of or conditioned upon said deposit, and listing the borrower, his address, and any collateral securing said loan, and such other information concerning said deposit and loan as the Commissioner may require and on such forms as may be prescribed by the Commissioner. The Commissioner may further require any bank to report such brokered funds and loans as above described, if any, which have been accepted or made previous to the effective date of this Act.

Provided, however, should the Commissioner find from examination or other evidence that a bank is being operated in an unsafe manner, or insolvency of the bank is threatened, or the continued acceptance of brokered funds will threaten the liquidity of the bank, then the Commissioner shall have the authority to act as follows:

(a) to issue an order to cease and desist from further accepting any brokered funds, or otherwise to regulate the amount of such funds which may be accepted or the rate of interest to be paid, and

(b) to issue a written order stating that after the effective date thereof all brokered funds accepted by said bank shall be and are hereby classified as the issuance, sale and negotiation of "notes, bonds, and other evidence of indebtedness" by the bank as provided in Paragraph (h), Article 1, Chapter III of such Code,¹ and not as deposits received by the bank as provided in Paragraph (a), Article 1, Chapter III of the Banking Code of 1943 as amended.² In the event that brokered funds are accepted after issuance of such order, it shall be the duty of said bank to state in the contract of repayment that in the event of liquidation of the issuing bank, the owner

and holder of such contract of repayment shall be considered and treated as a common creditor and not as a depositor of the bank, and a cash reserve of ten percent (10%) of the total outstanding brokered funds shall be maintained against such funds, in the same manner as cash reserves are maintained against demand deposits and time deposits.

Provided further, that the Commissioner may exercise any or all of the powers above provided, which shall be cumulative of any other powers and remedies provided elsewhere in this Code.

[Acts 1971, 62nd Leg., p. 2875, ch. 947, § 1, eff. Aug. 30, 1971.]

¹ Article 342-301(h).

² Article 342-301(a).

Sections 3 and 4 of the 1971 act provided:

"Sec. 3. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 4. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-703. Deposits—Discharge from Liability on Public Funds

Any bank or depository with whom there may be deposited funds of the State or of any county, city, school district, improvement district or any other municipal subdivision or district or public agency, upon the payment of any warrant, check or draft drawn by the qualified public official or officials authorized to make withdrawals of such funds or any part thereof, shall be fully discharged of any further liability on account of the deposit covered by such withdrawals.

[Acts 1949, 51st Leg., p. 832, ch. 450, § 1; Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-704. Deposits—Discontinuance or Reduction of Interest

Any bank heretofore or hereafter contracting to pay interest on any deposit or investment certificate without a definite maturity date may reduce the rate of, or discontinue its liability for, interest by posting prior notice thereof for at least thirty (30) days in the lobby of its banking house. This article shall not affect any contractual provision relative to the reduction of the rate of, or the discontinuing of liability for, interest.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 8; Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-705. Adverse Claims to Deposits—Disclosure as to Amount Deposited

No bank shall be required to recognize the claim of any third party to any deposit, or withhold payment of any deposit to the depositor or to his order, unless and until the bank is served with citation or other appropriate process issuing out of a court of competent jurisdiction in connection with a suit instituted by such third party for the purpose of recovering

or establishing an interest in such deposit; neither shall any bank be required to disclose the amount deposited by any depositor to third parties except where (i) the depositor or owner of such deposit is a proper or necessary party to a proceeding in a court of competent jurisdiction in which event the records pertaining to the deposit of such depositor or owner shall be subject to disclosure or (ii) the bank itself is a proper or necessary party to a proceeding in a court of competent jurisdiction or (iii) in response to a subpoena issued by a legislative investigating committee of the Legislature of Texas, or (iv) in response to a request for examination of its records by the Attorney General of Texas pursuant to Article 1302-5.01 et seq. of the Texas Miscellaneous Corporation Laws Act.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 9; Acts 1963, 58th Leg., p. 1135, ch. 440, § 1, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 2875, ch. 947, § 2, eff. Aug. 30, 1971.]

Art. 342-706. Joint Deposits—Minors, Married Women—Trustees

A bank may pay a present or future deposit, payable to or on the order of (a) any one of two or more persons, or (b) a minor, married woman, or other person under disability, or in form payable to or on the order of one person, for the benefit of or in trust for another, without the terms of the trust being disclosed to the bank in writing, to any one of such joint depositors (before or after the death of the other joint depositor or depositors), or to such minor, married woman, or other person under disability, or, on the death or disability of the trustee, to the beneficiary of such trust.

[Acts 1943, 48th Leg., p. 154, ch. 97, subch. VII, art. 10; Acts 1971, 62nd Leg., p. 2876, ch. 947, § 2, eff. Aug. 30, 1971.]

CHAPTER EIGHT. LIQUIDATION

Article

- 342-801. Exclusive Methods of Liquidation.
- 342-801a. Supervision of Banks—Conservatorship Proceedings—Review—Procedure.
- 342-802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited.
- 342-803. Closing State Banks—By Commissioner—By Directors.
- 342-804. Posting of Notice—Creation of Liens, Transfers and Payment after Closing.
- 342-805. Contest of Liquidation.
- 342-806. Inventory of Assets—Custodia Legis—Jurisdiction.
- 342-807. Resumption of Business—Reorganization.
- 342-808. Notice to Depositors and Creditors.
- 342-809. Presentation of Claim.
- 342-810. Approval—Classification and Rejection.
- 342-811. Appeal by Claimant.
- 342-812. Powers of Commissioner—Sale of Assets—Compromises and Agreements.
- 342-813. Expenses of Administration.
- 342-814. Dividends—Delayed Claims.
- 342-815. Final Dividend—Report—Disposition of Assets—Discharge.
- 342-816. Deposit of Funds by Commissioner in Banks—Preferred Payment.

Art. 342-801. Exclusive Methods of Liquidation

The methods of liquidation of state banks as provided for in this Code shall be exclusive and no state bank shall make an assignment for the benefit of creditors, nor shall any court appoint a receiver for any state bank. Provided, however, nothing in this article shall prohibit the liquidation of a state bank by The Federal Deposit Insurance Corporation as provided in Article 489b, Acts 1935, Forty-fourth Legislature of Texas, Page 459, Chapter 183.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 1.]

Art. 342-801a. Supervision of Banks—Conservatorship Proceedings—Review—Procedure

Definition of Terms

Sec. 1. As used in this article, the following words, terms and phrases include the meanings, significance or application described in this section, except as another meaning is clearly requisite from the purposes or is otherwise clearly indicated by the context:

(a) In respect of a bank, "unsafe condition" shall mean and include, and the conditions to which this article is applicable include, but are not limited to, any one or more of the following circumstances or conditions.

(1) if a bank's capital is impaired, or impairment of capital is threatened, or

(2) if a bank violates the provisions of this code or any other law or regulation applicable to State banks, or

(3) if a bank conducts any fraudulent or questionable practice in the conduct of the bank's business that endangers the bank's reputation or threatens its solvency, or

(4) if a bank conducts business in an unsafe or unauthorized manner, or

(5) if a bank violates any conditions of its charter or any agreement entered with the Banking Commissioner or the Banking Department.

(b) "Exceeded its Powers" shall mean and include, but is not limited to, the following circumstances:

(1) if a bank has refused to permit examination of its books, papers, accounts, records, or affairs by the Banking Commissioner of Texas, his deputy, or duly commissioned examiners, or

(2) if a bank has neglected or refused to observe an order of the Commissioner to make good, within the time prescribed, any impairment of its capital.

(c) "Consent" includes and means a written agreement by the bank to either supervision or conservatorship under this article.

Conditions for Supervision by Commissioner

Sec. 2. If upon examination or at any other time it appears to or is the opinion of the Banking Commissioner that any bank is in an unsafe condition (as defined herein) and its condition is such as to render the continuance of its business hazardous to the public or to its depositors and creditors, or if such bank appears to have exceeded its powers (as defined herein) or has failed to comply with the law, or if such bank gives its consent (as defined herein), then the Banking Commissioner shall upon his determination (a) notify the bank of his determination, and (b) furnish to the bank a written list of the Commissioner's requirements to abate his determination, and (c) if the Commissioner makes a further determination to supervise he shall notify the bank that it is under the supervision of the Banking Commissioner and that the Commissioner is invoking the provisions of this article. If placed under supervision such bank shall comply with the lawful requirements of the Banking Commissioner within such time as provided in the notice of the Commissioner, subject however to the provisions of this article. In the event of such bank's failure to comply within such time the Banking Commissioner may appoint a conservator as hereafter provided.

Prohibited Acts During Period of Supervision

Sec. 3. During the period of supervision the Commissioner may appoint a supervisor to supervise such bank and may provide that the bank may not do any of the following things during the period of supervision, without the prior approval of the Commissioner or his supervisor:

- (1) Dispose of, convey or encumber any of its assets;
- (2) Withdraw any of its bank accounts;
- (3) Lend any of its funds;
- (4) Invest any of its funds;
- (5) Transfer any of its property; or
- (6) Incur any debt, obligation or liability.

Conservatorship Proceedings

Sec. 4. After the period of supervision specified by the Commissioner for compliance, if it is determined that such bank has failed to comply with the lawful requirements of the Commissioner, then upon due notice and hearing, or by consent of the bank, the Commissioner may appoint a conservator, who shall immediately take charge of such bank and all of the property, books, records, and effects thereof. The conservator shall conduct the business of the bank and take such steps toward the removal of the causes and conditions which have necessitated such order, as the Commissioner may direct. During the pendency of conservatorship the conservator shall make such reports to the Commissioner from time to time as may be required by the Commissioner, and shall be empowered to take all necessary measures to preserve, protect, and recover any assets or property of such bank, including claims or causes

of action belonging to or which may be asserted by such bank, and to deal with the same in his own name as conservator, and shall be empowered to file, prosecute, and defend any suit or suits which have been filed or which may thereafter be filed by or against such bank which are deemed by the conservator to be necessary to protect all of the interested parties or any property affected thereby. The Banking Commissioner, or any duly appointed deputy, may be appointed to serve as the conservator. If the Banking Commissioner, however, is satisfied that such bank is not in condition to continue business in the interest of its depositors or creditors, under the conservator as above provided, the Banking Commissioner may proceed with an appropriate remedy provided by any other provision of this Code.

Supervisor's and Conservator's Service Charge

Sec. 5. The cost incident to the supervisor's and conservator's service shall be fixed and determined by the Banking Commissioner and shall be a charge against the assets and funds of the bank to be allowed and paid as the Banking Commissioner may determine.

Review and Stay of Action

Sec. 6. During the period of supervision and during the period of conservatorship, the bank may request the Banking Commissioner or in his absence, the duly appointed deputy for such purpose, to review an action taken or proposed to be taken by the supervisor or conservator, specifying wherein the action complained of is believed not to be in the best interests of the bank, and such request shall stay the action specified pending review of such action by the Commissioner or his duly appointed deputy. Any order entered by the Commissioner appointing a supervisor and providing that the bank shall not do certain acts as provided in Section 3 and Section 4 of this article, any order entered by the Commissioner appointing a conservator, and any order by the Commissioner following the review of an action of the supervisor or conservator as hereinabove provided shall be immediately reviewed by the Banking Section of the Finance Commission upon the filing of an appeal by the bank. The Banking Section of the Finance Commission may stay the effectiveness of any order appealed from, pending its review of such order. Such appeal shall have precedence over all other business of a different nature pending before the Banking Section of the Finance Commission; and all matters and evidence pertaining to the bank's condition and the subject appeal shall be presented to the Banking Section of the Finance Commission in a closed hearing. Upon hearing the Banking Section shall promptly render a decision which may affirm or terminate the order appealed from, modify the order, continue or discontinue such supervision, conservatorship or other order in connection therewith, or enter such other order as is appropriate and consistent with this article. The Banking Section of the Finance Commission shall make such other rules

and regulations with regard to such appeals and their consideration as it deems advisable. Any bank dissatisfied with any order rendered by the Banking Section of the Finance Commission under this article shall have the right to appeal to the district court in the manner prescribed elsewhere in this Code, which order shall be considered final for the purpose of such appeal.

Venue

Sec. 7. Any suit filed against a bank or its conservator, after the entrance of an order by the Banking Commissioner placing such bank in conservatorship and while such order is in effect, shall be brought in a court of competent jurisdiction in Travis County, Texas, and not elsewhere. The conservator appointed hereunder for such bank may file suit in any court of competent jurisdiction in Travis County, Texas, against any person for the purpose of preserving, protecting, or recovering any assets or property of such bank including claims or causes of action belonging to or which may be asserted by such bank.

Duration of Conservatorship

Sec. 8. As respects a conservatorship, the conservator shall serve for such time as is necessary to accomplish the purposes of the conservatorship as intended by this Act. If rehabilitated, the rehabilitated bank shall be returned to management or new management under such conditions as are reasonable and necessary to prevent recurrence of the conditions which occasioned the conservatorship.

Administrative Election of Remedies

Sec. 9. If the Commissioner determines to act under authority of this article, or is directed by the Banking Section of the Finance Commission to act under this article, the sequence of his acts and proceedings shall be as set forth herein. However, it is a purpose and substance of this article to authorize administrative discretion—to allow Commissioner and the Banking Section of the Finance Commission administrative discretion in the event of unsound banking operations—and in furtherance of that purpose, the Commissioner is hereby authorized to proceed with regulation either under this article or under any other applicable article or law, or under this law in conjunction with other law, either as such law is now existing or as is hereafter enacted, and it is so provided.

Rules and Regulations

Sec. 10. The Banking Section of the Finance Commission shall be empowered to adopt and promulgate such reasonable rules and regulations as may be necessary for the augmentation and accomplishment of this Act, including its purposes.

[Acts 1971, 62nd Leg., p. 2877, ch. 948, § 1, eff. June 15, 1971.]

Sections 3 and 4 of the 1971 act provided:

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only.

"Sec. 4. If any provision, section, sentence, clause or part of this Act or the application thereof to any person

or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

Art. 342-802. Voluntary Liquidation of Solvent State Bank—Cancellation of Charter—Resumption of Business Prohibited

A solvent state bank may be closed and liquidated upon the written consent or vote of the owners of record of two thirds of its capital, which consent, or the resolution adopted by the stockholders, shall specify the date when such bank is to be closed and shall designate one or more individuals to act as the liquidating agent, who shall conduct the liquidation under the supervision of the board of directors, after giving suitable bond as prescribed by said board and approved by the Commissioner. Prior to the closing of such state bank, the directors shall file with the Commissioner a transcript of the proceedings authorizing the closing of the bank. Notice to its depositors and creditors to present their claims shall be published once a week for thirteen (13) weeks, beginning within ten (10) days after the closing of the bank, in a newspaper of general circulation published in the county of the bank's domicile, or if no such newspaper is published in said county, in an adjacent county. Upon presentment of lawful claims, the bank shall pay its depositors and creditors, provided that such payment may be effected through a disbursing agent as authorized under Article 10 of Chapter 3 of this Code.¹ The liquidating agent shall make a written report to the stockholders at each annual meeting, a copy of which, signed and sworn to by the liquidating agent, shall be filed with the Commissioner. The stockholders at any regular or special meeting may remove the liquidating agent and name a successor. The Commissioner may from time to time examine the liquidating bank and may, if the depositors and creditors are not paid upon presentment of their lawful claims, or if, prior to the payment of all depositors and creditors, he finds any condition which would authorize the closing of the bank were it not in voluntary liquidation, take possession of the assets and liquidate the same in the manner herein provided for the liquidation of insolvent state banks.

Upon the expiration of six (6) months from the first publication of notice as above provided, the bank shall file with the Commissioner an affidavit sworn to by a majority of the qualified directors stating that all depositors and creditors who have presented their claims have been paid the amounts due them, and listing those depositors and creditors who have not presented their claims, giving their addresses as shown by the books of the bank and the amounts respectively due each. Such affidavit shall be accompanied by a publisher's certificate showing publication of notice as above provided, and by a sum equal to the aggregate amount due the non-claiming depositors and creditors. The Commissioner shall hold

such money for the benefit of said depositors and creditors in the manner provided in Article 15 of this Chapter.²

At any time after the filing of such affidavit, the board of directors may distribute the remaining assets among the shareholders in proportion to their ownership of stock of the bank and shall thereafter file with the Commissioner an affidavit sworn to by a majority of the qualified directors showing such distribution. The filing of such affidavit and the approval thereof by the Commissioner shall have the effect of cancelling the charter of the bank without the necessity of any judicial action.

No state bank which has been closed pursuant to the provisions of this article shall resume business or reopen without the prior written consent of the Commissioner.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 2.]

¹ Article 342-310.

² Article 342-815.

Art. 342-803. Closing State Banks—By Commissioner—By Directors

Whenever the Commissioner, through examination, finds that the interests of depositors and creditors of a state bank are seriously jeopardized through its insolvency or imminent insolvency and that it is to the best interest of such depositors and creditors that the bank be closed and its assets liquidated, he may close and liquidate the bank, unless its board of directors close the bank and place it in his hands for liquidation. Further, if the Commissioner, through examination, finds that the capital of a state bank is seriously impaired, or that it is conducting its affairs in an unsafe, unauthorized or unlawful manner, or that it refuses to submit to examination, or is hindering examination, he shall call together the directors of such bank and lay before them the facts and require such bank to make good the matter or matters complained of. If the board of directors of such bank fails or refuses to file with the Commissioner, within ten (10) days from the date of the Commissioner's official notice, satisfactory evidence that the matter or matters complained of have been cured to the satisfaction of the Commissioner, then in such event the Commissioner shall certify such facts to the State Banking Board, whereupon the State Banking Board shall notify such directors of a hearing to be held in Austin, Texas, not less than five (5) nor more than ten (10) days from the date such notice is mailed. Said directors may appear at such hearing and be heard and after said hearing said State Banking Board may order such bank closed and its affairs liquidated as provided in this Code, or said State Banking Board may enter such other order as said State Banking Board may deem appropriate.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 3.]

Art. 342-804. Posting of Notice—Creation of Liens, Transfers and Payment after Closing

Immediately after the closing of any state bank by its directors or by the Commissioner under the provisions of Article 3 of this chapter,¹ the Commissioner shall place an appropriate sign to that effect at the main entrance of the bank, and thereafter no judgment lien, attachment lien or other voluntary lien shall attach to any asset of said bank, nor shall the directors, officers or agents of such bank thereafter have authority to act for or on behalf of said bank or to convey, transfer, assign, pledge, mortgage or encumber any asset thereof, and any attempt by any officer, director or agent to transfer, assign, convey, mortgage or pledge any asset of the bank or to create any lien thereon or in any manner to prefer any depositor or creditor of the bank after the posting of such notice or in contemplation thereof shall be void. The Commissioner immediately after posting the notice at the entrance of such bank shall advise its correspondent banks of its closing. No correspondent shall pay any item drawn on the account of the closed bank which is presented for payment after the receipt of such advice, unless the same has been previously certified.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 4.]

¹ Article 342-803.

Art. 342-805. Contest of Liquidation

At any time within five (5) days after the Commissioner has closed any state bank under the provisions of Article 3 of this chapter,¹ such bank, acting through its directors, may sue in the district court of the bank's domicile to enjoin the Commissioner from liquidating such bank, and the court, or the judge thereof if in vacation, may, without notice or hearing, restrain the Commissioner from liquidating the assets of such bank pending hearing on the merits, and shall, in that event instruct the Commissioner to hold the assets of such bank in his possession pending final disposition of such suit. The Commissioner shall thereupon refrain from liquidating such assets, provided, however, the Commissioner may, with the approval of the district judge, take such action as may be necessary or proper to prevent loss or depreciation in the value of the assets. The court shall, as soon as possible, hear the suit upon its merits and shall enter a judgment (1) enjoining the Commissioner from liquidating the assets of such bank, or (2) refusing such injunction. Appeal shall lie from such judgment as in other civil cases, but the Commissioner, irrespective of the character of judgment entered by the trial court or any supersedeas bond filed, shall retain possession of the assets of such bank pending final disposition on appeal.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 5.]

¹ Article 342-803.

Art. 342-806. Inventory of Assets—Custodia Legis—Jurisdiction

Promptly after the Commissioner has acquired possession of the assets of a state bank for liquidation, he shall prepare and file in the office of the district clerk of the county of the bank's domicile an inventory of such assets, and the clerk shall assign a cause number to the proceedings so instituted. The assets of the bank shall be deemed to be in the custody of the court in which such proceedings are pending and all suits and orders provided for under this chapter¹ shall be deemed to be in the nature of interventions or orders in said proceedings, of which suits and orders said court shall have exclusive jurisdiction. Provided, however, that during vacation of such court, the judge thereof shall be authorized to enter any of such orders and to conduct any hearing incident thereto.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 6.]

¹ Article 342-801 et seq.

Art. 342-807. Resumption of Business—Reorganization

No state bank which has been closed under the provisions of Article 3 of this Chapter¹ shall be reopened unless the contest provided for under Article 5 of this chapter² is finally determined adversely to the Commissioner, or unless the Commissioner, acting under order of the district court, shall authorize such reopening by a certificate under the seal of his office. The Commissioner may in such certificate place such limitations upon the right of withdrawal by, or payment of, depositors and creditors of such bank as he may deem necessary to the protection of the depositors and creditors as a whole. Provided, however, that such limitation shall be applicable alike to all unsecured depositors and creditors and shall not defer their right of full withdrawal or payment for more than eighteen (18) months from the date of the reopening of such bank, nor defer any secured depositor or creditor to any extent without his written consent.

The limitations upon the right of withdrawal or payment set out in the certificate of the Commissioner shall when the bank is reopened be binding upon all unsecured depositors and creditors and all secured depositors and creditors who have assented thereto in writing. The State of Texas, or any county, city, common or independent school district or any other political subdivision of this State, as depositor or creditor, may by the proper administrative official or officials, board, or tribunal agree to such limitations, if, in his or their opinion such agreement is to the best interest of all concerned.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 7.]

¹ Article 342-803.

² Article 342-805.

Art. 342-808. Notice to Depositors and Creditors

Upon final determination that any state bank is to be liquidated by the Commissioner, he shall publish notice for the time and in the manner prescribed in Article 2 of this Chapter,¹ provided, however, that the Commissioner's notice shall require all depositors and creditors to file written proofs of claim with the Commissioner at his office in Austin, Texas, and the Commissioner shall within thirty (30) days after the first publication of such notice mail a similar notice to each depositor or creditor shown upon the books of the bank at his address as reflected thereby.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 8.]

¹ Article 342-802.

Art. 342-809. Presentation of Claim

Each depositor, creditor or other person asserting any claim of any character against a state bank in the process of liquidation by the Commissioner, shall within eighteen (18) months of the date of the first publication of notice, as provided for in the preceding article,¹ present his claim in writing to the Commissioner at his office in Austin, Texas. Such claims shall state the facts upon which the same are based; shall set out any right of priority of payment or other specific rights asserted by the claimant and shall be signed and sworn to by the claimant.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 9.]

¹ Article 342-808.

Art. 342-810. Approval—Classification and Rejection

Within three (3) months after receipt of any claim against a state bank which is in his hands for liquidation, the Commissioner shall, unless such time is extended by written agreement with the claimant, approve or reject such claim in whole or in part. If he approves such claim, or any part thereof, he shall classify the same and enter such claim and his action thereon in a claim register. If the Commissioner rejects any claim in whole or in part, or if he denies any right of priority of payment or any other right asserted by the claimant, he shall notify the claimant of his action by registered mail.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 10.]

Art. 342-811. Appeal by Claimant

Any claimant may, within three (3) months from the date of mailing of notice by the Commissioner as provided by the preceding Article,¹ sue upon such claim in the district court; otherwise the action of the Commissioner shall be final and not subject to review. The trial of such suit shall be de novo as if originally filed in said court and subject to the

rules of procedure and appeal applicable to civil cases.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 11.]

¹ Article 342-810.

Art. 342-812. Powers of Commissioner—Sale of Assets, Compromises and Agreements

Pursuant to the order of the district court, entered with or without hearing, the Commissioner may sell any of the assets of a state bank in his hands for liquidation; may borrow money and pledge the whole or any part of such assets of such bank to secure the debt created; may compromise or compound any bad or doubtful claim held by or asserted against such bank; and may enter into any other kind or character of contract or agreement on behalf of such bank which he deems necessary or proper to the management, conservation or liquidation of its assets and all parties interested in the affairs of such bank shall be bound and precluded by the action of the Commissioner. Provided that said court, if it deems it advantageous or proper, may require notice and hearing before entering any order, and in that event shall, by order, fix the time and place of the hearing and prescribe the character of notice to be given thereof. Further provided that said court, in its discretion, and subject to such limitations as it may prescribe, may by general order authorize the Commissioner (a) to compound or compromise any claim or debt involving not more than One Thousand Dollars (\$1,000) held by or asserted against the bank, and (b) to sell all chattels belonging to the bank.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 12.]

Art. 342-813. Expenses of Administration

The expense of liquidation of state banks shall be paid out of the assets thereof, subject to review and approval by order of the district court. The Commissioner is authorized to employ such special agents, attorneys and other assistants as may be necessary or proper to the administration of the affairs of such banks, and shall, if he deems it to be in the interest of economy and efficiency, establish a central office unit to assist in the supervision of the liquidation of said banks.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 13.]

Art. 342-814. Dividends—Delayed Claims

The Commissioner may from time to time in the course of the liquidation of a state bank, upon order of the district court, pay dividends to those depositors and creditors who have established their claims, provided that no final dividend shall be paid within eighteen (18) months of the date of the first publication of notice as prescribed in Article 8 of this Chapter.¹ All claims filed after the declaration and payment of any dividend and prior to the expiration of such eighteen (18) months shall, if approved, participate in dividends previously paid before any additional dividend is

declared. Claims which are not presented within said eighteen (18) months period shall not participate in any dividend or distribution of assets until after full payment of all approved claims presented during such period.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 14.]

¹ Article 342-808.

Art. 342-815. Final Dividend—Report—Disposition of Assets—Discharge

At any time after the expiration of eighteen (18) months from the first publication of notice as specified in Article 8 of this Chapter,¹ after the Commissioner has liquidated all of the assets of a bank capable of liquidation or has realized sufficient funds from such liquidation to pay the costs thereof, to pay all claims which have been filed and established, and leave funds available to provide for the payment of all non-claiming depositors and creditors, the Commissioner shall, acting under order of the district court, declare and pay a final dividend. The Commissioner shall deposit in one or more state banks all funds hereafter available for the benefit of non-claiming depositors and creditors. All unclaimed dividends and all funds hereafter available for non-claiming depositors and creditors, together with all funds held pursuant to the provisions of Article 540 of the Revised Civil Statutes of Texas,² (which latter funds shall be transmitted by the State Treasurer to the Commissioner, together with a list of the depositors and creditors for whose benefit the same is held), shall be deposited by the Commissioner in one or more State banks for the benefit of the depositors and creditors entitled thereto. The Commissioner shall pay any depositor or creditor, upon his demand, any amount so held for his benefit. In event the Commissioner is in doubt as to the identity of any claimant or his right to the funds thus held, he shall reject the claim and notify the claimant by registered mail. The claimant shall, within three (3) months after mailing of such notice by the Commissioner, institute suit against the Commissioner in the district court to recover such funds, which suit shall be in the nature of an action in rem governed by the rules of procedure and appeal applicable to civil cases and the judgment therein shall be binding upon all persons interested in such funds. If such suit is not filed within the time prescribed, the rejection of the Commissioner shall be final. After paying a final dividend as above provided and doing each and every act necessary or proper in connection with the liquidation of the assets of such bank for the benefit of the depositors and creditors, the Commissioner shall file in the district court his final report of such liquidation, and said court shall by order fix and designate a time and place when and where such report shall be heard, and direct the Commissioner to give such notice thereof as the court may deem proper. If said court, after such notice and hearing shall find that the affairs of said bank have been admin-

istered properly and in accordance with law it shall approve such report, and the order of approval shall have the force and effect of forfeiting and cancelling the corporate charter of such bank, vesting title to the remaining assets, if any, in the stockholders of said bank, and releasing and discharging the Commissioner from any further duty, obligation or liability in connection with the administration of the affairs of such bank, and thereafter no person shall have or maintain any claim, suit or action against the Commissioner individually or in his capacity as statutory liquidator of such bank other than suits to recover unclaimed deposits as above provided. The district court may, in such order, direct the Commissioner as to the disposition of the books, records and remaining assets, if any, of such bank and may designate a trustee to whom the Commissioner shall deliver physical possession of the same, and who, under the supervision of said court shall administer or liquidate such assets for the benefit of the former stockholders of such bank.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 15.]

¹ Article 342-808.

² Repealed.

Art. 342-816. Deposit of Funds by Commissioner in Banks—Preferred Payment

The Commissioner shall, except where otherwise provided by law, deposit all funds coming into his hands in one or more state banks, and such funds so deposited by the Commissioner pursuant to the provisions of law shall constitute preferred claims against the assets of such bank in event of liquidation.

[Acts 1943, 48th Leg., p. 158, ch. 97, subch. VIII, art. 816.]

CHAPTER NINE. GENERAL PROVISIONS

Article	
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Art. 342-901. State Instrumentality—Depository—Fiscal Agent

All state banks are hereby declared to be charged with the public interest and shall be under state control and be subject to such legislation as may be enacted for the regulation of such banking institutions. Such state banks shall be deemed instrumentalities and agencies of the state, and may, when lawfully designated thereto, act as depositories for the public funds of this State or any county, city, common or independent school district or any other political subdivision of this State, in accordance with the laws of this State governing depositories of public funds now or hereafter existing; and such state banks shall act as fiscal agents for the United States, the State of Texas, or any county, city, common or independent school district or any other political subdivision of this State on request and upon reasonable compensation.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 1.]

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

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

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

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

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

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

Any person, corporation, firm, partnership, association or common law trust violating any

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

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 2; Acts 1957, 55th Leg., p. 305, ch. 137.]

Art. 342-903. Branch Banking Prohibited

No State, national or private bank shall engage in business in more than one place, maintain any branch office, or cash checks or receive deposits except in its own banking house. For purposes of this article "banking house" means the building in whose offices the business of the bank is conducted and which is functionally one place of business, including (a) office facilities whose nearest wall is located within five hundred (500) feet of the nearest wall of the central building and is physically connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected office facility or by pneumatic tube or other similar carrier, and (b) in addition, in a county having a population of at least 350,000 according to the last preceding federal census, if authorized in the manner hereinafter provided, not more than one (1) automobile drive-in facility whose nearest boundary is located within one thousand eight hundred fifty (1,850) feet of the nearest wall of the central building but more than five hundred (500) feet therefrom and is connected to the central building by tunnel, passageway or hallway providing direct access between the central building and the connected automobile drive-in facility or by pneumatic tube or other similar carrier. The entire banking house shall for all purposes under the law be considered one integral banking house. The term "automobile drive-in facility" as herein used shall mean a facility offering banking services solely to persons who arrive at such facility in an automobile and remain therein during the transaction of business with the bank.

An automobile drive-in facility whose nearest boundary is located within one thousand eight hundred fifty (1,850) feet of the nearest wall of the central building but more than five hundred (500) feet therefrom shall be authorized only in the following manner: Written application for authority to operate the same shall be filed with the Commissioner by the bank proposing such facility, which application shall specify the location of the proposed facility. Promptly upon the filing of such written application the Commissioner shall, by registered United States mail, postage prepaid, notify each bank, if any, whose central building is situated within a one (1) mile radius of said

proposed facility, hereinafter called the "Interested Banks," of the filing of such application, transmitting with such notice a true copy of said application. If within thirty (30) days following the mailing of such notice no written protest to the operation of the said proposed facility has been filed with the Commissioner by an Interested Bank, or, if there are no Interested Banks, said proposed facility shall thereupon be fully authorized without the necessity of any further action by the applying bank or by the Commissioner. However, if a written protest to the operation of said proposed facility is filed with the Commissioner during said thirty (30) day period by one or more of the Interested Banks, said application shall be promptly considered by the State Banking Board at a public hearing duly called, noticed and held in the same manner as hearings to consider applications for the granting of bank charters, and authorization to operate said proposed facility shall be granted at such hearing unless the State Banking Board shall find that the operation thereof will substantially and adversely affect one or more of the Interested Banks, in which case authorization shall be denied. National banks and private banks doing business in this State shall voluntarily submit to the jurisdiction of the State Banking Board, and abide by the determination of the Board as to whether or not permission should be granted to establish and operate an additional drive-in facility authorized under this article, provided that any national bank which does not abide by the determination of the Board shall immediately forfeit all rights it may have under State law to act as reserve depository for any State chartered bank and to act as depository for the public funds of the State and any county, city, municipality, school district or any other political subdivision of the State, and such funds shall be immediately withdrawn by the depositor and shall not be deposited thereafter in said national bank unless and until the Commissioner certifies to the depositor that said national bank is conducting its business in compliance with the Board's determinations and orders. In addition the Attorney General shall seek an injunction against any violation of the Board's orders under this article by any national bank or private bank.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 3; Acts 1957, 55th Leg., p. 448, ch. 220, § 1; Acts 1959, 56th Leg., p. 213, ch. 123, § 1; Acts 1963, 58th Leg., p. 134, ch. 81, § 6, eff. Aug. 23, 1963; Acts 1971, 62nd Leg., p. 1352, ch. 358, § 1, eff. Aug. 30, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-904. State Banks—Federal Reserve Membership

Any state bank may become a member of the Federal Reserve System and take such action

as may be necessary or proper to effect and maintain such membership.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 4.]

Art. 342-905. Savings Department—Segregation of Assets—Discontinuance

Any state bank which has heretofore established a savings department shall maintain the segregation of assets of said department for ninety (90) days after the effective date of this Act,¹ and if any such bank shall be closed within said ninety (90) days, savings depositors shall be entitled to priority of payment out of the assets of that department as heretofore provided by law. After the expiration of said ninety (90) days, said assets shall no longer be segregated and if any state bank is closed subsequent to that time, the savings deposits shall not be entitled to any priority out of any asset of the bank, but shall participate in all assets on a parity with other depositors and creditors.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 5.]

¹ Effective 90 days after May 11, 1943, date of adjournment.

Art. 342-906. Safety Deposit Boxes—Access by Joint Lessees—Opening—Lien—Sale of Content

Any state, national or private bank may maintain safety deposit boxes and rent the same. In all such transactions the relationship of the bank and the renter shall, in the absence of a contract to the contrary, be that of lessor and lessee and landlord and tenant and the rights and liabilities of the bank shall be governed accordingly, and the lessee shall be deemed in law for all purposes to be in possession of the box and the content thereof. If a safety deposit box is held in the name of two (2) or more persons jointly, any one of such persons shall be entitled to access to such box and shall be permitted to remove the content thereof and the bank shall not be responsible for any damage arising by reason of such access or removal by one of said persons. If the box rental is delinquent for six (6) months, the bank after at least sixty (60) days' notice by mail addressed to the lessee at his address on the books of the bank, may, if the rent is not paid within the time specified in said notice, open the box in the presence of two (2) executive officers of the bank and a notary public and place the content of the box in a sealed envelope or container bearing the name of the lessee. The bank shall then hold the content of the box subject to a lien for its rental, the cost of opening the box and the damages in connection therewith. If such rental, cost and damages are not paid within two (2) years from the date of opening of such box, the bank may sell any part or all of the content at public auction in like manner and upon like notice as is prescribed for the sale of real property under deed of trust.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 6.]

Art. 342-907. Slander or Libel of Banks—Penalty

Any person who shall knowingly make, utter, circulate, or transmit to another or others, any statement untrue in fact, derogatory to the financial condition of any bank, banking house, banking company, trust company, in the State, with intent to injure any such financial institution; or who shall counsel, aid, procure, or induce another to originate, make, utter, transmit, or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Five Thousand Dollars (\$5,000) or confined in the State penitentiary not more than five (5) years, or both.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 7.]

Art. 342-908. Application of Code to National Banks—Discrimination Between State and National Banks

State and national banks are hereby declared to be within the same class under the Constitution and laws of this state. It is not the intention of the Legislature to discriminate between state banks, national banks, and private banks. To the extent that the State of Texas has power to legislate with reference to national banks, all laws of this state shall apply alike to state banks, private banks, and national banks domiciled in this state; and state banks and private banks shall be subject to only such taxes heretofore or hereafter imposed by the state, or any political subdivision thereof, as could lawfully be imposed upon such state banks or private banks were they operating as national banks.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 8; Acts 1963, 58th Leg., p. 134, ch. 81, § 7; Acts 1965, 59th Leg., p. 1527, ch. 666, § 1, eff. June 18, 1965.]

Art. 342-909. Severability of Provisions

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

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 9.]

Art. 342-910. Moratoriums—Emergency Closing of Banks or Bank Operations—Limitations on Liabilities During Emergencies

(a) The Commissioner, with the approval of a majority of the Finance Commission and the Governor of Texas, may proclaim a financial moratorium for and invoke a uniform limitation on withdrawal of deposits of every character from all banks within the State. Any bank refusing to comply with any written proclamation of the Commissioner, signed by a majority of the members of the Finance Commission and the Governor of Texas, shall forfeit its charter, if it is a State chartered bank; or forfeit its

right to continue to do business, if it is a private bank; or forfeit any and all rights it may have under State law, if it is a national bank, to act as reserve agent for any State chartered bank and to act as depository of any State, county, municipal or other public funds, and such funds shall be immediately withdrawn by the depositor on order of the Commissioner and shall not be deposited thereafter in said national bank without the written approval of the Commissioner.

(b) 1. Whenever the officers of a bank are of the opinion that an emergency exists, or is impending, which affects, or may affect, a bank's offices or particular bank operations, they shall have the authority, in the reasonable and proper exercise of their discretion, to determine not to conduct the particular bank operations or open the bank's offices on any business or banking day or, if having opened, to close such offices or suspend and close the particular bank operations during the continuation of such emergency, even if the Commissioner has not issued a proclamation of emergency. The office or operations so closed shall remain closed until such time as the officers determine that the emergency has ended, and for such further time thereafter as may reasonably be required to reopen; however, in no case shall such office or operations remain closed for more than 48 consecutive hours, excluding other legal holidays, without receiving the approval of the Commissioner. A bank closing an office or operations pursuant to the authority granted under this article shall give as prompt notice of its action as conditions will permit and by any means available, to the Commissioner.

2. Whenever the Commissioner is of the opinion that an emergency exists, or is impending, in this State or in any part or parts of this State, he may, by proclamation, authorize banks located in the affected area or areas to close any part or all of their offices or operations. In addition, if the Commissioner is of the opinion that an emergency exists, or is impending, which affects, or may affect, a particular bank or banks, or a particular bank operation, but not banks located in the area generally, he may authorize the particular bank or banks so affected, to close or to suspend and close a particular bank operation. The office or bank operation so closed shall remain closed until the Commissioner proclaims that the emergency has ended, or until such earlier time as the officers of the bank determine that the office or bank operation, theretofore closed because of the emergency, should reopen, and, in either event, for such further time thereafter as may reasonably be required to reopen.

3. "Emergency" means any condition or occurrence which may interfere physically with the conduct of normal business at the offices of a bank or of particular bank operations, or which poses an imminent or existing threat to the safety or security of persons or property, or both. Without limiting the generality of the

foregoing, an emergency may arise as a result of any one or more of the following: fire; flood; earthquake; hurricane; tornado; wind, rain, or snow storm; labor dispute and strike; power failure; transportation failure; interruption of communication facilities; shortage of fuel, housing, food, transportation or labor; robbery or burglary or attempted robbery or burglary; actual or threatened enemy attack; epidemic or other catastrophe; riot; civil commotion, and other acts of lawlessness or violence, actual or threatened.

4. Any day on which a bank, or any one or more of its operations, is closed during all or any part of its normal banking hours pursuant to the authorization granted under this article shall be, as to such bank or, if not all of its operations are closed, then as to any operations which are closed, a legal holiday for all purposes with respect to any banking business of any character. No liability, or loss of rights of any kind, on the part of any bank, or any director, officer, or employee thereof, shall accrue or result by virtue of any closing authorized by this article.

5. The provisions of this article shall be construed and applied as being in addition to, and not in substitution for or limitation of, any other provision in this Code or other law of this State or of the United States, authorizing the closing of a bank or excusing the delay by a bank in the performance of its duties and obligations because of emergencies or conditions beyond the bank's control, or otherwise.

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 10; Acts 1971, 62nd Leg., p. 881, ch. 113, § 1, eff. Aug. 30, 1971.]

Sections 2 and 3 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-910a. Legal Holidays for Banks Or Trust Companies—Alternative Legal Holidays for Banks or Trust Companies—Discrimination Prohibited

Sec. 1. Legal Holidays For Banks Or Trust Companies. Notwithstanding any existing provisions of law relative to negotiable or nonnegotiable instruments or commercial paper, but subject to the provisions of Section 2 of this article, only the following enumerated days are declared to be legal holidays for banking purposes on which each bank or trust company in Texas shall remain closed: Saturdays, Sundays, January 1, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second and fourth Mondays in October, the fourth Thursday in November, and December 25.

When the dates January 1, July 4 or December 25 fall on Saturday, then the Friday immediately preceding such Saturday shall also

be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed, and when such dates fall on Sunday, then the Monday next following such Sunday shall also be a legal holiday for banking purposes on which each bank or trust company in Texas shall remain closed.

All such legal holidays shall be neither business days nor banking days under the laws of this State or the United States, and any act authorized, required or permitted to be performed at or by any bank or trust company on such days may be performed on the next succeeding business day and no liability or loss of right of any kind shall result therefrom to any bank or trust company.

Sec. 2. Alternative Legal Holidays For Banks Or Trust Companies. Any bank or trust company may elect to designate days on which it may close for general banking purposes pursuant to the provisions of this section, instead of Section 1 of this article, provided that any bank or trust company which has elected to be governed by this section shall remain closed on the following enumerated days, which days are declared to be legal holidays for banking purposes: Sundays, January 1, the third Monday in February, the last Monday in May, July 4, the first Monday in September, the second and fourth Mondays in October, the fourth Thursday in November, and December 25. When the dates January 1, July 4 or December 25 fall on Saturday, then the Friday immediately preceding such Saturday may also, if the board of directors so elects, be a legal holiday for all banking purposes on which each bank and trust company so electing shall remain closed, and when such dates fall on Sunday, then the Monday next following each Sunday shall also be a mandatory legal holiday for banking purposes on which each bank or trust company which has elected to be governed by this section shall remain closed. Except as herein provided, any bank or trust company doing business in this state may, at its option, elect to be governed by this section and close for general banking purposes either on Saturday or on any other weekday of any week in the year and may elect to be closed on the preceding Friday when January 1, July 4 or December 25 fall on a Saturday, provided:

(a) such day is designated at least 15 days in advance by adoption of a resolution concurred in by a majority of the board of directors thereof (or, if an unincorporated bank or trust company, by its owner or a majority of its owners, if there be more than one owner); and

(b) notice of the day or days designated in such resolution is posted in a conspicuous place in such bank or trust company for at least 15 days in advance of the day or days designated; and

(c) a copy of such resolution certified by the president or cashier of such bank or trust company is filed with the office of

the commissioner of Banking Department of Texas.

The filing of such copy of resolution as aforesaid with the office of the commissioner of the Banking Department of Texas shall be deemed to be proof in all courts in this state that such bank or trust company has duly complied with the provisions of this section. Any such election to so close shall remain in effect until a subsequent resolution shall be adopted and notice thereof posted and a copy thereof filed in the manner above provided.

If any bank or trust company elects to close for general banking purposes on Saturday or any other weekday as herein provided, it may, at its option, remain open on such day for the purpose of performing limited banking services. Notice of election to perform limited banking services shall be contained in the resolution and notices, above provided, with respect to closing for general banking purposes. Limited banking services may include such of the ordinary and usual services provided by the bank as the board of directors may determine, except the following: making loans, renewing or extending loans, certifying checks, issuing cashier's checks, and providing access to safety deposit boxes or to property held in safekeeping by the bank.

Such day upon which such bank or trust company may elect to close for general banking purposes shall with respect to such institution be treated as a legal holiday for all purposes and not a business day; provided that if such bank shall elect to perform limited banking services on such day, the same shall not be deemed a legal holiday for the performance of limited banking services. Any bank or trust company which elects to close for general banking purposes on Saturday or any other weekday but which elects to perform limited banking services shall not be subjected to any liability or loss of rights for performing limited banking services or refusing to perform any other banking services on such day.

Sec. 3. Discrimination Prohibited. The provisions of Section 2 of this article shall be completely permissive with each individual bank or trust company in this State, and no bank, trust company, clearing house association, or group of banks or trust companies, shall discriminate against or refuse its services to any bank or trust company or enter into any agreement to discriminate against or refuse its services, either directly or indirectly, to any bank or trust company which may or may not elect to exercise any of the options contained in Section 2 of this article. The provisions of the Antitrust Laws of this State shall be applicable to the provisions of this article, and the Attorney General of Texas shall institute and prosecute any legal proceedings authorized by law to enforce the provisions of this article, including forfeiture of right to do business in Texas for violation of such provisions.

[Acts 1947, 50th Leg., p. 424, ch. 230, § 1; Acts 1955, 54th Leg., p. 19, ch. 16, § 1; Acts 1957, 55th Leg., p. 428, ch. 205, § 2; Acts 1967, 60th Leg., p. 1857, ch.

722, § 6, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 872, ch. 108, § 1, eff. Oct. 1, 1971; Acts 1973, 63rd Leg., p. 49, ch. 33, § 1, eff. April 12, 1973.]

Acts 1967, 60th Leg., p. 1853, ch. 722, § 7 provided: "Acts 1955, 54th Legislature, Chapter 16, page 16, as amended, codified as Article 4591d, Vernon's Texas Civil Statutes, is in its entirety and as amended by this Act, hereby transferred to and made a part of Chapter IX of the Texas Banking Code of 1943 and designated as Article 10a of said Chapter IX."

Sections 2 to 4 of the 1971 amendatory act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

"Sec. 4. This Act shall take effect at midnight on September 30, 1971."

Art. 342-911. Repealer of Conflicting Laws

The following statutes, together with all other laws or parts of laws in conflict herewith, are hereby repealed: * * *

[Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.]

Art. 342-911.1 Appeals from Orders of State Banking Board and Finance Commission

Any person, firm or corporation who is a party to, or is necessarily aggrieved by, any final order, ruling or judgment of the State Banking Board or the Banking Section of the Finance Commission shall have the right to appeal by filing a suit to set aside such order, ruling or judgment in the District Court of Travis County, Texas, within thirty (30) days following the date of rendition of such order, ruling or judgment. Provided, that in such cases the substantial evidence rule shall apply and govern the trial, as is the common practice in cases of appeal from administrative orders and as construed by the courts of this State. Pending final judgment of the court the order shall remain in effect, unless otherwise stayed or enjoined by the court upon proper application.

[Acts 1971, 62nd Leg., p. 2888, ch. 952, § 1, eff. June 15, 1971.]

Sections 2 and 3 of the 1971 act provided: "Sec. 2. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable."

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Art. 342-951. Mortgage Banking Institutions—Supervision by Commissioner

Sec. 1. Any Texas mortgage banking institution that has actually paid in capital of not less than \$25,000 and up to but not including \$100,000 and is qualified to lend money under the provisions of the Federal Housing Act is subject to inspection and supervision by the Banking Commissioner of Texas.

Sec. 2. On or before February 1 of each year, any mortgage banking institution that meets the requirements of Section 1 shall file with the Banking Commissioner of Texas a

statement of its condition as of the previous December 31. The statement of condition shall be filed in the form prescribed by the banking commissioner and shall be accompanied by a filing fee of \$25. The statement of condition is for the information of the banking commissioner and his employees only and its contents shall not be made public except in the course of some judicial proceeding of this state.

Sec. 3. The banking commissioner shall annually examine or cause to be examined the books and accounts of any mortgage banking institution which meets the requirements of Section 1. The institution being examined shall pay the actual expenses incident to the examination and a fee of not more than \$25 per day per person engaged in the examination. Such fees, together with all other fees, penalties and revenues collected by the banking department, shall be retained by the department and shall be expended only for the expenses of the department.

Sec. 4. If an institution subject to the provisions of this Act fails to comply with the provisions of Section 2, that institution is subject to a penalty of not less than \$100 nor more than \$1,000, which penalty shall be assessed and collected by the banking commissioner. If the banking commissioner assesses a penalty against a mortgage banking institution and that institution fails to pay the penalty within 30 days from the date it is notified of the assessment, the banking commissioner may request the attorney general to collect the penalty by suit.

Sec. 5. If an institution subject to the provisions of this Act refuses to submit to the examination by or withholds information from the banking commissioner or his representatives or has an impairment of a minimum of \$25,000 capitalization, the banking commissioner shall notify the institution of such failure. If such failure is not corrected within 30 days from the date of such notification such failure to comply with this Act shall constitute grounds for forfeiture of the institution's charter in an action filed by the attorney general upon the request of the Banking Commissioner of Texas.

[Acts 1969, 61st Leg., p. 701, ch. 241, eff. May 21, 1969.]

MISCELLANEOUS LAWS

Article
342 to 489. Repealed.

FEDERAL DEPOSIT INSURANCE

489a. Repealed.
489b. Federal Deposit Insurance.
489c. Executed.

SALE OF CHECKS ACT

489d. Sale of Checks Act.
490 to 548a. Repealed.

PREPAID FUNERAL SERVICES OR MERCHANDISE

548b. Sale of Prepaid Funeral Services or Funeral Merchandise.

PENAL PROVISIONS

Article

- 548c. Affidavit of Solvency.
 548d. Statement of Private Bank.
 548e. Advertisement of Responsibility.
 548f. Punishment.
 548g. Exceptions.

Arts. 342 to 489. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

FEDERAL DEPOSIT INSURANCE

Art. 489a. Repealed by Acts 1937, 45th Leg., p. 370, ch. 180, § 1

Art. 489b. Federal Deposit Insurance

Banking Institution Defined

Sec. 1. The term "banking institution," as used in this Act shall be construed to mean any bank, trust company, bank and trust company, stock savings bank or mutual savings bank, which is now or may hereafter be organized under the laws of this State.

Authority to Banking Institutions to Contract under Acts of Congress Safeguarding Banks

Sec. 2. Any banking institution now or hereafter organized under the laws of this State is hereby empowered, on the authority of its board of directors, or a majority thereof, by and with the consent and approval of the State Banking Commissioner, to enter into such contracts, incur such obligations and generally to do and perform any and all such acts and things whatsoever as may be necessary or appropriate in order to take advantage of any and all memberships, loans, subscriptions, contracts, grants, rights, or privileges, which may at any time be available or enure to banking institutions or to their depositors, creditors, stockholders, conservators, receivers or liquidators, by virtue of those provisions of Section 8 of the Federal "Banking Act of 1933" Sec. 12B of the Federal Reserve Act, as amended,¹ which establish the Federal Deposit Insurance Corporation and provide for the insurance of deposits, or of any other provisions of that or any other Act or Resolution of Congress to aid, regulate or safeguard banking institutions and their depositors, including any amendments of the same or any substitutions therefor; also, to subscribe for and acquire any stock, debentures, bonds or other types of securities of the Federal Deposit Insurance Corporation and to comply with the lawful regulations and requirements from time to time issued or made by such Corporation.

¹ 12 U.S.C.A. § 1811 et seq.

Federal Deposit Insurance Corporation as Receiver or Liquidator Without Bond

Sec. 3. The Federal Deposit Insurance Corporation created by Section eight of the Federal "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) is hereby authorized and empowered to be and act without bond as receiver or liquidator of any banking institution, the deposits in which are to any extent insured by said Corporation, and

which shall have been closed on account of inability to meet the demands of its depositors.

The appropriate State authority, having the right to appoint a receiver or liquidator of a banking institution, may in the event of such closing, tender to said Corporation the appointment as receiver or liquidator of such banking institution, and if the Corporation accepts said appointment, the Corporation shall have and possess all powers and privileges provided by the laws of this State with respect to a receiver or liquidator respectively of a banking institution, its depositors and other creditors, and be subject to all the duties of such receiver or liquidator, except in so far as such powers, privileges or duties are in conflict with the provisions of subsection (1) of Section 8 of said "Banking Act of 1933."

Subrogation of Federal Deposit Insurance Corporation to Rights Against Closed Institution

Sec. 4. Whenever any banking institution shall have been closed as aforesaid, and said Federal Deposit Insurance Corporation shall pay or make available for payment the insured deposit liabilities of such closed institution, the Corporation, whether or not it shall have become receiver or liquidator of such closed banking institution, as herein provided, shall be subrogated to all rights against such closed banking institution of the owners of such deposits in the same manner and to the same extent as subrogation of the Corporation is provided for in subsection (1) of Section 12B of the said Federal Reserve Act, as amended (being Section 8 of the said "Banking Act of 1933") in the case of the closing of a national bank: Provided, that the rights of depositors and other creditors of such closed institution shall be determined in accordance with the applicable provisions of the laws of this State.

Copies of Banking Commissioner's Examinations Furnished Federal Deposit Insurance Corporation

Sec. 5. The Banking Commissioner may furnish to said Corporation, or to any official or examiner thereof, a copy or copies of any or all examinations made of any such banking institutions and of any or all reports made by same, and shall give access to and disclose to said Corporation or any official or examiner thereof any and all information possessed by the office of said Banking Commissioner with reference to the conditions or affairs of any such insured institution.

Nothing in this Section shall be construed to limit the duty of any banking institution in this State, deposits in which are to any extent insured under the provisions of Section 8 of the "Banking Act of 1933" (Section 12B of the Federal Reserve Act, as amended) or of any amendment of or substitution for the same, to comply with the provisions of said Act, its amendments or substitutions, or the requirements of said Corporation relative to examinations and reports, nor to limit the powers of the Banking Commissioner with reference to examinations and reports under existing law.

Borrowing by Closed Institutions

Sec. 6. With respect to any banking institution, which is now or may hereafter be closed on account of inability to meet the demands of its depositors or by action of the Banking Commissioner or of a court or by action of its directors or in the event of its insolvency or suspension, the Banking Commissioner and/or the receiver or liquidator of such institution with the permission of said Banking Commissioner may borrow from said Corporation or any other source and furnish any part or all of the assets of said institution as security for a loan from same; provided, that where said Corporation is acting as such receiver or liquidator, the order of a court of record of competent jurisdiction shall be first obtained approving such loan. Such Banking Commissioner upon the order of a court of record of competent jurisdiction, and upon a like order and with the permission of said Banking Commissioner, the receiver or liquidator of any such institution may sell to said Corporation any part or all of the assets of such institution.

The provisions of this Section shall not be construed to limit the power of any banking institution, the Banking Commissioner, or receivers or liquidators to pledge or sell assets in accordance with any existing law.

Acceptance as Receiver as Vesting Title in Federal Deposit Insurance Corporation

Sec. 7. Upon the acceptance of the appointment of receiver or liquidator aforesaid by said Corporation, the possession of and title to all the assets, business and property of such banking institution of every kind and nature shall pass to and vest in said Corporation and without the execution of any instruments of conveyance, assignment, transfer or endorsement.

Sec. 8. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.

Partial Invalidity

Sec. 9. The validity of any provision or part of this Act shall not be dependent upon any other provision or part thereof. If any provision or part thereof should for any reason be held unconstitutional or invalid such decision shall not affect the validity of any of the remaining provisions or parts of this Act.

[Acts 1935, 44th Leg., p. 459, ch. 183; Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11.]

Art. 489c. Executed

The article was derived from Acts 1937, 45th Leg., p. 370, ch. 180, and provided for the liquidation of the Bank Deposit Insurance Company created by art. 489a, which was thereby repealed. It is omitted as executed. Provision for insurance of deposits through the Federal Deposit Insurance Corporation is made by art. 489b.

SALE OF CHECKS ACT

Art. 489d. Sale of Checks Act

Citation

Sec. 1. This Act may be cited as "The Sale of Checks Act."

Definitions

Sec. 2. For the purposes of this Act:

(a) "Person" means any individual, partnership, association, joint stock association, trust, or corporation, but does not include the United States Government or the government of this state.

(b) "Licensee" means a person duly licensed by the Commissioner pursuant to this Act.

(c) "Check" means any check, draft, money order, personal money order, or other instrument for the transmission or payment of money.

(d) "Personal money order" means any instrument for the transmission or payment of money in relation to which the purchaser or remitter appoints or purports to appoint the seller thereof as his agent for the receipt, transmission, or handling of money, whether such instrument be signed by the seller or by the purchaser or remitter or some other person.

(e) "Sell" means to sell, to issue, or to deliver a check.

(f) "Deliver" means to deliver a check to the first person who in payment for same makes or purports to make a remittance of or against the face amount thereof, whether or not the deliveror also charges a fee in addition to the face amount, and whether or not the deliveror signs the check.

(g) "Commissioner" means the Commissioner of the State Banking Department.

License Required

Sec. 3. No person, except those specified in Section 4 shall engage in the business of selling checks, as a service or for a fee or other consideration, without having first obtained a license hereunder. Any person engaged in said business on the effective date of this Act may continue to engage therein without a license until the Commissioner shall have acted upon his application for a license, provided that such application be filed within thirty (30) days after the effective date of this Act.

Exemption from Licensing

Sec. 4. No license to sell checks as aforesaid shall be required hereunder of any of the following:

(a) Banks, trust companies, building and loan associations, and savings and loan associations, whether organized under the laws of this state or of the United States; provided, however, that nothing herein shall be deemed to enlarge the powers of the foregoing persons;

(b) Incorporated telegraph companies insofar as they receive money at any of their respective offices or agencies for immediate transmission by telegraph; or

(c) Agents of a licensee, as provided in Section 11.

Qualifications

Sec. 5. To qualify for a license hereunder an applicant shall meet the following requirements:

(a) The applicant shall have a net worth of at least Ten Thousand Dollars (\$10,000), computed according to generally accepted accounting principles.

(b) The financial responsibility, financial condition, and business experience, and character and general fitness of the applicant shall be such as reasonably to warrant the belief that applicant's business will be conducted honestly, carefully and efficiently. To the extent deemed advisable by the Commissioner, the Commissioner may investigate and consider the qualifications of officers and directors of an applicant in determining whether this qualification has been met.

Applications

Sec. 6. Each application for such a license shall be made in writing and under oath to the Commissioner in such form as he may prescribe. The application shall state the full name and business address of:

(a) The proprietor, if the applicant is an individual;

(b) Every member, if the applicant is a partnership or association, except that if the applicant is a joint stock association having fifty (50) or more members, the name and business address need be given only of the association and each officer and director thereof;

(c) Every trustee and officer if the applicant is a trust; and

(d) The corporation and each officer and director thereof, if the applicant is a corporation.

Accompanying Fee, Statements and Bond.

Sec. 7. Each application for a license shall be accompanied by:

(a) An investigation fee of Fifty Dollars (\$50) which shall not be subject to refund but which, if the license be granted, shall constitute the license fee for the first license year or part thereof;

(b) Financial statements reasonably satisfactory to the Commissioner;

(c) A surety bond issued by a bonding company or insurance company authorized to do business in this state, in the principal sum of Twenty-five Thousand Dollars (\$25,000), and an additional principal sum of Five Thousand Dollars (\$5,000) for each location, in excess of one, at which the applicant proposes to sell checks in this state, but in no event shall the bond be required to be in excess of Two Hundred Fifty Thousand Dollars (\$250,000). If the bond accompanying the application be in a principal sum of less than Two Hundred Fifty Thousand Dollars (\$250,000), the application shall also be accom-

panied by a list of the locations at which the business is to be conducted. The bond shall be in form satisfactory to the Commissioner and shall run to the state for the benefit of any claimants against the applicant or his agents to secure the faithful performance of the obligations of the applicant and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks. The aggregate liability of the surety in no event shall exceed the principal sum of the bond. Such claimants against the applicant or his agents may themselves bring suit directly on the bond, or the Attorney General may bring suit thereon in behalf of such claimants, either in one action or successive actions; or

(d) In lieu of such corporate surety bond or bonds, or of any portion of the principal thereof as required by this Section, the applicant may deposit with the Commissioner or with such banks or trust companies or national banks in this state as such applicant may designate and the Commissioner may approve interest-bearing stocks and bonds, notes, debentures or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district or instrumentality of this state, or guaranteed by this state, to an aggregate amount, based upon principal amount or market value, whichever is lower, of not less than the amount of the required corporate surety bond or portion thereof. The securities shall be deposited as aforesaid and held to secure the same obligations as would the surety bond, but the depositor shall be entitled to receive all interest and dividends thereon, shall have the right, with the approval of the Commissioner, to substitute other securities for those deposited, and shall be required so to do on written order of the Commissioner made for good cause shown.

(e) Notwithstanding the provisions of (c) above, when the Commissioner determines with respect to any applicant or licensee that a bond or equivalent deposit of less than the sums prescribed therein will be sufficient to fully secure the faithful performance of the obligations of the applicant or licensee and his agents with respect to the receipt, handling, transmission and payment of money in connection with the sale of checks, then he is authorized to reduce the bond or equivalent deposit required of such applicant or licensee to such sums as will be sufficient. In making such determination, the Commissioner may consider the maximum sums of checks sold or to be sold by the applicant or licensee and which are or can reasonably be expected to be outstanding at any one time and all other relevant facts. Nothing

herein shall be deemed to restrict or limit the authority of the Commissioner to require the filing of a new or supplemental bond or the deposit of new or additional securities as provided for in subsection (b) of Section 9.

Investigation; Granting of License

Sec. 8. Upon the filing of an application in due form, accompanied by the fee and documents mentioned in Section 7, the Commissioner shall investigate to ascertain whether the qualifications prescribed by Section 5 have been met. If he finds that such qualifications have been met, and if he approves the said documents and finds that said bond is in the prescribed amount, he shall issue to the applicant a license to engage in the business of selling checks in this state.

Maintenance of Bond or Securities

Sec. 9. After a license has been granted, the licensee shall maintain said bond or securities in the amount prescribed by Section 7, as follows:

(a) Each licensee who does not have on file or deposit a bond or securities, as aforesaid, in the undiminished principal sum of Two Hundred Fifty Thousand Dollars (\$250,000), shall file quarterly reports with the Commissioner setting forth the locations at which he sells checks in this state as of January 1, April 1, July 1, and October 1 in each year, the report for each such date being due on or before the 15th day thereafter. Within ten (10) days following the filing of such a report, the principal sum of the bond or securities shall be increased to reflect any increase in the number of locations, and may be decreased to reflect any decrease in the number of locations.

(b) If the Commissioner shall at any time reasonably determine that the bond or securities aforesaid are insecure, deficient in amount, or exhausted in whole or part, he may by written order require the filing of a new or supplemental bond or the deposit of new or additional securities in order to secure compliance with this Act, such order to be complied with within thirty (30) days following service thereof upon the licensee.

Annual License Fee

Sec. 10. Each licensee shall pay to the Commissioner annually on or before April 15 of each year a license fee of Fifty Dollars (\$50).

Agents and Sub-agents

Sec. 11. A licensee may conduct his business at one or more locations within this state, as follows:

(a) The business may be conducted through or by means of such agents and sub-agents as the licensee may from time to time designate or appoint.

(b) No license under this Act shall be required of any agent or sub-agent of a licensee except as provided in the following subsection.

(c) An agent or sub-agent, other than a person referred to in subsections (a) and (b) of Section 4, who sells the licensee's checks over-the-counter to the public shall not be exempt from licensing under this Act if such agent or sub-agent in the regular conduct of such business receives or at any time has access to (1) the licensee's checks which, having been paid, are returned through banking channels or otherwise for verification or for reconciliation or accounting with respect thereto or (2) bank statements relating to checks so returned. This subsection shall not affect the exemption of any agent of a licensee who does not sell checks over-the-counter to the public.

Liability of Licensees

Sec. 12. Each licensee shall be liable for the payment of all checks which he sells, in whatever form and whether directly or through an agent, as the maker or drawer thereof according to the negotiable instrument laws of this state; and a licensee who sells a check, whether directly or through an agent, upon which he is not designated as maker or drawer shall nevertheless have the same liabilities with respect thereto as if he had signed same as the drawer thereof.

Disclosure of Responsibility

Sec. 13. Every check sold by a licensee, directly or through an agent, shall bear the name of the licensee clearly imprinted thereon.

Revocation of License; Investigations

Sec. 14. The Commissioner may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of this Act. In furtherance of the foregoing, the Commissioner, if he has reasonable cause to believe that the grounds for revocation exist, may investigate the business, books and records of the licensee.

Hearings

Sec. 15. No license shall be denied or revoked except after a hearing thereon. The Commissioner shall give the applicant or licensee at least twenty (20) days written notice of the time and place of such hearing by registered or certified mail addressed to the principal place of business of such applicant or licensee. Any order of the Commissioner denying or revoking such license shall state the grounds upon which it is based and shall not be effective until twenty (20) days after written notice thereof has been sent by registered or certified mail to the applicant or licensee at such principal place of business.

Penalties

Sec. 16. Any person who directly or through another violates or attempts to violate any provision of this Act shall be guilty of a

misdemeanor, and shall be fined not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500) or imprisoned in the county jail for not more than ninety (90) days, or both. Each transaction in violation of this Act and each day that a violation continues shall be a separate offense.

Severability

Sec. 17. Should any provision, sentence, clause, Section or part of this Act for any reason be held unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, Sections or parts of this Act. It is hereby declared to be the intention of this Legislature that this Act would have been adopted had such unconstitutional, illegal or invalid sentence, clause, Section or part thereof not been included herein.

[Acts 1963, 58th Leg., p. 523, ch. 196.]

Arts. 490 to 548a. Repealed by Acts 1943, 48th Leg., p. 164, ch. 97, subch. IX, art. 11

PREPAID FUNERAL SERVICES OR MERCHANDISE

Art. 548b. Sale of Prepaid Funeral Services or Funeral Merchandise

Permit from State Banking Department Authorizing Transaction of Business

Sec. 1. Any individual, firm, partnership, corporation, or association (hereinafter called "organization" or "seller") desiring to sell prearranged or prepaid funeral services or funeral merchandise (including caskets, grave vaults, and all other articles of merchandise incidental to a funeral service, but excluding grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums), or accepting funds for such services or merchandise, in this state, under any contract, expressed or implied, providing for prepaid burial or funeral benefits or merchandise (hereinafter called "prepaid funeral benefits"), or who shall solicit the designations by an individual of the items of funeral merchandise or services which he desires to be provided out of any fund, investment, security, or contract to be created or purchased by such individual at the suggestion or solicitation of the organization shall obtain a permit from the State Banking Department (hereinafter called Department) of this state authorizing the transaction of this type of business, before conducting such business. Seller shall not be entitled to enforce a contract made in violation of this Act, but the purchaser or his heirs, or legal representative, shall be entitled to recover all amounts paid to the seller under any contract made in violation thereof, and all amounts paid whether or not paid seller, to any fund or for any investment, security, or contract where the seller has violated the provisions of this Act. Delivery of funeral merchandise prior to death shall not constitute performance or fulfillment, either wholly or in part, of any prepaid funeral benefits contract

entered into after the effective date of this amendatory Act.

Provided, however, that grave lots, grave spaces, grave markers, monuments, tombstones, crypts, niches, and mausoleums shall not be excluded from the provisions of this Section when these items and articles are sold in contemplation of trade or barter for services and articles designated as included by the provisions of this Section.

Solicitation of Designation of Funeral Services or Merchandise Without Approval of Fund, Investment, Security or Contract

Sec. 1a. No organization covered by this Act shall solicit by any means whatsoever the designation by an individual of funeral services or merchandise which he desires to be provided to be paid out of any fund, investment, security, or contract, to be created or purchased by or for such an individual at the suggestion or solicitation of the organization, unless such a fund is to be created by a contract of insurance with an insurance company licensed in Texas, or unless such fund, investment, security, or contract shall have been approved by the Department as safeguarding the rights and interests of the individual, his heirs and assigns, to substantially the same or greater degree as is provided with respect to funds regulated by Section 5 hereof. Provided, however, that the Department may require evidence of payment of premiums on any contract of insurance used to create a fund to guarantee prepaid funeral benefits. Any seller failing to provide such evidence to the Department after being so requested by written notice shall be subject to cancellation of its permit under the provisions of Section 4 of this Act.

Administration of Act by Banking Department;
Rules and Regulations; Contracts

Sec. 2. This law shall be administered by the State Banking Department. The Department is authorized to prescribe reasonable rules and regulations concerning the keeping and inspection of records, the filing of contracts and reports, and all other matters incidental to the orderly administration of this law; and the Department may approve forms for sales contracts for prepaid funeral benefits. All such contracts must be in writing and no contract form shall be used without prior approval of the Department. All such contracts shall state the name of the funeral home or other organization primarily responsible for providing the funeral services or merchandise specified in such contracts. In the event the seller is not the funeral home designated to provide the specified funeral services or merchandise, such contract shall not be valid unless the funeral home so designated is a party to the contract and therein agrees and obligates itself to provide such specified funeral services or merchandise. It is further provided, that all prearranged or prepaid funeral contracts shall set forth the particulars of the funeral merchandise, including a description and specifications of the material used in the

caskets or grave vaults to be furnished, and such contracts shall set forth the particulars of the professional services to be performed and the funeral home facilities to be provided.

Application for and Issuance of Permit; Filing Fees; Duration of Permit

Sec. 3. Each organization desiring to sell prepaid funeral benefits shall file an application for a permit with the Department and shall pay a filing fee of \$50. The Banking Commissioner may issue a permit upon receipt of the application and payment of the filing fee. Permits shall expire on March 1st each year, but may be renewed for a period of one year upon payment of a fee of \$40 on or before March 1st.

Cancellation of Permit; Refusal to Renew; Appeal

Sec. 4. The Department may cancel a permit or refuse to renew a permit for failure to comply with any provision of this Act or any valid rule or regulation which the Department has prescribed, after reasonable notice to the permittee and after a hearing if the permittee requests a hearing.

No organization shall be entitled to a new permit for a period of one year after cancellation or refusal by the Department to renew its permit, but shall thereafter be entitled to a new permit upon satisfactory proof of compliance with this law.

Any person aggrieved by the action of the Department may appeal therefrom to a District Court in Travis County, Texas.

Handling of Funds Paid or Collected Under Contract

Sec. 5. All sums heretofore or hereafter paid or collected on contracts for prepaid funeral benefits entered into prior to the effective date of this Act shall be handled in accordance with the manner in which they have heretofore been handled. All sums paid or collected on such contracts entered into after the effective date of this Act (with the exception of those paid where a contract of insurance is created or those approved by the Department, as both are provided for in Section 1a of this Act) shall be handled in the following manner:

(1) The funeral home (or other entity collecting said funds) may retain as its own money, for the purpose of covering its selling expenses, servicing costs, and general overhead, an amount not to exceed one-half of all funds so collected or paid until it has received for its use and benefit an amount not to exceed ten percent of the total amount agreed to be paid by the purchaser of said prepaid funeral benefits as such total amount is reflected in the contract. No charges or assessments, except premiums collected on an insurance policy guaranteeing the payments on a prepaid funeral contract or the unpaid balance thereof, shall be collected from the purchaser other than those included in the total amount of said contract.

(2) All amounts paid or collected, with the exception of those permitted to be re-

tained as set forth above, shall, within thirty days after such collection, be (a) deposited in a savings and loan association in this state, or (b) deposited in a state or national bank in this state, or (c) placed with the trust department in a state or national bank in this state to be invested by such trust department in accordance with the terms and provisions of the Texas Trust Act. Such deposits or trust accounts shall be carried in the name of the funeral home or other entity to whom the purchaser makes payment, but accounting records shall be maintained showing the amount deposited or invested with respect to any particular purchaser's contract.

(3) The date of death of the purchaser of such contract (or other individual who may be designated in the contract as the person for whose funeral such funds may be used) shall be the maturity date of the contract, and as soon as conveniently practicable after such maturity date and upon presentation of a certified copy of the death certificate of such person together with proper affidavits as may be required by the Department, such funds shall be released in fulfillment of the contract, and the funeral home (or other entity to the contract which has collected the funds) shall, if the amount so withdrawn does not equal one hundred percent of the total amount paid under such contract, make up the difference so that the amount available for funeral benefits shall equal one hundred percent of the total amount paid in under such contract. Any amounts accumulated at maturity on any particular contract in excess of one hundred percent of the amount paid in on such contract shall be available to the funeral home (or other entity collecting said funds) in making up the difference on any particular contract which at maturity did not have funds available equal to one hundred percent of the amount paid under such contract.

The seller may withdraw at any time funds out of accrued interest or income of the deposit accounts or trust accounts for the purpose of paying reasonable and necessary charges made by a savings and loan association, or bank, or trust department of a bank, and trustee's fees made by a savings and loan association, or bank, or trust department of a bank, with respect to such accounts, or for the purpose of paying any taxes caused or created by reason of the existence of such deposit accounts or trust accounts.

Upon the maturity date of a contract as above provided and only after the funeral home has fully performed its obligations under said contract with the purchaser, or at the time of cancellation prior to maturity as provided in Subsection (4) herein, the seller may additionally withdraw from said deposit account (whether a trust or other

funded account) any enhanced value, accrued interest, or accrued income of said contract. Such withdrawal shall be the proportionate part of the total enhanced value, accrued interest or accrued income, that the amount deposited under said contract bears to the total amount deposited from all unmatured contracts.

(4) In the event a purchaser under a contract should desire to cancel the contract prior to maturity, such cancellation may be accomplished by the purchaser giving fifteen days notice in writing to the Department and to the seller of the contract, and thereafter, upon written authorization from the Department, such purchaser may withdraw the funds in such depository being held for his use and benefit; provided, however, such purchaser shall be entitled to withdraw and receive only the actual amounts paid in by him less the amounts permitted to be retained as provided in Subsection (1) hereof. Purchaser may make no partial cancellations or withdrawals.

**Agents Responsible for Funds Collected; Designation;
Violation a Misdemeanor**

Sec. 6. Each organization subject to this Act shall designate an agent or agents, either by names of the individuals or by titles of their offices or positions, who shall be responsible for deposit of funds collected under contracts for prepaid funeral benefits. The organization shall notify the Department of such designation within 10 days after it becomes subject to this Act, and shall also notify the Department of any change in such designation within 10 days after such change occurs. If any person acting on behalf of the seller collects any money under such a contract and fails to deliver it, within 30 days after collection, to a designated agent, or if any designated agent fails to deposit the money within 30 days after he receives it, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Annual Report

Sec. 7. The Department may require an annual report from any permit holder in such form as the Department may require. Any organization which has discontinued the sale of prepaid funeral benefits but which still has outstanding contracts shall not be required to obtain a renewal of its permit, but the Department may require annual reports of said organization until all such contracts have been fully discharged. If any officer of any organization fails or refuses to file an annual report or to cause it to be filed within 30 days after he has been notified of the requirement by the Department, he shall be guilty of a misdemeanor and a violation of this Act and shall be punished by those means prescribed in Section 9 of this Act.

Records Required; Examination; Fee

Sec. 8. Each organization which has outstanding contracts for prepaid funeral benefits shall maintain within this state such records as the Department may require to enable it to determine whether the organization is complying with the provisions of this Act. Such records shall be subject to annual examination by the Department or its agent and to such additional examinations as it deems necessary. The organization shall pay for the cost of examination, including the salary and traveling expenses paid to the person making the examination during the time spent in making the examination and in traveling to and returning from the point where the records are kept, and all other expenses necessarily incurred in the examination. The Banking Commissioner or his agent shall assess and collect a fee in connection with each examination, based on the organization's total outstanding contracts, covering the cost of such examination, the equitable or proportionate cost of maintenance and operation of the Banking Department, and the enforcement of the provisions of this Act; but the cost to the organization shall not be more than a total cost of \$500 for each examination. Those organizations with less than 50 contracts outstanding shall be assessed an examination fee of \$50 plus one-fourth of one percent of the dollar amount of the organization's outstanding contract funds on deposit, in trust, or vested in any other program subject to this Act. Those organizations with 50 or more contracts outstanding shall be assessed an examination fee of \$100 plus one-fourth of one percent of the dollar amount of the organization's outstanding contract funds on deposit, in trust, or vested in any other program subject to this Act.

Violation of Act; Punishment

Sec. 9. Any officer, director, agent, or employee of any organization subject to the terms of this Act who makes or attempts to make any contract in violation of this Act, or who refuses to allow an inspection of the organization's records, or who violates any other provision of this Act, or who is guilty of fraud, deception, misrepresentation or any other dishonest practice in sale of any contract subject to this Act, shall be punished by a fine of not less than \$100 and not more than \$500, or by imprisonment in the county jail for not less than one month and not more than six months, or by both such fine and imprisonment. Each violation of any provision of this Act shall be deemed a separate offense and prosecuted individually.

The Department may bring each such violation of this Act to the attention of the Attorney General of this state and it shall be the duty of the Attorney General to institute suit in the name of the State of Texas against such violator in any county in this state where such violation might occur.

In addition to the misdemeanor penalties prescribed above, the Attorney General shall have the power and authority to institute quo warranto proceedings in a District Court of Travis County, Texas to forfeit the charter and right to do business of a corporation whose officer, director, agent or employee refuses or fails to correct a violation of this Act after such violation has been called to the attention of said officer, director, agent or employee by the Department or the Attorney General. A period of 30 days shall be considered sufficient time to correct such violation after notice from the Department or Attorney General.

Fees, Penalties and Revenues; Disposition

Sec. 10. All fees, penalties and revenues collected by the department shall be paid to the State Treasury, placed in the prepaid funeral account fund and shall be expended as authorized by legislative appropriation.

Applicability to Insurance Code and Group Term Life Insurance

Sec. 10a. Nothing in this Act shall alter or affect any provisions of the Insurance Code of the State of Texas; provided however, that purchasers of contracts for prepaid funeral benefits from the same seller of such contracts shall constitute a lawful group for the issuance of a group contract of decreasing term life insurance by a life insurance company authorized to do a life insurance business in the State of Texas. The amount of insurance relative to any particular purchaser shall at all times approximate the future unpaid balance of such contract for prepaid funeral benefits. The seller of prepaid funeral benefit contracts shall have an insurable interest in the life of any purchaser of such contract to the extent of any unpaid balance thereof, and the proceeds of any life insurance policy received by a seller of a prepaid funeral benefit contract on the life of a purchaser of such contract shall be applied to the reduction or elimination of any unpaid balance thereof. This section shall not be construed as having any effect on the funding of prepaid funeral benefits by other contracts of insurance as provided for in Section 1a of this Act.

Secs. 11, 12 [Omitted in 1967].

[Acts 1955, 54th Leg., p. 1292, ch. 512; Acts 1963, 58th Leg., p. 1304, ch. 496, §§ 1 to 4, eff. July 15, 1963; Acts 1967, 60th Leg., p. 1941, ch. 726, § 1, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 250, ch. 119, § 1, eff. May 18, 1973; Acts 1973, 63rd Leg., p. 373, ch. 168, §§ 1 to 3, eff. Aug. 27, 1973.]

Saved From Repeal

Acts 1963, 58th Leg., p. 1283, ch. 494, which amended article 4582b, relating to funeral directing and embalming, provided in section 5 of the act that nothing therein should be construed as repealing, amending, modifying, altering, or in any way prohibiting the effect and application of the provisions of Acts 1963, 58th Leg., p. 1304, ch. 496 (Senate Bill No. 129) which amended this article, and further provided that if there were conflicts between the provisions of Acts

1963, 58th Leg., p. 1283, ch. 494 and Acts 1963, 58th Leg., p. 1304, ch. 496, the provisions of chapter 496 should prevail.

Sections 4 and 5 of Acts 1973, 63rd Leg., p. 250, ch. 119 provided:

"Sec. 4. If any provision, section, sentence, clause or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 5. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

Section 2 and 3 of Acts 1973, 63rd Leg., p. 374, ch. 168 provided:

"Sec. 2. If any provision, section, sentence, clause, or part of this Act or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or application of this Act which can be given effect without the invalid provision or application and to this end the provisions of this Act are declared to be severable.

"Sec. 3. All laws or parts of laws which are in conflict with this Act are hereby repealed or modified to the extent of such conflict only."

PENAL PROVISIONS

Art. 548c. Affidavit of Solvency

Annually, not later than January 15th of each year, each person or persons, association of persons or partnerships, or trustee or trustees acting under any common law declaration of trust, or the officers or the managers thereof, owning or operating any bank of deposit within this State, shall file with the county clerk of the county wherein the principal business of said institution is conducted an affidavit stating that said person or association of persons, partnership or institution, operating under a common law declaration of trust, is solvent and has and owns property and assets in this State the value of which is in excess of any and all of the liabilities of such person, association of persons, partnership or institution operating under a declaration of trust.

[1925 P.C.]

Art. 548d. Statement of Private Bank

Every person, partnership or association of persons, the trustee or trustees of every joint stock association, or institution, operating under any common law declaration of trust, owning or operating a bank of deposit within this State, shall annually, not later than January 20th, file with the county clerk of the county in which the principal office of said joint stock association or institution operating under a common law declaration of trust is located, a written sworn statement giving the names of each partner or stockholder, or member holding or owning any financial interest or stock in such partnership or institution operating under a common law declaration of trust or association of persons; and a copy of such statement shall be published by the institution, partnership or association of persons, trustee or trustees of such institution, in some newspaper of general circulation in said county, if such newspaper be published within said county.

[1925 P.C.]

Art. 548e. Advertisement of Responsibility

No person, association of persons, partnership, or any trustee or trustees, acting under

any common law declaration of trust, owning or operating any private banking institution or bank of deposit within this State, shall advertise in any newspaper or otherwise within this State, that said person or association of persons, partnership or institution operating under any common law declaration of trust, owns, possesses or has a financial responsibility in excess of, or above the real and true financial responsibility of such person, association of persons, partnership or institution operating under a declaration of trust. By the term "financial responsibility" as herein used, is meant money or real or personal property within this State.

[1925 P.C.]

Art. 548f. Punishment

The violation of any provision of the six preceding articles¹ by any person, association of persons, partnership, or trustees acting under any common law declaration of trust, shall constitute a misdemeanor as to such person, as to each member or association of persons, and as to each and every trustee acting under such common law declaration of trust, punishable by a fine of not less than one hundred nor more than one thousand dollars, or by imprisonment in jail for not less than thirty days nor more than twelve months, or by both such fine and imprisonment. Each day said business is carried on or attempted to be carried on shall be a separate offense.

[1925 P.C.]

¹ Former Vernon's Ann.P.C. arts. 558 to 563.

Art. 548g. Exceptions

The provisions of the eight preceding articles shall not apply to any person, association of persons, partnerships or trustees, or trustees acting under any common law declaration of trust, who, at the time this Act becomes effective are actively engaged in the operation of any bank, trust company, bank and trust company or savings bank within this State, nor to any bank which may have been in successful operation in this State for twenty years and shall have suspended operation prior to the passage of this Act, but which shall resume operation within twelve months after the passage of this Act. The right to continue such business of such bank, trust company, bank and trust company or savings bank so engaged, or shall resume business as provided in this Act, and by their heirs, legal representatives, assigns and successors, is hereby expressly recognized, confirmed and fixed. Said provisions shall not apply to any person, association of persons, partnerships or trustee, or trustees acting under any common law declaration of trust, who has for a period of one year next preceding the date that this Act becomes effective, and who, as such, in the course of the liquidation of any bank or trust company or bank and trust company within this State, has acquired the assets, or any part thereof, including the real estate used as its banking house or place of business and has assumed the liabilities, or a part thereof, of such liquidated bank or trust company or bank and trust company.

[1925 P.C.]

TITLE 17

BEES

Article

- 549. State Entomologist.
- 550. Power and Authority.
- 551. Certificate of Inspection.
- 552. Common Carrier Accepting Shipment.
- 553. Seizure.
- 554. May Enter Premises.
- 555. Protective Quarantine.
- 556. Restrictive Quarantine.
- 557. Sale and Shipment.
- 558. Legal Remedies.
- 559. Bulletins.
- 560. Duty to Report Diseased Bees.
- 561. Transfer of Bees.
- 562. Inspection and Eradication.
- 563. Cost of Destruction.
- 564. No Bond Required.
- 564a. Honey Bees.
- 565. Experimental Apiary.
- 565a. Apiary Equipment Brands.

Art. 549. State Entomologist

The entomologist of the Agricultural Experiment Station of the Agricultural and Mechanical College of Texas, shall be the State Entomologist of this State, and as such it shall be his duty to enforce the provisions of this title. As State Entomologist he shall receive no fees or remuneration other than his regular salary as Entomologist of such Experiment Station, provided, that he may be reimbursed for the necessary expenses incurred in discharge of his duties as State Entomologist. He shall employ such assistants and inspectors as may be necessary, subject to the approval of the Director and Governing Board of the Texas Agricultural Experiment Station. He shall make an annual report to such Director and Governing Board giving a detailed account of all funds received and disbursed, and for what purpose, as well as a full report upon all prosecutions, etc., made under the provisions of this title.

[Acts 1925, S.B. 84.]

Art. 550. Power and Authority

The State Entomologist shall have power to deal with all contagious or infectious diseases of honey bees, which in his opinion, may be prevented, controlled or eradicated, and to do and perform such acts as, in his judgment, may be necessary to control, eradicate or prevent the introduction, spread or dissemination of any and all contagious diseases of honey bees as far as may be possible, and to make such rules and regulations, not inconsistent with law, as may be necessary to enforce this law. The State Entomologist shall have authority to prohibit the shipment or bringing into this State of any honey bees, honey, honey-comb, or articles or things capable of transmitting contagious or infectious diseases of bees from any State, territory or foreign country except under such rules and regulations as may be

adopted and promulgated by said State Entomologist.

[Acts 1925, S.B. 84.]

Art. 551. Certificate of Inspection

All honey bees shipped or moved into this State shall be accompanied by a certificate of inspection signed by the State Entomologist or State Foul Brood Inspector of the State or county from which shipped. Such certificate shall certify to the apparent freedom of the bees, and their combs and hives, from contagious and infectious diseases and must be based upon an actual inspection of the bees themselves within a period of sixty days preceding date of shipment. The shipper of such bees is hereby required to file with the State Entomologist at College Station; at least ten days in advance of such shipment, a certified copy of said certificate, together with the names and addresses of both consignor and consignee. When honey bees are to be shipped into this State from other States or countries wherein no official apiary inspector or State Entomologist is available, the State Entomologist of Texas may issue a permit for such shipment upon presentation of suitable evidence showing such bees to be free from diseases. Shipments of bees arriving at points within this State, not accompanied by the certificate herein described, shall be subject to confiscation and destruction by the State Entomologist or his assistants. This requirement shall not apply to shipments of live bees in wire cages, when without combs or honey.

[Acts 1925, S.B. 84.]

Art. 552. Common Carrier Accepting Shipment

No railroad company, express company, or other common carrier shall accept for intrastate shipment, any honey bees, used honey combs, used bee hives or fixtures, except under such regulations as the State Entomologist shall prescribe.

[Acts 1925, S.B. 84.]

Art. 553. Seizure

The State Entomologist, through himself, assistants or inspectors, shall have authority to seize and confiscate any shipment of diseased bees found in transit in this State, or found in any depot, express office, store room, car, warehouse or premises awaiting transportation or delivery, and the State Entomologist, through himself or assistants, shall have authority to enter, during ordinary business hours, any depot, express office, store room, car, warehouse, or premises for the purpose of inspecting any shipment of honey bees therein which he may have reason to believe are or

may be infected with a contagious or infectious disease or which he may have reason to believe are being transported or have been or are about to be transported in violation of any provision of this title.

[Acts 1925, S.B. 84.]

Art. 554. May Enter Premises

The State Entomologist, and his assistants and inspectors, shall have authority to enter, during ordinary business hours, any premises, public or private, wherein may be located any honey bees, or wherein he or they may have reason to believe any honey bees are kept or located, for the purpose of examining said bees and determining whether or not they are infected with any contagious or infectious disease.

[Acts 1925, S.B. 84.]

Art. 555. Protective Quarantine

The State Entomologist shall have authority to declare a protective quarantine in any district, county, precinct or other defined area wherein foul brood or other contagious disease of bees is not known to exist, or wherein any disease of bees is being eradicated in accordance with the provisions of this chapter, said quarantine to prohibit the movement or shipment, into said district, county, precinct or other area, of any bees, honey, appliances or other things capable of transmitting the disease or infection, except under such rules and regulations as he shall prescribe.

[Acts 1925, S.B. 84.]

Art. 556. Restrictive Quarantine

The State Entomologist shall have authority when, in his opinion, public welfare and necessity require it, to place a restrictive quarantine upon any district, county, precinct or other defined area wherein are located any honey bees infected with contagious or infectious disease, said quarantine to prohibit the movement or shipment therefrom of any bees, honey, appliances or other things capable of transmitting the infection, except under such rules and regulations as he shall prescribe.

[Acts 1925, S.B. 84.]

Art. 557. Sale and Shipment

Queen bees and their attendant bees shall not be sold or offered for sale in this State unless accompanied by a copy of a certificate from a State or Government entomologist or apiary inspector to the effect that the apiary from which said queen bees are shipped have been inspected within the preceding twelve months and found apparently free from contagious or infectious diseases, or by a copy of an affidavit made by the bee-keeper that the bees are not diseased, to the best belief of affiant, and that the honey used in making the candy contained in the queen cage has been diluted and boiled for at least thirty minutes in a closed vessel.

[Acts 1925, S.B. 84.]

Art. 558. Legal Remedies

All prosecutions under this title shall be begun and carried on in any county affected by the violation of said orders, quarantines, rules or regulations. The State Entomologist may enjoin any threatened or attempted violation of his orders, quarantines, rules or regulations in any court of competent jurisdiction, or take any other civil proceedings necessary to carry out and enforce the provisions of this title. It shall be the duty of the Attorney General and the various county and district attorneys to represent said State Entomologist whenever called on to do so. The State Entomologist, in the discharge and enforcement of the duties and powers herein delegated, shall have the authority to compel the production for examination by said State Entomologist, or any one designated by him, of all books, papers and documents in the possession of any person; to take testimony and compel the attendance and examination under oath of witnesses; the various sheriffs and constables throughout the State shall serve all papers, orders, summons and writs that may be delivered to them by said State Entomologist and protect the State Entomologist or his assistants or inspectors in the discharge of their duties, as herein defined, whenever called upon to do so.

[Acts 1925, S.B. 84.]

Art. 559. Bulletins

The State Entomologist shall publish methods and directions for treating, eradicating or suppressing contagious or infectious diseases of honey bees, including the rules and regulations above provided for, and such other information as he shall deem of value or necessity to the bee-keeping interests of the State.

[Acts 1925, S.B. 84.]

Art. 560. Duty to Report Diseased Bees

If the owner of, or any person having control or possession of, any honey bees in this State, knows that any bees so owned or controlled are affected with American foul brood, or any other contagious or infectious disease, or knows of any other bees so diseased, it shall be his duty to at once report such fact to the State Entomologist at College Station, setting out in his said report all the facts known with reference to said infection.

[Acts 1925, S.B. 84.]

Art. 561. Transfer of Bees

The State Entomologist may order any owner or possessor of bees dwelling in hives without movable frames, or not permitting of ready examination, to transfer such bees to a movable frame hive within a specified time. In default of such transfer such Entomologist may destroy, or order destroyed, such hives, together with the honey, frames, combs and bees contained therein, without recompense to the owner, lessee or agent thereof.

[Acts 1925, S.B. 84.]

Art. 562. Inspection and Eradication

If the State Entomologist finds, or has reason to believe, that the owner or keeper of any bees or the owner of any apiary has refused or is refusing to comply with any rule or regulation hereinbefore provided for, then in that event such entomologist is hereby authorized to inspect or cause to be inspected said bees, and, if necessary, burn diseased colonies, appliances and honey and do any and all things necessary to eradicate foul brood or any other contagious or infectious disease of bees.

[Acts 1925, S.B. 84.]

Art. 563. Cost of Destruction

When any owner or possessor of bees shall fail to carry out the instructions of the State Entomologist as hereinbefore set forth, such Entomologist or his assistants or inspectors shall carry out such destruction or treatment and shall present to the owner or possessor of said bees a bill for the actual cost of such destruction or treatment, including the cost of such hives, foundation, etc., as may be necessary for the proper treatment of the disease. On the failure of the owner or possessor of such bees to pay said bill within thirty days after the delivery of same to himself, tenant, or agent, or within thirty days after mailing same to his usual post-office address, such Entomologist shall certify to the county attorney of the county where such bees were located the amount and items of such bill; and the county attorney shall file suit for the recovery of said account. All moneys recovered by the county attorney for such destruction or treatment shall be paid to the State Treasurer.

[Acts 1925, S.B. 84.]

Art. 564. No Bond Required

The State Entomologist, his assistants and inspectors, shall not be required to give any bond or security in any legal proceedings which he or they may institute or defend in any court in this State.

[Acts 1925, S.B. 84.]

Art. 564a. Honey Bees

1. Common carriers accepting shipment.—No common carrier shall accept for intrastate shipment any honey bees, used honeycombs, used beehives or fixtures, except under such regulations as the State Entomologist shall prescribe.

2. Protective quarantine.—Said Entomologist shall have authority to declare a protective quarantine in any district, county, precinct or other defined area wherein foul brood or other contagious disease of bees is not known to exist, or wherein any disease of bees is being eradicated in accordance with the provisions of this law, said quarantine to prohibit the movement or shipment into said area, of any bees, honey, appliances or other things capable of transmitting the infection, except under such regulations as he shall prescribe.

3. Restrictive quarantine.—Said Entomologist may, when in his opinion public welfare and necessity require it, place a restrictive quarantine upon any district, county, precinct or other defined area wherein are located any honey bees infected with contagious or infectious disease, said quarantine to prohibit the movement or shipment therefrom of any bees, honey, appliances or other things capable of transmitting the infection, except under such rules and regulations as he shall prescribe.

4. Sale and shipment.—Queen bees and their attendant bees shall not be sold or offered for sale in this State unless accompanied by a copy of a certificate from a State or Government entomologist or apiary inspector to the effect that the apiary from which said queen bees are shipped has been inspected within the preceding twelve months and found apparently free from contagious and infectious diseases, or by an affidavit made by the beekeeper that the bees are not diseased to the best belief of affiant and that the honey used in making the candy contained in the queen cage has been diluted and boiled for at least thirty minutes in a closed vessel.

5. To report diseased bees.—If any owner of, or any person having control or possession of, any honey bees in this State, knows that such bees are affected with American foul brood, or any other contagious or infectious disease, or knows of any other bees so diseased, it shall be his duty to at once report such fact to said Entomologist at College Station, setting out in said report all the facts known with reference to said infection.

6. Sale, etc. of infected bees, etc.—No owner or keeper of any diseased colonies of bees shall barter, give away, sell, ship or move any infected bees, honey or appliances, or shall expose any other bees to the danger of infection of the disease.

7. Exposing infected honey, etc.—No person, firm or corporation shall expose, on their own premises or elsewhere, any honey, hives, frames, combs, brood or appliances known to be infected by foul brood or other dangerous disease of bees, in such a manner that honey bees may have access to same; nor sell, offer for sale, barter, give away, ship or distribute any honey taken from a colony or colonies of bees infected with foul brood or other infectious or contagious disease.

8. Interfering with inspection.—No person shall seek to prevent any inspection of bees, honey or appliances under the direction of the State Entomologist in accordance with this law, or shall seek or attempt to prevent the discovery or treatment of diseased honey bees, or shall attempt to intimidate the State Entomologist, his assistants or inspectors, or otherwise interfere with them in the lawful discharge of their duties as herein defined.

Whoever violates any provision of this article, or violates any rule, quarantine, order or regulation of the State Entomologist issued in

accordance with the provisions of this law shall be fined not less than twenty-five nor more than two hundred dollars. All fines collected under this article shall be paid into the State Treasury.

[1925 P.C.]

Art. 565. Experimental Apiary

The Director of the Texas Agricultural Experiment Stations of the Agricultural and Mechanical College¹ shall have power to establish and maintain experimental apiaries for the purpose of experimenting with the culture of honey, and studying honey yield conditions, and other bee-keeping problems confronting the bee-keepers and the bee-keeping industry of this State; such experimental apiaries to be under the care, control, management and direction of the director of the experimental stations, and to be maintained and operated at such places in Texas as said director may direct. In the location of such experimental apiaries, said director may take into consideration any donation of money or other property to be used in the operation and management of such apiaries and may accept any lease of lands upon which to locate such apiaries. The director shall have authority to employ such assistants as may be needed, and to purchase from time to time, such supplies, equipment and bees as may be necessary in the successful management thereof. The receipts from the sales of any products or old equipment, shall be deposited in the experiment station treasury, in a fund to be known as the "Experimental Apiaries Sales Fund," to be expended by said director for the purpose of said experimental apiaries.

[Acts 1925, S.B. 84.]

¹ Name changed to Texas A & M University.

Art. 565a. Apiary Equipment Brands

System of Registration; Serial Numbers;
Application for Brand; Fee

Sec. 1. (a) The Texas Department of Agriculture shall establish and maintain a system of registration of apiary equipment serial numbers, hereafter referred to as brands, to identify equipment used by beekeepers in their apiaries.

(b) A brand consists of three numbers separated by hyphens: the first number signifies that it is a state-registered brand; the second

number identifies the registrant's county of residence; the third number identifies the registrant.

(c) The Texas Department of Agriculture shall issue a brand to any person who applies for a brand and pays the recording fee of 50 cents.

Affixing Brand

Sec. 2. The beekeeper shall affix the brand to his apiary equipment by burning or pressing the number, in figures at least one inch high, into the wood or other material in such manner as to show identification. The location of the brand on all hives shall be on either or both ends, even with the handhold; other equipment, such as frames, intercovers, tops, bottoms, and planks may be branded with the same brand in any place.

Transfer of Brands; Sale of Equipment

Sec. 3. A brand may be transferred only with the permission of the Texas Department of Agriculture and then only if the transferor is selling all his bees and equipment to the person to whom the brand is transferred. The seller shall give a bill of sale for all bees and equipment, setting forth the brand number in the bill of sale. Sale of separate branded equipment is permissible, but the brand itself is not transferable except as provided for in this section. If the buyer of the branded equipment has his own brand number, he shall place his brand below the brand of the prior owner.

Tampering with Registered Brand; Penalty

Sec. 4. No unauthorized person may tamper with a registered apiary equipment brand. A person who violates this prohibition is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than \$200 or by imprisonment in the county jail for not more than 30 days or both. Unauthorized possession of equipment on which the brand has been tampered with, possession of branded equipment without a bill of sale or written proof of ownership, or the use of a registered brand not issued to the one using it is prima facie evidence that the possessor or user has violated the prohibition of this section.

[Acts 1967, 60th Leg., p. 459, ch. 209, eff. Aug. 28, 1967.]

TITLE 18

BILLS AND NOTES [Repealed]

Article

566 to 578. Repealed.

Art. 566. Repealed by Acts 1935, 44th Leg., p. 566, ch. 268, § 1

Arts. 567 to 571. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 567 to 571 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Arts. 572 to 574. Repealed by Rules of Civil Procedure, Acts 1939, 46th Leg., p. 201, § 1

Arts. 575, 576. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 575, 576 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721 was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Arts. 577, 578. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed articles 577, 578 effective September 1, 1967.

TITLE 19

BLUE SKY LAW—SECURITIES

Article

- 579. Repealed.
- 579-1 to 579-42. Repealed.
- 580. Repealed.
- 580-1 to 580-39. Repealed.
- 581. Repealed.
- 581-1. Short Title of Act.
- 581-2. Creating the State Securities Board and Providing for Appointment of Securities Commissioner.
- 581-3. Administration and Enforcement by the Securities Commissioner and the Attorney General and Local Law Enforcement Officials.
- 581-4. Definitions.
- 581-5. Exempt Transactions.
- 581-6. Exempt Securities.
- 581-7. Permit or Registration for Issue by Commissioner; Information for Issuance of Permit or Registration.
- 581-8. Consent to Service and Certificate of Good Standing.
- 581-9. Protection to Purchasers of Securities.
- 581-10. Examination of Application; Permit.
- 581-11. Papers Filed with Commissioner; Records Open to Inspection.
- 581-12. Registration of Persons Selling.
- 581-13. Method of Registration Required of Each Dealer and Each Agent or Salesman of Each Dealer.
- 581-14. Bases for Denial, Suspension or Revocation of Registration as Dealer or Agent or Salesman.
- 581-15. Issuance of Registration Certificates to Dealers.
- 581-16. Consent to Suit in This State, by Dealers Who Are Foreign Companies or Non-Residents.
- 581-17. Form of Certificates to Dealers.
- 581-18. Registration of Agents or Salesmen of Dealers.
- 581-19. Annual Registration; Renewals.
- 581-20. Display or Advertisement of Fact of Registration Unlawful.
- 581-21. Posting Certificates of Authority.
- 581-22. Advertising.
- 581-23. List of Securities Filed with the Commissioner on Request, Notice and Hearing as to Securities Questioned by Commissioner.
- 581-24. Hearings by Commissioner Upon Notice, Upon Exception by Any Party at Interest, to Actions of Commissioner.
- 581-25. Revocation of Registration of any Dealer or Agent or Salesman of any Dealer, Upon Hearing after Notice.
- 581-26. Notices by Registered Mail.
- 581-27. Petition to District Court of Travis County on Complaint of Decision of Commissioner.
- 581-28. Subpoenas or Other Process in Investigations by Commissioner.
- 581-29. Penal Provisions.
- 581-30. Certified Copies of Papers Filed with Commissioner as Evidence.
- 581-31. Construction.
- 581-32. Injunctions.
- 581-33. Civil Liabilities.
- 581-34. Actions for Commission; Allegations and Proof of Compliance.
- 581-35. Fees.
- 581-36. Deposit to General Revenue Fund.
- 581-37. Pleading Exemptions.
- 581-38. Partial Invalidity; Severability.
- 581-39. Repeal of Securities Act and Insurance Securities Act Now in Effect; Saving Clause as to Pending Proceedings.

Article

- 582. Repealed.
- 582-1. Repealed.
- 583 to 600. Repealed.

Saved from Repeal

The Uniform Commercial Code, enacted by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, provided that the Act did not repeal or diminish articles 581-1 through 581-39, and further provided that if in any respect there was any inconsistency between those articles and the Commercial Code, the provisions of those articles should control. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

Art. 579. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

Arts. 579-1 to 579-42. Repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39

Art. 580. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

Arts. 580-1 to 580-39. Repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39

Art. 581. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

Art. 581-1. Short Title of Act

This Act shall be known and may be cited as "The Securities Act."

[Acts 1957, 55th Leg., p. 575, ch. 269, § 1.]

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

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

until his successor shall qualify. Vacancies shall be filled by the Governor for the unexpired term. Members shall be eligible for reappointment.

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

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

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

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

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

E. The Board, with the advice of the Commissioner, shall report annually in November to the Governor as to its administration of this Act, as well as plans and needs for future securities regulation.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 2.]

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

The administration of the provisions of this Act shall be vested in the Securities Commissioner. It shall be the duty of the Securities Commissioner and the Attorney General to see that its provisions are at all times obeyed and to take such measures and to make such investigations as will prevent or detect the violation of any provision thereof. The Commissioner shall at once lay before the District or County Attorney of the proper county any evidence

which shall come to his knowledge of criminality under this Act. In the event of the neglect or refusal of such attorney to institute and prosecute such violation, the Commissioner shall submit such evidence to the Attorney General, who is hereby authorized to proceed therein with all the rights, privileges and powers conferred by law upon district or county attorneys, including the power to appear before grand juries and to interrogate witnesses before such grand juries.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 3.]

Art. 581-4. Definitions

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

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

B. The terms "person" and "company" shall include a corporation, person, joint stock company, partnership, limited partnership, association, company, firm, syndicate, trust, incorporated or unincorporated, heretofore or hereafter formed under the laws of this or any other state, country, sovereignty or political subdivision thereof, and shall include a government, or a political subdivision or agency thereof. As used herein, the term "trust" shall be deemed to include a common law trust, but shall not include a trust created or appointed under or by virtue of a last will and testament or by a court of law or equity. Under the criminal penal provisions of Section 29 of this Act,¹ the word "person" shall mean a natural person.

C. The term "dealer" shall include every person or company, other than a salesman, who engages in this state, either for all or part of his or its time, directly or through an agent, in selling, offering for sale or delivery or soliciting subscriptions to or orders for, or undertaking to dispose of, or to invite offers for, or rendering services as an investment adviser, or dealing in any other manner in any security or securities within this state. Any issuer other than a registered dealer of a security or securities, who, directly or through any person or company, other than a registered dealer, offers for sale, sells or makes sales of its own security or securities shall be deemed a dealer and shall be required to comply with the provisions hereof; provided, however, this section or provision shall not apply to such issuer when such security or securities are offered for sale or sold either to a registered dealer or only by or through a registered dealer acting as fiscal agent for the issuer; and provided further, this section or provision shall not apply to such issuer if the transaction is within the exemptions contained in the provisions of Section 5² of this Act.

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

E. The terms "sale" or "offer for sale" or "sell" shall include every disposition, or attempt to dispose of a security for value. The term "sale" means and includes contracts and agreements whereby securities are sold, traded or exchanged for money, property or other things of value, or any transfer or agreement to transfer, in trust or otherwise. Any security given or delivered with or as a bonus on account of any purchase of securities or other thing of value, shall be conclusively presumed to constitute a part of the subject of such purchase and to have been sold for value. The term "sell" means any act by which a sale is made, and the term "sale" or "offer for sale" shall include a subscription, an option for sale, a solicitation of sale, a solicitation of an offer to buy, an attempt to sell, or an offer to sell, directly or by an agent or salesman, by a circular, letter, or advertisement or otherwise, including the deposit in a United States Post Office or mail box or in any manner in the United States mails within this state of a letter, circular or other advertising matter. Nothing herein shall limit or diminish the

full meaning of the terms "sale," "sell" or "offer for sale" as used by or accepted in courts of law or equity. The sale of a security under conditions which entitle the purchaser or subsequent holder to exchange the same for, or to purchase some other security, shall not be deemed a sale or offer for sale of such other security; but no exchange for or sale of such other security shall ever be made unless and until the sale thereof shall have been first authorized in Texas under this Act, if not exempt hereunder, or by other provisions of law. Provided, however, advertising when made in compliance with Section 22³ shall not be deemed a sale.

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

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

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

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

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

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

L. The term "include" when used in a definition contained in this Act shall not be deemed to exclude other things or per-

sons otherwise within the meaning of the term defined.

M. "Registered dealer" shall mean a dealer as hereinabove defined who has been duly registered by the Commissioner as in Section 15 of this Act provided.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 4; Acts 1971, 62nd Leg., p. 1085, ch. 235, § 1, eff. May 17, 1971.]

¹ Article 581-29.

² Article 581-5.

³ Article 581-22.

Art. 581-5. Exempt Transactions

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

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

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

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

(2) Sales by or on behalf of any insurance company subject to the supervision or control of the Board of Insurance Commissioners of any security owned by such company as a legal and bona fide investment, provided that in no event shall any such sale or offering be exempt from the provisions of this Act when made or intended, either directly or indirectly, for the benefit of any other company as that term is defined in this Act.

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

E. Any offer and any transaction pursuant to any offer by the issuer of its securities to its existing security holders (including persons who at the time of the transaction are holders of convertible securities or nontransferable warrants) if no commission or other remuneration (other than a stand-by commission) is paid or given directly or indirectly for soliciting any security holder in this State.

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

G. The issue or sale of securities (a) by one corporation to another corporation or the security holders thereof pursuant to a vote by one or more classes of such security holders, as required by the certificate of incorporation or the applicable corporation statute, in connection with a merger, consolidation or sale of corporate assets, or (b) by one corporation to its own stockholders in connection with the change of par value stock to no par value stock or vice versa, or the exchange of outstanding shares for the same or a greater or smaller number of shares; provided that in any such case such security holders do not pay or give or promise and are not obligated to pay or give any consideration for the securities so issued or sold other than the securities of the corporation then held by them.

H. The sale of any security to any bank, trust company, building and loan association, insurance company, surety or guaranty company, savings institution, investment company as defined in the Investment Company Act of 1940,¹ small business investment company as defined in the Small Business Investment Act of 1958, as amended,² or to any registered dealer actually engaged in buying and selling securities; or the issue or sale of any investment contract in connection with an employees' stock bonus, annuity, pension,

profit-sharing or similar employee benefit plan provided the securities purchased under the plan either would be exempt if sold by a registered dealer under Section 6³ hereof or shall be qualified under Section 7⁴ hereof or purchased in a transaction exempt under Section 5 hereof.

¹ 15 U.S.C.A. § 80a-1 et seq.

² 15 U.S.C.A. § 631 et seq.

³ Article 585-6.

⁴ Article 585-7.

I. Provided such sale is made without any public solicitation or advertisements, (a) the sale of any security by the issuer thereof so long as the total number of security holders of the issuer thereof does not exceed thirty-five (35) persons after taking such sale into account; (b) the sale of shares of stock pursuant to the grant of an employees' restricted stock option as defined in the Internal Revenue Laws of the United States; or (c) the sale by an issuer of its securities during the period of twelve (12) months ending with the date of the sale in question to not more than fifteen (15) persons (excluding, in determining such fifteen (15) persons, purchasers of securities in transactions exempt under other provisions of this Section 5, purchasers of securities exempt under Section 6¹ hereof and purchasers of securities which are part of an offering registered under Section 7 hereof),² provided such persons purchased such securities for their own account and not for distribution.

The issuer shall file a notice not less than five (5) days prior to the date of consummation of any sale claimed to be exempt under the provisions of clause (c), of this Subsection I, setting forth the name and address of the issuer, the total amount of the securities to be sold under this clause, the price at which the securities are to be sold, the date on which the securities are to be sold, the names and addresses of the proposed purchasers, and such other information as the Commissioner may reasonably require, including a certificate of a principal officer of the issuer that reasonable information concerning the plan of business and the financial condition of the issuer has been furnished to the proposed purchasers. The Commissioner may by order revoke or suspend the exemption under this clause (c) with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon the purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act.³ The revocation or suspension of this exemption shall be inapplicable to the issuer until such issuer shall have received actual notice from the

Commissioner of such revocation or suspension.

¹ Article 581-6.

² Article 581-7.

³ Article 581-24.

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

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

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

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

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

O. The sale by a registered dealer of outstanding securities provided that:

(1) Such securities form no part of an unsold allotment to or subscription by such dealer as a participant in the distribution of such securities by the issuer thereof; and

(2) Securities of the same class, of the same issuer, are outstanding in the hands of the public; and

(3) Such securities are offered for sale, in good faith, at prices reasonably related to the current market price of such securities at the time of such sale; and

(4) No part of the proceeds of such sale are paid directly or indirectly to the issuer of such securities; and

(5) Such sale is not directly or indirectly for the purposes of providing or furthering any scheme to violate or evade any provision of this Act; and

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

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

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

(9) Such securities or other securities of the issuer of the same class have been registered by qualification, notification or coordination under Section 7 of this Act;¹ or at the time of such sale at least the following information about the issuer shall appear in a recognized securities manual or in a statement, in form and extent acceptable to the Commissioner, filed with the Commissioner by the issuer or by a registered dealer:

(a) A statement of the issuer's principal business;

(b) A balance sheet as of a date within eighteen (18) months of the date of such sale; and

(c) Profit and loss statements and a record of the dividends paid, if any, for a period of not less than three (3) years prior to the date of such balance sheet or for the period of existence of the issuer, if such period of existence is less than three (3) years.

The term "recognized securities manual" shall include the manuals published by Moody's Investment Service, Standard & Poor's Corporation, Best's Life Insurance Reports, and such other nationally distributed manuals of securities as may be ap-

proved for use hereunder by the Commissioner.

"The Commissioner may issue a stop order or by order prohibit, revoke or suspend the exemption under this Subsection O with respect to any security if he has reasonable cause to believe that the plan of business of the issuer of such security, the security, or the sale thereof would tend to work a fraud or deceit upon any purchaser or purchasers thereof, such order to be subject to review in the manner provided by Section 24 of this Act.² Notice of any court injunction enjoining the sale, or resale, of any such security, or of an order revoking or suspending the exemption under this subdivision with respect to any security, shall be delivered or shall be mailed by certified or registered mail with return receipt requested, to any dealers believed to be selling, or offering for sale, securities of the type referred to in the notice; and the prohibitions of (6) and (7) above of this Subsection O shall be inapplicable to any dealer until he has received actual notice from the Commissioner of such revocation or suspension.

Except for the manuals published by Moody's Investment Service, Standard & Poor's Corporation, and Best's Life Insurance Reports, the Commissioner may for cause shown revoke or suspend the recognition hereunder of any manuals previously approved by the Commissioner under this Subsection but no such action may be taken by the Commissioner unless upon notice and opportunity for hearing as provided by Section 24 of this Act. Any interested party aggrieved by any decision of the Commissioner pursuant to such hearing may appeal to the district court of Travis County, Texas, in the manner provided by Section 27 of this Act.³ A judgment sustaining the Commissioner in the action complained of shall not bar after one year an application by the plaintiff for approval of its manual or manuals hereunder, nor shall a judgment in favor of the plaintiff prevent the Commissioner from thereafter revoking such recognition for any proper cause which may thereafter accrue or be discovered.

¹ Article 581-7.

² Article 581-24.

³ Article 581-27.

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

Q. The sales of interests in and under oil, gas or mining leases, fees or titles, or

contracts relating thereto, where (1) the total number of sales by any one owner of interests, whether whole, fractional, segregated or undivided in any single oil, gas or mineral lease, fee or title, or contract relating thereto, shall not exceed thirty-five (35) within a period of twelve (12) consecutive months and (2) no use is made of advertisement or public solicitation; provided, however, if such sale or sales are made by an agent for such owner or owners, such agent shall be licensed pursuant to this Act. No oil, gas or mineral unitization or pooling agreement shall be deemed a sale under this Act.

R. The sale by the issuer itself, or by a subsidiary of such issuer, of any securities which would be exempt if sold by a registered dealer under Section 6 (other than Subsection 6-E) of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 5; Acts 1959, 56th Leg., p. 147, ch. 88, § 1; Acts 1963, 58th Leg., p. 473, ch. 170, §§ 1 to 6.]

Sections 1 to 12a of the amendatory act of 1963 amended various articles of the Securities Act. Section 13 was a severability provision. Section 14 thereof provided: "Prior law exclusively governs all suits, actions, proceedings, rights, liabilities and causes of action which are pending or accrue before the effective date of this Act; and same shall continue and remain in full force and effect until terminated as under the law now in force."

Art. 581-6. Exempt Securities

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

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

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

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

Columbia or under the Code of Laws for any territory or possession of the United States;

D. Any security issued or guaranteed either as to principal, interest, or dividend, by a corporation owning or operating a railroad or any other public service utility; provided, that such corporation is subject to regulation or supervision either as to its rates and charges or as to the issue of its own securities by the Railroad Commission of Texas, or by a public commission, agency, board or officers of the Government of the United States, or of any territory or insular possession thereof, or of any state or municipal corporation, or of the District of Columbia, or of the Dominion of Canada, or any province thereof; also equipment trust certificates or equipment notes or bonds based on chattel mortgages, leases or agreements for conditional sale of cars, motive power or other rolling stock mortgages, leased or sold to or furnished for the use of or upon a railroad or other public service utility corporation, provided that such corporation is subject to regulation or supervision as above; or equipment trust certificates, or equipment notes or bonds where the ownership or title of such equipment is pledged or retained in accordance with the provisions of the laws of the United States, or of any state, territory or insular possession thereof, or of the District of Columbia, or the Dominion of Canada, or any province thereof, to secure the payment of such equipment trust certificates, bonds or notes;

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

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

data supplied with the application shall be found to establish:

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

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

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

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

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

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

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

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

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

I. Notes, bonds, or other evidence of indebtedness or certificates of ownership which are equally and proportionately secured without reference of priority of one over another, and which, by the terms of the instrument creating the lien, shall continue to be so secured by the deposit with a trustee of recognized responsibility approved by the Commissioner of any of the securities specified in subsections A or D, or of any of the securities, other than stock, specified in subsection B of this Section 6; such deposited securities, if of the classes described in subsections A and B hereof, having an aggregate par value of not less than one hundred and ten per cent (110%) of the par value of the securities thereby secured, and if of class specified in subsection D hereof, having an aggregate par value of not less than one hundred and twenty five per cent (125%) of the par value of the securities thereby secured;

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

K. Any security collateralized pursuant to, or as permitted by the provisions of Chapter 165, Acts of the 42nd Legislature, 1931, as amended (Article 1524a, Vernon's Annotated Civil Statutes of Texas).

[Acts 1957, 55th Leg., p. 575, ch. 269, § 6.]

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

A. Qualification of Securities.

(1) No dealer, agent or salesman shall sell or offer for sale any securities issued after September 6, 1955, except those which shall have been registered by Notification under subdivision B or by Coordination under subdivision C of this Section 7 and except those which come within the classes enumerated in subdivisions A to R, both inclusive, of Section 5 of this Act,¹ or subdivisions A to K, both inclusive, of Section 6 of this Act,² until the issuer of such securities or a dealer registered under the provisions of this Act shall have been granted a permit by the Commissioner; and no such permit shall be granted by the Commissioner until the issuer of such securities or a dealer registered under the provisions of this Act shall have filed with the Commissioner a sworn statement verified under the oath of an executive officer or partner of the issuer, or of such registered dealer, and attested by the secretary

or partner thereof, setting forth the following information:

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

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

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

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

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

f. A detailed statement prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, showing all the assets and all the liabilities of the issuer, said statement to reflect the financial con-

dition of the issuer on a day not more than ninety (90) days prior to the date such statement is filed. Such statement shall list all assets in detail and shall show how the value of such assets was determined, that is, whether the value set forth in said statement represents the actual cost in money of such assets, or whether such value represents their present market value, or some other value than the actual cost in money, and shall show the present actual value of said assets; also, whether the value set forth in the statement is greater or less than the actual cost value in money and greater or less than the present market value of such assets. If any of the assets consist of real estate, then said statement shall show the amount for which said real estate is rendered for State and county taxes, or assessed for taxes. If any such assets listed shall consist of anything other than cash and real estate, same shall be set out in detail so as to give the Commissioner the fullest possible information concerning same, and the Commissioner shall have the power to require the filing of such additional information as he may deem necessary to determine whether or not the true value of said assets are reflected in the statement filed. Should any of the assets listed in said statement be subject to any repurchase agreement, or any other agreement of like character, by the terms of which the absolute ownership of, or title to said assets is qualified or limited in any way, then the terms and conditions of said agreement by which the absolute ownership of, or title to said assets is qualified or limited, as well as the amount and character of the assets subject thereto shall be fully stated. Said statement shall list all current liabilities, that is, all liabilities which will mature and become due within one year from the date of such application, and shall list separately from such current liabilities, all other liabilities, contingent or otherwise, showing the amount of those which are secured by mortgage or otherwise, the assets of the issuer which are subject to such mortgage, and the dates of maturity of any such mortgage indebtedness. Such application shall also include a detailed profit and loss statement, prepared in accordance with generally accepted auditing standards and procedures and generally accepted accounting principles, which shall cover the last three (3) years' operations of the issuer, if such issuer has been in operation for three (3) years, but if not, said profit and

loss statement shall cover the time that said issuer has been operating. If said issuer has not been operating, but is taking over a concern of any kind which has been previously operating, then a financial and profit and loss statement showing the operations of the concern thus taken over for a period of the last three (3) years next preceding the taking over of said concern shall be included in said statement; said profit and loss statement shall clearly reflect the amount of net profit or net loss incurred during each of the years shown.

¹ Article 581-5.

² Article 581-6.

B. Registration by Notification.

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

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

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

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

(2) Securities entitled to registration by notification shall be registered by the filing with the Commissioner by the issuer or by a registered dealer of a registration statement as required by subsection (a),

and completion of the procedures outlined in subsection b hereof:

a. A registration statement in a form prescribed by the Commissioner signed by the applicant filing such statement and containing the following information:

1. Name and business address of main office of issuer and address of issuer's principal office, if any, in this state;

2. Title of securities being registered and total amount of securities to be offered;

3. Price at which securities are to be offered for sale to the public, amount of securities to be offered in this state, and amount of registration fee, computed as hereinafter provided;

4. A brief statement of the facts which show that the securities are entitled to be registered by notification;

5. Name and business address of the applicant filing statement;

6. Financial statements to include a certified profit and loss statement, a certified balance sheet, and certified statements of surplus, each to be for a period of not less than three (3) years prior to the date of registration. These financial statements shall reflect the financial condition of the issuer as of a date not more than ninety (90) days prior to the date of such filing with the Commissioner;

7. A copy of the prospectus, if any, describing such securities;

8. Payment of a filing fee of Five Dollars (\$5.00) and a registration fee of one-tenth of one per cent ($\frac{1}{10}$ of 1%) of the aggregate amount of securities proposed to be sold in this state based upon the price at which such securities are to be offered to the public;

9. Filing of a consent to service of process conforming to the requirements of Section 8¹ of this Act, if the issuer is registering the securities and is not a resident of this state or is not incorporated under the laws of this state.

b. Such filing with the Commissioner shall constitute the registration of securities by notification and such registration shall become effective five (5) days after receipt of the registration statement and all accompanying papers by the Commissioner; provided that the Commissioner may in his discretion waive or reduce the five (5) days waiting period in any case where he finds no injury to the public will result therefrom. Upon such registration by notification, securities

may be sold in this state by registered dealers and registered salesmen. Upon the receipt of a registration statement, prospectus, if any, payment of the filing fee and registration fee, and, if required, a consent to service of process, the Commissioner shall record the registration by notification of the securities described. Such registration shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if the securities are entitled to registration under this subsection at the time of renewal, by a new filing under this section together with the payment of the renewal fee of Ten Dollars (\$10.00).

c. If at any time, before or after registration of securities under this section, in the opinion of the Commissioner the information in a registration statement filed with him is insufficient to establish the fact that the securities described therein are, or were, entitled to registration by notification under this section, or that the registration information contains, or contained, false, misleading or fraudulent facts, he may order the applicant who filed such statement to cease and desist from selling, or offering for sale, such securities registered, or proposed to be registered, under provisions of this section, until there is filed with the Commissioner such further information as may in his judgment be necessary to establish the fact that such securities are, or were, entitled to registration under this section. The provisions of Section 24² of this Act as to hearing shall be applicable to an order issued hereunder.

C. Registration by Coordination.

(1) Any security for which a registration statement has been filed under the Federal Securities Act of 1933, as amended,³ in connection with the same offering, may be registered by coordination. A registration statement under this section shall be filed with the Commissioner by the issuer or any registered dealer and shall contain the following information and be accompanied by the following documents:

a. Three copies of the prospectus filed under the Federal Securities Act together with all amendments thereto;

b. The amount of securities to be offered in this state;

c. The states in which a registration statement or similar document in connection with the offering has been or is expected to be filed;

d. Any adverse order, judgment or decree previously entered in connection with the offering by any court or the Securities and Exchange Commission;

e. A copy of the articles of incorporation and by-laws (or their substantial equivalents) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

f. If the Commissioner requests any other information, or copies of any other documents, filed under the Federal Securities Act of 1933;

g. An undertaking to forward promptly all amendments to the federal registration statement, other than an amendment which merely delays the effective date;

h. Payment of a filing fee of Five Dollars (\$5.00) and a registration fee of one-tenth of one per cent ($\frac{1}{10}$ of 1%) of the aggregate amount of securities proposed to be sold in this state based upon the price at which such securities are to be offered to the public; and

i. If the registration statement is filed by the issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is not a resident of this state or is not incorporated under the laws of this state, a consent to service of process conforming to the requirements of Section 8.

(2) Upon receipt of a registration statement under this section the Commissioner shall examine such registration statement and he may enter an order denying registration of the securities described therein if he finds that the registrant has not proven the proposed plan of business of the issuer to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same will be such as will not work a fraud upon the purchaser thereof. If the Commissioner enters an order denying the registration of securities under this section, he shall notify the registrant immediately. The provisions of Section 24 of this Act as to hearing shall be applicable to an order issued hereunder. A registration statement under this section automatically becomes effective at the moment the federal registra-

tion statement becomes effective if all the following conditions are satisfied:

a. No order has been entered by the Commissioner denying registration of the securities;

b. The registration statement has been on file with the Commissioner for at least ten (10) days; and

c. A statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the Commissioner expressly permits and the offering is made within those limitations. The registrant shall promptly notify the Commissioner by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price.

Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the Commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subsection as to notice and post-effective amendment, the stop order is void as of the time of its entry. The Commissioner may waive either or both of the conditions specified in clauses b and c. If the federal registration statement becomes effective before all these conditions are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the Commissioner of the date when the federal registration statement is expected to become effective the Commissioner shall promptly advise the registrant by telephone or telegram, at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the issuance of an order denying registration; but this advice by the Commissioner does not preclude the issuance of such an order at any time.

(3) Registration of securities under this subsection shall be effective for a period of one (1) year and may be renewed for additional periods of one (1) year, if a renewal fee of Ten Dollars (\$10.00) is paid, and if the securities are entitled to registration at the time of renewal by the same standards of fairness, justice and equity as prescribed by this subsection for original approval.

¹ Article 581-8.

² Article 581-24.

³ 15 U.S.C.A. §§ 77b et seq., 78 et seq.

D. Termination Of Fiscal Year; Certification Of Statements.

If the fiscal year of the issuer terminated on a date more than 90 days prior to the date of the filing, then the financial statements required in Subsections A and B of this Section 7, which must be as of a date not more than 90 days prior to the date of filing, need not be certified by an independent certified public or independent public accountant if there are filed in addition thereto financial statements containing the information required by the applicable subdivision which are certified by an independent certified public or independent public accountant as of the end of the preceding fiscal year of the issuer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 7; Acts 1963, 58th Leg., p. 473, ch. 170, §§ 7, 12a.]

Art. 581-8. Consent to Service and Certificate of Good Standing

If the application for a permit to sell securities be filed by an issuer, or by a dealer who will offer such securities for sale as the agent of the issuer, and the issuer is organized under the laws of any other state, territory, or government, or domiciled in any other state than Texas, such application shall also contain a certificate executed by the proper officer of such state, territory or government dated not more than thirty (30) days prior to the date of filing of the application showing that such issuer is authorized to transact business in such state, territory or government, and is not delinquent in any taxes or assessments required to be paid to such state, territory or government. Such application shall also contain a written instrument duly executed by an executive officer of such issuer, under proper resolution of its board of directors, and authenticated and attested by the seal of said issuer, appointing the Commissioner irrevocably its true and lawful attorney upon whom all process in any action or proceedings against such issuer arising out of any transaction subject to this Act may be served with the same effect as if such issuer were organized or created under the laws of this state and had been lawfully served with process therein. It shall be the duty of the Commissioner, whenever he shall have been served with any process as is herein provided, to forward same by United States mail to the home office of such issuer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 8.]

Art. 581-9. Protection to Purchasers of Securities

A. In the event any company, as defined herein, shall sell, or offer for sale, any securities, as defined in this Act, the Commissioner, if he deems it necessary to protect the interests of prospective purchasers of such securities, may require the company so offering such securities for sale to deposit all, or any part, of the proposed securities, or all, or any part, of the moneys and funds received from the sale thereof, except such amounts thereof as the Commissioner deems necessary to be used, and not to exceed the amount allowed as expenses and commissions for the sale of such securities, to be deposited in a trust account in some bank or trust company approved by the Commissioner and doing business in the State of Texas, until such time as such proposed company or existing company shall have sold a specified monetary amount or number of shares of such securities as in his opinion will reasonably assure protection of the public. When the Commissioner makes a written finding that the terms of the escrow agreement have been fully met, the bank or trust company shall transfer such funds to the proposed or existing corporation and its executive officers for the purpose of permitting it to use such securities or money in its business. In the event such proposed or existing company shall fail within two (2) years to sell the minimum amount of capital necessary under the escrow agreement, the Commissioner may authorize, and the bank or trust company shall return to the subscribers, upon receipt of such authority from the Commissioner, that portion of the funds which were deposited or escrowed under such escrow agreement; provided, however, that any securities held by such bank or trust company under the escrow agreement shall be returned to the corporation only after the bank or trust company has received evidence of cancellation thereof from the issuer. At the time of making the deposits, as herein provided for, the dealer or issuer shall furnish to such bank or trust company, and to the Commissioner, the names of the persons purchasing or subscribing for such securities, and the amount of money paid in by each.

B. The total expenses for marketing securities, including all commissions for the sale of such securities, and all other incidental selling expenses, shall not in the aggregate exceed twenty per cent (20%) of the price at which the stock or other securities of any proposed or existing company are to be sold, or offered for sale, to the public of this State; and this amount may be limited by the Commissioner to a less percentage which is in his opinion fair, just and equitable under the facts of the particular case.

C. In connection with any permit to sell securities the Commissioner shall require all offers for sale of said securities to be made through and by prospectus which fairly discloses the material facts about the plan of fi-

nance and business. Said prospectus shall be filed with and approved by the Commissioner; provided, however, if the applicant files a prospectus or offering circular with the Commissioner which is also filed with the S. E. C. under the Securities Act of 1933, as amended, or the regulations thereunder, this subsection shall in all respects be satisfied. Failure to comply with this requirement shall be treated as a violation of this Act, subjecting the parties responsible to the consequences thereof as provided herein.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 9; Acts 1963, 58th Leg., p. 473, ch. 170, § 8.]

Art. 581-10. Examination of Application; Permit

A. Commissioner to Examine Application; Grant or Deny.

Upon the filing of an application for qualifying securities under Section 7A,¹ it shall be the duty of the Commissioner to examine the same and the papers and documents filed therewith. If he finds that the proposed plan of business of the applicant appears to be fair, just and equitable, and also that any consideration paid, or to be paid, for such securities by promoters is fair, just and equitable when such consideration for such securities is less than the proposed offering price to the public, and that the securities which it proposes to issue and the methods to be used by it in issuing and disposing of the same are not such as will work a fraud upon the purchaser thereof, the Commissioner shall issue to the applicant a permit authorizing it to issue and dispose of such securities. Should the Commissioner find that the proposed plan of business of the applicant appears to be unfair, unjust or inequitable, he shall deny the application for a permit and notify the applicant in writing of his decision.

B. Permit, Form and Contents; Term and Renewals.

Every permit qualifying securities shall be in such form as the Commissioner may prescribe, and shall recite in bold type that the issuance thereof is permissive only, and does not constitute a recommendation or endorsement of the securities permitted to be issued. Such permit shall be for a period of one (1) year; provided, however, that if the securities authorized to be sold are not sold within the term provided by the permit, a renewal application may be filed with the Commissioner. Such renewal application shall recite the total number of shares sold in Texas, the total number of shares sold elsewhere, total number of shares outstanding, and shall contain a detailed balance sheet, an operating statement, and such other information as the Commissioner may require. The Commissioner shall examine applications for renewal by the same standards as stated in subsection A of this section for original applications and upon that basis issue or deny renewal permits; such permits, if issued, shall be for a period of one (1) year and be in such form as the Commissioner may prescribe. The Commissioner shall charge such fees for

the issuance of permits to sell securities as are hereinafter provided. No permit instrument need be issued if securities are registered under Sections 7B or C of this Act, but the Commissioner will examine the registration papers to determine their sufficiency under the requirements there stated.

C. Use of Permit to Aid Sale of Securities Prohibited.

It shall be unlawful for any dealer or issuer, agent or salesman, to use a permit authorizing the issuance of securities in connection with any sale or effort to sell any security.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 10.]

¹ Article 581-7.

Art. 581-11. Papers Filed with Commissioner; Records Open to Inspection

All information, papers, documents, instruments and affidavits required by this Act to be filed with the Commissioner shall be deemed public records of this state, and shall be open to the inspection and examination of any purchaser or prospective purchaser of said securities or the agent or representative of such purchaser or prospective purchaser; and the Commissioner shall give out to any such purchaser or prospective purchaser or his agent or representative any information required to be filed with him under the provisions of this section, or any other part of this Act, and shall furnish any such purchaser, prospective purchaser, or his agent or representative requesting it, certified copies of any and all papers, documents, instruments and affidavits filed with him under the provisions of this section or of any part of this Act. Provided, however, this provision shall not apply to the information supplied by dealers or salesmen under Sections 13 and 18¹ in response to requirements for licenses to sell securities, which shall be confidential except for the courts or governmental agencies in the performance of official duties. But the Commissioner shall maintain a record, which shall be open for public inspection, upon which shall be entered the names and addresses of all registered dealers and salesmen and all orders of the Commissioner denying, suspending or revoking registration.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 11.]

¹ Articles 581-13, 581-18.

Art. 581-12. Registration of Persons Selling

Except as provided in Section 5 of this Act,¹ no person, firm, corporation or dealer shall, directly or through agents or salesmen, offer for sale, sell or make a sale of any securities in this state without first being registered as in this Act provided. No salesman or agent shall, in behalf of any dealer, sell, offer for sale, or make sale of any securities within the state unless registered as a salesman or agent of a registered dealer under the provisions of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 12.]

¹ Article 581-5.

Art. 581-13. Method of Registration Required of Each Dealer and Each Agent or Salesman of Each Dealer

A. A dealer to be registered must submit a sworn application therefor to the Commissioner, which shall be in such form as the Commissioner may determine and which shall state:

(1) The principal place of business of the applicant wherever situated;

(2) The location of the principal place of business and all branch offices in this state, if any;

(3) The name or style of doing business and the address of the dealer;

(4) The names, residences and the business addresses of all persons interested in the business as principal, officer, director or managing agent, specified as to each his capacity and title; and

(5) The general plan and character of business of such applicant and the length of time during and the places at which the dealer has been engaged in the business.

B. Such application shall also contain such additional information as to applicant's previous history, record, associations and present financial condition as may be required by the Commissioner, or as is necessary to enable the Commissioner to determine whether the sale of any securities proposed to be issued or dealt in by such applicant would result in fraud.

C. Each application shall be accompanied by certificates or other evidences satisfactory to the Commissioner establishing the good reputation of the applicant, his directors, officers, copartners or principals.

D. The Commissioner shall require as a condition of registration for all registrations granted after the effective date of this Subsection D that the applicant (and, in the case of a corporation or partnership, the officers, directors or partners to be licensed by the applicant) pass successfully a written examination to determine the applicant's qualifications and competency to engage in the business of dealing in and selling securities as a dealer or as a salesman, or rendering services as an investment adviser. This condition may be waived as to any applicant or class of applicants by action of the State Securities Board.

E. If the applicant is a corporation organized under the laws of any other state or territory or government or shall have its principal place of business therein, it shall accompany the application with a copy of its Articles of Incorporation and all amendments thereto, certified by the proper officer of such state or government or of the corporation, and its regulations and by laws.

F. If a limited partnership, either a copy of its Articles of Copartnership or a verified statement of the plan of doing business.

G. If an unincorporated association or organization under the laws of any other state, territory or government, or having its principal

place of business therein, a copy of its Articles of Association, Trust Agreement or other form of organization.

H. It shall be the duty of the Commissioner to prepare a proper form to be used by the applicant under the terms of this Section, and the Commissioner shall furnish copies thereof to all persons desiring to make application to be registered as a dealer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 13; Acts 1963, 58th Leg., p. 473, ch. 170, § 9.]

Art. 581-14. Bases for Denial, Suspension or Revocation of Registration as Dealer or Agent or Salesman

The registration of a dealer or agent or salesman may be denied, suspended or revoked if the Commissioner finds, after notice and opportunity for hearing as provided in Section 25,¹ that such dealer, agent, salesman, or any officer, director, partner, member, trustee, or manager of such dealer:

A. Has been convicted of a felony, or of any misdemeanor of which fraud is an essential element;

B. Has engaged in any inequitable practice in the sale of securities or in any fraudulent business practice;

C. In the case of a dealer, is insolvent;

D. In the case of a dealer, is selling or has sold securities in this state through a salesman other than a registered salesman, or, in the case of a salesman, is selling or has sold securities in this state for a dealer, issuer or controlling person with knowledge that such dealer, issuer or controlling person has not complied with the provisions of this Act;

E. Has violated any of the provisions of this Act;

F. Has made any material misrepresentation to the Commissioner in connection with any information deemed necessary by the Commissioner to determine a dealer's financial responsibility or a dealer's or salesman's business repute or qualifications, or has refused to furnish any such information requested by the Commissioner.

G. Has not complied with a condition imposed by the Commissioner under Section 13-D.² Provided, however, that this Subsection G shall not apply to any person or company registered as a dealer or salesman on the effective date of this Subsection G.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 14; Acts 1963, 58th Leg., p. 473, ch. 170, § 10.]

¹ Article 581-25.

² Article 581-13.

Art. 581-15. Issuance of Registration Certificates to Dealers

If the Commissioner is satisfied that the applicant for a dealer's certificate of registration has complied with the requirements of the Act above, that the applicant has filed a written

consent to service as and when required by Section 16¹ of this Act, and upon the payment of the fees required by Section 35² of this Act, the Commissioner shall register the applicant and issue to it or him a registration certificate, stating the principal place of business and address of the dealer, the names, residences and business addresses of all persons interested in the business as principals, officers, directors or managing agents, and the fact that the dealer has been registered for a current calendar year as a dealer in securities. Pending final disposition of an application, the Commissioner may, for special cause shown, grant temporary permission, revocable at any time and subject to such terms and conditions as the Commissioner may prescribe, to transact business as a dealer under this Act. Any dealer acting under such a temporary permission, shall be considered a registered dealer for all purposes of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 15.]

¹ Article 581-16.

² Article 581-35.

Art. 581-16. Consent to Suit in this State, by Dealers Who Are Foreign Companies or Non-residents

Every company organized under the laws of any other state, or having its principal office therein, and every non-resident individual, shall file with its or his application for registration as a dealer a written consent, irrevocable, that actions growing out of any transaction subject to this Act may be commenced against it or him, in the proper court of any county of this state in which the cause of action may arise, or in which the plaintiff may reside, by a service of process upon the Commissioner as its or his agent, and stipulating and agreeing that such service of process shall be taken and held in all courts to be as valid and binding as if due service had been made upon the person or company itself according to the laws of this or any other state, and such instrument shall be authorized by the seal of such corporation, or by the signature of all the members of such co-partnership, or by the signature of the president and secretary of the association, if it is a corporation or association, and shall be accompanied by a duly certified copy of the resolutions of the board of directors, trustees, or managers of the corporation authorizing the said secretary and president to execute the same.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 16.]

Art. 581-17. Form of Certificates to Dealers

The certificate shall be in such form as the Commissioner may determine. Any changes in the personnel of a partnership or in the principals, officers, directors or managing agents of any dealer shall be immediately certified under oath to the Commissioner and any change in the certificate necessitated thereby may be made at any time, upon written application setting forth the fact necessitating the change. Upon the issue of the amended certificates, the

original certificate and the certified copies thereof outstanding shall be promptly surrendered to the Commissioner.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 17.]

Art. 581-18. Registration of Agents or Salesmen of Dealers

Upon written application by a registered dealer, and upon satisfactory compliance with the requirements of the Act above, the Commissioner shall register as agents or salesmen of such dealer such persons as the dealer may request. The application shall be in such form as the Commissioner may prescribe and shall state the residences and addresses of the persons whose registration is requested, together with such information as to such agent's or salesman's previous history, record and association as may be required by the Commissioner. Such application shall also be signed and sworn to by the agent or salesman for whom registration is requested. The Commissioner shall issue to such dealer, to be retained by such dealer for each person so registered, a registration certificate stating his name and residence, the address of the dealer, and the fact that he is registered for the current calendar year as an agent or salesman of the dealer. The certificate shall be in such form as the Commissioner shall determine. Upon application by the dealer, the registration of any agent or salesman shall be cancelled.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 18.]

Art. 581-19. Annual Registration; Renewals

All registrations shall expire at the close of the calendar year, but new registrations for the succeeding year shall be issued upon written application and upon payment of the fees as hereinafter provided, without filing of further statements or furnishing any further information unless specifically requested by the Commissioner. Applications for renewals must be made not less than thirty (30) days nor more than sixty (60) days before the 1st of January of the ensuing year. All applications for renewals received otherwise shall be treated as original applications; provided, that if any applicant is registered after December 1st of any year, he may immediately apply for a renewal of his registration for the ensuing year.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 19.]

Art. 581-20. Display or Advertisement of Fact of Registration Unlawful

It shall be unlawful for any dealer, agent or salesman to use the fact that¹ his registry, by public display or advertisement, except as hereinafter expressly provided, for the registration certificate or any certified copy thereof, in connection with any sale or effort to sell any security.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 20.]

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

Art. 581-21. Posting Certificates of Authority

Immediately upon receipt of the dealer's registration certificate issued pursuant to the authority of this Act, the dealer named therein shall cause such certificate to be posted and at all times conspicuously displayed in such dealer's principal place of business, if one is maintained in this state, and shall likewise forthwith cause a duplicate of such certificate to be posted and at all times conspicuously displayed in each branch office located within this state.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 21.]

Art. 581-22. Advertising

A. It shall be unlawful and punishable with the penalties set forth in Section 29H¹ of this Act for any person to issue, distribute, or publish, within this State, any circular, advertisement, pamphlet, prospectus, program or other matter, as to any security, unless such advertising complies with the requirements hereinafter set forth in this Section 22;² in addition, the State and purchasers shall have all other remedies provided for where the unlawful sales are made under this Act.

B. After a securities permit is issued by the Commissioner, or registration with the Commissioner is completed under Sections 7B or C,³ any advertising may be issued, distributed, or published, until notice to cease publication has been given under Section 23:⁴

(1) If such person, company, dealer, agent or salesman shall have been registered as in this Act provided; and

(2) If such securities shall have been qualified under a securities permit granted by the Commissioner, or shall have been registered under Sections 7B or C, as in this Act provided; and

(3) If a true copy of such circular, advertisement, pamphlet, prospectus, program or other matter with the name of the dealer, or dealers, subscribed thereto, or printed thereon shall have been filed with the Commissioner.

C. Advertising issued, distributed, or published in compliance with the provisions of Section 22B, may include the names of non-registered dealers who have participated with registered dealers of Texas in the original purchase or underwriting of securities, and inclusion of such names of non-registered dealers on any circular, advertisement, pamphlet, prospectus, program or other matter with names of such registered dealers shall not be a violation of this Act if the circular, advertisement, pamphlet, prospectus, program or other matter bears a legend thereon in plain and legible type stating that such securities are being offered within the State of Texas only by registered dealers within the State of Texas whose names are subscribed thereto, or printed thereon.

D. The whole, or any part, of any written, typed, or printed documents theretofore filed under the Federal Securities Act of 1933⁵ with

the Securities and Exchange Commission of the United States may be used as advertising, if not printed in newspapers, used on television, or broadcast over radio. With the above exceptions, and if a copy of such advertising matter is first sent to the Commissioner, same may be used prior to and during the time an application for a securities permit, or application for registration by notification, of securities is under consideration by the Commissioner, and thereafter until notice is given under Section 23 by the Commissioner to cease advertising. Any advertising matter used under this subsection (D) shall have the following legend printed or securely pasted on the first page thereof:

INFORMATIONAL ADVERTISING ONLY.

THE SECURITIES HEREIN DESCRIBED HAVE NOT BEEN QUALIFIED OR REGISTERED FOR SALE IN TEXAS. ANY REPRESENTATIONS TO THE CONTRARY, OR SALE OF THESE SECURITIES IN TEXAS PRIOR TO QUALIFICATION OR REGISTRATION THEREOF, IS A CRIMINAL OFFENSE.

If any advertising matter used under this subsection D does not bear the above legend, or if such information is televised, broadcast over radio, or printed in a newspaper, prior to issue of a permit, or prior to completion of registration by notification or coordination, or if a copy is not first sent to the Commissioner, such use is declared unlawful and shall be deemed a sale punishable under the penalties set out in Section 29 of this Act.

E. Section 22 shall not apply to exempt transactions listed in Section 5⁶ of this Act, nor to exempt securities listed in Section 6⁷ of this Act, unless such advertising violates the provisions of Section 23 of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 22; Acts 1961, 57th Leg., p. 1047, ch. 466, § 2.]

¹ Article 581-29.

² This article.

³ Article 581-7.

⁴ Article 581-23.

⁵ 15 U.S.C.A. §§ 77a to 77aa.

⁶ Article 581-5.

⁷ Article 581-6.

Art. 581-23. List of Securities Filed With the Commissioner on Request, Notice and Hearing as to Securities Questioned by Commissioner

Anything in this Act to the contrary notwithstanding,

A. If it appears to the commissioner at any time that the sale or proposed sale or method of sale of any securities, whether exempt or not, would not be in compliance with this Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, the commissioner may, after notice to the issuer, the registrant and the person on whose behalf such securities are being or are to be offered, by personal

service or the sending of a confirmed telegraphic notice, and after opportunity for a hearing (at a time fixed by the commissioner) within 15 days after such notice by personal service or the sending of such telegraphic notice, if the commissioner shall determine at such hearing that such sale would not be in compliance with the Act or would tend to work a fraud on any purchaser thereof or would not be fair, just or equitable to any purchaser thereof, issue a written cease and desist order, prohibiting or suspending the sale of such securities or denying or revoking the registration of such securities. No dealer, agent or salesman shall thereafter knowingly sell or offer for sale any security named in such cease and desist order.

B. No dealer, agent or salesman shall publish within this state or use in connection with any sale or offer of sale any circular, advertisement, prospectus, program or other matter in the nature thereof, after notice in writing has been given him by the commissioner that, in the commissioner's opinion, the same contains any statement that is false or misleading or otherwise likely to deceive a reader thereof.

C. The commissioner may, in the exercise of reasonable discretion hereunder, at any time, require a dealer to file with the commissioner a list of securities which he has offered for sale or has advertised for sale within this state during the preceding six months, or which he is at the time offering for sale or advertising, or any portion thereof.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 23; Acts 1973, 63rd Leg., p. 216, ch. 97, § 1, eff. Aug. 27, 1973.]

Art. 581-24. Hearings by Commissioner Upon Notice, Upon Exception by Any Party at Interest, to Actions of Commissioner

If any person or company should take exception to the action of the Commissioner under Section 10¹ in failing or refusing to issue a permit for the sale of securities under Sections 15 or 18,² in failing or refusing to register and issue certificate for a dealer or salesman, under Section 23³ in issuing an order against the sale of securities or the use of materials therein, or in any other particular where this Act specifies no other procedure, the complaining party may request a hearing before the Commissioner. Within thirty (30) days after receipt of such request, the hearing must be held, except that the Commissioner may continue same on consent of the complaining party. The complaining party shall be given at least seven (7) days notice of the time and date of such hearing. After fair hearing, the Commissioner shall issue a written order or decision, upholding, amending, extending, or reversing the previous action, and stating reasons therefor.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 24.]

¹ Article 581-10.

² Articles 581-15, 581-18.

³ Article 581-23.

Art. 581-25. Revocation of Registration of any Dealer or Agent or Salesman of any Dealer, Upon Hearing after Notice

If the Commissioner at any time has reason to believe any dealer or salesman has in any way violated, or is violating or about to violate any of the provisions of this Act, or has been guilty of any fraud or fraudulent practice, or has failed to meet the requirements of Section 14,¹ then the Commissioner may, after hearing, and having reasonable cause to believe the dealer or salesman has been guilty of such offense or failed in such respect, revoke the registration of said dealer or salesman. Notice of the time and place of any such hearing shall be sent to such dealer or salesman at least seven (7) days prior thereto. The dealer or salesman shall not be regarded as registered under the provisions hereof until restored to registration by the Commissioner, either on the Commissioner's own initiative or upon the order of the court, as in this Act hereinafter provided. The revocation of the dealer's registration shall constitute a revocation of the registration of any agent or salesman of the dealer and notice of its operation on such agent or salesman shall be forthwith sent by the Commissioner to each of such agents or salesmen. All registrations revoked shall at once be surrendered to the Commissioner upon request.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 25.]

¹ Article 581-14.

Art. 581-26. Notices by Registered Mail

Any notice required by this Act shall be sufficient if sent by registered or certified mail unless otherwise specified in this Act, addressed to the dealer, agent or salesman, as the case may be, at the address designated in the application for registration. All testimony taken at any hearing before the Commissioner shall be reported stenographically and a full and complete record shall be kept of all proceedings had before the Commissioner on any hearing or investigation.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 26.]

Art. 581-27. Petition to District Court of Travis County on Complaint of Decision of Commissioner

Any dealer, salesman or applicant aggrieved by any decision of the Commissioner may file within thirty (30) days thereafter in the District Court of Travis County, Texas, a petition against the Commissioner, officially as defendant, alleging therein in brief detail the action and decision complained of. Upon service of a summons upon the Commissioner, returnable within ten (10) days from its date, the Commissioner shall, on or before the return day, file an answer in which he shall allege, by way of defense, the grounds for his decision. The Commissioner shall also, on or before the return day of such summons, certify to said District Court the record of the proceedings to which the petition refers. Such record shall include the testimony taken therein, the finding of fact, if any, of the Commissioner based

upon such testimony, a copy of all orders made by the Commissioner in the proceedings, and a copy of the action or decision of the Commissioner which the petition calls upon the court to reverse. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as a part of the cost in the case, to be paid as directed by the court upon the final determination of the case.

All appeals to the District Court shall be tried by such court as a trial de novo as that term is used in an appeal from Justice of the Peace Court to a County Court, as if there had been no previous determination or hearing on the matters in controversy, and under no circumstances shall the substantial evidence rule as interpreted by the courts of Texas ever be applied to appeals taken under this Act.

From the decision of the District Court an appeal may be taken to the Court of Civil Appeals by either party as in other cases, and no bond shall be required by the Commissioner.

A judgment sustaining the refusal of the Commissioner to grant or renew a registration as a dealer or as an agent or salesman of any dealer, shall not bar, after one (1) year, a new application by the plaintiff for registration, nor shall a judgment in favor of the plaintiff prevent the Commissioner from thereafter revoking or refusing to renew such registration for any proper cause which may thereafter accrue or be discovered. The court shall have full power to dispose of all costs.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 27.]

Art. 581-28. Subpoenas or Other Process in Investigations by Commissioner

The Commissioner may require, by subpoena or summons issued by the Commissioner, addressed to the sheriff or any constable, the attendance and testimony of witnesses and the production of any books, accounts, records, papers and correspondence or other records or indices showing the names and addresses of the stockholders (except such books of account as are necessary to the continued conduct of the business, which books the Commissioner shall have the right to examine or cause to be examined at the office of the concern and to require copies of such portion thereof as may be deemed necessary touching the matter in question, which copies shall be verified by affidavit of an officer of such concern and shall be admissible in evidence as provided in Section 30 hereof),¹ relating to any matter which the Commissioner has authority by this Act to consider or investigate, and for this purpose the Commissioner may sign subpoenas, administer oaths and affirmations, examine witnesses and receive evidence; provided, however, that all information of every kind and nature contained therein shall be treated as confidential by the Commissioner and shall not be disclosed to the public except under order of court; but nothing in this section shall be interpreted to prohibit or limit the publication of rulings or deci-

sions of the Commissioner nor shall this limitation apply to hearings provided for in Sections 24 and 25 of this Act.² In case of disobedience of any subpoena, or of the contumacy of any witness appearing before the Commissioner, the Commissioner may invoke the aid of the District Court within whose jurisdiction any witness may be found, and such court may thereupon issue an order requiring the person subpoenaed to obey the subpoena or give evidence, or produce books, accounts, records, papers, and correspondence touching the matter in question. Any failure to obey such order of the court may be punished by such court as contempt thereof.

In the course of an investigation looking to the enforcement of this Act, or in connection with the application of a person or company for registration or to qualify securities, the Commissioner or Deputy Commissioner shall have free access to all records of the Board of Insurance Commissioners, including company examination reports to the Board and reports of special investigations made by personnel of the Board, as well as records and reports of and to any other department or agency of the state government. In the event, however, that the Commissioner or Deputy Commissioner should give out any information which the law makes confidential, the affected corporation, firm or person shall have a right of action on the official bond of the Commissioner or Deputy for his injuries, in a suit brought in the name of the state at the relation of the injured party.

The Commissioner may in any investigation cause the deposition of witnesses residing within or without the state to be taken in the manner prescribed for depositions in civil actions under the laws of Texas.

Each witness required to attend before the Commissioner shall receive, for each day's attendance, the sum of Two Dollars (\$2.00), and shall receive in addition the sum of Ten Cents (10¢) for each mile traveled by such witness by the usual route going to and returning from the place where his presence is required. All disbursements made in the payment of such fees shall be included in and paid in the same manner as is provided for the payment of other expenses incident to the administration and enforcement of this Act as hereinafter provided.

The fee for serving the subpoena shall be the same as those paid the sheriff for similar services. The fees, expenses and costs incurred at or in connection with any hearing may be imposed by the Commissioner upon any party to the record, or may be divided between any and all parties to the record in such proportions as the Commissioner may determine.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 28.]

¹ Article 581-30.

² Articles 581-24, 581-25.

Art. 581-29. Penal Provisions

Any person who shall:

A. Sell, offer for sale or delivery, solicit subscriptions or orders for, dispose of,

invite offers for, or who shall deal in any other manner in any security or securities without being a registered dealer or salesman or agent as in this Act provided shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than 10 years, or by both such fine and imprisonment.

B. Sell, offer for sale or delivery, solicit subscriptions to and orders for, dispose of, invite orders for, or who shall deal in any other manner in any security or securities issued after September 6, 1955, unless said security or securities have been registered or granted a permit as provided in Section 7 of this Act, shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$5,000 or imprisonment in the penitentiary for not more than 10 years, or by both such fine and imprisonment.

C. In connection with the sale, offering for sale or delivery of, the purchase, offer to purchase, invitation of offers to purchase, invitations of offers to sell, or dealing in any other manner in any security or securities, whether or not the transaction or security is exempt under Section 5 or 6 of this Act, directly or indirectly (1) engage in any fraud or fraudulent practice, or (2) employ any device, scheme, or artifice to defraud, or (3) knowingly make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading, or (4) engage in any act, practice or course of business which operates or will operate as a fraud or deceit upon any person, is guilty of a felony and upon conviction shall be imprisoned for not more than 10 years, or fined not more than \$5,000, or both.

D. Sell or offer for sale any security or securities named or listed in a notice in writing given him by the commissioner under the authority of Section 23A of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

E. Knowingly make or cause to be made, in any document filed with the commissioner or in any proceeding under this Act, whether or not such document or proceeding relates to a transaction or security exempt under the provisions of Sections 5 or 6 of this Act, any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect shall be deemed guilty of a felony, and upon con-

viction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

F. Knowingly make any false statement or representation concerning any registration made under the provisions of this Act shall be deemed guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

G. Issue, distribute, or publish, within this state, any circular, advertisement, pamphlet, prospectus, program or other matter, as to any security, unless such advertising complies with the requirements set forth in Section 22 of this Act shall be deemed guilty of a felony, and upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 or imprisonment in the penitentiary for not more than two years, or by both such fine and imprisonment.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 29; Acts 1961, 57th Leg., p. 1047, ch. 466, § 1; Acts 1963, 58th Leg., p. 473, ch. 170, § 11; Acts 1973, 63rd Leg., p. 217, ch. 97, § 2, eff. Aug. 27, 1973.]

Art. 581-30. Certified Copies of Papers Filed with Commissioner as Evidence

Copies of all papers, instruments, or documents filed in the office of the Commissioner, certified by the Commissioner, shall be admitted to be read in evidence in all courts of law and elsewhere in this state in all cases where the original would be admitted in evidence; provided, that in any proceeding in the court having jurisdiction, the court may, on cause shown, require the production of the originals.

The Commissioner shall assume custody of all records of the Securities Divisions within the offices of the Secretary of State and of the Board of Insurance Commissioners, and henceforth these prior records shall be proven under certificate of the Commissioner.

In any prosecution, action, suit or proceeding before any of the several courts of this state based upon or arising out of or under the provisions of this Act, a certificate under the seal of the state, duly signed by the Commissioner, showing compliance or non-compliance with the provisions of this Act respecting compliance or non-compliance with the provisions of this Act by any dealer or salesman, shall constitute prima facie evidence of such compliance or of such non-compliance with the provisions of this Act, as the case may be, and shall be admissible in evidence in any action at law or in equity to enforce the provisions of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 30.]

Art. 581-31. Construction

Nothing herein contained shall limit or diminish the liability of any person or company,

or of its officers or agents, now imposed by law to prevent the prosecution of any person or company, or of its officers or agents, for the violation of the provisions of any other statute. [Acts 1957, 55th Leg., p. 575, ch. 269, § 31.]

Art. 581-32. Injunctions

Whenever it shall appear to the Commissioner either upon complaint or otherwise, that in the issuance, sale, promotion, negotiations, advertisement or distribution of any securities within this state, including any security embraced in the subsections of Section 6,¹ and including any transaction exempted under the provisions of Section 5,² any person or company who shall have employed, or is about to employ any device, scheme or artifice to defraud or to obtain money or property by means of any false pretense, representation or promise, or that any such person or company shall have made, makes or attempts to make in this state fictitious or pretended purchases or sales of securities or shall have engaged in or is about to engage in any practice or transaction or course of business relating to the purchase or sale of securities which is in violation of law or which is fraudulent or which has operated or which would operate as a fraud upon the purchaser, any one or all of which devices, schemes, artifices, fictitious or pretended purchases, or sales of securities, practices, transactions and courses of business are hereby declared to be and are hereafter referred to as fraudulent practices; or that any person or company is acting as dealer or salesman within this state without being duly registered as such dealer or salesman as provided in this Act, the Commissioner and Attorney General may investigate, and whenever he shall believe from evidence satisfactory to him that any such person or company has engaged in, is engaged in, or is about to be engaged in any of the practices or transactions heretofore referred to as and declared to be fraudulent practices, or is selling or offering for sale any securities in violation of this Act or is acting as a dealer or salesman without being duly registered as provided in this Act, the Attorney General may, on request by the Commissioner, and in addition to any other remedies, bring action in the name and on behalf of the State of Texas against such person or company and any other person or persons heretofore concerned in or in any way participating in or about to participate in such fraudulent practices or acting in such violation of this Act, to enjoin such person or company and such other person or persons from continuing such fraudulent practices or engaging therein or doing any act or acts in furtherance thereof or in violation of this Act. In any such court proceedings, the Attorney General may apply for and on due showing be entitled to have issued the court's subpoena requiring the forthwith appearance of any defendant and his employees, salesmen or agents and the production of documents, books and records as may appear necessary for the hearing of such petition, to testify

and give evidence concerning the acts or conduct or things complained of in such application for injunction. The District Court of any county, wherein it is shown that the acts complained of have been or are about to be committed, shall have jurisdiction of any action brought under this section, and this provision shall be superior to any provision fixing the jurisdiction or venue with regard to suits for injunction. No bond for injunction shall be required of the Commissioner or Attorney General in any such proceeding.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 32.]

¹ Article 581-6.

² Article 581-5.

Art. 581-33. Civil Liabilities

A. Any person who

(1) Offers or sells a security in violation of Sections 7, 9¹ (or any requirement of the Commissioner thereunder), 12, 23B or any order under 23A of this Act,² or

(2) Offers or sells a security (whether or not the security or transaction is exempt under Section 5 or 6 of this Act)³ by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to make the statements made not misleading (when the person buying the security does not know of the untruth or omission, and who in the exercise of reasonable care could not have known of the untruth or omission) is liable to the person buying the security from him, who may sue either at law or in equity to recover the consideration paid for the security, together with interest at six per cent (6%) per year from the date of payment, less the amount of any income received on the security upon the tender of the security, or for damages if he no longer owns the security. Damages are the amount that would be recoverable upon a tender less (a) the value of the security when the buyer disposed of it and (b) interest at six per cent (6%) per year on such value from the date of disposition. Nothing herein shall prevent the award of punitive or exemplary damages in an amount not to exceed twice the actual damages, as found by the jury, when such false representation or omission is proven to be willfully made.

B. Every cause of action under this Act survives the death of any person who might have been a plaintiff or defendant.

C. No person may sue under Subsection A(1) of this Section 33 more than three (3) years after the contract of sale. No person may sue under said Subsection A(1) if the buyer received a written offer accompanied by reasonable financial information before suit and at a time when he owned the security, to refund the consideration paid together with interest at six per cent (6%) per year from the date of payment, less the amount of any income received on the security, and he failed to accept the offer within thirty (30) days of its receipt; or if the buyer received such an offer in the amount specified above less the value of

the security when the buyer disposed of it, and less interest at six per cent (6%) per year on such value from date of disposition, before suit and at a time when he did not own the security, unless he rejected the offer in writing within thirty (30) days of its receipt. In connection with any such offer, the seller shall deposit funds in escrow in a state or national bank doing business in the State of Texas, or receive an unqualified commitment from such bank to furnish funds, sufficient to provide for the refund on all securities covered by the offer. The notice accompanying such offer shall state (1) the name of such bank where the refund may be obtained upon surrender of the security, or if the buyer has disposed of such security upon satisfactory proof of such disposition and of the value received therefor, and (2) that buyer, upon receipt of the refund, may not sue to recover the consideration paid plus interest or for damages under Subsection A(1) of this Section 33, and (3) that the buyer, in the event of failure to accept the offer within thirty (30) days of its receipt, may not sue to recover the consideration paid plus interest or for damages under Subsection A(1) of this Section 33. No person may sue under Subsection A(2) more than three (3) years after the contract of sale or more than three (3) years after the buyer in the exercise of ordinary care should have discovered that such sale was made in violation of said Subsection A(2). Nothing in this Subsection C shall affect or restrict the periods of limitation or other rights applicable to causes of action based on fraud brought pursuant to Article 4004 of the Revised Civil Statutes.

D. No person who has made or engaged in the performance of any contract in violation of any provision of this Act or any rule or order or requirement hereunder, or who has acquired any purported right under any such contract with knowledge of the facts by reason of which its making or performance was in violation, may base any suit on the contract.

E. Any condition, stipulation or provision binding any person acquiring any security to waive compliance with any provision of this Act or any rule or order or requirement hereunder is void.

F. The rights and remedies provided by this Act are in addition to any other rights or remedies that may exist at law or in equity.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 33; Acts 1963, 58th Leg., p. 473, ch. 170, § 12.]

¹ Articles 581-7, 581-9.

² Articles 581-12, 581-23.

³ Articles 581-5, 581-6.

Art. 581-34. Actions for Commission; Allegations and Proof of Compliance

No person or company shall bring or maintain any action in the courts of this state for collection of a commission or compensation for services rendered in the sale or purchase of securities, as that term is herein defined, without alleging and proving that such person or company was duly licensed under the provisions

hereof and the securities so sold were duly registered under the provisions hereof at the time the alleged cause of action arose; provided, however, that this section or provision of this Act shall not apply to the exempt transactions set forth in Section 5 of this Act¹ nor to the sale and purchase of exempt securities listed in Section 6 of this Act,² when sold by a registered dealer.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 34.]

¹ Article 581-5.

² Article 581-6.

Art. 581-35. Fees

The Commissioner shall charge and collect the following fees and shall daily pay all fees received into the State Treasury:

A. For the filing of any original or renewal application of a dealer, Twenty-five Dollars (\$25.00);

B. For each and every registration certificate issued to a dealer, whether on an original or renewal application, Ten Dollars (\$10.00);

C. For the filing of any original or renewal application for each salesman, Ten Dollars (\$10.00);

D. For each and every registration certificate issued to each salesman, Five Dollars (\$5.00);

E. For each and every registration certificate issued to a dealer or salesman after the first day of July of any year, one-half of the fee provided in subsections B and D herein, whichever is applicable;

F. For the filing of any original, amended, or renewal application of an issuer to sell or dispose of stock, Five Dollars (\$5.00);

G. (1) For each and every permit or amended permit issued under Section 7A, a fee of one tenth ($\frac{1}{10}$) of one per cent (1%) of the aggregate amount of securities described and proposed to be sold in this State based upon the price at which such security is to be offered to the public.

(2) For the examination of any application for a permit which is denied, abandoned or withdrawn, a fee of one tenth ($\frac{1}{10}$) of one per cent (1%) of the aggregate amount of securities described and sought to be permitted in this State based upon the proposed public offering price.

H. For each and every renewal or amended permit issued to an issuer, Five Dollars (\$5.00);

I. For copies of any papers filed in the office of the Commissioner, or for the certification thereof, the Commissioner shall charge such fees as the Secretary of State is now authorized to charge in similar cases;

J. For the filing of any original or renewal application of a dealer of any instrument representing any interest in or

under an oil, gas, or mineral lease, fee or title, a fee of Twelve Dollars (\$12.00);

K. For each and every registration certificate issued to a dealer under the terms of subsection J, a fee of Five Dollars (\$5.00);

L. For the filing of any application for approval of a stock exchange so that securities fully listed thereon will be exempt, a fee of Two Hundred and Fifty Dollars (\$250.00);

M. (1) For securities registered by notification or coordination, the fees prescribed in Section 7B or C of this Act¹;

(2) For the examination of any registration statement filed under Sections 7B or C which, for any reason, does not become effective, a fee of one tenth ($\frac{1}{10}$) of one per cent (1%) of the aggregate amount of securities described and sought to be registered in this State based upon the proposed public offering price.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 35; Acts 1959, 56th Leg., p. 982, ch. 457, § 1.]

¹ Article 581-7.

Art. 581-36. Deposit to General Revenue Fund

Upon and after the effective date of this Act all moneys received from fees, assessments, or charges under this Act shall be paid by the Commissioner into the General Revenue Fund.

[Acts 1957, 55th Leg. p. 575, ch. 269, § 36.]

Art. 581-37. Pleading Exemptions

It shall not be necessary to negative any of the exemptions in this Act in any complaint, information or indictment, or any writ or proceeding laid or brought under this Act; and the burden of proof of any such exemption shall be upon the party claiming the same.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 37.]

Art. 581-38. Partial Invalidity; Severability

The provisions of this Act are severable, and in the event that any provision thereof should be declared void or unconstitutional, it is hereby declared that the remaining provisions would have been enacted notwithstanding such judicial determination of the invalidity of any particular provision or provisions in any respect, and said sections shall remain in full force and effect.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 38.]

Art. 581-39. Repeal of Securities Act and Insurance Securities Act Now in Effect; Saving Clause as to Pending Proceedings

The Acts now in effect being currently known as the Securities Act of Texas and the Insurance Securities Act of Texas, as embraced in Senate Bill No. 149, Chapter 67,¹ and House Bill No. 39, Chapter 384,² Acts of the 54th Legislature, 1955, and codified as Articles 579 and 580 of Vernon's Civil Statutes of Texas, be and the same are hereby repealed; provided, however, that all permits, orders, and licenses is-

sued by the Secretary of State or Board of Insurance Commissioners pursuant to said laws prior to the effective date of this Act shall be valid during the period for which they were issued unless sooner revoked by the Commissioner for any cause for which the Commissioner is authorized by this Act to revoke hereunder; provided further, that all prosecutions and legal or other proceedings begun, and any violation of law whether prosecution or administrative action is commenced or not, and any cause of action of civil or criminal nature existing under the provisions of that law now in effect, shall continue in effect and remain in full force and effect until terminated as under the terms of the law now in force, notwithstanding the passage of this Act.

[Acts 1957, 55th Leg., p. 575, ch. 269, § 39.]

¹ Articles 579-1 to 579-42.

² Articles 580-1 to 580-39.

Art. 582. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

Art. 582-1. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 582-1 effective September 1, 1967.

See, now, Business and Commerce Code, § 33.01 et seq.

Arts. 583 to 600. Repealed by Acts 1935, 44th Leg., p. 255, ch. 100, § 38

TITLE 19A

THE SECURITIES ACT [Repealed]

Art. 600a. Repealed by Acts 1955, 54th Leg., p. 322, ch. 67, § 41

The Securities Act of 1935, former article 600a, §§ 1-38, derived from Acts 1935, 44th Leg., p. 255, ch. 100, was repealed by Acts 1955, 54th Leg., p. 322, ch. 67.

Prior to repeal, former article 600a, §§ 1-38, was amended by:

Acts 1937, 45th Leg., p. 811, ch. 401, §§ 1, 2.
Acts 1939, 46th Leg., p. 928, § 1.

Acts 1941, 47th Leg., p. 593, ch. 363, §§ 1, 2.

Acts 1947, 50th Leg., p. 716, ch. 355, §§ 1-3.

Acts 1949, 51st Leg., p. 336, ch. 165, § 1.

Acts 1951, 52nd Leg., p. 624, ch. 370, §§ 1-4.

The Securities Act of 1955, former articles 579-1 to 579-42, derived from Acts 1955, 54th Leg., p. 322, ch. 67 and Act of 1955, former articles 580-1 to 580-39, derived from Acts 1955, 54th Leg., p. 1002, ch. 384, were repealed by Acts 1957, 55th Leg., p. 575, ch. 269, § 39.

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

TITLE 20

BOARD OF CONTROL

Chapter	Article
1. General Provisions	601
2. Division of Public Printing	607
3. Purchasing Division	631
4. Public Buildings and Grounds Division	665
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CHAPTER ONE. GENERAL PROVISIONS

Article

601. Creation; Members; Executive Director.
602. Quorum; Minutes; Clerical Help; Equipment and Supplies; Expenses.
603 to 605. Repealed.
606. Suits and Injunctions.

Art. 601. Creation; Members; Executive Director

The State Board of Control is created hereby. It shall consist of three members, all of whom shall be citizens of Texas. They shall be appointed by the Governor, by and with the advice and consent of the Senate of Texas. The term of office of each member shall be six years, except that in making the first appointments, the Governor shall appoint one member for a term of two years, one member for a term of four years and one member for a term of six years, so that the term of one member shall expire each two years. Upon the appointment of such members, and each two years thereafter, the Governor shall designate one of such members as Chairman.

No member of the present Board shall be eligible for appointment as Executive Director of the Board of Control as created by this Act; no member of the present Board may become eligible for appointment by resigning prior to this Act becoming law.

The members of the Board shall be public officials and shall take the Constitutional oath of office, and each shall give bond in form prescribed by the Attorney General in the sum of Fifty Thousand (\$50,000.00) Dollars, payable to and to be approved by the Governor, conditioned for the faithful performance of his duties. Premiums for said bonds shall be payable from such appropriations for the Board of Control as are authorized by the Legislature. They shall devote such time to their duties as may be necessary to their discharge.

The Board shall employ a Director who shall serve until removed by the Board. He shall execute a bond payable to the State in such sum as the Board may deem necessary, to be approved by the Board and conditioned upon the faithful performance of his duties. Premiums

for said bond also shall be payable from such appropriations for the Board of Control as are authorized by the Legislature. Such Director shall have had a minimum of ten (10) years of experience, within the fifteen (15) years preceding the date of his appointment, in the large scale purchasing or procurement of supplies, materials and equipment for public agencies or for private firms; and such experience must have demonstrated executive and organizational ability, and a knowledge of quality controls and the use of commodity specifications. Said Director shall manage the affairs of the Board of Control subject to and under the direction of the Board; and within ninety (90) days after his appointment, he shall prepare in writing and maintain currently thereafter a manual or manuals of purchasing instructions and procedures for the guidance of affected State departments and agencies. The Board may delegate such power, authority and duties to such Director as it may deem necessary and proper.

During the biennium beginning September 1, 1953, each member of said Board shall be compensated for his services at the annual rate of Two Thousand Five Hundred (\$2,500.00) Dollars, and said Director shall be compensated for his services at the annual rate of Twelve Thousand (\$12,000.00) Dollars; and the amounts actually due under said rates of compensation shall be paid from the appropriation made to the Board of Control for salaries and wages in Items 1 and 2, as set forth in Article III of House Bill No. 111, Acts of the 53rd Legislature, Regular Session. Balances not hereinbefore allocated may be used for other salaries.

[Acts 1953, 53rd Leg., p. 559, ch. 208, § 2.]

Art. 602. Quorum; Minutes; Clerical Help; Equipment and Supplies; Expenses

Two members of the Board shall constitute a quorum, and a quorum shall be necessary to transact any official business. The Board shall keep or cause to be kept minutes of its proceedings in a book provided for that purpose. It may employ or cause to be employed a secretary and such other clerks, stenographers, auditors, bookkeepers and clerical help as may be necessary in the administration of its department, within the limits of the appropriations that may be made for the work of the Department. It may purchase or cause to be purchased such equipment and supplies as may be necessary. The members of the Board shall be entitled to travel and other expense incurred in the discharge of their duties.

[Acts 1925, S.B. 84; Acts 1953, 53rd Leg., p. 559, ch. 208, § 2.]

Arts. 603 to 605. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 606. Suits and Injunctions

Mandamus suits may be brought in the Supreme Court against the board, but no other suit shall be brought against the Board of any other character, except in the District Court of Travis County. No temporary injunction shall ever issue against the Board except upon notice and hearing.

[Acts 1925, S.B. 84.]

**CHAPTER TWO. DIVISION OF
PUBLIC PRINTING**

Article

607 to 629. Repealed.

630. Contracts; Approval.

630a. State Contracts for Printing Laws.

630b. Official Reports Printed Only with Consent of Governor or Board of Control.

630c. Preventing Public Printers From Reproducing and Disposing of Matter Printed Under Public Contract.

Arts. 607 to 629. Repealed by Acts 1962, 57th Leg., 3rd C.S., p. 146, ch. 47, § 2

Art. 630. Contracts; Approval

Any contracts which are subject to the provisions of the State Purchasing Act of 1957¹ and which contracts are further subject to the provisions of Section 21 of Article 16 of the Constitution shall be subject to the approval of the Governor, the Secretary of State, and the Comptroller.

[Acts 1925, S.B. 84; Acts 1962, 57th Leg., 3rd C.S., p. 146, ch. 47, § 1.]

¹ Article 664-3.

Art. 630a. State Contracts for Printing Laws

Award of Contract; Provisions; Appropriation

Sec. 1. The Board of Control shall, at the opening of each regular session of the Texas Legislature, award a special contract for printing the general and special laws and resolutions to be passed by each regular or special session of the current Legislature, said contract to be separate and apart from all other contracts for public printing. The General and Special Laws shall be printed in separate volumes upon order of the Board of Control. The contracts for said printing shall be prepared by the Board of Control and shall provide such penalties as will assure the delivery of said laws within the contract time limit. A special stipulation shall be included in such contract providing that the printer shall produce at least forty-eight pages per day from the time the last copy is furnished him by the State. Binding time shall be allowed of not less than eight thousand sections of thirty-two's each day after the printing is completed, according to the foregoing schedule. The printer shall be required to begin delivery of completed books within a reasonable time after the printing is completed and binding commenced, which limit shall be set out in the call

for bids made by the Board of Control. An appropriation shall be made by the Legislature to pay the cost of compiling, indexing and printing all such laws and resolutions.

Reading Proofs; Warrant Dependent on Compliance with Section

Sec. 2. There shall also be placed in said contract a stipulation requiring the printer to have the proof read and corrected as provided herein, before submitting such proof to the State. The printer shall have such proof read by a competent proof reader and copy holder, and the discovered errors shall be corrected and a revised proof submitted to the State. While the proofs are in the hands of the State the time shall not be charged against the contractor doing the work, and he shall be allowed extension of time in which to deliver the finished product equal to the number of days the proofs are withheld from him by the State. The Comptroller shall not issue a warrant to the printer in payment for the printing of such laws and resolutions unless and until the printer, if an individual, or if a corporation, partnership, or association, the vice-president, secretary or manager of same has made a sworn affidavit that he has complied with this Section.

Printing Under Direction of Secretary of State; Time for Furnishing Copy

Sec. 3. Such laws and resolutions shall be compiled and printed under the direction of the Secretary of State, who shall within twenty-six days, excluding Sundays, after adjournment of the Legislature furnish the printer all copy therefor, the delivery of the first copy to the printer to begin as the bills are signed by the Governor; provided that copy for the index shall be given to the printer within five days after the printer has furnished all page proofs of the laws to the Secretary of State.

Officers Furnished Printed Laws

Sec. 4. The Secretary of State shall distribute the printed laws of each session of the Legislature to the following named officers; he shall mail or distribute in person one free copy to the Governor, three copies to each of the heads of all Departments and one copy to each of the judges of the several courts throughout the State; one copy to each district and county attorney in the State and one copy to each member of the Legislature.

[Acts 1929, 41st Leg., 2nd C.S., p. 151, ch. 76.]

Art. 630b. Official Reports Printed Only with Consent of Governor or Board of Control

That hereafter any report or reports required by Law to be made by any State Officer, Board or Department of this State shall be made as directed by Law except the same shall not be printed unless with the advice and consent of the Governor or Board of Control. A typewritten or similar copy of said report shall be given to the Governor and Board of Control and State Auditor and State Library.

[Acts 1931, 42nd Leg., p. 104, ch. 69, § 1.]

Art. 630c. Preventing Public Printers From Reproducing and Disposing of Matter Printed Under Public Contract

Sec. 1. Except under contract or agreement with the State as hereinafter provided authorizing them so to do, it shall be unlawful for any person, firm, corporation or association of persons doing any printing, under contract, for the State of Texas, to reproduce, print or prepare or to sell or furnish any such printing or printed matter or any reprint, reproduction or copy of same, or plate, type, mat, cut or engraving from which such printing contract was executed, except the amount and number of copies contracted to be printed and furnished to the State of Texas under such contract.

Sec. 2. Any printing done under contract for any department, the legislature or either branch thereof, any board, commission, court, officer or agent, of the State of Texas, as well as any such work done directly for the State, shall for the purposes of this Act be deemed to have been done for the State of Texas.

Sec. 3. Provided that with the consent of the State Board of Control and the Governor, any such person, firm, corporation or association may print extra copies and sell same at a price fixed by the State Board of Control, whenever in the opinion of the Board of Control and the Governor the printed matter should be distributed in such manner for the benefit of the public. Provided that any such contract for the printing and sale of such extra copies shall be approved by the Attorney General.

Sec. 4. Any person, firm, corporation or association of persons violating any provision of this Act shall be guilty of a misdemeanor and upon conviction shall be punished by fine of not less than one hundred dollars nor more than one thousand dollars, and in the event the violation is by a natural person or the agent or employee of a person, corporation, firm or association the punishment may be by jail sentence not to exceed thirty days in addition to such fine. The conviction of an agent or employee shall not bar conviction of the principal also.

[Acts 1925, 39th Leg., ch. 78, p. 241, §§ 1 to 4.]

CHAPTER THREE. PURCHASING DIVISION

Article

- 631 to 634¼. Repealed.
- 634½. Contracts with State Prison Board.
- 634a. Repealed.
- 634a-1. Motor Vehicles, Tires and Tubes Purchased for School Districts Receiving State Aid.
- 634(B), (C). Repealed.
- 635. Bidder's Certification; Antitrust.
- 636 to 654. Repealed.
- 655. Invoice; Contractor/Seller.
- 656. Repealed.
- 657. Invoice; Check of Goods or Services.
- 658. Invoice; Payment.
- 658a. Inter-governmental Purchases; Advance Payments.

Article

- 659 to 664. Repealed.
- 664-1. Surplus War Materials, Purchase Of.
- 664-2. Preference to Supplies, Material or Equipment Produced in Texas; Contracts for Purchase.
- 664-3. State Purchasing Act of 1957.
- 664-4. Professional Services Procurement Act.

Arts. 631 to 634¼. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 634½. Contracts with State Prison Board

The Board of Control is hereby authorized to make contracts with the State Prison Board for the purchase of supplies, equipment and materials for use by other State institutions, including food, supplies, clothing, shoes, metal utensils and appliances, furniture and fixtures, and any and all other supplies or agricultural or manufactured products, binding, other labor for use of the State in any of its Departments, Commissions, Boards, Offices, or eleemosynary or educational institutions, including any and all supplies, equipment, material or labor purchased or used by, or for the State, under the direction of the Board of Control.

[Acts 1929, 41st Leg., 2nd C.S., p. 30, ch. 17, § 1a.]

Art. 634a. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 634a-1. Motor Vehicles, Tires and Tubes Purchased for School Districts Receiving State Aid

All motor vehicles including buses and bus bodies, tires and tubes, purchased for or by any school district receiving aid under the terms of any equalization act which seeks to equalize educational advantages, shall be purchased by and through the Board of Control. And no such school district or its officers or employees shall have the power to purchase for such school district any of such items except in those instances wherein an emergency requires an immediate purchase thereof, to be reported to and approved by the Board of Control.

Such motor vehicles, including buses and bus bodies, tires and tubes, shall be purchased on competitive bids under such rules and regulations as may be made by the Board of Control. Such purchases shall be made on requisition of any such school district. Requisitions, if for the purchase of motor vehicles, buses or bus bodies, must be presented to and receive the approval of the County Board of Trustees. Requisitions for the purchase of tires and tubes must be presented to and approved by either the County Board or the County Superintendent.

Any such school district making requisitions for purchase of the above articles, or any of them, shall, when sending in the requisition therefore, include therewith a general description of the article desired, and shall certify the Funds that will be available to pay therefor.

Any such school district financially unable to comply with the foregoing requirement to make immediate payment for any motor vehi-

cles, including buses and bus bodies, purchased by it, may, subject to the provisions hereof, issue interest-bearing time warrants in amounts sufficient to make such purchase, any law to the contrary notwithstanding. Such warrants shall mature in serial installments not more than five (5) years from their dates of issue, and shall bear interest at a rate of not to exceed six per centum (6%) per annum. Such warrants shall upon maturity be payable out of any available Funds of such school district in the order of their maturity dates. No such warrants shall be issued or sold unless and until the same have been approved by the County Board of School Trustees; and said Board shall, upon application of such school district, inquire into the financial condition and needs of such district, and shall not approve the issue of such warrants unless in its opinion said district is in need of the equipment it desires to purchase and will be able with the resources in prospect to liquidate said warrants at their maturity. After such approval by the Board, above-mentioned, said warrants may be issued and sold by such districts at not less than their face value, and the proceeds thereof used to provide the Funds required for such purchase as herein provided. Full records of all warrants issued and sold shall be kept by the County Superintendent and reported to the Board of Control. Such warrants shall be entitled to first and prior payment out of any available Funds of such district as they become due. If such school district has an old bus or other equipment which is to be replaced by the purchases under the provisions of this Act, the Board shall investigate the proposed disposition of such old bus equipment and shall not approve the issuance of any warrants for the purpose of buying a new bus or equipment unless and until it is satisfied that such old bus or equipment, including buses, may be traded in upon the purchase of new equipment, as the Board of Control may provide.

In addition to the above, the provisions of this Section and Article shall apply to the purchase, if any, of all motor vehicles, buses, bus bodies, tires and tubes purchased in whole or in part with any Funds appropriated in any Act seeking to equalize educational advantages.

The Board of Control shall have the power to make any rules or adopt any regulations to effectuate the purpose of this Article. The State Superintendent shall make such rules and shall require such reports or affidavits as are necessary to show that any school district receiving aid under any equalization law is complying herewith; and any district failing to comply with this Article shall be ineligible for aid for the then current school year.

The provisions of this Article shall become effective September 1, 1947, save and except that as to the purchase of motor vehicles, including buses and bus bodies, such shall become effective September 1, 1948.

[Acts 1947, 50th Leg., p. 401, ch. 228, art. XIV.]

Arts. 634(B), 634(C). Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing these Articles, enacts Titles 1 and 2 of the Texas Education Code.

Art. 635. Bidder's Certification; Antitrust

A bidder offering to sell supplies, materials, services, or equipment to the State shall certify on each bid submitted that neither the bidder nor the firm, corporation, partnership, or institution represented by the bidder, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this State codified in Section 15.01 et seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the bid made to any competitor or any other person engaged in such line of business. The Attorney General shall prepare the certification statement which is to be made a part of the bid form.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 30, ch. 12, § 1, eff. March 7, 1967; Acts 1971, 62nd Leg., p. 2834, ch. 928, § 1, eff. June 15, 1971.]

Arts. 636 to 654. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 655. Invoice; Contractor/Seller

The contractor or seller of supplies and/or services contracted for by the State Board of Control shall render his invoice to the ordering agency at the address shown on the purchase order. The invoice shall be prepared and submitted under such rules and regulations as the Board of Control shall provide.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 825, ch. 444, § 1; Acts 1955, 54th Leg., p. 846, ch. 314, § 1; Acts 1967, 60th Leg., p. 29, ch. 11, § 1, eff. March 7, 1967; Acts 1971, 62nd Leg., p. 1038, ch. 205, § 1, eff. May 31, 1971.]

Art. 656. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 657. Invoice; Check of Goods or Services

As soon as supplies are received by a State Agency they shall be inspected by the storekeeper or person duly authorized to receive supplies, and if such supplies correspond in every particular with those covered by the contract under which they were purchased and if the invoice is correct, he shall certify that such is true and transmit to the Board of Control the original invoice and duplicate. As soon as an invoice is received for services rendered to any State Agency, if the storekeeper or person duly authorized to check such services finds that such services correspond in every particular with those services contracted for and that the invoice is correct, then he shall certify that such is true and transmit to the State Board of Control the original invoice and duplicate. If the Board of Control finds such invoice to be correct, it shall approve and transmit same to the State Comptroller.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 826, ch. 445, § 1.]

Art. 658. Invoice; Payment

When such invoice so approved by such storekeeper and by the Board of Control, shall be approved by the Comptroller, he shall draw his warrant upon the State Treasury for the amount due on the invoice or for so much thereof as has been allowed, and it shall be charged against the institution.

[Acts 1925, S.B. 84.]

Art. 658a. Inter-governmental Purchases; Advance Payments

All State Agencies and Institutions are authorized to make advance payments to Federal and State Agencies for merchandise purchased from such agencies when advance payments will expedite the delivery of the merchandise.

[Acts 1971, 62nd Leg., p. 36, ch. 17, eff. March 11, 1971.]

Arts. 659 to 664. Repealed by Acts 1957, 55th Leg., p. 739, ch. 304, § 18

Art. 664-1. Surplus War Materials, Purchase Of

The Board of Control of the State of Texas is hereby authorized and directed to purchase for any county or any other political subdivision of this State such surplus war materials or surplus goods, merchandise, equipment or other wares from the Federal Government or its agencies as may be offered for sale by them, provided said county or other political subdivision shall request the Board of Control to make such purchase, and provided they shall deposit with the Board of Control sufficient funds to cover payment therefor.

[Acts 1945, 49th Leg., p. 271, ch. 199, § 1.]

Art. 664-2. Preference to Supplies, Material or Equipment Produced in Texas; Contracts for Purchase

Sec. 1. The State Board of Control and all other agencies of the state making purchases of supplies, material or equipment shall, in making purchases of supplies, material or equipment give preference to supplies, material or equipment produced in Texas or offered by Texas citizens, the cost to the state and quality being equal.

Sec. 2. The provisions of this Act shall be cumulative of all other provisions relating to the method of purchase of supplies, material or equipment.

[Acts 1957, 55th Leg., p. 738, ch. 303.]

Art. 664-3. State Purchasing Act of 1957

Short Title

Sec. 1. This Act shall be known and may be cited as the State Purchasing Act of 1957.

Purpose

Sec. 2. It is the purpose of this Act to give the Board of Control authority to institute and maintain an effective and economical system for purchasing supplies, materials, services, and equipment for the State of Texas.

Definitions

Sec. 3. As used in this Act:

(a) "Board" means the State Board of Control.

(b) "Services" includes only services of the type heretofore contracted for by the State Board of Control and it is not intended by the use of this term to enlarge in any manner the authority of the State Board of Control to contract for personal or business services for any state agency, institution, board or commission.

(c) The term "Department of the State Government" includes only departments and agencies of the type heretofore required to make purchases through the Board of Control. River authorities, conservation and reclamation districts, and other political subdivisions created by the Legislature are not required to purchase through the Board of Control unless some other statute specifically requires it.

Organization

Sec. 4. The Board may organize and reorganize its administrative structure and divisions or sections in any manner consistent with the effective dispatch of the duties given to it by this or any other law.

Authority

Sec. 5. The Board shall purchase all supplies, materials, services, and equipment used by each department of the State government, including the State Prison System, and each eleemosynary institution, Teachers College, Agricultural and Mechanical College, University of Texas, and each and all other State schools or departments of the State government heretofore or hereafter created, such supplies to include furniture and fixtures, technical instruments and books, and all other things required by the different departments or institutions, including perishable goods. The Board is given legal authority to delegate purchasing functions to agencies of the State. Purchases of supplies, materials, services and equipment for resale, for auxiliary enterprises, for organized activities relating to instructional departments of institutions of higher learning, and for similar activities of other State agencies, and purchases made from gifts and grants, may be made by State agencies without authority of the Board. The Board shall purchase all motor vehicles used for transporting school children, including buses, bus chassis, and bus bodies, tires and tubes, for school districts participating in the Foundation School Program as provided by Chapter 334, Acts, 51st Legislature, Article V, Section 3.¹ Community Centers for Mental Health and Mental Retardation Services that are receiving State grants-in-aid under the provisions of Article 4 of the Texas Mental Health and Mental Retardation Act² may purchase drugs and medicines through the Board of Control. The Board may also provide for emergency purchases by any department or

institution and may set a monetary limit on the amount of each emergency purchase.

¹ Article 634(B), repealed.

² Article 5547-204.

Propriety of Specifications and Conditions; Justification of Purchase

Sec. 6. The Board may question the propriety of the specifications and conditions of purchase of any supplies, materials, equipment or services desired to be purchased, and may require written justification for the purpose thereof or for the use of the requested specifications.

If the Board does not regard the purchase to be justified in the best interests of the state because of restrictive specifications or conditions, it shall report the reasons for its exceptions to the specifications or conditions to the agency and to the State Auditor before purchasing the supplies, materials, services or equipment.

Purchasing

Sec. 7. The Board may determine the purchasing methods to be used in buying any supplies, materials, services, and equipment. It may use, but is not limited to, the contract purchase procedure and open market purchase procedures set out in this Act. The Board shall have the authority to combine orders in a system of scheduled purchasing, and it shall at all times try to benefit from purchasing in bulk. All purchases of and contracts for supplies, materials, services, and equipment shall, except as provided herein, be based whenever possible on competitive bids.

Contract Purchase Procedure

Sec. 8. (a) Notice. Notice inviting bids shall be published at least once in at least one newspaper of general circulation in the state and at least seven days preceding the last day set for the receipt of bids. The newspaper notice shall include a general description of the articles to be purchased, and shall state where bid blanks and specifications may be secured, and the time and place for opening bids.

(b) Bidders List. The Board shall maintain a bidders list and shall add or delete names from the list by the application and utilization of applicable standards set forth in subsection (e) of this section. In any case, bid invitations shall be sent only to those who have expressed a desire to bid on the particular types of items which are the subject of the bid invitation. Use of the bidders list shall not be confined to contract purchases but it may be used by the Board as it may find desirable in making any purchase.

(c) Bid Deposits. When deemed necessary by the Board bid deposits in amounts to be set by the Board shall be prescribed in the public notices and the invitation to bid. The Board shall establish and maintain records of bid deposits and their disposition with the cooperation of the State Auditor, and upon the award of bids or rejection of all bids, bid deposits shall be returned to unsuccessful bidders making bid deposits. The Board may accept a bid

deposit in the form of a blanket bond from any bidder.

(d) Bid Opening Procedure. Bids shall be submitted to the Board sealed and identified as bids on the envelope. Bids shall be opened by the Board at the time and place stated in the public notices and the invitation to bid; provided, the State Auditor or a member of his staff may be present at any bid opening. A tabulation of all bids received shall be available for public inspection under regulations to be established by the Board.

(e) Award of Contract. The Board shall award contracts to the bidder submitting the lowest and best bid conforming to the specifications required by the Board. Complying with the specified time limit for submission of written data, samples or models on or before bid opening time is essential to the materiality of a bid, provided however that the Board shall have the authority to waive this provision if the failure to comply is beyond control of the bidder. In determining who is the lowest and best bidder, in addition to price, the Board shall consider:

(1) The ability, capacity and skill of the bidder to perform the contract or provide the service required;

(2) Whether the bidder can perform the contract or provide the service promptly, or within the time required, without delay or interference;

(3) The character, responsibility, integrity, reputation, and experience of the bidder;

(4) The quality of performance of previous contracts or services;

(5) The previous and existing compliance by the bidder with laws relating to the contract or service;

(6) Any previous or existing noncompliance by the bidder with specification requirements relating to time of submission of specified data such as samples, models, drawings, certificates or other information;

(7) The sufficiency of the financial resources and ability of the bidder to perform the contract or provide the service;

(8) The quality, availability and adaptability of the supplies, or contractual services, to the particular use required;

(9) The ability of the bidder to provide future maintenance, repair parts, and service for the use of the subject of the contract;

(10) The number and scope of conditions attached to the bid.

(f) Rejection of Bids. If a bid is submitted in which there is a material failure to comply with the specification requirements, such bid shall be rejected and the contract awarded to the bidder submitting the lowest and best bid conforming to the specifications, provided,

however, the Board shall in any event have the authority to reject all bids or parts of bids when the interest of the state will be served thereby.

(g) Bid Record. When an award is made a statement of the basis for placing the order with the successful bidder shall be prepared by the purchasing division and filed with other papers relating to the transaction.

(h) Tie Bids. In case of tie bids, quality and service being equal, the contract shall be awarded under rules and regulations to be adopted by the Board.

(i) Performance Bonds. The Board may require a performance bond before entering a contract in such amount as it finds reasonable and necessary to protect the interests of the state. Any bond required under this subsection shall be conditioned that the bidder will faithfully execute the terms of the contract into which he has entered. Any bond required shall be filed with the Board and recoveries may be had thereon until it is exhausted.

Open Market Purchase Procedure

Sec. 9. When the Board determines that any purchases of supplies, materials, equipment or services may be made most effectively in the open market, such purchases may be made without newspaper advertising.

(a) Minimum Number of Bids. All open market purchases shall, wherever possible, be based on at least three competitive bids, and shall be awarded to the lowest and best bidder in accordance with the standards set forth under Section 8 of this Act.

(b) Notice Inviting Bids. The Board shall solicit bids by (a) direct mail request to prospective vendors; (b) by telephone or telegraph.

(c) Recording. The Board shall keep a record of all open market orders and bids submitted in competition thereon, and a tabulation of the bids shall, under rules and regulations to be established by the Board, be open to public inspection; provided, they shall always be open to inspection by the State Auditor or his representatives.

Specifications and Standards Program; Testing and Inspecting Program

Sec. 10. The Board shall have the authority to establish and maintain a specifications and standards program; to coordinate the establishment and maintenance of uniform standards and specifications for materials, supplies and equipment purchased by the Board. The Board shall enlist the cooperation of other State Agencies in the establishment, maintenance, and revision of uniform standards and specifications and shall encourage and foster the use of standard specifications in order that the most efficient purchase of materials, supplies and equipment may be continuously accomplished. The Board may also establish and

maintain a program of testing and inspecting to insure that materials, supplies, services, and equipment meet specifications, and may make contracts for testing. If any using agency determines that any supplies, materials, services or equipment received do not meet specifications it shall promptly notify the Board in writing detailing the reasons why the supplies, materials, services, or equipment do not meet the specifications of the contract. The Board shall immediately determine whether or not the reported supplies, materials, services, or equipment meet specifications. The sole power to determine whether materials, supplies, services and equipment meet specifications shall rest with the Board. When the Board finds that contract specifications or conditions have not been complied with, it shall take action, with the assistance of the Attorney General, if necessary, against the defaulting contractor.

Usage Figures

Sec. 11. The Board shall maintain usage figures on the consumption and use of supplies, materials, services and equipment purchased for state agencies, institutions, boards and commissions, and the Board shall furnish using agencies upon request usage and consumption figures maintained. The Board is directed to cooperate with the State Budget Offices and the State Auditor in the preparation of usage and consumption figures of supplies, materials, services, and equipment. The Board may establish statistical compilation activities, acquire necessary equipment by rental, lease or purchase, and employ the necessary trained personnel to carry out the provisions of this section.

Interest

Sec. 12. No member of the Board or any employee or appointee of the Board shall be interested in, or in any manner connected with, any contract or bid for furnishing supplies, materials, services, and equipment of any kind to any agency of the State of Texas. Neither shall any member or employee or appointee, under penalty of dismissal, accept or receive from any person, firm or corporation to whom any contract may be awarded, directly or indirectly, by rebate, gift or otherwise, any money or other thing of value whatever, nor shall he receive any promise, obligation or contract for future reward or compensation from any such party.

Products of the Blind and Mentally Retarded or Physically Handicapped Persons

Sec. 13. The following manufactured products, if they meet the state specifications as to quantity, quality, and price, shall have preference in purchases made of those types of items by the Board:

(1) products of visually handicapped persons or workshops for the blind, produced under the supervision and direction of the Commission for the Blind or in any other workshop which has been approved by the Commission for the Blind;

(2) products of workshops, organizations, or corporations whose primary purpose is training and employing mentally retarded persons or physically handicapped persons.

Purchase and Use of Paper Containing Recycled Fibers

Sec. 13A. The Board shall contract for paper containing the highest percent of recycled fibers for all purposes for which paper with recycled fibers may be used and to the extent that such paper is available at a reasonable price through normal commercial channels to supply the needs of the state. All agencies which purchase through the Board of Control are hereby directed to place orders for papers containing recycled fibers to the highest extent of their needs and to the extent that such paper is available through purchasing procedures of the Board of Control.

Regulations

Sec. 14. The Board may establish all necessary rules and regulations to execute the provisions of this Act and shall make such rules and regulations public and available to all interested parties.

Delegation of Authority

Sec. 15. The Board shall act under the provisions of Acts 1953, Chapter 208, Section 1, (compiled as Article 601, Texas Civil Statutes) in the execution of this law, and any power, authority or duties imposed on the Board by this Act may be exercised or performed by an authorized employee, but the delegation of a duty does not relieve the Board from its responsibility.

Savings Clause

Sec. 16. The repeal of any law by this Act shall not affect or impair any act done or right, obligation or penalty existing or accrued under the authority of the law repealed; and such law shall be treated as still remaining in force for the purpose of sustaining any proper action concerning any such act, right, obligation or penalty.

[Acts 1957, 55th Leg., p. 739, ch. 304; Acts 1965, 59th Leg., p. 1261, ch. 579, § 1, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 109, ch. 57, § 1, eff. April 12, 1971; Acts 1971, 62nd Leg., p. 2648, ch. 871, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 547, ch. 234, § 1, eff. Aug. 27, 1973.]

Section 17 of the Act of 1957 was a severability provision.

Section 18 provided that articles 603, 604, 605, 631, 632, 633, 634, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 656, 659, 660, 661, 662, 663 and 664 of the Revised Civil Statutes of Texas, 1925, as amended; Chapter 199, Acts of the 43rd Legislature, Regular Session, 1933, as amended, codified in Vernon's as Article 634a, Vernon's Civil Statutes; Section 1 of Chapter 106, Acts of the 50th Legislature, Regular Session, 1947, as amended, codified in Vernon's as Article 634½, Vernon's Civil Statutes, and all other laws or parts of laws in conflict with the provisions of this Act, are hereby repealed.

Art. 664-4. Professional Services Procurement Act

Sec. 1. This Act shall be known and may be cited as the "Professional Services Procurement Act."

Sec. 2. For purposes of this Act the term "professional services" shall mean those within the scope of the practice of accounting, architecture, optometry, medicine or professional engineering as defined by the laws of the State of Texas or those performed by any licensed architect, optometrist, physician, surgeon, certified public accountant or professional engineer in connection with his professional employment or practice.

Sec. 3. No state agency, political subdivision, county, municipality, district, authority or publicly-owned utility of the State of Texas shall make any contract for, or engage the professional services of, any licensed physician, optometrist, surgeon, architect, certified public accountant or registered engineer, or any group or association thereof, selected on the basis of competitive bids submitted for such contract or for such services to be performed, but shall select and award such contracts and engage such services on the basis of demonstrated competence and qualifications for the type of professional services to be performed and at fair and reasonable prices, as long as professional fees are consistent with and not higher than the published recommended practices and fees of the various applicable professional associations and do not exceed the maximum provided by any state law.

Sec. 4. Any and all such contracts, agreements or arrangements for professional services negotiated, made or entered into, directly or indirectly, by any agency or department of the State of Texas, county, municipality, political subdivision, district, authority or publicly-owned utility in any way in violation of the provisions of this Act or any part thereof are hereby declared to be void as contrary to the public policy of this State and shall not be given effect or enforced by any Court of this State or by any of its public officers or employees.

[Acts 1971, 62nd Leg., p. 72, ch. 38, eff. March 30, 1971.]

Sections 5 to 7 of the act of 1971 read as follows:

"Sec. 5. Nothing in this Act shall affect the validity or binding effect of any valid contracts in existence at the effective date hereof.

"Sec. 6. If any section, sentence, clause or part of this Act is, for any reason, held to be unconstitutional, such decision shall not affect the remaining portion of this Act.

"Sec. 7. Any laws or parts of laws in conflict with the provisions of this Act are hereby repealed."

CHAPTER FOUR. PUBLIC BUILDINGS AND GROUNDS DIVISION

Article

- 665. Custodianship of State Property.
- 665a. Storage of Records and Archives Outside Capitol Building; Proviso as to American Legion.
- 665b. Collection and Sale of Wastepaper.
- 666. Salvage and Surplus Act of 1957.
- 666-1, 666-2. Repealed.
- 666a. Lease of Public Grounds; Approval of Attorney General; Disposition of Funds.
- 666a-1. Repealed.
- 666a-2. Texas Hall of State Building and Site; Lease to City of Dallas.
- 666b. Rental Space for Government Agencies or Departments, Obtaining.

Article

667. Charge of Capitol.
 668. Use of Rooms in Capitol as Bedrooms.
 669. Shall Inspect Public Buildings, etc.
 670 to 672. Repealed.
 673. Shall Make Needed Improvements.
 674. Maintenance of Sewers.
 675. Copy of Plans.
 676. Shall Report to Governor.
 677. Repealed.
 678. State Cemetery.
 678a. Board of Mansion Supervisors.
 678b. Purchase and Custody of Old French Embassy Building.
 678c. State Courts Building; State Office Building; Location and Construction; Garage; Underpass and Tunnel Connecting with State Capitol; Purchase of Additional Building.
 678d. Repealed.
 678d-1. Vending Facilities Operated by Blind Persons.
 678e. Protection and Policing of State Buildings and Grounds.
 678e-1. Consent to Buildings Within Campus of State Capitol.
 678e-2. Pass Keys to State Capitol.
 678f. State Building Construction Administration Act.
 678f-1. Consent to Buildings, Concessions, Parking Areas, etc., Within Capitol Grounds.
 678g. Construction of Public Buildings and Facilities for Use by Handicapped Persons.
 678h. Inclusion of Fine Arts Projects in Public Building Construction.

Art. 665. Custodianship of State Property

The State Board of Control shall have charge and control of all public buildings, grounds and property of the State, and is the Custodian of all public personal property, and is charged with the responsibility to properly care for and protect such property from damage, intrusion or improper usage, and the Board is expressly directed to take any steps necessary to protect any public buildings against any existing or threatened fire hazards. And the Board shall be authorized to provide for the allocation of space in any of the public buildings to the departments of the State Government and for the uses authorized by law to have and occupy space in the State buildings, and shall be authorized to make any repairs to any such buildings or parts thereof necessary to the serviceable accommodation of the uses to which such buildings or space therein may be allotted. Provided the Board of Control shall not be understood to have or exercise any authority to direct the allotment of space in any public building in any manner calculated to increase the operations of any department or use beyond the discharge of duties devolved by provision of law. Said Board of Control shall remove all occupants of all committee rooms in the Capitol and keep them free for Legislative work. Provided, however, that the allocation of any space affecting the quarters of either House of the Legislature, must have the approval of the Speaker of the House of Representatives or the Lieutenant Governor, the approval being for the quarters allocated to the particular House affected.

[Acts 1925, S.B. S4; Acts 1930, 41st Leg., 5th C.S., p. 209, ch. 63, § 1.]

Art. 665a. Storage of Records and Archives Outside Capitol Building; Proviso as to American Legion

The State Board of Control is hereby authorized and empowered to make such arrangements as it may deem necessary for the safe storage outside the Capitol Building of such records and archives as now prevent the better utilization of space in said Building. Provided that the American Legion shall not be moved from their quarters unless and until other suitable quarters are arranged for them.

[Acts 1930, 41st Leg., 5th C.S., p. 209, ch. 63, § 1a.]

Art. 665b. Collection and Sale of Wastepaper

The State Board of Control shall establish and maintain in each public building under its control facilities for collecting separately from all other wastes all the wastepaper disposed of in that building. The board shall sell the wastepaper for recycling purposes to the company which submits the highest bid for the paper.

[Acts 1973, 63rd Leg., p. 228, ch. 103, § 1, eff. Aug. 27, 1973.]

Art. 666. Salvage and Surplus Act of 1957

Short Title

Sec. 1. This Act shall be known and may be cited as the Salvage and Surplus Act of 1957.

Purpose

Sec. 2. It is the purpose of this Act to save the state money and recover as much money as possible for the state by giving the Board of Control authority to implement the transfer and use the best means of sale and disposal of all serviceable state personal property no longer needed by state agencies, and authority to use the best means for the sale and disposal of all state-owned personal property that is depleted, worn out, damaged or consumed to the extent that it is no longer usable.

Definitions

Sec. 3. As used in this Act:

(a) "Board" means the State Board of Control.

(b) "Comptroller" means the Comptroller of Public Accounts.

(c) "Auditor" means the State Auditor.

(d) "Property" means personal property, and does not mean real property, or any interest in real property. Personal property affixed to real property may be sold under this law if its removal and disposition is to carry out a lawful objective under this law or any other law.

(e) "Surplus property" means any personal property which is in excess of the needs of any state agency and which is not required for its foreseeable needs. Surplus property may be used or new, but possesses some usefulness for the purpose for which it was intended or for some other purpose.

(f) "Salvage property" means any personal property which through use, time, or accident is so depleted, worn out, damaged, used or consumed that it has no value for the purpose for which it was originally intended.

Surplus Property

Sec. 4. (a) All state agencies which determine that they have surplus property shall inform the Board of the kind, number, location, condition, and original cost or value and date of acquisition of the property. The Board may inform other state agencies of the existence, kind, number, location and condition of any surplus property. Any state agency when so informed may negotiate directly with the other agencies for an inter-agency transfer of the property but shall inform the Board of its interest in order that the property will not be sold or disposed of before a transfer may be made. If a transfer of surplus property is made the agencies taking part in the transfer shall mutually agree on the value of the transferred property and shall report the value to the Comptroller. The Comptroller shall credit and debit their respective appropriations and adjust the state inventory records to show the transfer if inventoried property is transferred. Transfers of surplus property shall be reported to the Board but the consent of the Board shall not be required for any transfer. After surplus property is reported to the Board it shall not be sold by the reporting agency unless written authority to sell is given by the Board.

(b) If no state agency desires to receive any property reported as surplus the Board shall dispose of the property and recover for the state the maximum money value possible. The Board may by rules and regulations establish procedures for the sale and disposition of surplus property, but shall always seek competitive bids in all sales. If the value of any property or lot of property is estimated to be over One Thousand Dollars (\$1,000.00) the sale shall be advertised at least one time in at least one newspaper of general circulation in the vicinity where the property is located.

When the Board sells any surplus property it shall report the items sold and the sale price to the agency that declared such property as surplus.

(c) If the value of the property to be sold by the agency under this subsection is estimated to exceed One Thousand Dollars (\$1,000.00) the sale shall be advertised by the agency at least one time in at least one newspaper of general circulation in the vicinity where the property is located.

(d) All agencies for whom surplus property is sold or who sell surplus property under authorization of the Board shall report the sale together with the prices realized to the Comptroller; and if the property is on the state inventory the Comptroller then shall be authorized to remove it from the inventory. Authorization by the Board shall not be required for

the deletion of any surplus property except its own from the state inventory.

(e) The proceeds from the sale of any surplus property less the cost of advertising the sale shall be deposited to the credit of the item of appropriation to the agency for whom the sale was made. A portion of the proceeds from the sale of any surplus property equal to the cost of advertising the sale shall be deposited in the State Treasury to the credit of the item of appropriation to the State Board of Control from which such cost was expended.

Salvage Property

Sec. 5. (a) All state agencies which determine that they have salvage property shall inform the Board of the kind, number, location, condition, original value, and date of acquisition of the salvage. The Board shall either:

(1) sell the salvage for all state agencies, or

(2) issue written permission to any agency to sell all or part of its salvage, or

(3) issue written permission to any agency to destroy salvage property if it is worthless and cannot be sold.

If the value of any salvage or lot of salvage offered for sale is estimated to be over One Thousand Dollars (\$1,000.00) the sale shall be advertised at least once in at least one newspaper of general circulation in the vicinity where the salvage is located.

(b) The proceeds from the sale of any salvage property less the cost of advertising the sale shall be deposited to the credit of the item of appropriation to the agency for whom the sale was made. A portion of the proceeds from the sale of any salvage property equal to the cost of advertising the sale shall be deposited in the State Treasury to the credit of the item of appropriation to the State Board of Control from which such cost was expended.

(c) If the Board cannot sell or dispose of any property reported to it as surplus or salvage it may order the property destroyed as worthless salvage and report the destruction to the declaring agency and to the Comptroller. All agencies for whom salvage property is sold or who sell salvage property under authorization of the Board or who destroy worthless salvage under authorization of the Board or for whom the Board has ordered destruction of property as worthless salvage shall report the items sold or destroyed and the prices realized, if any, to the Comptroller. A report of disposal of salvage by any of these methods shall authorize the Comptroller to then remove reported property from the state inventory if any reported items were on the state inventory. Authorization by the Board to delete salvage items not its own from the state inventory shall not be required. It is not the intention of this subsection to alter, enlarge or amend the law providing for the deletion from inventory upon the authorization of the Auditor of property that is missing from any agency.

(d) When the Board sells any surplus property it shall report the items sold and the sale price to the agency that declared such property as salvage.

Trade-in of Surplus or Salvage Property; Definitions; Exceptions; Rules and Regulations

Sec. 6. Any state agency may offer surplus or salvage property which has become unfit for use as a trade-in on new property of the same general type when such exchange is in the best interests of the state.

For purposes of this Act the terms "Surplus" and "Salvage" shall not apply to products and by-products of research, forestry, agricultural, livestock and industrial products in excess of that quantity required for consumption by the producing agency, such products being those of the University of Texas, the Texas A. & M. College System and the Texas Prison System, and/or other agencies of like character, and then only when such agencies have, on the effective date of this Act, a continuing and adequate system of marketing research and sales, the efficiency of which shall be certified to the Board of Control by the State Auditor. Provided, however, that the Board of Control shall be furnished by such agency with a copy of the rules and regulations and latest revisions thereof laid down by the policy making body of each agency or institution for the guidance and administration of the programs enumerated herein. And further provided that when requested by such agency or institution to do so, and under the terms and conditions set forth in Sections 4 and 5 above, the Board of Control will dispose of the said property as provided for in this Act.

Transfer or Sale of Surplus and Salvage Equipment or Material

Sec. 6a. (a) When a state agency reports to the Board of Control that it has surplus or salvage equipment or material, the Board shall inform other state agencies of the existence, kind, number, location and condition of the equipment or material and it shall maintain a mailing list, renewable annually, of county purchasing agents or other officers performing similar functions who have asked for information on such surplus or salvage equipment or material as the State may have available.

(b) The county purchasing agent or other officer shall notify the Board of Control within 30 days from the date of the notice of the Board of Control if he desires to negotiate for surplus or salvage equipment or material.

(c) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice of the Board of Control, and if the Board of Control determines that the equipment or material will not satisfy a state need, the Board may authorize the sale or transfer of surplus or salvage material or equipment to any county which has expressed a desire to negotiate.

(d) The Board of Control shall adopt rules and regulations to govern occasions when more

than one county expresses a desire to negotiate for the same surplus or salvage material or equipment. The Board may adopt other necessary rules and regulations to govern the sale or transfer of surplus or salvage material and equipment to counties.

(e) If no state agency negotiates an interagency transfer of the equipment or material within 30 days from the date of the notice from the Board of control and no county has expressed a desire to negotiate, or if a county or counties have expressed a desire to negotiate but are unable to negotiate a sale or transfer of the equipment or material within 40 days from the date of the notice from the Board of Control, the Board may offer the equipment or material to the organization known as the Texas Partners of the Alliance, a registered agency with the Advisory Committee on Voluntary Foreign Aid, with the approval of the Partners of the Alliance office of the Agency for International Development. The equipment or material shall be offered at its fair market value as determined by mutual agreement between the Board of Control and the Texas Partners of the Alliance.

(f) If the Texas Partners of the Alliance do not accept the offer within 60 days, or if the Board of Control and the Texas Partners of the Alliance cannot agree on the fair market value of the equipment or material, the Board shall sell or dispose of the material as otherwise provided by this Act.

Continuing Service

Sec. 7. The Board shall at all times try to realize the maximum return to the state in the sale and disposal of salvage and surplus. It shall maintain a list of prospective buyers of salvage and surplus and it may in all cases reject any or all offers if it finds rejection to be in the best interests of the state. It shall cooperate with all state agencies in a continuing program of salvage and surplus evaluation to minimize losses from accumulations and it shall cooperate at all times with the Auditor in salvage and surplus analysis.

Title of Purchaser

Sec. 8. Any purchaser of surplus or salvage at a sale made by the Board or by any agency under authorization of the Board shall obtain good title to any property purchased if the purchaser has in good faith complied with the conditions of the sale and the applicable rules and regulations of the Board.

Rules and Regulations; Delegation of Authority

Sec. 9. The Board shall have authority to carry out the provisions of this law by making rules and regulations. In carrying out the provisions of this law the Board shall act under the provisions of Chapter 208, Section 1 of Acts 1953, 53rd Legislature (compiled as Texas Civil Statutes 601) and any power, duties or authority imposed on the Board by this Act may be exercised or performed by an authorized employee, but the delegation of a duty

does not relieve the Board from its responsibility.

Reports and Forms; Powers to Prescribe

Sec. 10. The Comptroller is authorized to prescribe reports and forms, and rules and regulations pertaining to such forms or reports necessary to accomplish the object of this Act subject to the approval of the State Auditor.

Legislative Intent Declared

Sec. 11. It is the intent of the Legislature that the Board may authorize an agency to dispose of surplus or salvage property where the agency demonstrates to the Board its ability to make such disposition under the rules and regulations set up by the Board, as provided for herein. It is the further intent of the Legislature that state eleemosynary institutions and institutions and agencies of higher learning shall be excepted from the terms of this act.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 272, ch. 171, § 1; Acts 1947, 50th Leg., p. 492, ch. 289, § 1; Acts 1949, 51st Leg., p. 827, ch. 447, § 1; Acts 1957, 55th Leg., p. 1247, ch. 414, § 1; Acts 1967, 60th Leg., p. 1211, ch. 546, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1870, ch. 553, § 1, eff. June 1, 1971.]

Arts. 666-1, 666-2. Repealed by Acts 1957, 55th Leg., p. 1247, ch. 414, § 2

Art. 666a. Lease of Public Grounds; Approval of Attorney General; Disposition of Funds

Sec. 1. All public grounds belonging to the State of Texas under the charge and control of the State Board of Control, when in the wisdom of the Board should be leased for agricultural or commercial purposes, may be leased by said Board for the above stated purposes, after lease proposal shall have been advertised once a week for four (4) consecutive weeks in at least two (2) newspapers, one (1) of which shall be published in the city where the property is located, or the nearest daily paper thereto, and the other in some paper with statewide circulation; provided, that such lease shall be subject to the approval of the Attorney General of Texas, both as to substance and as to form. The money derived from the lease of such property, less the expense for advertising and leasing, shall be deposited in the State Treasury to the credit of the General Revenue Fund; provided, however, that if land leased belongs to any eleemosynary institution, that money must be deposited to the credit of said institution in the same manner that the special fund is now deposited or may hereafter be ordered deposited by the Legislature.

Sec. 2. The Board of Control shall adopt proper forms and regulations, rules and contract as will, in its best judgment, protect the interest of the State. The Board may reject any and all bids. All laws and parts of laws in conflict herewith are hereby repealed.

[Acts 1931, 42nd Leg., p. 189, ch. 110.]

Art. 666a-1. Repealed by Acts 1957, 55th Leg., p. 1247, ch. 414, § 2

Art. 666a-2. Texas Hall of State Building and Site; Lease to City of Dallas

The Texas Hall of State, a permanent building erected in the City of Dallas for the Central Exposition, out of funds appropriated by House Bill No. 11, Acts of the Forty-fourth Legislature, Regular Session, 1935, Chapter 174, page 427, and the land on which the Texas Hall of State Building is situated, are hereby leased by the State of Texas to the City of Dallas for a period of time commencing on the effective date of this Act and ending on December 31, 1976, at a rental of One Hundred Dollars (\$100) for the remainder of the calendar year 1957, and a rental of One Hundred Dollars (\$100) per year thereafter for the term of the lease, payable annually in advance. During the term of such lease the Texas Hall of State Building shall be used for public purposes, including annual State Expositions, and shall not be maintained or operated for purposes of private profit; there shall be no charge imposed upon any exhibitor in said building for exhibit space and there shall be no admission charge for entrance into said building. The City of Dallas shall carry an adequate amount of fire and tornado insurance covering said building and the cost of such insurance and the maintenance of said building shall be borne by the aforesaid lessee, being the City of Dallas.

The State Board of Control shall execute the lease contract necessary to carry out the provisions of this Act.

[Acts 1957, 55th Leg., p. 19, ch. 15.]

Art. 666b. Rental Space for Government Agencies or Departments, Obtaining

Sec. 1. Hereafter all departments and agencies of the State Government, when rental space is needed for carrying on the essential functions of such agencies or departments of the State Government, shall submit to the State Board of Control a request therefor, giving the type, kind, and size of building needed, together with any other necessary description, and stating the purpose for which it will be used and the need therefor.

Sec. 2. The State Board of Control, upon receipt of such request, and if the money has been made available to pay the rental thereon, and if, in the discretion of the Board such space is needed, shall forthwith advertise in a newspaper, which has been regularly published and circulated in the city, or town, where such rental space is sought, for bids on such rental space, for the uses indicated and for a period of not to exceed four years. All such leases shall be contingent upon the availability of funds to cover the terms of the lease. It is further provided that monthly rentals may be paid in advance when required by the lease agreement and mutually agreed upon by the lessor and the lessee. After such bids have

been received by the State Board of Control at its principal office in Austin, Texas, and publicly opened, the award for such rental contract will be made to the lowest and best bidder, and upon such other terms as may be agreed upon. The terms of the contract, together with the notice of the award of the State Board of Control will be submitted to the Attorney General of Texas, who will cause to be prepared and executed in accordance with the terms of the agreement, such contract in quadruplicate; one of which will be kept by each party thereto, one by the State Board of Control, and one by the Attorney General of Texas. The parties to such contract will be the department or agency of the government using the space as lessee and the party renting the space as lessor.

Sec. 3. Within thirty days after the effective date of this Act, all departments and agencies of the State Government at this time leasing or renting space from any person, firm, or corporation whomsoever, will cause to be prepared and delivered to the State Board of Control in Austin, Texas, a copy of any written rental or lease agreement now in force and current, or any statement of any oral understanding upon which any lease or rental public funds are being expended, if such action has not already been taken.

Sec. 4. Should any rental or lease agreement be sought by any agency or department of the State Government, involving an expenditure of less than One Hundred Dollars (\$100) per annum or any rental or lease agreement be sought involving a rental period of not exceeding four (4) months and involving a total expenditure of Two Hundred Dollars (\$200) or less, the Board of Control is authorized to waive the requirements of this Act. The Board is also authorized to waive the requirements of this Act in the case of leases and rentals of space for which payment is to be made from the expense fund of either House of the Legislature, in which case the leases and rentals shall be subject to applicable legislative rules and policies.

[Acts 1943, 48th Leg., p. 385, ch. 258; Acts 1945, 49th Leg., p. 225, ch. 168, § 1; Acts 1967, 60th Leg., p. 434, ch. 198, § 1, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 35, ch. 23, § 1, eff. April 4, 1973.]

Art. 667. Charge of Capitol

The Board, during the recess of the Legislature, shall have charge and control of the halls, chambers, and committee rooms of the State Capitol Building except as hereinafter provided. Before the assembling of each session of the Legislature, the Board shall prepare the different rooms for the use of the Legislature.

[Acts 1925, S.B. 84.]

Art. 668. Use of Rooms in Capitol as Bedrooms

No room, apartment or office in the State Capitol Building shall be used at any time by any person as a bedroom or for any private purposes whatever. This article shall not ap-

ply to the rooms occupied by the judges of the Supreme Court and the Courts of Civil and Criminal Appeals on the third and fourth floors of the Capitol, nor to the offices and living quarters occupied by the Lieutenant Governor and the Speaker of the House of Representatives on the second floor of the Capitol Building.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 2, ch. 2, § 1.]

Art. 669. Shall Inspect Public Buildings, etc.

The Board shall frequently inspect all the public buildings and property of the State at the Capitol, and all other buildings and property of the State at such regular intervals as may be necessary for the Board to keep constantly informed of the condition of the same.

[Acts 1925, S.B. 84.]

Arts. 670 to 672. Repealed by Acts 1965, 59th Leg., p. 926, ch. 455, § 16, eff. Sept. 1, 1965

See, now, article 678f.

Art. 673. Shall Make Needed Improvements

When needed improvements or repairs for respective buildings and offices are called to the attention of the Board by the heads of such departments or offices, the Board shall provide for such repairs or improvements, and they shall be made under its direction.

[Acts 1925, S.B. 84.]

Art. 674. Maintenance of Sewers

The Board shall give special attention to the effective maintenance of the State sewers and their connections in the use of the public buildings, and shall see that such sewerage and connections at all times be kept in a sanitary condition, and that the gas and water pipes with their connections and appliances are maintained in working order, ready at any time for immediate use.

[Acts 1925, S.B. 84.]

Art. 675. Copy of Plans

The Board shall prepare and keep in its offices a copy of the plans of all public buildings and improvements thereto under its charge showing the exact location of all water, gas and sewerage pipes.

[Acts 1925, S.B. 84.]

Art. 676. Shall Report to Governor

The Board shall biennially on December 1st make a report to the Governor showing all improvements and repairs that have been made with an itemized account of receipts and expenditures, and showing the condition of all property under its control with an estimate of needed improvements and repairs.

[Acts 1925, S.B. 84.]

Art. 677. Repealed by Acts 1949, 51st Leg., p. 320, ch. 153, § 2

Art. 678. State Cemetery

(a) The State Board of Control shall control, superintend and beautify the grounds of the

State Cemetery and shall preserve the grounds and everything pertaining thereto and protect the property from depreciation and injury. The Board shall procure and erect, at the head of each grave which has no permanent monument, an obelisk of marble upon which shall be engraved the name of the dead therein buried.

(b) The persons eligible for burial in the State Cemetery are as follows:

(1) present and former members of the Texas Legislature;

(2) present and former elective state officials;

(3) present and former state officials who have been appointed by the Governor and confirmed by the Texas Senate;

(4) persons specified by a Governor's proclamation; and

(5) persons specified in a concurrent resolution adopted by the Texas Legislature.

(c) Grave spaces shall be allotted for a person eligible for burial and for his or her spouse, together with his or her unmarried child or children, which child or children shall be buried alongside his, her, or their parent or parents, provided that such child on the effective date of this Act or at the time of his or her death is a resident in any state eleemosynary institution. Children other than those hereinabove made eligible for burial may not be included. The size of a grave plot may not be longer than eight feet nor wider than five feet times the number of persons of one family authorized hereunder to be buried alongside one another.

(d) No monument or statue may be erected that is taller than any existing monument or statue in the State Cemetery on the effective date of this Act.

(e) No trees, shrubs, or flowers may be planted in the State Cemetery without written permission from the State Board of Control.

(f) Burial of persons on state property may take place only in the State Cemetery or in a cemetery maintained by a state eleemosynary institution, and no other state property, including the capitol grounds, may be used as an interment site.

(g) Allotment and location of the necessary number of grave plots authorized shall be made by the State Board of Control upon application of the person primarily eligible hereunder or by his or her spouse, or by the executor or administrator of his or her estate.

[Acts 1925, S.B. 84; Acts 1951, 52nd Leg., p. 592, ch. 347, § 1; Acts 1969, 61st Leg., p. 1594, ch. 489, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1146, ch. 259, § 1, eff. May, 18, 1971.]

Art. 678a. Board of Mansion Supervisors

Membership; Appointment; Term

Sec. 1. There is hereby created the "Board of Mansion Supervisors." Said Board shall consist of three members, and one of the three shall be Chairman. The Chairman and other

members of the Board shall be appointed by the Governor. The Chairman shall be appointed for an unexpired term ending January 1, 1936, one member shall be appointed for an unexpired term ending January 1, 1934, and one member shall be appointed for an unexpired term ending January 1, 1932, or until their successors are appointed and qualified. Thereafter, the Governor shall appoint such Chairman and members for terms of six years.

Semi-annual Meetings

Sec. 2. Said Board of Mansion Supervisors shall hold regular semi-annual meetings in January and July of each year on dates to be specified by the Board and may hold such special meetings at such times and places as the Board may deem necessary and proper. It shall require two members of said Board to constitute a quorum.

Rules and Regulations; Records

Sec. 3. Said Board of Mansion Supervisors is hereby authorized to make such rules and regulations for the conduct of its work as may be deemed necessary. Said Board of Mansion Supervisors shall keep a record of all proceedings and official acts.

Plans and Designs for Repairs; Report to Board of Control

Sec. 4. It shall be the duty of said Board, from time to time, to make plans and designs for repairs to the Governor's Mansion, conforming to the style of architecture of the original building, and for such rehabilitation, renovation, repairing, beautifying and decorating generally of Mansion and the grounds adjacent thereto, as in their judgment may be deemed proper and expedient. It shall also be the duty of the Board to study the need of furniture, fixtures, equipment and interior decoration of the Mansion. The Board shall, on or before September 1, 1932, and each two years thereafter, submit a report to the Board of Control, embodying their recommendations and an estimate of the cost. The Board of Control shall incorporate in the biennial budget, under the head of "Mansion and Grounds," the requests of said Board of Mansion Supervisors and the recommendation of the Board of Control on such requests. The Board may, from time to time, submit reports with their recommendations to the Legislature.

Consent to Removal of Equipment; Visitation

Sec. 5. The furniture, fixtures and equipment belonging to the State and now situated in the Mansion shall not be taken therefrom and no changes shall be made in said furniture, fixtures and equipment without the consent of the Board of Mansion Supervisors and the Board of Control. The Board of Mansion Supervisors, or any member thereof, shall have the authority to visit the Mansion and grounds at any reasonable time.

[Acts 1931, 42nd Leg., p. 855, ch. 363.]

Abolition

Acts 1965, 59th Leg., p. 674, ch. 323, § 8 abolished the Board of Mansion Supervisors and transferred all its powers, duties and authority to the Texas Fine Arts Commission. See article 6144g, § 8.

Art. 678b. Purchase and Custody of Old French Embassy Building

Sec. 1. There is hereby appropriated all moneys now in the Texas Centennial Commission funds if and when available to apply on the purchase of the French Embassy building and all properties therein.

Sec. 2. Said property to consist of Embassy building and two and one-half (2½) acres out of the Southeast part of Outlot No. 1, in Division B, City of Austin, Texas, facing easterly on San Marcos Street, with line commencing at the intersection of San Marcos and Ninth Streets and running southerly with the West line of San Marcos Street to an alley between Seventh and Ninth Streets.

Sec. 3. Said building is hereby set aside for the uses and purposes of the Daughters of the Republic of Texas, and the said Daughters of the Republic of Texas be and the same are hereby authorized to take full charge of said building and use of the same as they may see proper. The property of the said French Embassy shall be the property of the State, and the title of said property shall remain in custody of the Board of Control.

[Acts 1945, 49th Leg., p. 455, ch. 286.]

Art. 678c. State Courts Building; State Office Building; Location and Construction; Garage; Underpass and Tunnel Connecting with State Capitol; Purchase of Additional Building

Sec. 1. There may be constructed two (2) office buildings and a garage during the biennium ending August 31, 1947. Said buildings shall be located on any State owned property lying south and adjacent to the Capitol grounds as more fully described herein.

Sec. 2. Such buildings shall be constructed under the supervision of the State Board of Control with the assistance of a Legislative and Business Council, composed of a member of the House to be appointed by the Speaker, a member of the Senate, appointed by the Lieutenant Governor, the Speaker of the House, the Attorney General, and the Lieutenant Governor.

Sec. 3. Such buildings shall be of fireproof construction and shall be provided with modern improvements, particularly air-conditioning, proper light, heat, and ventilation, and other necessary utilities.

Sec. 4. One of said buildings shall be designed to accommodate the Supreme Court of Texas and its Commission of Appeals; the Court of Criminal Appeals of Texas and its Commission of Appeals; the State's Attorney before the Court of Criminal Appeals; the

Court of Civil Appeals, Third District; the Attorney General of Texas; and such other offices as space therein will permit. This building shall be known as the "State Courts Building."

Sec. 5. The other of said buildings shall be designed and constructed for office space only, except the ground floor which shall be designed to care for tenants engaged in such businesses as will best accommodate the needs of State officers and employees; especially, the drug, cafe, and barber business. The name of this building shall be the "State Office Building."

Sec. 6. The "State Courts Building" shall be located on the lot of land now occupied by the Walton Building. Said lot more particularly described as follows:

The west half of the north one-half (½) of Block 123, as shown on the Original Plot of the City of Austin.

Sec. 7. The "State Office Building" shall be placed on the lot described as follows:

North one-half (½) of Block 124 as shown by the Original Plot of the City of Austin. Said one-half (½) block is bounded on the west by Colorado Street, on the North by Eleventh Street, on the east by Congress Avenue.

Sec. 8. An underpass and tunnel shall be constructed between each of said new buildings and connecting with the basement of the State Capitol.

Sec. 9. A garage shall be constructed that will accommodate not less than five hundred (500) cars, on the west end of the property upon which is located the "State Office Building." Said garage shall be so constructed that it will have an entrance on two (2) streets.

Sec. 10. None of the spaces provided for business of any kind or character, including the garage above provided for, shall ever be operated in the name of the State of Texas, but same will be rented to the highest bidder for cash, payable monthly in advance, upon such terms and conditions as may be prescribed by the State Board of Control.

Sec. 11. In addition to the purposes and intention of this bill as hereinabove set out, it is the further legislative intent and purpose that the construction provided for shall be a part of the postwar building program, to the end that employment will be made available to returning ex-servicemen and women, and it is herein specifically provided that honorably discharged men and women from the armed forces of this State and Nation will be given priority of employment in the construction of such buildings, and that the contract, or contracts, and all sub-contracts for the construction thereof, will so specifically provide.

Sec. 17. The State Board of Control is hereby authorized to negotiate as soon as possible for the purchase for the State of Texas the Tribune Building in the City of Austin, Texas, and the real estate upon which said building is

located, as well as all other land and improvements pertaining thereto, or used in connection therewith for parking purposes or for any other purpose, from the owners thereof, at a cost not to exceed the estimate fixed, after due appraisal by the State Engineers, and only then upon the approval of a majority of the following: The Speaker of the House, a Member of the House to be selected by the Speaker of the House, the Lieutenant Governor, a Member of the Senate to be selected by the Lieutenant Governor, the Attorney General of Texas, and the Chairman of the Board of Control.

Sec. 18. The contract for the purchase of said real estate by the State Board of Control under the provisions of this Act shall be prepared by the Attorney General of the State of Texas upon such terms as may be legally agreed on by the parties to the sale. It shall be the duty of the State Board of Control to require of the owner of such premises the preparation and delivery of an abstract of title of any property sought to be purchased and to submit the same to the Attorney General of Texas for examination, and the contract for purchase shall be conditioned upon the merchantability of title as evidenced by a written opinion of the Attorney General, and none of the funds provided for in this Act shall be paid until such title is declared to be good and merchantable and a legal transfer made, all as approved by the Attorney General.

[Acts 1945, 49th Leg., p. 536, ch. 325.]

Sections 12 to 16 and 19 of the 1945 Act made appropriations for various purposes specified and sections 20, 21 read as follows:

"Sec. 20. The Board of Control is authorized, in the event such a procedure is economically advisable, to rent space on the ground floor and in the basement for commercial business upon open bids for same.

"Sec. 21. The purchase price for the said Tribune Building, real estate and land shall be paid out of the funds appropriated and provided for in and in the manner set out in House Bill No. 818 of the Regular Session of the Forty-ninth Legislature (Laws 1945, ch. 262, p. 409) and provided further that the sum for the cost of the two office buildings as described in this Act shall be appropriated out of and provided in the manner set out in House Bill No. 818 of the Regular Session of the Forty-ninth Legislature."

Art. 678d. Repealed by Acts 1965, 59th Leg., p. 445, ch. 227, § 13, eff. Aug. 30, 1965

See, now, article 678d-1.

Art. 678d-1. Vending Facilities Operated by Blind Persons

Definitions

Sec. 1. In this Act, unless the context requires a different definition,

(1) "blind person" means a person having not more than 20/200 visual acuity in the better eye with correcting lenses, or visual acuity greater than 20/200 but with a limitation in the fields of vision such that the widest diameter of the visual field subtends an angle of no greater than 20 degrees;

(2) "vending facility" includes a cafe, cafeteria, restaurant, snack bar, concession stand, or other facility at which food, drinks, drugs, novelties, souvenirs, tobacco products, notions or related items are reg-

ularly sold, but does not include those facilities consisting solely of vending machines not in competition, directly or indirectly, with a vending facility operated by or suitable for being operated by a vocationally handicapped person, except where this Act specifically mentioned vending machines;

(3) "state property" means buildings and land owned, leased or otherwise controlled by the state;

(4) "agency" means the state department or agency in charge of state property;

(5) "Commission" means the State Commission for the Blind;

(6) "Rehabilitation Commission" means the Texas Constitution for Rehabilitation.

(7) "handicap" includes any physical or mental condition determined by the Commission or the Rehabilitation Commission to constitute a substantial vocational disadvantage.

License or Permit Required

Sec. 2. No person may operate a vending facility, including any vending machine or other coin-operated device, unless he is licensed to do so by the Commission or authorized to do so by an agency granted a permit to arrange for vending facilities.

Licensing Procedure—First Priority to be Given to Blind

Sec. 3. Upon written notification by an agency in control of state property that a vending facility is desired on the property, or, upon its own initiative, the Commission

(1) shall survey the property (or blueprints, plans, and other similar, available information) to determine if the installation of one of its vending facilities is feasible and consonant with its vocational rehabilitation objectives; and

(2) license a blind person to operate the vending facility to be installed by the Commission; or else

(3) allow the Rehabilitation Commission to install a vending facility to be operated by a handicapped person other than a blind individual, according to rules and procedures comparable to those adopted by the Commission pursuant to Section 4 of this Act (interagency agreements for management services and related forms of necessary assistance being hereby expressly authorized), if the Rehabilitation Commission indicates that it is interested in undertaking such activities.

Adoption of Rules

Sec. 4. The Commission shall adopt—

(1) substantive rules relating to the conditions for revoking a license, and

(2) procedural rules relating to the manner of revocation.

Revocation of Permits and Licenses

Sec. 5. (a) Every license and general permit granted by the Commission for operating vending facilities on state property expires three years after the date of issuance, at which time the merits of renewing the license or general permit shall be reviewed by the Commission, and a new or different license or general permit issued, as the Commission finds proper.

(b) Should there be a material change in conditions before the expiration of a general permit, however, the agency and the Commission may revoke the general permit by mutual consent.

(c) The wilful failure of a blind person to operate a vending facility in compliance with rules of the Commission or the provisions of this Act constitutes grounds for the automatic revocation of the license granted by the Commission.

Persons Who May Be Licensed

Sec. 6. (a) The Commission may issue licenses to operate its vending facilities on state property to blind persons who are citizens of the state and who are capable of efficiently operating the vending facilities in a manner resulting in a reasonable satisfaction for all concerned parties.

(b) No blind person may be licensed to operate a vending facility until the Commission, through devices such as prevocational testing and training, has determined that the blind person has the requisite physical, psychological, and personal traits and abilities for operating a vending facility in a manner which is satisfactory to the Commission and the agency concerned.

(c) The Commission shall place the name of a blind person who has satisfactorily completed prevocational testing and training on a roster of individuals, certified as suitable for licensing as operators of vending facilities.

(d) When a Commission-sponsored vending facility becomes available on state property, the Commission shall, if two or more equally qualified and certified blind persons apply for a license to operate the facility, issue the license to the applicant on its roster of individuals certified as suitable for licensing whom it judges to be most in need of employment.

(e) When a vending facility is installed or operated by the Rehabilitation Commission pursuant to Section 7(a), the installation and operation of the facility shall, so far as possible, conform to the provisions of this Act applicable to vending facilities installed by the Commission.

(f) The granting of a license, general permit, authorization, or contract under the provisions of this Act does not vest the person, agency, firm, or corporation to whom granted with any property or other rights, in law or in equity, which might constitute the basis of a cause of action against the state, any of its agencies or departments, or any of its officials or employees.

Employment of Other Handicapped Persons in Vending Facilities

Sec. 7. (a) If the nature of a location for a vending facility on State property is such that the Commission determines a blind person could not properly operate the facility, the Rehabilitation Commission may survey the location to determine if an individual handicapped by a condition other than blindness might be able to operate the facility in a proper manner. The Commission and the Rehabilitation Commission are authorized to develop such procedures and methods of exchanging information as might be necessary to implement the cooperative activities agreed to under this subsection.

(b) If an individual licensed to operate a vending facility on State property requires hired assistance for the proper operation of the vending facility, priority shall be given to the employment of a visually handicapped person who is available and qualified to work as an assistant in the vending facility. If labor requirements are such that another visually handicapped person cannot, in the Commission's determination, successfully perform the labor for which an assistant is desired, or if another qualified visually handicapped person is not available, preference in employment shall be given to an individual handicapped by a disability that is not of a visual nature. If it is determined that a person handicapped by a disability not related to vision cannot successfully perform the labor for which an assistant is desired, or if no qualified person with a disability that is not of a visual nature is available, preference in employment of an assistant shall be given to an individual who is disadvantaged by reason of social, cultural, economic or educational factors.

(c) Any assistant employed by a blind person licensed by the Commission under the provisions of this Act must be approved by the Commission, and the deliberate refusal of a blind operator to comply with this section constitutes grounds for automatic revocation of his license.

Competing Vending Facilities

Sec. 8. (a) No additional permit or license is required for installing additional vending facilities, such as vending machines, on state property having a Commission-sponsored vending facility, but additional vending facilities may not be installed on the property unless an agreement is reached between the agency and the Commission concerning the installation and operation of the competing vending facilities. If the competing vending facilities consist of vending machines or other coin-operated devices the installation and operation shall be by the authorization of the Commission, which authorization shall be made with a view toward providing the greatest economic benefits to blind clients of the Commission consonant with the supplying of additional services necessary at the building in which the Commission-sponsored vending facility is located.

(b) It is the duty of the heads of all State agencies concerned to negotiate and to cooperate in good faith to accomplish the purposes of this Act. This provision applies equally to vending facilities, including vending machines or other coin-operated devices, in competition with a Commission sponsored vending facility on or before the effective date of this Act, vending facilities, including vending machines and other coin-operated devices, which would, if installed, be in competition with an existing Commission sponsored vending facility, and vending facilities, including vending machines or other coin-operated devices, the installation and operation of which in a State building precludes the installation and operation of a vending facility by the Commission or the Rehabilitation Commission.

(c) When vending machines are located in the same building as is a vending facility operated by a blind or otherwise vocationally handicapped individual, all commissions from the vending machine are to be received by the blind or otherwise vocationally handicapped individual. When vending machines and more than one vending facility operated by a blind or otherwise vocationally handicapped individual are located in the same building, the assignment of commissions from the vending machines shall be determined by the Commission, with a view toward achieving equity and equality in the incomes of the blind or otherwise vocationally handicapped individuals. If the Commission and the Rehabilitation Commission have, pursuant to Section 3 and Section 7(a) of this Act, rejected a location for a vending facility operated by a blind or otherwise vocationally handicapped individual, the assignment of commissions from vending machines is to be determined by the agency to whom a general permit is issued.

Vending Facility Locations

Sec. 9. (a) The Commission is responsible for designating vending facility locations on state property after the agency in charge has requested such a facility. The designation is effective after the agency in charge of the state property concurs in it.

(b) The agency responsible for state property shall alter the property to make it suitable for properly operating the vending facilities to be established on it. To this end, the agency in charge of the construction of new state property shall consult with the Commission during the planning stage in the construction of state property.

Vending Facility Equipment and Stock

Sec. 10. (a) The Commission may supply a blind vending facility operator with equipment and initial stock necessary for him to begin business.

(b) The Commission shall collect and set aside from the proceeds of the operation of its vending facilities enough money

(1) to insure a sufficient amount of initial stock for the vending facilities it operates and for their proper maintenance;

(2) to defray the costs of supervision and other expenses incidental to the operation of the vending facilities;

(3) to defray other program costs, to the extent not contraindicated by federal statutes applicable to those programs through which the Commission obtains financial support, and to the extent determined by the Commission to be necessary for assuring the fair and equal treatment of all blind persons licensed by the Commission to operate vending facilities on State or other property.

(c) Except for purchasing and installing original equipment, the operation of Commission-sponsored vending facilities on state property is to be as self-supporting and as self-sustaining as possible, and, to this end, the Commission shall periodically review and, when necessary, revise its schedules for collecting and setting aside money from the proceeds of its vending facilities.

Responsibilities, Duties, and Privileges of Parties

Sec. 11. (a) The Commission, in addition to the responsibilities and duties vested in it by other sections of this Act, may promulgate such rules and initiate such procedures as it finds necessary to the implementation of this Act.

(b) The blind person licensed by the Commission to operate one of its vending facilities on state property, in exercising the privilege granted by the license, shall operate the vending facility,

(1) in accordance with all applicable federal, state, and local laws;

(2) in accordance with the rules, regulations, and policies promulgated by the Commission.

(c) The agency in charge of state property shall

(1) exert every effort to cooperate with the Commission and with the blind persons it licenses to operate vending facilities on state property, in order to accomplish the purposes of this Act;

(2) furnish all necessary utility service, including connections and outlets necessary in the installation of the facility, janitorial, and garbage disposal services, where feasible, and other related assistance.

Conformity with Federal Statutes; Training; Program Improvements

Sec. 11A. (a) The provisions of this Act shall be construed in such manner as to be made as consistent as possible with the requirements of federal programs through which the Commission obtains financial support. In the event of any conflict between the provisions of this Act and applicable federal re-

quirements, the Commission may, to the extent necessary to preclude questions of conformity and to the extent necessary to secure full and continued benefit of any applicable federal statutes, waive or modify provisions of this Act determined to be contraindicated by federal statutes, federal requirements or final decisions by courts of competent jurisdiction.

(b) In order to provide necessary and proper training to blind persons desiring to be licensed to operate vending facilities, and in order to develop and perfect techniques which will allow blind persons to operate such facilities or related types of small business enterprises more efficiently and more productively, the Commission may establish such locations for training or experimentation as may be determined necessary.

Applicability

Sec. 12. (a) The provisions of this Act do not apply to property maintained and operated by state-supported institutions of higher education, or property over which control is either wholly or in part maintained by the federal government.

(b) No vending facility operated by a blind or otherwise vocationally handicapped individual, nor any vending facility location surveyed by the Commission, is to be closed because of the transfer of State property from one agency to another, the reorganization of a State agency, or the alteration of a State building, unless the closing is agreed to by the Commission or the Rehabilitation Commission.

(c) The provisions of this Act apply immediately to all state property having no vending facilities or having only vending facilities installed by the Commission.

(d) None of the provisions of this Act shall apply to vending facilities operated by an institution under the control and management of the Board for Texas State Hospitals and Special Schools or its successor in function so long as such vending facility is operated for the benefit of the patients of the institutions without profit.

(e) Section 8(b) and (c) become applicable to state property having vending facilities other than those installed by the Commission six months after the effective date of this Act; all other provisions of this Act are of immediate applicability.

(f) Nothing in this Act shall be construed as prohibiting the Commission from selecting blind persons for operating other types of vending facilities or business enterprises determined by the Commission to be suitable for operation by blind persons, or as prohibiting the installation of automated vending facilities serviced by blind persons, or as precluding agreements between the Commission and heads of state-supported institutions of higher education leading to the utilization of blind labor in vending facilities at state-supported institutions of higher education, if there is agreement

that the utilization of blind labor would be of mutual advantage to all concerned parties.

Repealer

Sec. 13. Chapter 47, Acts of the 50th Legislature, Regular Session, 1947, as amended by Chapter 490, Acts of the 57th Legislature, Regular Session, 1961,¹ is repealed.

[Acts 1965, 59th Leg., p. 445, ch. 227, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., pp. 1262 to 1265, ch. 320, §§ 1 to 10, eff. May 24, 1971.]

¹ Article 678d.

Art. 678e. Protection and Policing of State Buildings and Grounds

Trespass or Damage to Capitol, Governor's Mansion, State Office Buildings and Grounds; State Cemetery; Board of Control Warehouse and Storage Area

Sec. 1. It shall be unlawful for any person to trespass upon the grass plots or flowerbeds, or to damage or deface any of the buildings, or cut down, deface, mutilate or otherwise injure any of the statues, monuments, memorials, trees, shrubs, grasses or flowers on the grounds or commit any other trespass upon any property of the state, real or personal, located on the grounds of the State Capitol or other property owned by the State of Texas bounded by Eleventh Street, Nineteenth Street, San Jacinto Street and Colorado Street in the City of Austin; or on the grounds of the Governor's Mansion bounded by Tenth Street, Eleventh Street, Colorado Street and Lavaca Street in the City of Austin; or on the State Cemetery grounds bounded by Seventh Street, Comal Street, Eleventh Street and Navasota Street in the City of Austin; or on the Board of Control warehouse and storage area bounded by First Street, Trinity Street, Waller Creek, and the alley in Block No. 183 in the City of Austin. The performance of construction, landscaping, and gardening work authorized by the Legislature, the Board of Control, or the State Building Commission shall not be construed to be prohibited under the provisions of this Act.

Parking on State Property

Sec. 2. Except on Saturdays, Sundays and holidays it shall be unlawful for any person, other than state officials, state employees, visitors, and persons having lawful business in the buildings, to park upon and within property owned by the State of Texas within the bounds set forth in Section 1, between the hours of 7:00 AM and 6:00 PM, whenever the buildings are open for business.

Parking Facilities for Legislators

Sec. 3. When the Legislature is in session members of the Legislature shall each be assigned, in a manner agreeable to the members of the respective bodies, a reserved parking space on the Capitol driveways for his unrestricted use during the time the Legislature is in session, either regular or any called session thereof. The use of any space assigned to any member of the Legislature for his unrestricted

use during the time the Legislature is in session by an unauthorized person or his vehicle, or by the person or properly identified vehicle of a state employee not a member of the Legislature, shall constitute a misdemeanor punishable as hereinafter provided for.

Regulation and Control of Parking and Traffic; Marking and Designation of Parking Spaces; Assignment of Officer

Sec. 4. It shall be unlawful for anyone to park any vehicle except in the spaces and manner now marked and designated or that may be hereafter marked and designated by the State Board of Control, or to block or impede traffic through the driveways upon any property owned by the State of Texas within the bounds set forth in Section 1. The State Board of Control is hereby authorized to request the State Highway Department to assist it in the marking and/or designation of such parking spaces as the Board of Control shall deem necessary and to maintain the painting of lines, curb markings and furnish such directional or informational signs as the Board of Control shall deem necessary. The Texas Department of Public Safety shall provide advice and assistance to the Board of Control when requested and shall at all times have at least one commissioned officer assigned to duty in the Capitol area.

Speed Limits

Sec. 5. It shall be unlawful to operate a motor vehicle upon any property owned by the State of Texas within the bounds set forth in Section 1 at a speed in excess of fifteen (15) miles per hour. All laws regulating traffic upon highways and streets shall apply to the operation of motor vehicles within the prescribed areas, except as modified hereby.

General and Criminal Laws

Sec. 6. All of the general and criminal laws of the state are declared to be in full force and effect within the areas regulated by this Act.

Watchmen; Designation as Peace Officers; Powers and Duties; Bond

Sec. 7. The State Board of Control is authorized to employ watchmen for the purpose of carrying out the provisions of this Act and may commission such watchmen as it deems necessary as peace officers only after such watchmen have been approved for such duty by the Director of the Department of Public Safety, and when so commissioned said officers are hereby vested with all the powers, privileges and immunities of peace officers while on the areas regulated by this Act or in fresh pursuit of those violating the law in such areas; provided, that such watchmen assigned to such duties and so commissioned shall take and file the oath required of peace officers and shall execute and file with the State Board of Control a good and sufficient bond in the sum of One Thousand Dollars (\$1,000) payable to the Governor of this state and his successors

in office with two or more good and sufficient sureties conditioned that he will fairly and faithfully perform all of the duties as may be required of him by law, and that he will fairly and impartially enforce the law of this state and that he will pay over any and all monies, or turn over any and all property, to the proper person legally entitled to the same, that may come into his possession by virtue of such office. Said bond shall not be void for the first recovery but may be sued on from time to time in the name of any person injured until the whole amount thereof is recovered. It shall be unlawful and constitute a misdemeanor punishable as provided in this Act for any person or persons to impersonate any of said officers.

Firearms

Sec. 7a. Such officers shall not have the authority to carry firearms except after approval by the Director of the Department of Public Safety as provided for in Section 7 hereof and unless directed to carry firearms by the Chief of the Capitol Security Force.

Enforcement of Criminal Laws; Arrest

Sec. 8. In addition to the enforcement of this Act by the watchmen mentioned above, all commissioned officers of the Texas Department of Public Safety, the Sheriff and Sheriff's Deputies of Travis County, and police officers of the City of Austin, are authorized and empowered to enforce the criminal laws of this state and the provisions of this Act within the areas regulated herein, and all of said officers are vested with authority to pursue and arrest any person for any offense when said person is found in such areas or is fleeing therefrom.

Violations; Punishment

Sec. 9. Any person who violates any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than Two Hundred Dollars (\$200). The penalties for violation of any of the other criminal laws of the state shall be as now provided by law.

Traffic Tickets and Summons

Sec. 10. In connection with traffic and parking violations only, the officers authorized to enforce the provisions of this Act, shall have the authority to issue and use traffic tickets and summons of the type now used by the City of Austin and/or the Texas Highway Patrol with such changes as are necessitated thereby to be prepared and furnished by the State Board of Control. Upon the issuance of any such traffic ticket or summons the same procedures shall be followed as now prevail in connection with the use of parking and traffic violation tickets by the City of Austin and the Texas Highway Patrol. Nothing herein shall restrict the application and use of regular arrest warrants.

Enforcement; Rules and Regulations; Signs

Sec. 11. The primary responsibility for enforcing the provisions of this Act shall be with

the State Board of Control, which shall have authority to promulgate rules and regulations not inconsistent with this Act or other provisions of law as it may deem necessary to carry out the provisions of this Act. Whenever the Board shall have promulgated such a rule or regulation and has posted signs in any of the regulated areas giving notice thereof, it shall be unlawful for any person to violate any of the provisions of such signs and shall constitute a misdemeanor punishable as provided in this Act.

Automobile Identification Insignia

Sec. 12. Provision is hereby made for the issuance and required use of suitable automobile identification insignia, to be issued upon proper certification to the Board of Control by the Secretary of State of the names of members of the Legislature, the Governor, the Lieutenant Governor, and other elected state officials, to be affixed to the inside of the windshield of the automobile of the state official and in the approximate bottom or top center of said windshield immediately back of the rear view mirror to provide immediate recognition of the owner of the vehicle as an elected state official. Provision is also made hereby for the certification by the administrative heads of the respective state agencies located in Austin of the names of board and commission members, and state employees entitled to receive and use an "official" or an "employee" vehicle identification insignia to be affixed to the windshield of a vehicle in the same manner as described above. It is further provided hereby that such vehicle identification insignia shall be of different color or a combination of colors to identify each of the following:

- (a) Elected state officials,
- (b) administrative heads of state agencies and members of boards and commissions and
- (c) regular state employees, all of whom shall be privileged to use and park upon state driveways in the areas hereinabove designated without penalty except for violation of existing law as hereinbefore provided and rules and regulations promulgated by the Board of Control.

Each vehicle identification insignia shall be serially numbered; a record of such serially numbered insignia issued by the Board of Control shall be maintained. Insignia color or colors shall be changed effective January first of each calendar year; insignia shall be valid from January first to December thirty-first of each year.

Each administrative head of any state agency located in Austin shall be responsible to the Board of Control for notification to the board of the termination of any state employee to whom vehicle identification insignia has been issued. Upon receipt of such certification of the termination of employment by a state agency of an employee, then and thereafter such person or former employee who shall continue to

falsely use any vehicle identification device, shall be deemed guilty of a misdemeanor punishable as provided for in Section 9 of this Act.

Jurisdiction of Municipal Court and Justice of the Peace

Sec. 13. The judge of the municipal court and/or any justice of the peace in Austin are each hereby separately vested with all jurisdiction necessary to hear, try and determine criminal cases involving violations hereof where punishment does not exceed a fine of Two Hundred Dollars (\$200).

Permission to Use Grounds

Sec. 14. Nothing herein contained shall be construed to abridge the authority of the State Board of Control to grant permission to use the Capitol grounds and any grounds adjacent to any state building, for such use as may be provided by preexisting law.

Repealer

Sec. 15. All Acts or parts of Acts inconsistent herewith are hereby repealed.

[Acts 1963, 58th Leg., p. 178, ch. 102; Acts 1967, 60th Leg. p. 1228, ch. 556, § 1, eff. June 14, 1967.]

Art. 678e-1. Consent to Buildings Within Campus of State Capitol

Sec. 1. It shall be unlawful for any officer of this State, or any employee thereof, or any other person to construct, build, or maintain within the Campus inclosure around the State Capitol in Austin any building, memorial, monument, statue or concessions or other structure, without the authority of the Legislature theretofore given by statute or concurrent resolution for that purpose.

Sec. 2. Any officer, employee of this State, or other person violating Section 1 of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred (\$100.00) Dollars, nor more than One Thousand (\$1,000.00) Dollars, or imprisoned in the County Jail of Travis County for a period of time not to exceed one year, or by both such fine and imprisonment. [Acts 1931, 42nd Leg., p. 780, ch. 312.]

Art. 678e-2. Pass Keys to State Capitol

Any person who shall make or have made or keep in his possession a pass or master key to the rooms and apartments in the State Capitol, unless authorized to do so, shall be fined not exceeding one hundred dollars.

[1925 P.C.]

Art. 678f. State Building Construction Administration Act

Short Title and Purpose

Sec. 1. This Act may be cited as the "State Building Construction Administration Act."

The purpose of this Act is to provide for the orderly planning of buildings constructed by the State, to provide for adequate inspection in the State's interest of building construction work in progress, and to provide for reasonably

accurate projections of building program requirements, and estimates of the cost of proposed projects prior to legislative appropriations or specific authorizations for the construction and equipping of such projects.

The Legislature hereby declares that the policy of the State of Texas in regard to projects constructed under the provisions of this Act shall be to provide requisite physical facilities for the operation of State government in an architectural form which will represent the dignity of the State of Texas and which shall be aesthetically pleasing. Designs shall adhere to established construction practices and utilize materials, methods and equipment of proven dependability to the end that projects shall be economical to construct, operate and maintain.

Definitions

Sec. 2. The following terms whenever used or referred to in this Act shall have the following meanings, except in those instances where the context clearly indicates otherwise:

(A) "Using agency" means any instrumentality of the State which shall occupy and make use of a State-owned or State-leased building, and for the purpose of this Act the State Board of Control shall be considered as the using agency for the State Capitol, the Governor's Mansion and for all other State-owned buildings maintained by the Board.

(B) "Commission" means the State Building Commission established by Section 51-b of Article III of the Constitution of this State.

(C) "Project" means any building construction project, other than those specifically excluded by Sections 3 and 4 of this Act, which shall be financed in whole or in part by specific appropriation, bond issue or federal funds. The term "project" shall include the construction of any building or any structure or any facility or utility appurtenant thereto, including original equipment and original furnishings thereof, and of any addition to, alteration, rehabilitation or repair of any existing building or any structure, or any facility or utility appurtenant thereto.

(D) "Project analysis" refers to work done prior to legislative appropriation for a project for the purpose of developing a reliable estimate of the cost of a project to be requested of the Legislature.

(E) "Cost of a project" includes, but shall not be limited to, the cost of all real estate, properties, rights and easements acquired, utility services, site development, the cost of construction and the initial furnishing and equipment thereof, all architectural and engineering and legal expenses, the cost of surveys and plans and specifications, and such other expenses, including those incurred by the State Building Commission, as are necessary or inci-

dent to determining the feasibility or practicability of any project.

(F) "Construction" means and includes acquisition, construction and reconstruction.

(G) "Rehabilitation" means and includes renewal, restoration, extension, enlargement and improvement.

(H) "Equipment" and "furnishings" mean and include any equipment and furnishings whatsoever as may be necessary and required for the use of a project.

(I) "Architect/engineer" means a person registered as an architect pursuant to Acts of the 45th Legislature, Regular Session, 1937, Chapter 478, as amended (compiled as Article 249a of Vernon's Texas Civil Statutes) and/or a person registered as a professional engineer pursuant to Acts of the 45th Legislature, Regular Session, 1937, Chapter 404, as amended (compiled as Article 3271a of Vernon's Texas Civil Statutes) employed to provide professional architectural or engineering services and having overall responsibility for the design of a project. The term "Architect/engineer" standing by itself may, unless the context clearly indicates otherwise, mean either an architect/engineer employed by the Commission on a salary basis or an architect/engineer in private practice retained for a specific project under a contractual agreement with the Commission. The term "private architect/engineer" shall specifically and exclusively refer to a registered architect or a registered engineer in private practice retained for a specific project under a contractual agreement with the Commission.

(J) "Stage construction" means the construction of a project in phases, each phase resulting in one or more buildings or structures which individually or together shall be capable of use regardless of whether subsequent phases of the project are authorized or not.

Projects Covered and Excluded

Sec. 3. (a) This Act shall apply to all building construction projects as herein defined which may be undertaken by the State, with the following exceptions:

(A) All projects constructed by and for the Texas Highway Commission;

(B) All projects constructed by and for State institutions of higher education;

(C) All projects constructed by and for the Texas Department of Corrections;

(D) Pens, sheds and ancillary buildings constructed by and for the Texas Agriculture Department for the processing of livestock prior to export;

[Text of subd. (E) added by Acts 1973, 63rd Leg., p. 601, ch. 255, § 1]

(E) All projects of repair and rehabilitation, except major renovations, of buildings and grounds on State Board of Control inventory; and

[Text of subd. (E) added by Acts 1973, 63rd Leg., p. 1530, ch. 553, § 1]

(E) All projects constructed by the Parks and Wildlife Department; and

(F) Repair and rehabilitation projects of any other using agency, provided all labor for such projects is provided by the regular maintenance forces of the using agency under specific legislative authorization and provided further, that such projects do not require the advance preparation of working plans and/or drawings.

(b) Nothing in this section shall be construed as prohibiting the Commission from undertaking a project excluded by this section under an interagency agreement originated by the appropriate using agency, and provided further, that nothing in this section shall be construed as exempting any agency or institution from the requirements of Section 15 of this Act (Compilation of Construction and Maintenance Data).

(c) In addition to the exclusions enumerated in this section, the Commission may, by regulation, exclude repair and rehabilitation projects involving the use of contract labor, provided such projects do not require the advance preparation of working plans and drawings.

Additional Exclusions

Sec. 4. In addition to the projects excluded by Section 3 of this Act, it is specifically provided that nothing in this Act shall apply to:

(A) Projects constructed by or under the supervision of any public authorities created by the laws of this State, or

(B) State-aided local government projects of any character whatsoever, or

(C) Any plans or specifications on projects advertised for bids prior to the effective date of this Act, or

(D) Any design or construction contracts awarded prior to the effective date of this Act.

Provided, a using agency may transfer projects excluded by Subsection (C) or Subsection (D) to the Commission with the consent of the contracting parties or may request the Commission to undertake the administration and supervision of projects excluded by Subsections (C) and (D) by an interagency contract between the Commission and the using agency.

State Building Commission

Sec. 5. (A) The State Building Commission is hereby designated as the administering agency and shall exercise the powers and duties conferred upon it by this Act in addition to all powers, duties and responsibilities previously conferred upon it by Acts of the 54th Legislature, Regular Session, 1955, Chapter

514, as amended (compiled as Article 678m, Vernon's Annotated Civil Statutes), and the provisions of such Act, as amended, shall apply where pertinent to all construction under the provisions of this Act. The Commission shall be the coordinating authority for the construction of any multiagency State office buildings which the Legislature may, from time to time, authorize.

(B) The Commission shall, subject to the provisions of the Appropriations Act and such General Laws as may apply, employ professional, technical and clerical personnel. In selecting such personnel, the Commission shall give first preference to persons currently employed in the Engineering Section of the State Board of Control and in the design and Construction Division of the Board for Texas State Hospitals and Special Schools.

(C) The Commission shall appoint a Director who shall serve at the pleasure of the Commission. The Director shall be a registered architect or a registered professional engineer and shall be chosen for proven administrative ability and experience in the fields of building design and construction. The Director shall be the full-time executive and administrative officer of the Commission which shall delegate to him such power, authority and duties as it may deem necessary and proper.

(D) The Commission may assign a qualified professional employee to any using agency where the volume of construction projects is such that the Commission and the using agency agree that full-time coordination between the Commission and the using agency is desirable. The Commission and the using agency shall mutually agree upon the qualifications and duties of such assigned employees and the salary and related expenses of such assigned employees shall be charged against the projects of the using agency to which they are assigned. Such assignments shall be terminated whenever in the opinion of the Commission they are no longer required.

(E) The operating expenses of the State Building Commission shall, unless otherwise specified by the Legislature, be paid from appropriations made out of the State Building Fund. The State Building Fund shall be reimbursed for such expenditures from the funds appropriated by the legislature for projects supervised by the Commission. In order that each project shall bear its fair and proper share of the Commission's expenses, the Commission shall institute and maintain a cost accounting system which shall be devised by the State Auditor as soon after the effective date of this Act as possible.

(F) The State Building Commission may promulgate rules and regulations necessary to implement the powers, duties and responsibilities imposed upon it by this Act. Such rules and regulations shall be binding on all State agencies upon being filed with the Secretary of State. As soon as practical, the Commission shall cause to be prepared and published a

manual to assist using agencies in complying with the provisions of this Act and the rules and regulations of the Commission. Copies of the manual shall be distributed to all using agencies and shall be available to architects, engineers, contractors and others who may need and request a copy of it.

(G) On or before the first working day of the fiscal year beginning September 1, 1965, all files, records, equipment, furnishings and personal property of all kinds heretofore used by the Engineering Section of the Building Engineering and Management Division of the State Board of Control and by the Design and Construction Division of the Board for Texas State Hospitals and Special Schools shall be transferred to the Commission. The Commission shall agree with the State Board of Control and with the Board for Texas State Hospitals and Special Schools on the personal property to be transferred and shall evidence such agreement in a written inventory to be signed by representatives of the Commission and the respective Boards. The agreement when so signed shall be full authority (1) for the Commission to transfer the personal property listed thereon to its control and (2) for the Comptroller of Public Accounts to enter any inventoried items on the property inventory records of the Commission and to delete the same items from the property inventory records of the State Board of Control and of the Board for Texas State Hospitals and Special Schools.

(H) Legal representation of the State Building Commission shall be performed by the Attorney General of Texas. This provision shall not restrict the Attorney General from employing special assistants to assist in the performance of duties arising by virtue of the provisions of this Act in those instances where the Attorney General deems such employment necessary.

(I) Venue of all suits for any breach of contract entered into pursuant to the provisions of this Act shall be in Travis County, Texas.

(J) The Commission may waive, suspend or modify any provision of this Act which shall be in conflict with any federal statute or any rule, regulation or administrative procedure of any federal agency where such waiver, suspension or modification shall be essential to the receipt of federal funds for any project. In the case of any project wholly financed from federal funds, any standards required by the enabling federal statute or required by the rules and regulations of the administering federal agency shall be controlling.

Pre-preliminary Planning; Project Analysis

Sec. 6. (A) Each using agency of the State which shall desire any project, other than those specifically excluded by Sections 3 and 4 of this Act, shall prepare and submit to the Commission a general description of the project. The Commission shall cause all such projects to be studied and shall initiate the preparation of a project analysis for all new con-

struction projects and for all other projects where, in the opinion of the Commission, the cost of preparing a project analysis is justified.

(B) A project analysis may be prepared by a private architect/engineer employed by the Commission or, at its discretion, by the Commission's staff. A private architect/engineer employed for the purpose of preparing a project analysis shall be selected by the method set forth in Section 10 of this Act and shall be paid from the State Building Construction Planning Fund established by Section 12 of this Act. The contract to prepare a project analysis shall specify that the analysis shall become the property of the State Building Commission.

(C) A project analysis shall consist of (1) a complete description of the facility or project together with a justification of such facility or project prepared by the using agency, (2) a detailed estimate of the amount of space needed to meet the needs of the using agency and to allow for realistic future growth, (3) a description of the proposed facility prepared by an architect/engineer and including schematic plans and outline specifications describing the type of construction and probable materials to be used, sufficient to establish the general scope and quality of construction, (4) an estimate of the probable cost of construction, (5) a description of the proposed site of the project and an estimate of the cost of site preparation, and (6) an overall estimate of the cost of the project as that term is defined in this Act. All estimates involved in the preparation of a project analysis shall be carefully and fully documented and incorporated into the project analysis.

Throughout the preparation of the project analysis, the State Building Commission and any private architect/engineer employed by the Commission shall work closely and cooperatively with the using agency to the end that the project analysis shall fully reflect the needs of the using agency.

The using agency shall use the cost of the project as determined by such project analysis as the basis of its request to the budget offices of this State.

(D) In the case of projects where, in the opinion of the Commission, the cost of a project analysis is not justified or required, the Commission shall, in cooperation with the using agency, develop a realistic estimate of the cost of the project. When necessary, the Commission shall arrange for an on-site inspection and analysis of the proposed project by a member of its staff. The using agency shall be informed of the cost estimate so developed and shall use such estimate as the basis of its request to the budget offices of this State.

(E) On or before a date to be specified by the budget agencies of this State in each year immediately preceding a Regular Session of the Legislature, the Commission shall submit

to said budget agencies a report listing all projects requested pursuant to this Section. The list shall contain (1) a brief and specific justification of each project as prepared by the using agency, (2) a summary of the project analysis where one was made or a statement briefly describing the cost-estimating method used for projects for which a project analysis was not made, (3) a project cost estimate developed in accordance with the provisions of this Section, with sufficient detail given to afford the budget agencies, the Governor and the Legislature the widest possible latitude in developing policy in regard to each such project request, (4) an estimate, prepared by the Commission with the cooperation of the using agency and with the cooperation of the private architect/engineer employed, of the annual cost of maintaining the completed project including the estimated cost of utility services, and (5) an estimate, prepared by the using agency, of the annual cost of staffing and operating the completed project exclusive of maintenance cost. Where appropriate, the Commission, with the approval of the using agency, may indicate the feasibility of stage construction of a requested project and may indicate the degree to which funds would be required in the next biennium if the project were undertaken in stages.

(F) Whenever any using agency shall request three (3) or more projects, it shall designate its priority rating for each project. The budget agencies shall, with the cooperation of the Commission, develop detailed instructions to implement this priority system and the Commission's report shall show the designated priority of each project to which a priority rating has been assigned.

Legislative Authorizations and Appropriations

Sec. 7. (A) The Legislature shall, from time to time, authorize and appropriate for such projects as it may approve. Project appropriations shall be made directly to the using agency except in those instances where the project is to be constructed from the State Building Fund, in which case the appropriation shall be made to the State Building Commission.

(B) The appropriation of funds by the Legislature for the construction of a project shall be construed by the Commission and the using agency as an expression of legislative intent that the project be completed within the limits of the funds actually appropriated. In the event that the funds so appropriated are less than the amount originally requested or if, for any reason, the funds so appropriated are less than the amount required for the project as originally submitted to the budget agencies, the Commission and the using agency shall jointly confer on ways and means whereby the project cost can be brought within the bounds of the funds so appropriated and shall, in such conferences, make every effort to comply with legislative intent with regard to modification of

the project from the original request. In the event that it is impossible to modify the project to bring the cost within the amount appropriated, the Commission shall notify the using agency that it considers such project as cancelled.

When authorized by the biennial Appropriations Act, the using agency may appeal the decision of the Commission to the Governor by submitting to him a request that the project be undertaken as stage construction or that the funds available for such project be supplemented by the transfer of funds appropriated to the same using agency for other projects of equal or lower priority or from the unused contingency reserves of any project of the same using agency. The Governor shall, after obtaining the advice of the Legislative Budget Board, rule on such request and if his ruling shall favor the agency the Commission shall proceed with the project.

(C) Notwithstanding the provisions of Subsection (B) of this Section, the Legislature may, by specific provision, provide for stage construction of a project and in such event the Commission shall proceed with the project through the specifically authorized stage.

(D) There is hereby appropriated out of the General Revenue Fund to the State Building Commission for the implementation of the "Building Construction Administration Act" for an Archaeologist the sum of Twelve Thousand Dollars (\$12,000) each fiscal year, four Project Analysts (not to exceed \$12,000) the sum of Forty-four Thousand Dollars (\$44,000) each fiscal year. Salaries of Classified Positions the sum of One Hundred Thousand Dollars (\$100,000) each fiscal year, Professional Fees and Services, Fifteen Thousand Dollars (\$15,000) each fiscal year and unexpended balances of the first year of the biennium, Travel Expenses, Fifteen Thousand Dollars (\$15,000) each fiscal year and unexpended balances of the first year of the biennium, Other Operating Expenses, Fifty Thousand Dollars (\$50,000) each fiscal year and unexpended balances of the first year of the biennium. The combined sum for the biennium from the General Revenue Fund shall be Four Hundred Seventy-two Thousand Dollars (\$472,000).

Preliminary Plans, Working Plans and Specifications; Change Orders

Sec. 8. (A) Preliminary plans and outline specifications and working plans and specifications for all projects shall be prepared either by a private architect/engineer selected and appointed by the Commission in accordance with Section 10 of this Act, or by the professional staff of the Commission, provided, however, that a private architect/engineer shall be appointed for any new construction project estimated to cost in excess of One Hundred Thousand Dollars (\$100,000) and for any new construction project for which the using agency requests a private architect/engineer be selected and appointed. In either case, such

plans and specifications shall be approved by the Commission, and shall not be accepted or used by the using agency without such approval. The Commission shall see that plans and specifications (1) are clear and complete; (2) permit execution of the project with appropriate economy and efficiency; and (3) conform with the requirements as set forth in the project analysis previously prepared.

(B) The Commission shall appoint a Design Advisory Panel to advise with the Commission and the using agency on the design concept and aesthetic merits of plans submitted by an architect/engineer, provided, however, that the final decision on such matters shall rest with the Commission. The Design Advisory Panel shall consist of five (5) persons, two (2) of whom shall be selected from a list of nominees submitted by the Texas Society of Architects, two (2) of whom (one a structural engineer and the other a mechanical-electrical engineer) shall be selected from a list of nominees submitted by the Texas Society of Professional Engineers and one (1) of whom shall be neither an architect nor an engineer and who shall serve as chairman of the Panel. Members of the Panel shall serve for two years and shall be eligible for reappointment and the Commission shall promulgate regulations to provide for an orderly rotation of membership which may specify a shorter term of office for the original appointees. The members of the Panel shall serve without compensation, but may be reimbursed for their necessary and actual expenses out of the appropriations to the Commission. No member of the Panel shall, during the period of his service, advise on any project in which he is employed, retained or in any manner financially interested. The Panel shall have no responsibility for reviewing the plans and specifications other than to the extent set forth in this Subsection.

(C) Following final approval of the working plans and specifications and their acceptance by the using agency, the Commission shall cause to be advertised in not less than two (2) newspapers of general circulation for bids or proposals for performance of the construction and related work on the project. Subject to the applicable provisions of other law respecting the award of State contracts, the contract or contracts shall be awarded to the qualified bidder making the lowest and best bid; but no contract shall be awarded for a sum in excess of the amount which the Comptroller shall certify to be available for such project, provided, the Commission shall have the right to reject any and all bids.

(D) Upon notice and on itemized statements by the Commission:

(1) The Comptroller shall transfer from each project appropriation to the State Building Construction Planning Fund created by Section 12 of this Act an amount certified by the Commission as sufficient to reimburse the Planning Fund for prior expenditures on behalf of the project.

(2) The Comptroller shall reserve from each project appropriation an amount estimated by the Commission to be sufficient to reimburse the State Building Fund for services rendered and to be rendered by the Commission and shall transfer funds from such reserve to the State Building Fund upon certification by the Commission that such services have been rendered and any funds remaining in such reserve following the final certification shall be transferred to the contingent reserve created by paragraph (3) below.

(3) The Comptroller shall reserve from each project appropriation an amount estimated by the Commission to be sufficient to cover contingencies over and above all amounts obligated by contract or otherwise, for planning, engineering and architectural work, site acquisition and development, and construction, equipment and furnishings contracts. The amount so reserved shall be used only upon the following conditions:

(a) That the architect/engineer or the contractor recommend and justify the proposed contingency expenditures by submitting a change order request;

(b) That the proposed change order request be approved by the architect/engineer;

(c) That the proposed change order request be approved by the using agency which shall make formal request for the allocation of funds from the contingency reserve; and

(d) That the Director of the Commission shall investigate the nature of the change order and concur in the necessity of the proposed expenditure or refuse same within fifteen (15) days after receiving the request.

In the event the Director shall refuse to concur in a proposed contingency expenditure, the using agency may appeal to the Commission and the findings of the Commission shall be final. The Commission shall promulgate regulations setting forth the procedures for such appeals.

If an approved change order shall result in a reduction of construction cost, the contingency reserve shall be increased by the amount of such reduction.

(E) The Comptroller of Public Accounts shall issue warrants in payment of progress payments as well as final payments on construction under this Act upon the written approval of the Commission.

(F) Any equipment and furnishings not constructed or installed under the construction contract or contracts shall be acquired through regular purchasing channels of the State under the provisions of the State Purchasing Act of 1957.

Project Construction Inspection

Sec. 9. The Commission shall be responsible for protecting the interests of the State during the actual construction of each project covered by the provisions of this Act. Construction inspection shall fall into three (3) categories: detailed inspection, general inspection and professional inspection, as defined and provided for in this Section.

(A) Detailed inspection shall mean the close, technical on-site examination of the materials, structure and equipment, and surveillance of the workmanship and methods used to insure reasonably that the project is accomplished in compliance with information given by the contract documents and good construction practices by one or more full-time personnel at the project site. The Commission shall be the sole judge of when detailed inspection is required and shall base its decision on the size and complexity of the project.

Detailed inspection shall be exercised by a Project Construction Inspector who shall be appointed by the architect/engineer with the approval of the Commission.

The duties of the Project Construction Inspector shall include, but not be limited to, the following:

(1) He shall become thoroughly conversant with the drawings, specifications, details and general conditions for executing the work.

(2) He shall keep such records of the work as the architect/engineer and the Commission may specify and require and shall make such reports to the architect/engineer with copies to the Commission and the using agency as the architect/engineer and the Commission may specify and require. He shall maintain copies of these records and reports at the site of construction together with the plans, specifications, shop drawings, change orders and correspondence dealing with the project.

(3) He shall endeavor to see that the requirements of the contract documents are being carried out by the contractor.

(4) He shall endeavor to see that all authorized changes are properly incorporated in the work and that no changes are made unless properly authorized.

(5) He shall notify the architect/engineer if conditions encountered at the project are at variance with the contract documents and he shall comply with the directives of the architect/engineer in endeavoring to correct these conditions.

(6) He shall review shop drawings in relation to their adaptability to job conditions and advise the architect/engineer in respect thereto.

(7) He shall endeavor to see that materials and equipment furnished are in accordance with the specifications.

(8) He shall see that records are kept, on construction plans, of the principal elements of mechanical and electrical systems.

(9) He shall see that accurate records are kept of all underground utility installations (including existing installations uncovered in the process of construction) at the project site so that the information may be recorded on site plans or drawings which may be established and maintained by the Commission and/or the using agency.

(10) He shall keep a daily written log of all significant happenings on the job. His log shall include the number of workers that worked that particular day and weather conditions that existed during the day.

(11) He shall observe and give prompt written notice to the construction contractor's representative and the architect/engineer of any noncompliance on the part of the contractor's representative with any contract documents. He shall notify the architect/engineer and the Commission of any failure to take corrective measures promptly.

(12) He shall initiate, attend and participate in progress meetings and inspections with the contractor.

(13) He shall review every contractor's invoice against the value of partially completed or completed work and the materials stored at the project site prior to it being forwarded to the architect/engineer and shall promptly notify the architect/engineer of any discrepancy between his review of the work and the invoice.

(14) He shall be responsible to the architect/engineer for the proper administration of the duties enumerated herein, and he shall comply with other instructions and assignments of the architect/engineer.

The full cost of detailed inspection shall be a charge against the project.

(B) General inspection shall mean the examination and inspection of the project at periodic intervals by employees of the Commission. On projects where a Project Construction Inspector is employed by an architect/engineer, the General Inspector shall work with and through the Project Construction Inspector and the architect/engineer. On all other projects, the General Inspector shall work with and through the architect/engineer and shall exercise such detailed inspection functions as the Commission may require. The cost of general inspection shall be a charge against the project.

(C) Professional inspection shall mean the periodic examination of all elements of the project to reasonably insure that these meet the performance and design features and the technical and functional requirements of the

contract documents. Professional inspection shall be exercised by the architect/engineer or his authorized representative and his duties shall include, but not be limited to, the following:

(1) He shall assist the Commission in obtaining proposals from contractors and in awarding and preparing construction contracts. He shall be responsible for the interpretation of the contract documents and any changes made thereto. He shall provide such interpretation of the plans and specifications as may be required during the construction phase.

(2) He shall check and approve samples, schedules, shop drawings and other submissions only for conformance with the design concept of the project and for compliance with the information given by contract documents.

(3) He shall approve or disapprove all change order requests and shall, subject to the provisions of Section 8 of this Act, prepare all change orders.

(4) He shall assemble all written guarantees required of the contractors.

(5) He shall make periodic visits to the site of the project to familiarize himself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the contract documents. The amount of time that such on-site inspections shall entail shall be determined by dividing the total compensation for professional services, exclusive of payments for detailed inspection, by one hundred (100) with the result being expressed as the number of hours to be devoted to on-site inspections, project conferences with the contractor and others, and travel to and from such inspections and conferences. He shall make a written inspection report after each visit to the project and he shall send a copy of such report to the contractor and to the Commission.

(6) He shall keep the Commission informed of the progress of the work and shall endeavor to guard against defects and deficiencies in the work of contractors.

(7) He shall determine periodically the amount owing to the contractors and shall recommend payment of such amounts to the Commission. Such recommendation shall constitute a representation to the Commission that, based upon his observations and other pertinent data, the work has progressed to the point indicated and it shall also constitute a representation to the Commission on the part of the architect/engineer that, to the best of his knowledge, information and belief, the quality of the work is in accordance with the plans, specifications and contract documents. He shall conduct inspections to

determine the dates of substantial and final completion and shall notify the Commission and the using agency of his findings in this respect.

(8) In the event that the Commission requires full-time detailed inspection of the construction of a project, he shall select, subject to the Commission's approval, the Project Construction Inspector and shall be responsible for the proper administration of the duties enumerated under Subsection (A) of this Section. He shall pay the salary of the Project Construction Inspector and shall be reimbursed for all such salary costs plus expenses of overhead directly applicable to such salary.

Nothing in this Subsection (C) shall be construed as requiring the architect/engineer to assume responsibility for or to guarantee the complete adherence of the contractor to the plans and specifications and contract documents nor shall anything in this Subsection (C) be construed as requiring that the architect/engineer shall be liable for defects in construction.

It is the responsibility of the architect/engineer to furnish the professional inspection of a project and when a private architect/engineer is employed, the fee paid such architect/engineer shall be deemed to cover professional inspection, provided, however, that such fee shall not be deemed to cover the additional cost of detailed inspection over and above the administrative duties specifically encompassed by paragraph (C)(8) of this Subsection. In projects where the Commission's staff serves as architect/engineer, the Commission shall be responsible for professional supervision and the cost of such supervision shall be a charge against the project.

Selection of Private Architects/Engineers

Sec. 10. (A) The Commission shall establish and maintain a file of all qualified private architects/engineers who express an interest in State building construction projects. Said file shall contain such information as the Commission shall deem essential and desirable together with brochures and exhibits submitted by each private architect/engineer. Each private architect/engineer may submit additional brochures, exhibits and information as he may deem necessary and that may be in accordance with his ethical practice in order that his file shall be current at all times. Such files shall be open to the inspection of any using agency.

(B) Ultimate responsibility for the selection of a private architect/engineer employed for any project covered by the provisions of this Act shall be vested in the Commission. In recognition of the close working relationship which must exist between the architect/engineer and the using agency, the Commission shall request the using agency to make recommendations regarding private architects/engineers and the using agency which desires to take advantage of such opportunity shall sub-

mit to the Commission the names of three (3) private architects/engineers designating its order of preference. The Commission shall consider such using agency recommendations in order of preference and shall not reject such recommendations without good and sufficient reason set forth in writing to the using agency. In the event that the Commission rejects all of the using agency recommendations, the using agency shall prepare and submit a new list.

(C) If the using agency does not choose to submit recommendations, it shall request the Commission to proceed to select a private architect/engineer in accordance with the generally accepted standards for such selection and in conformity with the ethical standards of the professional societies of such architects/engineers.

Compensation of Private Architects/Engineers

Sec. 11. Private architects/engineers employed by the Commission shall be compensated in accordance with the following provisions:

(A) The compensation for new projects and rehabilitation projects shall be established by the Commission on the basis of studies of the compensation paid within the State by private clients for projects of comparable size and complexity, provided that such compensation shall not exceed the minimum recommended for similar projects by the Texas Society of Architects in instances where the private architect/engineer is an architect or the minimum recommended by the Texas Society of Professional Engineers in instances where the private architect/engineer is an engineer. The compensation so established by the Commission shall be deemed to cover all professional services to be rendered by the private architect/engineer including professional inspection as that term is defined in Section 9 of this Act. On any project where the Commission requires detailed inspection, as defined by Section 9 of this Act, the compensation shall be increased by the actual cost of providing such detailed inspection.

(B) The compensation for preparation of a project analysis as required by Section 6 of this Act shall not exceed one per cent (1%) of the estimated cost of construction. In the event the project is approved by the Legislature in substantially the form originally requested and the same private architect/engineer is employed for the subsequent phases of design, the compensation paid under this Subsection shall be deducted from the compensation paid under the provisions of Subsection (A) of this Section.

(C) The State shall furnish detailed information on space requirements and relationships and the justification for, use of and general requirements to be met by the project. The State shall furnish a complete site survey and soil analysis.

Planning Fund

Sec. 12. (A) There is hereby created with the State Treasury a special fund to be known as the State Building Construction Planning Fund.

(B) On the first working day of the fiscal year beginning September 1, 1965, the sum of Two Hundred Thousand Dollars (\$200,000) shall be transferred from the State Building Fund to the State Building Construction Planning Fund. Such amount is hereby appropriated for the fiscal year beginning September 1, 1965, and ending August 31, 1966. The unexpended balance of such appropriation is hereby reappropriated for the fiscal year beginning September 1, 1966, and ending August 31, 1967. Any interest earned on the assets of said Planning Fund shall thereafter be credited to the account of said Planning Fund.

(C) The State Building Construction Planning Fund shall be used to make payments for engineering, architectural and other planning expenses necessary to make a project analysis in accordance with the provisions of Section 6 of this Act. The State Building Commission shall authorize all payments made from said Planning Fund. Such payments shall be a first charge against the project for which they were drawn and the amount so paid shall be credited to and transferred to said Planning Fund at such time as the Legislature may approve the project and appropriate funds for its construction.

Final Inspection, Acceptance of Project, Guarantee Period

Sec. 13. (A) The Commission shall be responsible for directing final payment for work done on each project; provided, however, that if upon final inspection of any project it shall be found that the plans, specifications, contract or change orders for the project shall not have been fully complied with, the Commission shall, until such compliance shall have been effected or adjustments satisfactory to it shall have been made, refuse to direct such payment.

(B) The final inspection shall consist of an on-site inspection by the architect/engineer, a representative of the Commission, a representative of the using agency and a representative or representatives of the contractor or contractors. The final inspection shall be scheduled by the Commission upon notification by the architect/engineer within ten (10) days after the architect/engineer has notified the Commission that the contract has been performed according to the plans and specifications.

(C) Upon completion of the project the Commission shall release the same to the using agency. The Commission shall be responsible for making an inspection of the project prior to the expiration of the guarantee period to observe any defects which may appear within one (1) year after completion of the contract. The Commission shall give prompt written notice to the contractor of defects which are due to faulty materials and workmanship. Nothing in

this Subsection shall be construed as requiring the contractor to assume responsibility for or guarantee any defects other than those due to faulty materials or workmanship or failure on his part to adhere to the contract documents.

Uniform General Conditions in Construction Contracts

Sec. 14. (A) The Commission shall, not later than six (6) months after the effective date of this Act, appoint an advisory committee consisting of the Director of the Commission who shall serve ex officio as chairman of the committee and who shall vote only in the event of a tie; two (2) persons appointed by the Commission from a list of nominees submitted to it by the President of the Texas Society of Architects; two (2) persons appointed by the Commission from a list of nominees submitted to it by the President of the Texas Society of Professional Engineers; and two (2) persons appointed by the Commission from a list of nominees submitted to it by the Chairman of the Executive Council of the Texas Associated General Contractors Chapters; and two (2) persons appointed by the Commission from the list of nominees submitted to it by the Executive Secretary of the Mechanical Contractors Associations of Texas, Incorporated.

(B) The committee shall review the general conditions of State building construction contracts and shall, within three (3) months after its appointment, recommend to the Commission a set of uniform general conditions to be incorporated into all State building construction contracts. The members of the committee shall serve without compensation but may be reimbursed for their necessary and actual expenses.

(C) The Commission may, after consultation with the State Highway Department, modify or amend the recommendations submitted to it but shall, not later than one (1) year after the effective date of this Act, adopt a uniform set of general conditions which shall thereafter be incorporated into all building construction contracts executed by the State of Texas, including those pertaining to projects otherwise excluded from the provisions of this Act by Section 3 of this Act, but not including those excluded by Section 4 of this Act.

(D) The Commission shall cause the uniform general conditions of State building construction contracts to be reviewed whenever in its opinion such review is desirable, but in no event less frequently than once every five (5) years. The review shall be made by a committee appointed in the manner required by Subsection (A) of this Section. Members of any review committee appointed pursuant to this Subsection shall serve without compensation but may be reimbursed for their necessary and actual expenses.

Compilation of Construction and Maintenance Data

Sec. 15. (A) For the purpose of providing the Governor, the Legislature and the budget offices of the State with current information on the status of State-owned buildings, and for

the purpose of obtaining up-to-date information on construction costs, the Commission shall biennially obtain from all using agencies a list of all State-owned buildings showing the year of completion, the general type of construction, size, usage and general condition of each. In addition the Commission shall, for all buildings completed from and after the effective date of this Act, obtain from all using agencies data showing the total cost of the project and the cost of construction together with such data as may be necessary to enable a meaningful comparison to be made on the cost of buildings of like nature.

(B) For the purpose of obtaining up-to-date information on maintenance data, the Commission shall obtain biennially from all using agencies information on the cost of heating, cooling and maintaining all buildings owned by the State.

(C) The Commission shall summarize its findings in a report to be made available to the Governor, the Legislature and the budget offices of this State. All State agencies, departments and institutions shall cooperate with the Commission in providing the information necessary for said report.

Repealer

Sec. 16. Articles 670, 671, 672, 679, 680, 681, 682, and 683 of the Revised Civil Statutes of Texas, 1925, as amended, are hereby repealed; and all laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed to the extent of such conflict.

[Acts 1965, 59th Leg., p. 926, ch. 455, eff. Sept. 1, 1965; Acts 1971, 62nd Leg., p. 1104, ch. 238, § 1, eff. May 17, 1971; Acts 1973, 63rd Leg., p. 601, ch. 255, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1530, ch. 553, § 1, eff. June 15, 1973.]

Section 17 of Acts 1965, 59th Leg., p. 926, ch. 455 was a severability clause; section 18 of the act provided that the act should become effective on September 1, 1965.

Art. 678f-1. Consent to Buildings, Concessions, Parking Areas, etc., Within Capitol Grounds

Sec. 1. It shall be unlawful, without the prior express consent of the Legislature, for any officer of this state or any employee thereof or any other person to construct, build, erect or maintain any building, structure, memorial, monument, statue, concession or any other structure including creation of parking areas or the laying of additional paving on any of the grounds that surrounded the State Capitol on January 1, 1955, and which grounds were then bounded by Eleventh, Brazos, Thirteenth and Colorado Streets, in the City of Austin, Texas, whether such land lay inside or outside the fence enclosing part of the grounds; provided, however, that paved access and underground utility installations may be constructed and maintained; provided further, that the provisions of this Act shall not apply to the Supreme Court Building, according to the approved plans dated October 29, 1956, nor to the State Office Building, according to the approved plans dated November, 1956.

Sec. 2. Any officer or employee of this state, or other person violating Section 1 of this Act shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or imprisoned in the County Jail of Travis County for a period of time not to exceed one year, or by both such fine and imprisonment.

Sec. 3. Any officer of this state who is subject to removal from office by means of impeachment shall be subject to such removal for violation of Section 1 of this Act and any other officer or any employee of the state who shall violate Section 1 shall be dismissed immediately from any employment by the state. [Acts 1957, 55th Leg., p. 758, ch. 313.]

Art. 678g. Construction of Public Buildings and Facilities for Use by Handicapped Persons

Policy

Sec. 1. The provisions of this Act are enacted to further the policy of the State of Texas to encourage and promote the rehabilitation of handicapped or disabled citizens. It is the intent of this Act to eliminate, insofar as possible, unnecessary barriers encountered by aged, handicapped or disabled persons, whose ability to engage in gainful occupations or to achieve maximum personal independence is needlessly restricted when such persons cannot readily use public buildings.

Application of Act

Sec. 2. (a) The standards and specifications set forth in this Act shall apply to all buildings and facilities used by the public which are constructed in whole or in part by the use of state, county, or municipal funds, or the funds of any political subdivision of the state. To such extent as is not contraindicated by federal law or beyond the state's power of regulation, these standards shall also apply to buildings and facilities constructed in this state through partial or total use of federal funds. All buildings and facilities constructed in this state, or substantially renovated, modified, or altered, after the effective date of this Act from any one of these funds or any combination thereof shall conform to each of the standards and specifications prescribed herein except where the governmental department, agency, or unit concerned shall determine, after taking all circumstances into consideration, that full compliance with any particular standard or specification is impracticable. Where it is determined that full compliance with any particular standard or specification is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the State Building Commission. If it is determined that full compliance is not practicable, there shall be substantial compliance with the standard or specification to the maximum extent practical,

and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

(b) These standards and specifications shall be adhered to in those buildings and facilities under construction on the effective date of this Act, unless the authority responsible for the construction shall determine that the construction has reached a state where compliance is impractical. This Act shall apply to temporary or emergency construction as well as permanent buildings.

(c) These standards and specifications shall be adhered to in all buildings leased or rented in whole or in part for use by the state under any lease or rental agreement entered into on or after January 1, 1972. To such extent as is not contraindicated by federal law or beyond the power of the state's regulation, these standards shall also apply to buildings or facilities leased or rented for use by the state through partial or total use of federal funds. Facilities which are the subject of lease or rental agreements on January 1, 1972, will not be required to meet standards and specifications for the term of the existing lease or rental agreement but must be brought into compliance before a lease or rental agreement is renewed. Where it is determined by the governmental department, agency, or unit concerned that full compliance with any particular standard is impractical, the reasons for such determination shall be set forth in written form by those making the determination and forwarded to the State Building Commission. If it is determined that full compliance is not practical, there shall be substantial compliance with the standard or specification to the maximum extent practical and the written record of the determination that it is impractical to comply fully with a particular standard or specification shall also set forth the extent to which an attempt will be made to comply substantially with the standard or specification.

Scope and Purpose

Sec. 3. (a) This Act is concerned with non-ambulatory disabilities, semiambulatory disabilities, sight disabilities, hearing disabilities, disabilities of coordination and aging.

(b) It is intended to make all buildings and facilities covered by this Act accessible to, and functional for, the physically handicapped to, through, and within their doors, without loss of function, space, or facilities where the general public is concerned.

Definitions

Sec. 4. For the purpose of this Act the following terms have the meanings as herein set forth:

- (1) "Nonambulatory disabilities" means impairments that, regardless of cause or

manifestation, for all practical purposes, confine individuals to wheelchairs.

(2) "Semiambulatory disabilities" means impairments that cause individuals to walk with difficulty or insecurity. Individuals using braces or crutches, amputees, arthritics, spastics, and those with pulmonary and cardiac ills may be semiambulatory. The listing here made is illustrative and shall not be construed as being exhaustive.

(3) "Sight disabilities" means total blindness or impairments affecting sight to the extent that the individual functioning in public areas is insecure or exposed to danger.

(4) "Hearing disabilities" means deafness or hearing handicaps that might make an individual insecure in a public area because he is unable to communicate or hear warning signals.

(5) "Disabilities of coordination" means faulty coordination or palsy from brain, spinal, or peripheral nerve injury.

(6) "Aging" means those manifestations of the aging processes that significantly reduce mobility, flexibility, coordination, and perceptiveness but are not accounted for in the aforementioned categories.

(7) "Standard," when this term appears in small letters, is descriptive and means typical type.

(8) "Fixed turning radius, wheel to wheel" means the tracking of the caster wheels and large wheels or a wheelchair when pivoting on a spot.

(9) "Fixed turning radius, front structure to rear structure" means the turning radius of a wheelchair, left front-foot platform to right rear wheel, or right front-foot platform to left rear wheel when pivoting on a spot.

(10) "Involved (involvement)" means a portion or portions of the human anatomy or physiology, or both, that have a loss or impairment of normal function as a result of genesis, trauma, disease, inflammation, or degeneration.

(11) "Ramps, ramps with gradients" means ramps with gradients (or ramps with slopes) that deviate from what would otherwise be considered the normal level. An exterior ramp, as distinguished from a "walk," shall be considered an appendage to a building leading to a level above or below existing ground level. As such, a ramp shall meet certain requirements similar to those imposed upon stairs.

(12) "Walk, walks" means a predetermined, prepared-surface, exterior pathway leading to or from a building or a facility, or from one exterior area to another, places on the existing ground level and not deviating from the level of the existing ground immediately adjacent.

(13) "Appropriate number" means the number of a specific item that would be reasonably necessary, in accord with the purpose and function of a building or a facility, to accommodate individuals with specific disabilities in proportion to the anticipated number of individuals with disabilities who would use a particular building or facility.

Design Criteria

Sec. 5. The following design criteria shall be applicable:

(1) The collapsible-model wheelchair of tubular metal construction with plastic upholstery for back and seat is most commonly used. The standard model of all manufacturers falls within the following limits, which are used as the basis of consideration:

- (A) Length: 42 inches
- (B) Width, when open: 25 inches
- (C) Height of seat from floor: 19½ inches
- (D) Height of armrest from floor: 29 inches
- (E) Height of pusher handles (rear) from floor: 36 inches
- (F) Width, when collapsed: 11 inches

(2) The fixed turning radius of a standard wheelchair, wheel to wheel, is 18 inches. The fixed turning radius, front structure to rear structure, is 31.5 inches.

(3) The average turning space required by a person in a wheelchair (180 to 360 degrees) is 60 × 60 inches. A turning space of 63 × 56 inches may at times prove more workable and desirable.

(4) A minimum width of 60 inches is required for two individuals in wheelchairs to pass each other.

(5) In a wheelchair the average unilateral vertical reach is 60 inches and ranges from 56 to 78 inches.

(6) The average horizontal working (table) reach of a person in a wheelchair is 30.8 inches and ranges from 28.5 inches to 33.2 inches.

(7) The bilateral horizontal reach, both arms extended to each side, shoulder high, of a person in a wheelchair, ranges from 54 inches to 71 inches and averages 64.5 inches.

(8) An individual reaching diagonally (from a wheelchair) as would be required in using wall-mounted dial telephones or towel dispenser, would make the average reach (on the wall) 48 inches from the floor.

(9) Most individuals ambulating on braces or crutches, or both, or on canes are able to manipulate within the specifications prescribed for wheelchairs, al-

though doors present quite a problem at times. However, a crutch tip extending laterally from an individual is not obvious to others in heavily trafficked areas, and not as obvious or protective as a wheelchair and is, therefore, a source of vulnerability.

(10) On the average, individuals 5 feet 6 inches tall require an average of 31 inches between crutch tips in the normally accepted gait.

(11) On the average, individuals 6 feet 0 inches tall require an average of 32.5 inches between crutch tips in the normally accepted gait.

Site Development

Sec. 6. (a) The ground shall be graded, even contrary to existing topography, so that it attains a level with a normal entrance and will make a facility accessible to individuals with physical disabilities.

(b) Public walks shall be at least 48 inches wide and shall have a gradient not greater than 5 percent. These walks shall be of continuing common surface, not interrupted by steps or abrupt changes in level. Wherever walks cross other walks, driveways, or parking lots they shall blend to a common level. A walk shall have a level platform at the top which is at least 5 feet by 5 feet if a door swings out onto the platform or toward the walk. This platform shall extend at least one foot beyond each side of the doorway. A walk shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the walk. This platform shall extend at least one foot beyond each side of the doorway.

(c) Spaces in parking lots that are accessible to the building or facility shall be set aside and identified for use by individuals with physical disabilities. An adequate parking space is one that is open on one side and which allows room for individuals in wheelchairs or individuals with braces and crutches to get in and out of an automobile onto a level surface, suitable for wheeling and walking. Parking spaces for individuals with physical disabilities when placed between two conventional diagonal or head-on parking spaces shall be 12 feet wide. Care in planning shall be exercised so that individuals in wheelchairs and individuals using braces and crutches are not compelled to wheel or walk behind parked cars. Consideration shall be given to the distribution of spaces for use by the disabled, in accordance with the frequency and regularity of their parking needs. Walks shall be in conformity with Section 6(b) of this Act.

Ramps

Sec. 7. (a) Where ramps with gradients are necessary or desired, they shall conform to the following specifications:

(1) A ramp shall not have a slope greater than one foot rise in 12 feet, or 8.33 percent, or 4 degrees 50 minutes.

(2) A ramp shall have handrails on at least one side, and preferably two sides, that are 32 inches in height, measured from the surface of the ramp, that are smooth, that extend one foot beyond the top and bottom of the ramp, and that as far as practicable conform with American Standard Safety Code for Floor and Wall Openings, and Toe Boards as promulgated by the American Standards Association, Inc.

(b) Ramps shall have a surface that is non-slip. A ramp shall have a level platform at the top which is at least 5 feet by 5 feet, if a door swings out onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. A ramp shall have a level platform at least 3 feet deep and 5 feet wide, if the door does not swing onto the platform or toward the ramp. This platform shall extend at least one foot beyond each side of the doorway. Each ramp shall have at least 6 feet of straight clearance at the bottom. Ramps shall have level platforms at 30 foot intervals for purposes of rest and safety and shall have level platforms wherever they turn.

Entrances

Sec. 8. At least one primary entrance to each building shall be useable by individuals in wheelchairs. At least one entrance useable by individuals in wheelchairs shall be on a level that would make the elevators accessible.

Doors

Sec. 9. Doors shall have a clear opening of no less than 32 inches when open and shall be operable by a single effort. The floor on the inside and outside of each doorway shall be level for a distance of 5 feet from the door in the direction the door swings and shall extend one foot beyond each side of the door. Sharp inclines and abrupt changes in level shall be avoided at doorsills. As much as practicable, thresholds shall be flush with the floor.

Stairs

Sec. 10. Stairs shall conform to standards of the American Standards Association, Inc., with the following additional considerations: Steps in stairs shall be designed wherever practicable so as not to have abrupt (square) nosing. Stairs shall have handrails 32 inches high as measured from the tread at the face of the riser. Stairs shall have at least one handrail that extends at least 18 inches beyond the top step and beyond the bottom step. Steps should, wherever possible, and in conformation with existing step formulas, have risers that do not exceed 7 inches.

Floors

Sec. 11. Floors shall wherever practicable have a surface that is non-slip. Floors on the

same story shall be of a common level throughout or be connected by a ramp in accord with Section 7(a) through the first paragraph of Section 7(b), inclusive.

Toilet Rooms

Sec. 12. (a) An appropriate number of toilet rooms, in accordance with the nature and use of a specific building or facility, shall be accessible to, and useable by, the physically handicapped.

(b) Toilet rooms shall have space to allow traffic of individuals in wheelchairs, in accordance with Section 5.

(c) Toilet rooms shall have at least one toilet stall that

(1) is 3 feet wide

(2) is at least 4 feet 8 inches, preferably 5 feet deep

(3) has a door (where doors are used) that is 32 inches wide and swings out

(4) has handrails on each side, 33 inches high and parallel to the floor, 1- $\frac{1}{2}$ inches in outside diameter, with 1- $\frac{1}{2}$ inches clearance between rail and wall, and fastened securely at ends and center

(5) has a water closet with the seat 20 inches from the floor.

(d) Toilet rooms shall have lavatories with narrow aprons, which when mounted at standard height are useable by individuals in wheelchairs, or shall have lavatories mounted higher, when particular designs demand, so that they are useable by individuals in wheelchairs.

(e) Mirrors and shelves shall be provided above lavatories at a height as low as practicable and no higher than 40 inches above the floor measured from the top of the shelf and the bottom of the mirror.

(f) Toilet rooms for men shall have an appropriate number of wall-mounted urinals with the opening of the basin 19 inches from the floor, or shall have floor-mounted urinals that are on level with the main floor of the toilet room.

(g) Toilet rooms shall have an appropriate number of towel racks, towel dispensers, and other dispensers and disposal units mounted no higher than 40 inches from the floor.

Water Fountains

Sec. 13. (a) An appropriate number of water fountains or other water-dispensing means shall be accessible to, and useable by, the physically disabled.

(b) Water fountains or coolers shall have up-front spouts and controls. Water fountains or coolers shall be hand-operated or hand- and foot-operated.

Public Telephones

Sec. 14. (a) An appropriate number of public telephones shall be made accessible to, and useable by, the physically disabled.

(b) Such telephones shall be placed so that the dial and the handset can be reached by individuals in wheelchairs.

(c) An appropriate number of public telephones shall be equipped for those with hearing disabilities and so identified with instructions for use.

Elevators

Sec. 15. Elevators shall be provided and shall be accessible to, and useable by, the physically disabled at all levels normally used by the general public. Elevator control buttons shall have identifying features for the benefit of the blind. Elevators shall allow for traffic by wheelchairs.

Switches and Controls

Sec. 16. Switches and controls for light, heat, ventilation, windows, draperies, fire alarms, and all similar controls of frequent or essential use, shall be placed within the reach of individuals in wheelchairs.

Identification for the Blind

Sec. 17. Appropriate identification of specific facilities within a building used by the public is essential to the blind. Raised or incised letters or numbers shall be used to identify rooms and offices. Identification shall be placed on the wall, to the right or left of the door, at a height between 4 feet 6 inches and 5 feet 6 inches measured from the floor, and preferably at 5 feet. Doors that are not intended for normal use, and that are dangerous if a blind person were to exit or enter by them, shall be made quickly identifiable to the touch by knurling the door handle or knob.

Warning Signals

Sec. 18. (a) Audible warning signals shall be accompanied by simultaneous visual signals for the benefit of those with hearing disabilities.

(b) Visual signals shall be accompanied by simultaneous audible signals for the benefit of the blind.

Hazards

Sec. 19. (a) Every effort shall be exercised to obviate hazards to individuals with physical disabilities.

(b) Access panels or manholes in floors, walks, and walls can be extremely hazardous, particularly when in use, and shall be avoided where possible.

(c) When manholes or access panels are open and in use, or when an open excavation exists on a site, particularly when it is approximate to normal pedestrian traffic, barricades shall be placed on all open sides, at least 8 feet from the hazard, the warning devices shall be installed in accord with the provisions of Subsection (b) of this section.

(d) Low-hanging door closers that are within the opening of a doorway when the door is open, or that protrude hazardously into regular

corridors, or traffic ways when the door is closed, shall be avoided.

(e) Low-hanging signs, ceiling lights, and similar objects or signs and fixtures that protrude into regular corridors or traffic ways shall be avoided. A minimum height of 7 feet, measured from the floor, shall be had.

(f) Lighting on ramps shall be at least equal to that prescribed by the specifications of American Standards Association, Inc. Exit signs shall be in accordance with specifications of American Standards Association, Inc., except as modified by Section 8 of this Act.

Responsibilities for Enforcement

Sec. 20. (a) The responsibility for administration and enforcement of this Act shall reside primarily in the State Building Commission, but the State Building Commission shall have the assistance of appropriate state rehabilitation agencies in carrying out its responsibilities under this Act. State agencies involved in extending direct services to disabled or handicapped persons are authorized to enter into interagency contracts with the State Building Commission to provide such additional funding as might be required to insure that service objectives and responsibilities of such agencies are achieved through the administration of this Act. In enforcing this Act the State Building Commission shall also receive the assistance of all appropriate elective or appointive state officials. The State Building Commission shall from time to time inform professional organizations and others of this law and its application.

(b) The State Building Commission shall have all necessary powers to require compliance with its rules and regulations and modifications thereof and substitutions therefor, including powers to institute and prosecute proceedings in the District Court to compel such compliance, and shall not be required to pay any entry of filing fee in connection with the institution of such proceedings.

(c) The State Building Commission is authorized to promulgate such rules and regulations as might reasonably be required to implement and enforce this Act. The State Building Commission, after consultation with state rehabilitation agencies, is also authorized to waive any of the standards and specifications presently set forth in this Act and to substitute in lieu thereof standards or specifications consistent in effect to such standards or specifications as might be adopted by the American Standards Association, Inc. (or its federally-recognized successor in function) subsequent to the effective date of this Act.

(d) All plans and specifications for construction of buildings subject to the provisions of this Act shall be submitted to the State Building Commission for review and approval prior to bidding and award of contract in accordance with rules and regulations adopted by the State Building Commission. Likewise, any substantial modification of approved plans

shall be resubmitted to the State Building Commission for review and approval.

(e) The State Building Commission may review plans and specifications, make inspections, and issue certifications that privately owned structures are free of architectural barriers and in compliance with the provisions of this Act. The State Building Commission is authorized to charge a fee, not to exceed \$100, for review of plans and specifications, inspection, and certification of each privately owned building or facility.

(f) With respect to buildings and facilities that are under the jurisdiction and control of The University of Texas Board of Regents, the responsibility for administration and enforcement of this Act shall reside in such governing board, and in the discharge of such responsibility the governing board shall have the same responsibilities, duties, powers, and authority that are herein imposed on and delegated to the State Building Commission with respect to all other buildings and facilities covered by this Act.

Effective Date

Sec. 21. This act takes effect on January 1, 1970.

[Acts 1969, 61st Leg., p. 1002, ch. 324, eff. Jan. 1, 1970; Acts 1971, 62nd Leg., p. 3043, ch. 1005, §§ 1 to 3, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1579, ch. 570, § 1, eff. June 15, 1973.]

Section 2 of the 1973 amendatory act provided: "All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only."

Art. 678h. Inclusion of Fine Arts Projects in Public Building Construction

Definitions

Sec. 1. When used in this Act, unless the context requires a different definition:

(1) "State construction project" refers to any building construction project undertaken by the State Building Commission under the provisions of the State Building Construction Administration Act.

(2) "Public construction project" includes any building construction project constructed by and for the Department of Mental Health and Mental Retardation, the Texas Youth Council, the Texas Employment Commission, and the Texas Highway Department, any building construction project constructed by and for the Texas Department of Corrections, any building construction project constructed by and for state institutions of higher education, and any building construction project constructed by any county, city, or other political subdivision of this state.

(3) "Original project cost estimate" means an estimate of the cost of a building construction project by the State Building Commission, exclusive of any expenses stipulated for fine arts projects.

Application of Act

Sec. 2. The provisions of this Act apply to any state construction project whose original

project cost estimate exceeds \$250,000, and to any public construction project whose estimated cost exceeds \$250,000.

Project Analysis and Cost Estimate; Advice; Intent

Sec. 3. (a) Any state department, commission, board, or other agency which requests a project analysis from the State Building Commission may stipulate that a percentage of the original project cost estimate not to exceed one percent shall be used for fine arts projects at or near the site of the building construction project, such as murals, fountains, mosaics, and other aesthetic improvements.

(b) If the expenditures for fine arts are authorized and appropriated by the Legislature, the State Building Commission shall consult and cooperate with the Texas Commission on the Arts and Humanities for advice in determining how to utilize the portion of the appropriation to be used for fine arts projects.

(c) It is the intent of the Legislature that emphasis be placed on works by living Texas artists whenever this is feasible. Consideration shall be given to artists of all ethnic origins.

(d) Nothing in this Act is intended to limit, restrict, or otherwise prohibit the State Building Commission from including expenditures for fine arts in its original project cost estimate.

Percentage Designation; Consultation; Artists

Sec. 4. (a) Any state department, commission, board, institution of higher education, or the governing body of any county, city, or other political subdivision, may designate that a percentage not to exceed one percent of the cost of a public construction project shall be used for fine arts projects at or near the site of the construction project.

(b) The department, commission, board, institution of higher learning, or governing body of a political subdivision may consult and cooperate with the Texas Commission on the Arts and Humanities for advice in determining how to utilize the portion of the cost set aside for fine arts purposes.

(c) The Texas Commission on the Arts and Humanities shall place emphasis on works by living Texas artists whenever this is feasible, and when consulting with the governing body of a political subdivision, shall place emphasis on works by artists who reside in or near the political subdivision. Consideration shall be given to artists of all ethnic origins.

[Acts 1973, 63rd Leg., p. 202, ch. 89, eff. Aug. 27, 1973.]

**CHAPTER FOUR A. STATE
BUILDING COMMISSION**

Article

678m. Building Commission.

678m-1. Lease of Buildings for Operation of Drug Store, Cafe or Cafeteria; Powers of State Building Commission.

678m-2. State Archives and Library Building.

678m-2½. Lorenzo de Zavala State Archives and Library Building.

Article

678m-3. Purchase of Knights of Columbus Hall for Use of State Agencies.

678m-4. Location and Purchase of Land for State Office Buildings and Parking Lots.

678m-5. Grant of Easements and Rights-of-way for State Project Facilities.

Art. 678m. Building Commission

Composition of Commission; State Agency; Functions

Sec. 1. The State Building Commission, to be composed of the Governor, the Attorney General, and the Chairman of the Board of Control, is hereby declared to be a State agency for performing the governmental functions outlined in Section 51-b of Article III of the Constitution of the State, and where the term "Commission" is referred to in this Act, it shall mean the State Building Commission.

Organization of Commission

Sec. 2. The Commission shall meet immediately after the effective date of this Act and elect its Chairman for a period of two years, ending the first day of February, 1957, and shall in like manner elect a Chairman for the ensuing two years on or before the first day of February each two years thereafter. Should the chairmanship become vacant during the interim between such biennial elections, same shall be filled by a majority vote of the Commission.

Rules and Regulations; Powers as to Property

Sec. 3. The Commission shall have the authority to promulgate such rules and regulations as it deems proper for the effective administration of this Act. Under such terms and conditions as may be provided by law, the Commission may acquire necessary real and personal property, modernize, remodel, build and equip buildings for State purposes, and make contracts necessary to carry out and effectuate the purposes herein mentioned in keeping with appropriations authorized by the Legislature. Provided, however, that the Commission shall not sell or dispose of any real property of the State, except by specific authority from the Legislature.

Executive Director; Duties; Salary; Bond; Employees

Sec. 4. The Commission shall employ an Executive Director of the State Building Commission. The Executive Director shall receive a salary of not less than Nine Thousand (\$9,000.00) Dollars per annum and shall possess qualifications and training which suit him to perform the duties required of him by the Commission. It shall be the duty of the Executive Director to carry out such duties as the Commission may direct. The Executive Director shall give bond in the sum of Ten Thousand (\$10,000.00) Dollars payable to the State of Texas conditioned upon the faithful performance of his duties. The Executive Director may, with the consent and approval of the Commission, employ such professional, technical, clerical, stenographic, and other assistance as may be deemed necessary, the compensation

for whom may be fixed by the Commission until September 1, 1955, after which it shall be fixed in the biennial appropriation bill. The Commission may require bond of such additional employees.

Action and Contracts to Obtain Sites and Construct Buildings; Authority of Commission

Sec. 5. The Commission is authorized to take any action and enter into any contracts necessary to provide for the obtaining of sites and the planning, designing and construction of the buildings and memorials provided for by Section 51-b, Article III of the Constitution, and the Commission is also authorized to take any action and enter into any contracts to obtain sites which it deems necessary in order to provide for the orderly future development of the State Building Program which is contemplated by this Act, insofar as appropriations permit. Provided, however, that all construction contracts shall be let by the Commission on bids in the same manner as, and in accordance with, the laws now governing the awarding of construction contracts by the State Highway Commission. Provided further, that all engineering features, including but not limited to foundations, structural, mechanical, and electrical, shall be designed, planned and the construction supervised by a registered professional engineer, and all architectural features involving function and master planning shall be designed, planned and the construction supervised by a registered professional architect. Provided further, that the Commission may call upon the Texas Highway Department to make appropriate tests and analyses of the natural materials at the site of each building constructed under the terms of this Act, to insure that foundations of said buildings will be adequate for the life of the buildings.

Eminent Domain

Sec. 6. The Commission shall have and may exercise the power of eminent domain under the General Laws to obtain sites for buildings.

Title of Realty Acquired by Commission for Sites and Buildings Thereon; Transfer of Management of Buildings to Board of Control

Sec. 7. The Commission shall obtain title for the state and retain control of the real property acquired for sites and of the buildings located thereon until final construction is completed and the buildings are occupied by the state agencies to be housed therein, at which time the management and control of said buildings including the inventory values of the sites and the buildings located thereon, shall be transferred to the Board of Control. Except as otherwise provided in this Act, the initial occupants shall be those state agencies agreed upon by the Commission and the Board of Control. This Section, as amended, shall apply to all new state buildings constructed heretofore or that may be constructed hereafter in Austin, by the State Building Commission.

Other Departments of State Government to Assist Commission; Board of Control, Duties Of

Sec. 8. The Commission shall have the authority to call on any Department of State Government to assist it in carrying out the duties of the Commission. And particularly, it shall be the duty of the Board of Control to do and perform such acts and functions in connection with this Act as the Commission may direct; and to that end any portion of the money appropriated to the Commission may be allocated by the Commission to the Board of Control and expended by it under the direction of the Commission in carrying out the provisions of this Act.

Investment of State Building Fund in Interest Bearing Obligations of United States

Sec. 9. The State Building Commission may, in its discretion, invest all or any part of the State Building Fund created by Section 51-b of Article III of the Constitution in bonds, notes, certificates or other interest bearing obligations which are direct obligations of the United States of America; provided, however, that the Commission shall keep available sufficient monies to meet current expenditures authorized by appropriations. All income realized from interest or sale of such obligations shall become a part of the State Building Fund.

Air Conditioning of Capitol Building; Appropriation

Sec. 9a. The first major modernizing and remodeling program to be undertaken under the provisions of this Act shall be the air conditioning of the halls, offices and committee rooms of the House of Representatives and the Senate in the Capitol Building; and to carry out this program of remodeling and modernization the sum of Five Hundred Thousand (\$500,000.00) Dollars or so much thereof as may be necessary is hereby appropriated out of the State Building Fund. It is the intention of the Legislature that this air conditioning program for the House and Senate shall be the first undertaken and completed, so that such facilities may be ready for legislative use at the opening of the 55th Regular Session, beginning in January, 1957.

Court Building and Library; First Building Erected

Sec. 10. The first building to be erected pursuant to this Act and in compliance with Section 51-b of Article III of the Constitution shall be for the use and occupancy of the Supreme Court of this State, the Court of Criminal Appeals, and also the offices of the Attorney General of Texas, the State's Attorney before the Court of Criminal Appeals, the Supreme Court Library, and such other facilities and agencies as the Commission and the Board of Control may jointly deem necessary or desirable.

Memorial to Confederate Soldiers; Supreme Court Building

Sec. 11. Pursuant to Section 51-b of Article III of the Constitution the building pro-

vided for in Section 10 herein shall be known and properly designated by the State Building Commission as a memorial to the Texans who served in the Armed Services of the Confederate States of America, and a suitable cornerstone or plaque, or other proper means of designation, shall be integrated into the construction of the building to effectuate this memorial purpose. It shall be proper, however, to refer to the building as the "Supreme Court Building". Said building shall be of fireproof construction and provided with modern improvements including air conditioning, proper lighting, heating, ventilation, parking areas, and such other utilities and facilities as the Commission shall determine.

Site for Supreme Court Building

Sec. 12. The State Building Commission is hereby directed to make a careful survey of the most suitable site in the vicinity of the State Capitol for the erection of the said "Supreme Court Building". In keeping with the foregoing considerations, the Commission is hereby specifically authorized, if the State does not already own a suitable site, to acquire such a site.

Supreme Court Building Advisory Board

Sec. 13. The Governor is hereby empowered at his discretion to appoint a "Supreme Court Building Advisory Board" of not more than five members. It shall be the duty of said Board to advise with the Commission as to the design of the Supreme Court Building mentioned in Section 11 of this Act. The Board shall serve without pay, but may be reimbursed for such travel expenses as authorized by the Commission. The Board's duties shall terminate when the final contract for the construction of the "Supreme Court Building" is made.

State Office Building

Sec. 14. The second building specifically authorized by this Act and to be considered by the Commission shall be known and designated as the "State Office Building" and shall be designed as a suitable office building for such State agencies as are now occupying office space in Travis County, Texas. Said building shall be of fireproof construction and provided with modern improvements including air conditioning, proper lighting, heating, ventilation, and such other utilities and facilities as the Commission shall determine. The Commission shall give due consideration to the efficient operation of the agencies housed in said building in its choice of a site, and if the State does not already own a suitable site, the Commission is hereby authorized and empowered to acquire such a site.

Monuments and Memorials; Erection and Maintenance

Sec. 15. Monuments or memorials for the Texas heroes of the Confederate States of America and the Texas War for Independence, or to commemorate any other event or person of historical significance to Texans and the

State of Texas may be erected on land owned or acquired by the state or, if suitable contracts can be made for permanent preservation of such monuments or memorials, on private property or on land owned by the federal government or by other states. The locating and marking of graves of such Texans is hereby authorized. The Commission is further authorized to maintain and shall be responsible for the continuing maintenance of the monuments and memorials erected by the State of Texas to commemorate the Centenary of Texas Independence. Before erection of any new monument or memorial the Commission shall obtain the approval of the Texas State Historical Survey Committee as to the form, dimensions, substance of and inscriptions or illustrations upon such monuments or memorials.

Texas Historical Survey Committee; Advice as to Memorials and Monuments

Sec. 16. The Commission is hereby authorized to negotiate and contract with the Texas Historical Survey Committee, created by the 53rd Legislature, for the purpose of assisting and advising the Commission with regard to the proper memorials and monuments to be erected, repaired, and removed to new locations, the selection of sites therefor, and the locating and marking of graves.

Acquisition of Land with Historic or Prehistoric Sites and Features

Sec. 16A. The Commission is hereby authorized to acquire by gift, devise, purchase, or by its general power of eminent domain set out in Section 6 above, any lands on which are situated historic buildings, sites, or landmarks of state-wide historical significance associated with historic events or personalities, or prehistoric ruins, burial grounds, archaeological or vertebrate paleontological sites, sites including fossilized footprints, inscriptions made by human agency, or any other archaeological, paleontological, or historical feature, within the limits of the State of Texas. The right of eminent domain conferred above as relating to historical sites, buildings, and structures shall not be exercised except upon a proper showing that it is necessary to prevent destruction or deterioration of the historical site, building or structure. The Commission is hereby authorized to request from the Texas State Historical Survey Committee a certification or authentication of the worthiness of preservation of the features listed above.

Vicksburg National Military Park; Monument to Texans Serving in Armed Forces of Confederate States

Sec. 17. Pursuant to Section 51-b of Article III of the Constitution, it shall be the duty of the Commission, and it is hereby directed, to make inquiry into the terms and conditions upon which a suitable monument may be erected in Vicksburg National Military Park, Vicksburg, Mississippi, in memory of the Texans who served in the Armed Forces of the Confederate States of America, at the Siege of Vicks-

burg in 1863. If the Commission finds that the erection of a suitable monument in said park is in keeping with the provisions of Section 51-b of Article III of the Constitution of Texas, it shall cause plans to be drawn for the erection of said monument, and at the earliest practicable date inform the Legislature as to the sum of money that should be appropriated to erect said monument.

Appropriation for Supreme Court Building

Sec. 18. The sum of Three Million (\$3,000,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated from the State Building Fund for the purpose of erecting and equipping the Supreme Court Building and providing a suitable site therefor. The same shall include the necessary expenditures for the drawing of plans for said building, the leveling of the site and all other necessary expenditures in connection therewith, and the providing of suitable parkways and other necessary means of proper ingress and egress to and from said building.

Appropriation for State Office Building

Sec. 19. The sum of Three Million (\$3,000,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated from the State Building Fund for the purpose of erecting and equipping the State Office Building mentioned in Section 14 hereof, and for providing a suitable site therefor, if the Commission finds it desirable to purchase a site. The sum shall include the necessary expenditures for drawing of plans for said State Office Building, the leveling of the site and all other necessary expenditures in connection with the construction and equipping of said building.

Legislative Reference Library

Sec. 19a. The legislative reference library shall be kept and maintained in the State Capitol, and shall include an up-to-date law library.

Appropriation to Carry Out Contract with Texas Historical Survey Committee

Sec. 20. The sum of Twenty-five Thousand (\$25,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the State Building Fund for compensation and other necessary operating expenses of the said Commission from the effective date of this Act until August 31, 1955. The sum of Thirty Thousand (\$30,000.00) Dollars, or so much thereof as may be necessary, is hereby appropriated out of the State Building Fund for use by the Commission for the payment of contracts entered into with the Texas Historical Survey Committee in carrying out the provisions set forth in Section 16 of this Act.

Appropriation for Memorials for Heroes of Texas War for Independence

Sec. 21. Pursuant to Section 51-b of Article III of the Constitution, there is also appropriated from the State Building Fund the sum of Thirty Thousand (\$30,000.00) Dollars, or so

much thereof as may be necessary, for the purpose of erecting suitable memorials to the heroes of the Texas War for Independence on any suitable sites now owned by, or hereafter acquired by, the State, or on sites otherwise authorized in Section 15 hereof.

Appropriation for Preliminary Expenses; Vicksburg National Park; Erection of Monument

Sec. 22. The sum of Three Thousand (\$3,000.00) Dollars is hereby appropriated out of the State Building Fund to cover preliminary expenses incurred in carrying out the purposes mentioned in Section 17 of this Act, including the drafting of a design for said monument.

Capitol Building; Allocation of Space and Remodeling after Removal of Supreme Court, Etc.

Sec. 23. When the Supreme Court of this State, the Court of Criminal Appeals, the offices of the Attorney General and the State's Attorney and the Supreme Court Library shall have moved from the State Capitol Building, the Board of Control is directed to make available for the use and occupancy of the Legislature such offices and committee rooms as the Legislature shall consider necessary and appropriate for the efficient conduct of the affairs of the House of Representatives and the Senate; provided, that office facilities which are substantially equal in quality and space shall be made available for individual members of the House of Representatives and shall be assigned among the members by lot, conducted as the House shall direct. The State Building Commission is hereby empowered and directed to allocate from the State Building Fund an amount sufficient to cover the cost of remodeling and repairing the State Capitol Building to provide the space made available under the authority of this section for the use and occupancy of the Legislature.

Storage and Display of Archives of Texas

Sec. 24. The State Building Commission may, in its discretion, provide for the storage and display of the archives of Texas.

[Acts 1955, 54th Leg., p. 1298, ch. 514; Acts 1963, 58th Leg., p. 520, ch. 194, §§ 1, 2; Acts 1963, 58th Leg., p. 1185, ch. 470, § 1; Acts 1969, 61st Leg., p. 154, ch. 55, § 12, eff. Sept. 1, 1969.]

Art. 678m-1. Lease of Buildings for Operation of Drug Store, Cafe or Cafeteria; Powers of State Building Commission

Sec. 1. The State Building Commission is hereby authorized to lease existing buildings situated on property acquired by the State Building Commission pursuant to the provisions of Section 51b of Article III of the Constitution of Texas and Chapter 514, Acts of the 54th Legislature, Regular Session, 1955,¹ prior to the effective date of this Act, for the purposes of operating a drug store, cafe or cafeteria for the use and benefit of the state officials and state employees and the public conducting business with the state.

Sec. 2. The lease shall be let by the State Building Commission under such terms and conditions as would best carry out the purposes of this Act and all revenue derived from the lease agreements shall be deposited to the State Building Fund in the State Treasury.

[Acts 1957, 55th Leg., p. 293, ch. 134.]

¹ Article 678m.

Art. 678m-2. State Archives and Library Building

Sec. 1. Notwithstanding other provisions of law, the Legislature may appropriate money from the Motor Vehicle Inspection Fund for the purpose of constructing and initially equipping a building to be known as the "State Archives and Library Building" to house the State Library and the State Archives, Museum and Land Office, including the purchase of a site therefor; and for the purpose of paying the expenses of the Fifty-fifth Legislature, as described in Chapter 1, Acts of the Fifty-fifth Legislature, Regular Session, as amended. Provided that the present Legislative Reference Library now housed in the Capitol Building shall not be removed therefrom, but shall be maintained in the space now assigned to the State Library, the Supreme Court Library and the Legislative Reference Library upon removal of the Supreme Court Library to the Supreme Court Building now under construction.

Sec. 2. The State Building Commission is hereby authorized and empowered to expend any funds which may be appropriated to it from the Motor Vehicle Inspection Fund for the purpose stated in Section 1 of this Act, and to purchase the site and to plan, construct, and initially equip the building, subject to such direction as may be set out in the Act making the appropriation. The State Building Commission shall consult with and seek the advice of the Texas State Historical Survey Committee or its successor as to the plans and location of such building.

Sec. 3. All laws in conflict herewith are hereby repealed to the extent of such conflict. This Act shall not repeal the authority of the Public Safety Commission to use balances in the Motor Vehicle Inspection Fund for such purposes as may be authorized by law, but the amounts appropriated by the Legislature pursuant to this Act shall be deducted in determining the amount of the balance remaining in such fund which is subject to disposition by the Public Safety Commission.

[Acts 1957, 55th Leg., p. 615, ch. 274; Acts 1957, 55th Leg., 2nd C.S., p. 181, ch. 21, § 2.]

Art. 678m-2½. Lorenzo de Zavala State Archives and Library Building

Sec. 1. The name of the State Archives and Library Building is changed to the Lorenzo de Zavala State Archives and Library Building.

Sec. 2. All references to the State Archives and Library Building shall hereafter mean the Lorenzo de Zavala State Archives and Library Building.

[Acts 1973, 63rd Leg., p. 1369, ch. 522, eff. June 14, 1973.]

Art. 678m-3. Purchase of Knights of Columbus Hall for Use of State Agencies

Sec. 1. The State Building Commission is hereby given the authority to purchase and acquire by a general warranty deed the property and improvements owned by the Austin Knights of Columbus Home Association being the East one-half (½) of lots number eleven (11) and twelve (12) in Block one hundred seventy-three (173) of the original City of Austin, Travis County, Texas, according to the map or plat of said original city on file in the General Land Office of the State of Texas.

Sec. 2. There is hereby appropriated out of the General Revenue Fund of the State of Texas the sum of One Hundred Eighty-five Thousand and Five Hundred Dollars (\$185,500.00) for the purpose of making such acquisition.

Sec. 3. For the purpose of renovating, repairing and making such changes as are required to make any buildings heretofore or hereafter acquired by the State Building Commission functional and usable by state departments, any rentals from said buildings, including those rentals received under the provisions of Senate Bill No. 316, Acts of the 55th Legislature, 1957,¹ are hereby appropriated to the State Building Commission to be held in a special fund, and so much thereof as needed shall be expended for such purposes. Nothing herein shall permit the rental of the facilities herein acquired to other than state agencies unless such persons, corporations or agencies are presently in possession, and no rent shall be charged state agencies who occupy said premises.

[Acts 1957, 55th Leg., p. 1365, ch. 465.]

¹ Article 678m-1.

Art. 678m-4. Location and Purchase of Land for State Office Buildings and Parking Lots

Sec. 1. The State Building Commission is authorized and empowered to select and purchase sites in any of the cities of Texas on which to construct State Office Buildings and adjoining parking lots where such are deemed necessary to house State Departments and Agencies in said cities, and is further authorized and empowered to plan, construct and initially equip State Office Buildings together with adjoining parking space on each such site selected and purchased.

Sec. 2. The State Building Commission is further authorized and empowered to enter into lease agreements with Departments, Commissions, Boards, Agencies and other instrumentalities of the State of Texas, political subdivisions of the State of Texas, and the Federal Government or its instrumentalities concerning the space in the office building which is the subject of this Act. Providing, however, that the State Building Commission is specifically denied the power to lease space in said building to individuals, private corporations or

associations, partnerships or any other private interests.

[Acts 1959, 56th Leg., p. 777, ch. 354, § 1.]

Art. 678m-5. Grant of Easements and Rights-of-way for State Project Facilities

The State Building Commission or such Commission's successor in function is hereby authorized and empowered to grant such permanent and temporary easements and rights-of-way over and on lands of any State agency on any project administered by the State Building Commission as shall be necessary to insure the efficient and expeditious construction, improvement, renovation, use and operation of such State agency project building or facility.

[Acts 1971, 62nd Leg., p. 1240, ch. 306, § 1, eff. May 24, 1971.]

CHAPTER FIVE. DIVISION OF DESIGN AND CONSTRUCTION

Arts. 679 to 683. Repealed by Acts 1965, 59th Leg., p. 926, ch. 455, § 16, eff. Sept. 1, 1965
See, now, article 678f.

Arts. 684 to 687. Repealed by Acts 1959, 56th Leg., p. 813, ch. 370, § 1

CHAPTER SIX. DIVISION OF ESTIMATES AND APPROPRIATIONS

IN GENERAL

Article

- 688. Estimates Submitted.
- 688a. Division of Estimates and Appropriations Abolished; Transfer of Powers and Duties.
- 689. Inspection of Properties, Equipment and Facilities.
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BUDGETS

- 689a-1. Governor as Chief Budget Officer.
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Article

- 689a-16. Municipal Officers to Furnish Information to Mayor or City Manager.
- 689a-17. Repealed.
- 689a-17a. Repealed.
- 689a-18. Repealed.
- 689a-19. Penal Provision.
- 689a-19a. Repealed.
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- 689a-21. Neglect of Duty Concerning Budget.
- 689b. Validating Tax Levies in Counties of 27,000 to 28,000 Failing to Comply with Uniform Budget Law.

IN GENERAL

Art. 688. Estimates Submitted

The head of each department, school, institution, and of the prison system, and the head of any of the divisions or departments of government for which appropriations are made by the Legislature, shall submit to the Governor, not later than August 15th of each year preceding the regular biennial session of the Legislature, an itemized account of all items of expenses for the preceding two years, and an estimate of the appropriations required by such department, school or institution or by the prison system for the regular biennial appropriation made by the Legislature, which estimate shall be submitted and itemized in such manner as the Governor shall require.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 339, ch. 206, § 1; Acts 1951, 52nd Leg., p. 572, ch. 332, § 3.]

Art. 688a. Division of Estimates and Appropriations Abolished; Transfer of Powers and Duties

Sec. 1. Pursuant to that portion of Chapter 206, Acts of the 42nd Legislature, 1931, page 339,¹ which constitutes the Governor the Chief Budget Officer of the State, all powers, duties, privileges, prerogatives, rights and functions now held, exercised or performed by the State Board of Control or by its constituent Division of Estimates and Appropriations with respect to the compilation of biennial appropriation budgets are hereby transferred to and vested in the Governor and shall hereafter be exercised or performed by him; and the Division of Estimates and Appropriations of the State Board of Control is hereby abolished.

Sec. 2. All sums appropriated to the Division of Estimates and Appropriations of the State Board of Control are hereby transferred and appropriated to the Executive Department to be expended by the Governor in the compilation of biennial appropriation budgets as provided by law; and, within the limits of said appropriation and of future appropriations, the Governor is hereby authorized to employ such persons and to make such expenditures as are required for the compilation of the biennial appropriation budgets. All equipment and supplies now assigned to the Division of Estimates and Appropriations of the Board of Control are hereby transferred to the Executive Department.

[Acts 1951, 52nd Leg., p. 572, ch. 332.]

¹ Article 688 et seq.

Art. 689. Inspection of Properties, Equipment and Facilities

The Governor shall cause to be inspected the properties, equipment and facilities of the various agencies of the government for which appropriations are to be made, either before or after such estimates are submitted, and shall give consideration to such inspections in his compilation of the biennial appropriation budget.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 339, ch. 206, § 1; Acts 1951, 52nd Leg., p. 572, ch. 332, § 4.]

Art. 689a. Board of Control to Cooperate with State Highway Commission

That the Board of Control cooperate with the State Highway Commission in equipping said Highway Motor Patrol¹ so as to eliminate from the operation of said Highway Motor Patrol the rental costs in providing equipment for said Motor Patrol to transport the instruments and facilities to be used in making such tests and in weighing commercial motor vehicles.

[Acts 1933, 43rd Leg., p. 975, H.C.R. No. 21.]

¹ Transferred to Department of Public Safety and designated Texas Highway Patrol, see article 4413(12).

BUDGETS**Art. 689a-1. Governor as Chief Budget Officer**

The Governor is hereby made the chief budget officer of the State.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 2.]

Art. 689a-2. Uniform Budget Estimate Blanks

The Governor is hereby authorized to collaborate with the Legislative Budget Board in designing and preparing uniform budget estimate blanks upon which all requests for appropriations from the Legislature shall be prepared; and the Governor shall require that all requests for appropriations be submitted to him on such blanks or forms.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 3; Acts 1951, 52nd Leg., p. 572, ch. 332, § 5.]

Art. 689a-3. Repealed by Acts 1957, 55th Leg., p. 1322, ch. 446, § 1**Art. 689a-4. Hearings by Governor in Preparation of Budget**

Upon receipt of the estimates for appropriations, the Governor shall afford to the heads of departments, institutions or other agencies that are seeking appropriations an opportunity to appear and be heard at a public hearing wherein such estimates are to be considered; and, if so desired, the Governor shall have the right to require the heads of such departments, institutions or other agencies, or any employees thereof, to appear at such public hearing and to give further information concerning requested appropriations. Any taxpayer shall have the right to be present at any and all such public hearings and to participate in the discussion of any item proposed to be included in the budget under consideration. The Governor shall preside at and conduct all such hearings, or, if unable for any reason to conduct such

hearings, the Governor may authorize any employee of the Executive Department to preside at such hearings and represent him.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 5; Acts 1951, 52nd Leg., p. 572, ch. 332, § 6.]

Art. 689a-4a. Cooperation by Governor and Legislative Budget Board; Joint Hearings

With respect to matters pertaining to the compilation of the biennial appropriation budget, the Governor and the Legislative Budget Board created by Chapter 487, Acts of the 51st Legislature, 1949, page 908,¹ may cooperate and exchange information, and may, if they so desire, jointly hold public hearings pertaining to the biennial appropriation budgets. At any such joint public hearings, the Governor shall preside, or, if for any reason he be unable to conduct such hearings, the Lieutenant-Governor or such person as the Governor and the Lieutenant-Governor shall appoint, shall preside.

[Acts 1951, 52nd Leg., p. 572, ch. 322, § 7.]

¹ Article 5429c.

Art. 689a-4b. Determination by Governor of Prerequisites to Expenditure of Appropriations

Sec. 1. The Governor of the State of Texas is authorized to find any fact specified by the Legislature in any appropriation bill as a contingency enabling expenditure of any designated item of appropriation.

Sec. 2. (a) The Governor shall base his finding on the evidence as it exists at the time of his determination; provided the Legislature may by condition in an appropriation bill require such determination to be made following a public hearing.

(b) The decision of the Governor, together with his findings of fact, shall be filed with the Comptroller of Public Accounts and the Legislative Budget Board.

(c) The Governor's decision shall be final, subject to review in the courts by mandamus or other appropriate legal remedies.

(d) His certificate, under the seal of his office, stating his decision, shall be evidence of his decision.

[Acts 1972, 62nd Leg., 4th C.S., p. 22, ch. 5, eff. Jan. 16, 1973.]

Art. 689a-4c. Expenditure of Funds by Governor in Certified Emergency; Administration**Declaration of Policy**

Sec. 1. It is in the public interest for the Governor to have available authority and funds for use in instances when the Legislature is not in session and there arises an emergency and an imperative public necessity that the emergency be met. Within the limits of the funds appropriated for this purpose and upon the compliance by the Governor with the requirements of this Act, it is the legislative intent to enable the Governor to act in instances of emergency and imperative public necessity without being forced to call the Legislature into session. The funds appropriated pursuant to this Act are to be available only in those instances where no other funds are available for purpos-

es specifically appropriated for by the Legislature due to exhaustion of appropriations. At the time of the certification provided for in Section 2, the Comptroller of Public Accounts shall determine, with whatever assistance he deems necessary from other agencies, as to whether other funds are available.

Procedure

Sec. 2. When, in the judgment of the Governor, a situation arises that presents an emergency and an imperative public necessity requiring the use of the funds hereby authorized, the Governor shall certify such facts to said Comptroller, stating in the certification the facts presenting the emergency and imperative public necessity and why the facts present an emergency and an imperative public necessity. The Comptroller shall endorse on the Governor's Certificate the availability or unavailability of other funds setting forth their source and amount, if any, and must return said certificate to the Governor's Office within two (2) working days of receipt of said certificate. No expenditures shall be made by the Governor prior to receipt by the Governor of a return of his certificate from the Comptroller showing that no other funds are available. Copies of the Governor's Certificate, and the returned certificate containing the endorsement by the Comptroller, shall be filed with the Secretary of State and with the Legislative Budget Board.

Administration of Funds

Sec. 3. For purposes of this Act, the Governor may by interagency contract, in each instance, use any agency of the executive branch for administration of the funds hereby authorized. Such interagency contracts are exempt from the provisions of Article 4413(32), Vernon's Texas Civil Statutes.

Funding and Expenditures

Sec. 4. Following certification in compliance with this statute, the Governor is authorized to expend appropriated funds for purposes of the certified emergency, and the necessary warrants shall be drawn by the Comptroller and paid by the State Treasurer. The Legislature may appropriate money to the Governor pursuant to this Act to be expended for the Executive branch of government only.

Cumulative Clause

Sec. 5. The provisions of this Act shall be cumulative of all other laws or parts of laws, general or special.

Severability Clause

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1972, 62nd Leg., 4th C.S., p. 23, ch. 6, eff. Oct. 17, 1972.]

Art. 689a-5. Compilation of Budget by Governor

Based on information submitted to the Governor in the estimates and obtained by him at public hearings, from inspections and from other sources, the Governor shall compile the biennial appropriation budgets. On such budgets, the list of appropriations shall be shown for the current year preceding the biennium for which appropriations are sought and recommended, and the expenditures shall be shown for each of the two (2) full years next preceding the current year. The budget shall also show the amounts requested by the various agencies and the amounts recommended by the Governor for each of the years of the ensuing biennium.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 6; Acts 1951, 52nd Leg., p. 572, ch. 322, § 8; Acts 1957, 55th Leg., p. 1322, ch. 446, § 2.]

Art. 689a-6. Transmission of Copies of Budget; Committee Hearings; Copies of Budget for Distribution

Within five (5) days after the beginning of each Regular Session of the Legislature, the Governor shall transmit to all members of the Legislature printed copies of the budget; and, the Appropriations Committee in the House and the Finance Committee in the Senate may, if they so desire, begin preliminary committee hearings on the budget without waiting for the submission of the budget bills. The Governor shall also cause to be printed such extra copies of the budget as in his judgment are necessary for public distribution.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 7; Acts 1951, 52nd Leg., p. 572, ch. 322, § 9; Acts 1969, 61st Leg., p. 1688, ch. 546, § 1, eff. Sept. 1, 1969.]

Art. 689a-7. Budget Bills of Appropriations Submitted by Governor; Hearings on Bills

Within thirty (30) days after the beginning of each regular session of the Legislature, the Governor may prepare and submit printed copies of a general appropriation bill for the ensuing biennium to the Speaker of the House of Representatives, to the Lieutenant Governor, and to each Member of the House and Senate; provided, however, that in years when a newly elected Governor other than the then Governor is to be inaugurated, the appropriation bill may be prepared by the incoming Governor and shall be transmitted to the Legislature within twenty (20) days from the date he takes the oath of office.

The Director of the Budget, under the direction of the Legislative Budget Board, shall also prepare a general appropriation bill for introduction at each regular session of the Legislature, and shall transmit copies of the bill to all Members of the Legislature and to the Governor within seven (7) days after the convening of any regular session of the Legislature.

Upon receipt of the general appropriation bill prepared by the Director of the Budget, the Lieutenant Governor in the Senate and the Speaker in the House may, if they so desire,

cause such bill to be introduced in the Senate and in the House of Representatives, or it may be introduced by any Member of the House or the Senate. A general appropriation bill submitted by the Governor may also be introduced in like manner. Hearings on the appropriation bills shall be conducted before the Appropriation Committee of the House and the Finance Committee of the Senate. The Appropriations Committee and the Finance Committee may, if they so desire, begin preliminary committee hearings on the budget upon receipt of the bill prepared by the Director of the Budget without waiting for submission of the bill prepared by the Governor. All heads of departments, institutions or other agencies of the government requesting appropriations shall have the right to appear before either of these committees in behalf of the appropriation requested. Likewise, any taxpayer in the State shall have the right to be present and to be heard at the hearing on the proposed appropriation.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 8; Acts 1957, 55th Leg., p. 1322, ch. 446, § 3.]

Art. 689a-8. Budget Bill Not to Include Per Diem and Mileage of Members of Legislature

The budget and budget bill so to be prepared and submitted by the Governor shall not have included therein any appropriations for the per diem and mileage of the members of the Legislature, nor the necessary expenses of the Legislature, and nothing herein contained shall affect any such appropriations.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 9.]

Art. 689a-8a. Constitutional Amendment; Effect if Adopted

In the event a Constitutional Amendment providing for annual budget sessions of the Legislature is adopted, all references in the preceding sections of this Act, in Chapter 487, Acts of the Fifty-first Legislature, Regular Session (Article 5429c, Vernon's Texas Civil Statutes) and in Section 7 of Chapter 332, Acts of the Fifty-second Legislature (Article 689a-4a, Vernon's Texas Civil Statutes) to biennial budgets shall be deemed to mean annual budgets, and all references to biennial sessions or regular sessions of the Legislature shall mean the annual budget sessions.

[Acts 1957, 55th Leg., p. 1322, ch. 446, § 4.]

Art. 689a-9. County Budget; County Judge as Budget Officer

The County Judge shall serve as budget officer for the Commissioners' Court in each county, and during the month of July of each year he, assisted by the County Auditor or by the County Clerk, shall prepare a budget to cover all proposed expenditures of the county government for the succeeding year. Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget

must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of each and every fund of the county government, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenues available to cover the proposed budget and the estimated rate of tax which will be required.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 10.]

Art. 689a-9a. Taxes Included in Estimated Revenues of Year in Which Levied and Collected

The County Judge in preparing the budget to cover all proposed expenditures of the county government for the succeeding year shall estimate the revenue to be derived from taxes to be levied and collected during such succeeding year, and such revenue shall be included in the estimated revenues available to cover the proposed budget.

[Acts 1953, 53rd Leg., p. 1056, ch. 439, § 1.]

Art. 689a-10. County Budget Filed with Clerk of County Court

When the County Judge has completed the budget for the county, a copy of it shall be filed with the clerk of the County Court, and it shall be available for the inspection of any taxpayer.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 11.]

Art. 689a-11. Commissioners' Court to Hold Hearings and Approve Budget in Certain Counties, Transmission to State Comptroller

The Commissioners' Court in each county shall each year provide for a public hearing on the county budget—which hearing shall take place on some date to be named by the Commissioners' Court subsequent to August 15th and prior to the levy of taxes by said Commissioners' Court. Public notice shall be given that on said date of hearing the budget as prepared by the County Judge will be considered by the Commissioners' Court. Said notice shall name the hour, the date and the place where the hearing shall be conducted. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Judge shall be acted upon by the Commissioners' Court. The Court shall have authority to make such changes in the budget as in their judgment the law warrants and the interest of the taxpayers demand. When the budget has been finally approved by the Commissioners' Court, the budget, as approved by the Court shall be filed with the Clerk of the County Court, and taxes levied only in accord-

ance therewith, and no expenditure of the funds of the county shall thereafter be made except in strict compliance with the budget as adopted by the Court. Except that emergency expenditures, in case of grave public necessity, to meet unusual and unforeseen conditions which could not, by reasonably diligent thought and attention, have been included in the original budget, may from time to time be authorized by the Court as amendments to the original budget. In all cases where such amendments to the original budget is made, a copy of the order of the Court amending the budget shall be filed with the Clerk of the County Court, and attached to the budget originally adopted.

The County Judge shall, after the adoption of the county budget and prior to October 15th of each year, file with the State Comptroller at Austin, Texas, a true and correct summarized statement of the adopted budget, which statement shall show the total amount adopted for each of the several divisions of the county's activities and outstanding obligations together with true and exact copies of any revenue estimates, financial statements and balance sheets required to be contained in said budgets, and the correctness of said copies shall be sworn to by the County Judge and County Auditor, and in counties which have no County Auditor, by the County Clerk. The State Comptroller shall note the date on which statements are filed with him, and preserve them for not less than two (2) years after the October 1st filing date. Provided, however, that in all counties of this State containing a population in excess of three hundred and fifty thousand (350,000), according to the last preceding United States census, the provisions hereof shall not apply to the making of such county budgets, and in such counties all matters pertaining to the county budget shall be governed by existing law.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 12.]

Art. 689a-12. County Officers to Furnish Information to County Judge

In the preparation of the budget, the County Judge shall have authority to require any officer of the county to furnish such information as may be necessary for the County Judge to have in order that the budget covering the expenditures of the county may be properly prepared.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 13.]

Art. 689a-13. Budget Officers and Preparation of Budget in Cities and Towns

The Mayor of every incorporated city, town or village shall serve as the budget officer for the Board of Commissioners or Council of such city, town or village, except that any such city or town as shall have a City Manager form of Government, the City Manager shall serve as the budget officer. Such Mayor or City Manager shall prepare each year a budget to cover all proposed expenditures of the Government of said city or town for the succeeding year.

Such budget shall be carefully itemized so as to make as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget must also be so prepared as to show as definitely as possible each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall also contain a complete financial statement of the city, town or village, showing all outstanding obligations of such city, town or village, the cash on hand to the credit of each and every fund, the funds received from all sources during the previous year, the funds available from all sources during the ensuing year, the estimated revenue available to cover the proposed budget, and the estimated rate of tax which will be required.

If a city or town in this State has already set up in its charter definite requirements which provide for the preparation each year of a budget of all expenditures of said city and a public hearing on said budget, then the charter provisions of said city as to the time of public hearings and the method of preparation of the budget shall govern, provided that when said budget has been finally prepared and approved, that a copy of said budget, together with all amendments thereto, shall be filed with the County Clerk and with the State Comptroller at Austin, Texas, the same as this Act requires other budgets to be filed.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 14.]

Art. 689a-14. Budget Filed with Clerk of City or Town

Said budget so to be prepared by such Mayor or City Manager shall be filed with the Clerk of such city, town or village not less than thirty (30) days prior to the time the Board of Commissioners or Council of such city, town or village makes its tax levy for the current fiscal year, and such budget shall be available for the inspection of any taxpayer.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 15.]

Art. 689a-15. Hearings on City or Town Budgets, Approval and Filing

The Board of Commissioners or Council of every such city, town or village, shall each year provide for a public hearing on such budget, which hearing shall take place on some date to be fixed by such Board of Commissioners or Council, not less than fifteen days subsequent to the time such budget is filed as provided in Section 15 hereof, and prior to the time said Board of Commissioners or Council of such city, town or village makes its tax levy. Public notice of the hour, date and place of such hearing shall be given, or caused to be given by such Board of Commissioners, or Council, and any taxpayer of such city, town or village shall have the right to be present and participate in such hearing. At the conclusion of such hearing, the budget as prepared by the Mayor or City Manager shall be acted upon by

the said Board of Commissioners or Council. The Board of Commissioners, or Council shall have the authority to make such changes in the budget as in their judgment the law warrants and the best interests of the taxpayers of such city, town or village demands. When the budget has been finally approved by such Board of Commissioners, or Council, the budget as so approved shall be filed with the Clerk of such city, town or village, and taxes levied only in accordance therewith, and no expenditure of the funds of such city, town or village shall thereafter be made except in strict compliance with such adopted budget, except that in case of grave public necessity, emergency expenditures to meet unusual and unforeseen conditions, which could not, by reasonable diligent thought and attention, have been included in the original budget, may from time to time be authorized by such Board of Commissioners, or Council, as amendments to the original budget. In all cases where such amendment to the original budget is made, a copy of the order or resolution of the Board of Commissioners or Council amending such budget shall be filed with the Clerk of such city, town or village, and attached to the budget originally adopted. Immediately after the adoption of said budget or any amendment thereto, the Mayor or City Manager, as the case may be, shall file or cause to be filed, a true copy of said approved budget, and all amendments thereto, in the office of the County Clerk of the County in which said municipality is situated, and with the State Comptroller at Austin.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 16.]

Art. 689a-16. Municipal Officers to Furnish Information to Mayor or City Manager

In the preparation of the budget the Mayor or City Manager shall have authority, to require any officer or board of such city, town or village to furnish such information as may be necessary for the Mayor or City Manager to have in order that the budget covering the expenditures of such city, town or village may be properly prepared.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 17.]

Art. 689a-17. Repealed by Acts 1957, 55th Leg., p. 1245, ch. 413, § 6

Art. 689a-17a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 899, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Art. 689a-18. Repealed by Acts 1957, 55th Leg., p. 1243, ch. 412, § 6

Art. 689a-19. Penal Provision

Section 20 of Acts 1931, 42nd Leg., p. 339, ch. 206, a penal provision, is set out as art. 689a-21.

Art. 689a-19a. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Art. 689a-20. Construction

Nothing contained in this Act shall be construed as precluding the Legislature from making changes in the budget for State purposes or prevent the County Commissioners' Court from making changes in the budget for county purposes or prevent the governing body of any incorporated city or town from making changes in the budget for city purposes, or prevent the trustees or other school governing body from making changes in the budget for school purposes; and the duties required by virtue of this Act of State, County, City and School Officers or Representatives shall be performed for the compensation now provided by law to be paid said officers respectively.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 20a.]

Art. 689a-21. Neglect of Duty Concerning Budget

Any officer, employee or official of the State Government, or of the County Government, or of any school district who shall refuse to comply with the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than One Hundred Dollars (\$100.00) nor more than One Thousand Dollars (\$1,000.00), or be imprisoned in the county jail for not less than one month, or more than twelve months, or shall be punished by both such fine and imprisonment.

[Acts 1931, 42nd Leg., p. 339, ch. 206, § 20.]

Art. 689b. Validating Tax Levies in Counties of 27,000 to 28,000 Failing to Comply with Uniform Budget Law

The failure of the Commissioners Court of any county having a population of not less than twenty-seven thousand (27,000) and not more than twenty-eight thousand (28,000) according to the next preceding Federal Census to comply with the provisions of Articles 688 and 689, Chapter 6, Title 20, Revised Civil Statutes, 1925, as amended, known as the Uniform Budget Law shall not invalidate any tax levies made by such Court, and all outstanding warrants or scrip issued by such counties are hereby validated and declared to be the legal obligations of such counties, provided such warrants or scrip are within the Constitutional limits applicable thereto.

[Acts 1935, 44th Leg., 1st C.S., p. 1583, ch. 395, § 1.]

CHAPTER SEVEN. DIVISION OF ELEEMOSYNARY INSTITUTIONS

Article

- 690. Division Chief.
- 691. Employment of Superintendents; Qualifications, Status and Removal.
- 692. Bond of Superintendent.
- 693. General Powers and Duties.
- 693a. Eminent Domain, Exercise of Power of.
- 693b. Expired.
- 694. Requisitions by the Board.
- 695. Rules and Regulations.

Art. 690. Division Chief

The Board may employ a chief in the division of eleemosynary institutions who shall be an

acting practicing surgeon, and who shall have been actively engaged in the practice of the profession for not less than ten years immediately preceding his appointment. Such physician shall be one of generally recognized eminence in his profession.

[Acts 1925, S.B. 84.]

Art. 691. Employment of Superintendents; Qualifications, Status and Removal

The Board for Texas State Hospitals and Special Schools is authorized to employ a superintendent for each institution under its control and management. Each superintendent shall have had special advantages and practical experience in the management of the class of persons committed to his charge, and in each particular instance shall have all other qualifications prescribed by law. The superintendent of each institution under the control and management of the Board for Texas State Hospitals and Special Schools is an employee of the Board, and not an officer of the State, and said Board is hereby vested with full authority and discretion to terminate the employment of any such superintendent at any time. Any provisions of this Act which conflict with or which are inconsistent with the provisions of any other law, general or special, shall take precedence over any such conflicting or inconsistent provisions.

[Acts 1925, S.B. 84; Acts 1951, 52nd Leg., p. 286, ch. 691, § 1.]

Art. 692. Bond of Superintendent

The Board for Texas State Hospitals and Special Schools is authorized to require the superintendent of each institution under its control and management to enter into bond, within twenty (20) days after receiving notice of his employment, in the sum of Ten Thousand Dollars (\$10,000), payable to the State of Texas to be approved by the Governor, and conditioned for the faithful performance of all the duties of said employment. Such bond shall be filed in the office of the Comptroller, and shall not become void on first recovery thereon, but may be sued upon until the full penalty is recovered.

[Acts 1951, 52nd Leg., p. 450, ch. 277, § 1.]

Art. 693. General Powers and Duties

The Board of Control shall have power:

1. To make rules and regulations for the government of the State eleemosynary institutions, not inconsistent with the constitution and laws.
2. To appoint all officers and employes of such institutions and fix their salaries and wages.
3. To discharge, upon the recommendation of the superintendent, any officer, employé or inmate.
4. To appoint assistant physicians, stewards, matrons and apothecaries.

5. To make all contracts and necessary arrangements for the erection of buildings or improvements upon the grounds of the institutions.

6. To examine and approve or reject any vouchers or accounts of the superintendents.

7. It shall exercise a careful supervision over the general operations of such institutions and control the expenditures, and direct the manner in which their revenue shall be disbursed.

8. It may take and hold in trust any gift or devise of real or personal estate for the benefit of such institution and apply the same as the donor or deviser may direct.

9. The Board shall maintain an effective inspection of each institution placed under its control and management, for which purpose a representative of the Board shall visit each institution once every month, and members of the Board shall visit each of such institutions at least once a year, at the time and in the manner as the board may prescribe by its rules or by-laws.

10. The general result of such inspection, with suitable suggestions, shall be inserted in a report detailing the past year's operations and the actual state of the institutions, which the Board shall make to the Legislature in January of each alternate year, accompanied by the report of the medical superintendents and stewards.

11. The Board shall keep a book in which shall be noted by the member making the visit to the institution, the date of his visit, the condition of the house, patients, and premises with such remarks of commendation or censure as may be considered by the member as pertinent, and each member shall sign the same.

[Acts 1925, S.B. 84.]

Art. 693a. Eminent Domain, Exercise of Power of

The State Board of Control is hereby vested with the power of eminent domain, and in the exercise of said power shall have the right to condemn and may institute, maintain and prosecute suits in the name of the State of Texas for the purpose of securing lands and property necessary to the operation of any and all State Eleemosynary Institutions, State Hospitals and other institutions under the control and jurisdiction of said Board of Control following the procedure applicable to the condemnation of lands by counties, or by railroads, or any other method authorized by law, and it is hereby made the duty of the Attorney General to aid and assist the State Board of Control in the institution and prosecution of condemnation suits.

[Acts 1943, 48th Leg., p. 50, ch. 46, § 1.]

Art. 693b. Expired

This article, Acts 1943, 48th Leg., p. 119, ch. 89, relating to the transfer of funds of one eleemosynary institution to another, became ineffective by its terms Aug. 31, 1945.

Art. 694. Requisitions by the Board

All money appropriated by the Legislature for the erection of buildings or the making of improvements upon the grounds of an institution shall be subject to requisition by the Board of Control for the amount actually necessary to pay for such building or improvements; but no money shall be paid except it be upon estimate of completed work furnished by the contractor and approved by the architect. In no case shall more than ninety (90%) percent of the actual cost of building or improvements be paid until the work is completed and accepted.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 6, ch. 6, § 1.]

Art. 695. Rules and Regulations

The Board may adopt such regulations as it deems proper and necessary for the payment of expenses other than salaries of officers, the purchase of supplies and such other expenditures as may be regulated by law; but under such regulations no money appropriated shall be drawn from the Treasury except upon vouchers specifying in detail the exact purpose for which the same is needed, certified as true and correct by the superintendent and approved by the Board.

[Acts 1925, S.B. 84.]

CHAPTER SEVEN A. CHILD WELFARE**Article**

695a. Child Welfare.

695a-1. Licensing of Child-care Institution Administrators.

Art. 695a. Child Welfare

Creation; Chief, Appointment and Salary; Assistants and Salaries

Sec. 1. That there be and is hereby created the Division of Child Welfare¹ in the Board of Control. The Board of Control shall employ a Chief in the Division of Child Welfare, who shall be qualified by adequate education, training, and experience. The experience shall be deemed sufficient if the person appointed shall have had five or more years of practical experience in Child Welfare work preceding such appointment, whose salary shall not exceed \$3600.00, and shall not be allowed more than two assistants at a salary not to exceed \$2400.00 each for any one year. Such assistants as shall be deemed necessary to carry out the provisions of this Act shall be appointed by the Division Chief with the approval of the Board of Control.

¹ Abolition of Division of Child Welfare. See note at end of article.

Duties of Division as to Protection of Defective, Illegitimate and Dependent Children

Sec. 2. It shall be the duty of the Board to promote through the Child Welfare Division

the enforcement of all laws for the protection of defective, illegitimate, dependent, neglected and delinquent children; to co-operate to this end with Juvenile Courts and all licensed Child Health and Child Placement Agencies of a public or private character; and to take the initiative in all matters involving the interest of such children where adequate provision therefor has not already been made. Especial attention shall be given by the Child Welfare Division to the dissemination of information through bulletins and visits where practicable to all agencies, private and public, operating under the provisions of this Act or any other Acts that have been passed or shall be passed affecting the welfare of the classes of children described in this section.

Expenditure of Funds

Sec. 3. The salaries, traveling expenses, office expense, and all other necessary expenses incurred by the Child Welfare Division in carrying out the provisions of this Act, shall be paid by vouchers drawn on the Treasury of the State of Texas, after said accounts have been approved by the Board of Control. Provided no State funds shall be expended by said division for any of these purposes or any other purpose in carrying out the provisions of this Act unless same shall have been specifically appropriated therefor by the Legislature.

County Welfare Board; Appointment by Commissioners' Court; Multi-county Boards; Coordinated Plans and Services

Sec. 4. (a) The Commissioners Court of any county may appoint in said county a Child Welfare Board for the county; such Board shall consist of not less than seven (7) nor more than fifteen (15) members, and shall be of such size and such membership, within the limitations prescribed herein, and experience as may be determined by the Commissioners Court and the State Department of Public Welfare to be essential. The members of the Child Welfare Board shall be residents of the county and shall serve without compensation and shall hold office during the pleasure of the Commissioners Court. The Child Welfare Board shall select its own chairman, and it shall perform such duties as may be required of it by the said Commissioners Court and the State Department of Public Welfare in furtherance of the purposes of this Act. The County Commissioners Court of any county may remove any member of the Child Welfare Board for just cause.

(b) When found to be more practical, and when approved by the State Department of Public Welfare, multi-counties may join for the purpose of this law in establishing a Child Welfare Board for their joint use under the terms and conditions above set forth for a single county. In such cases such combined counties shall have the same powers and be subject to the same liabilities as a single county herein provided for.

(c) In the interest of the welfare of all children in this state, it is essential that the state

and all subdivisions thereof be given the authority through legislative acts to make broad, general, flexible plans for improving health, education and welfare of all children, and it is particularly necessary for the County Commissioners Court in the various counties to have discretionary powers in relation to determining the size of Child Welfare Boards established depending upon the needs and the types of programs in the particular county.

It is the expressed intent of this Act to strengthen Child Welfare Boards so that services may be provided to all children in the county who are in need of services. The Child Welfare Board shall work with the County Commissioners Court and shall be an entity of the State Department of Public Welfare for the purposes of providing coordinated state and local public welfare services for children and their families and coordinated utilization of federal, state, and local funds for these services.

Cooperation of Agencies

Sec. 5. The Board of Control, through said County Welfare Board, shall work in conjunction with the County Commissioners' Court, Juvenile Boards, and all other officers and agencies whose purpose is for the protection of the children described herein, and the Board of Control is hereby authorized to use and allot any funds, that may be specifically appropriated for such purposes, by the Legislature, that may be necessary in jointly establishing and maintaining, together Juvenile Board or other County or City Board or other agency, homes, schools, and institutions for the care, protection, education and training of the class of children sought to be protected by the provisions hereof.

Bringing Child Into State for Placing Out or Adopting; Consent of Board of Control

Sec. 6. It shall be unlawful for any person, for himself or as agent or representative of another, to bring or send into this State any child below the age of sixteen (16) years for the purpose of placing him out or procuring his adoption without first having obtained the consent of the State Board of Control, which may be made by application directly to the Board of Control, or through the County Child Welfare Board.¹ Said consent shall be given on a regular form to be prescribed by the Board of Control and no person shall bring any such child into this State without such permit and without having filed with the Board of Control a bond payable to the State, on a form to be prescribed by the Attorney General, and approved by the Board, in the penal sum of One Thousand (\$1,000.00) Dollars, conditioned that the person bringing or sending such child into this State will not send or bring any child who is incorrigible or unsound of mind or body; that he will remove any such child who becomes a public charge or pay the expense of removal

of such charge, who, in the opinion of the Board of Control, becomes a menace to the community prior to this adoption or becoming of legal age; that he will place the child under a written contract approved by the County Child Welfare Board and the Board of Control; and that the person with whom the child is placed shall be responsible for his proper care and training. Before any child shall be brought or sent into the State for the purpose of placing him in a foster home, the person so bringing or sending such child shall first notify the Board of Control of his intention and the Board of Control shall immediately notify the County Child Welfare Board, who shall make a report to² the Board of Control on the person whom it is indicated will have charge of the child, and shall obtain from the Board of Control a Certificate stating that such home is, and such person or persons in charge, are in the opinion of the Board of Control, suitable to have charge of such child. Such notification shall state the name, age and description of the child, the name and address of the person to whom the same is to be placed, and such other information as may be required by the Board of Control, and the same shall be sworn to by such person. The Board of Control shall require the person sending said child into this State, or the person who is in charge of the same after he has been brought here, to make a report at certain stated times, and in the event such reports are not made such Board shall be authorized to deport said child from this State and the expenses thereof shall be recovered under said bond; provided, however, that nothing herein shall be deemed to prohibit a resident of this State from bringing into the State a relative or child for adoption into his own family. The Board of Control and Child Welfare Boards shall not allow minors to come into and be brought into this State in violation of this Act.

¹ Transfer of child welfare services to Department of Public Welfare, see art. 695e.

² So in enrolled bill. Session Laws read "of."

Penalty for Violation of Foregoing Section

Sec. 7. If any person shall bring into this State or direct, conspire, or cause to be brought into or sent into this State any child in violation of the foregoing section, he shall be guilty of a misdemeanor and upon conviction thereof shall be fined in a sum not less than Twenty-five (\$25.00) Dollars nor more than One Thousand (\$1,000.00) Dollars, or by confinement in the County Jail not exceeding twelve months, or by both such fine and imprisonment.

Transfer of Agencies

Sec. 8. The licensing, visiting and inspection of all agencies required under Chapter 204, Page 444 of the General and Special Laws of the Regular Session of the 41st Legislature 1929,¹ now required by the State Board of Health, shall be and is hereby transferred to and made a part of the duties of the Division of Child Welfare of the State Board of Control.

¹ Article 4442a.

Investigations by Board Before Issuing Charters

Sec. 9. No charters shall be issued hereinafter by the Secretary of State to any person, association, corporation, whether operating for charity or revenue, in any way having to do with the solicitation of funds for or the handling of children through nurseries, boarding house, child placing agencies or other place for the care or custody of children under sixteen (16) years of age without an investigation first having been made by the Board of Control concerning such application and a recommendation made by said Board thereto.

Visitations by Chief of Division

Sec. 10. It shall be the further duty of the Chief of the Division of Child Welfare to visit and study conditions in the eleemosynary institutions maintained by State appropriations for the care and custody of defective, illegitimate, dependent, neglected and delinquent children, namely:—The State Orphans Home at Corsicana, Texas; the Home for Dependent and Neglected Children at Waco; the Girls' Training School at Gainesville, Texas; the Juvenile Training School at Gatesville, Texas; the Austin State School, Austin, Texas, and the Colored Orphans Home at Gilmer, Texas, and to make recommendations as to the policy of management of these Institutions and outline a program for each of these Institutions so that these various types of children shall receive the best possible training in contemplation of their earliest discharge from said institution.

Custody of Children in State Institutions Vested in Board

Sec. 11. All delinquent, dependent, illegitimate and other minor children who are now in institutions owned or managed by the State of Texas, or any political subdivision thereof, not wards of a court, are hereby declared to be charges of the State of Texas unless said confinement be under sentence for some penal offense, or unless the respective parents of said children shall remove the same therefrom within sixty (60) days from the effective date hereof, and the exclusive possession and custody of said children shall be vested in the Board of Control. When any child shall be found by a District Court to be dependent, neglected, or abandoned by the parents or custodians thereof the Board of Control may take possession and custody of the same, and if upon thirty days' notice to any parent or custodian of said child it is not shown to the satisfaction of the County Child Welfare Board or other agency selected by the Board of Control, that such child can be cared for by such person, the Board of Control may assign said child to an institution of the State, or some other institution, for a period of thirty days, and if within that time such parent or other person has not qualified himself to take charge of said child then the guardianship of said child may be assigned to any person or institution that the District Court may deem fit and capable of supporting, maintaining, and educating such child. Provided however, that in no case shall a depend-

ent child be taken from his parents without their consent unless after diligent effort has been made to avoid such separation the same shall be found by the Court needful and necessary in order to prevent serious detriment to the welfare of such child.

Appointment of Guardians

Sec. 12. The transfer of the custody and guardianship of children as provided for herein shall not affect the estate of such minor, but guardians therefor shall be appointed as now provided by law, provided that preference shall be given to legally appoint and constitute guardians of the persons of such children as provided herein over the parent or parents who have relinquished, voluntarily or involuntarily, the guardianship of said children.

[Acts 1931, 42nd Leg., p. 323, ch. 194; Acts 1969, 61st Leg., p. 2273, ch. 765, § 1, eff. Sept. 1, 1969.]

Section 13 of the Act of 1931 provides that if any provision is declared unconstitutional, such holding shall not affect the remaining provisions.

Abolition of Division of Child Welfare. Section 9 of the Public Welfare Act of 1939, Acts 1939, 46th Leg., p. 544, read as follows:

"a. All of the rights, powers, and duties heretofore conferred by law on the Division of Child Welfare of the Board of Control, when not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose the Division of Child Welfare, records, and physical properties are transferred to the State Department and placed under its supervision, and the Division of Child Welfare of the State Board of Control is hereby abolished.

"b. All of the rights, powers, and duties heretofore conferred by law upon the Texas Relief Commission, not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act, and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose, the records, and physical properties of the Texas Relief Commission are transferred to the State Department of Public Welfare and placed under its supervision, and the Texas Relief Commission, as referred to in Chapter 30, of the Acts of 1935 [article 842e (repealed)] is hereby abolished.

"c. All of the rights, powers, and duties heretofore conferred by law upon the Texas Old Age Assistance Commission, when not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act, and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose, the records and physical properties are hereby transferred to the State Department and placed under its supervision, and the Texas Old Age Assistance Commission is hereby abolished.

"d. Provided, that no provision of this Act shall in any manner interfere with the powers and functions of the Vocational Rehabilitation Division of the Department of Education, the State Commission for the Blind, or the Division of Maternal and Child Health of the State Health Department, or the Juvenile Boards of any of the counties authorized by Title 82, Revised Civil Statutes as amended [article 5119 et seq.]."

The Public Welfare Act of 1939 was amended and reenacted by the Public Welfare Act of 1941, 47th Leg., p. 914, ch. 562, incorporated in article 695c.

For duties and functions of the State Department of Public Welfare with reference to child welfare services, see sections 4 and 5 of article 695c, and article 695e.

Acts 1969, 61st Leg., p. 2273, ch. 765, § 1, amending section 4 of this article, provided in sections 2 to 4:

"Sec. 2. The effective date of this Act shall be September 1, 1969.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Art. 695a-1. Licensing of Child-care Institution Administrators

Definitions

Sec. 1. In this Act the following words have the indicated meaning.

(1) "Child-caring institution" means a children's home, orphanage, institution, or other place maintained or conducted with or without profit by a person or a public or private agency, association, or corporation which engages in receiving and caring for dependent, neglected, handicapped, or delinquent children, or children in danger of becoming delinquent, or other children in need of group care, and which gives 24-hour-a-day care to more than six children.

(2) "Child care administrator" means a person who exercises direct administrative control and supervision of a child-caring institution and who is responsible for its program and personnel, irrespective of whether or not he has an ownership interest in the institution and whether or not his functions and duties are shared with one or more persons.

(3) "Department" means the State Department of Public Welfare.

Required License

Sec. 2. Beginning January 1, 1974, no person may serve as a child care administrator of a child-caring institution unless he holds a child care administrator's license issued by the State Department of Public Welfare pursuant to this Act.

Qualifications for License

Sec. 3. (a) To be eligible for a child care administrator's license a person must have the qualifications set forth in this section.

(b) He must be a citizen of the United States or must have legally declared his intention of becoming a citizen.

(c) He must present substantiating evidence in writing of his good moral character, ethical commitment, and sound physical and emotional health and maturity.

(d) He must have the following educational qualifications and experience:

(1) a master's or doctor of philosophy degree in social work or other area of study and one year of experience in the management or supervision of child care personnel and programs;

(2) a bachelor's degree and two years of experience in child care or a closely related field, including one year of experience in the management or supervision of child care personnel and programs;

(3) an associate degree from a junior college and four years of experience in child care or a closely related field, including one year of experience in the management or supervision of child care personnel and programs; or

(4) a high school diploma or its equivalent and six years of experience in child care or a closely related field, including one year of experience in the management or supervision of child care personnel and programs.

(e) He must successfully pass an examination devised and administered by the department to demonstrate competency in the field of child care administration. A fee of \$25 shall be assessed by the department to cover the cost of administering the examination.

Issuance of License

Sec. 4. A person who meets the qualifications established in Section 3 of this Act may apply to the department for a child care administrator's license. The application must be accompanied by a license fee of \$25. If the department determines that the applicant has satisfied all requirements, it shall issue a license which is valid for a period of two years from the date of issuance.

Renewal of License

Sec. 5. To be eligible for the renewal of a child care administrator's license, a licensee must present evidence to the department that he has engaged in a program of continuing education approximating 15 actual hours of formal study during the two-year period covered by his prior license. Areas of acceptable study include legal aspects of child care, management, human development, personnel practices, principles of child care, concepts related to the field of social work, and other subjects approved by the department. The fee for a renewal license is \$25.

Provisional License

Sec. 6. (a) Until December 31, 1974, the department may grant a provisional child care administrator's license to an applicant who has not taken the required examination if he is a citizen of the United States, if he presents substantiating evidence of his good moral character, ethical commitment, and sound physical and emotional health and maturity, and if he has the following educational background and experience:

(1) a master's or doctor of philosophy degree in social work or a related field satisfactory to the department and three years of professional administrative experience in child care;

(2) a bachelor's degree based upon a program of studies primarily in the field of social work or a related field satisfactory to the department and six years of professional administrative experience in child care; or

(3) an associate degree in child care from a junior college or other special training satisfactory to the department and eight years of administrative experience in child care.

(b) A provisional license is valid for a period of two years from the date of issuance and may not be renewed. The fee for a provisional license is \$25.

Revocation of License; Grounds

Sec. 7. The department may revoke a child care administrator's license if it finds that the licensee:

- (1) has been convicted of a felony;
- (2) has been convicted of a misdemeanor involving fraud or deceit;
- (3) has a habit of intemperance in the use of alcohol or is addicted to a dangerous drug; or
- (4) has been grossly negligent in the performance of his duties as a child care administrator.

Appeal

Sec. 8. A person whose application for an original or renewal license is denied or whose license is revoked by the department is entitled to written notice of the reasons assigned by the department for the denial or revocation and may request a hearing by the Department of Public Welfare. The hearing shall be held within 30 days after written request is made to

the board. If after the hearing the board denies or revokes the license, the applicant or licensee may challenge the board's action in a suit filed within 30 days in the district court in the county or residence of the applicant or licensee. The trial shall be de novo as that term is used in appeals from a justice court to a county court.

Advisory Council

Sec. 9. The State Board of Public Welfare shall appoint an advisory council on child care administration composed of six persons with experience in the field of child care or social work. Each member of the council serves a term of two years from the date of his appointment and is entitled to reimbursement for actual expenses incurred in carrying out his official duties. The council shall advise the board on matters relating to the licensing of child care administrators, including the content of the examination administered to applicants for licenses.

Rules and Regulations

Sec. 10. The State Board of Public Welfare may make reasonable rules and regulations to carry out the provisions of this Act.

Penalty

Sec. 11. A person who violates a provision of this Act is guilty of a misdemeanor and upon conviction shall be fined not less than \$50 nor more than \$100.

[Acts 1973, 63rd Leg., p. 543, ch. 231, eff. Aug. 27, 1973.]

TITLE 20A

BOARD AND DEPARTMENT OF PUBLIC WELFARE

Article

- 695b. Repealed.
- 695c. Public Welfare Act of 1941.
- 695c-1. Finding Deserting Fathers.
- 695c-2. Repealed.
- 695c-3. Fees for Assisting in Obtaining Welfare Assistance; Solicitation.
- 695d. Time Limit for Presentation of Disbursing Orders for Relief Issued Before October, 1936.
- 695e. Transfer of Child Welfare Services from State Board of Control to Department of Public Welfare.
- 695f. Child Welfare Service Fund.
- 695g. Federal Old Age and Survivors Insurance Coverage for County and Municipal Employees.
- 695h. Federal Old Age and Survivors Insurance Coverage for State Employees.
- 695i. Repealed.
- 695j. Medical Assistance to Recipients of Public Assistance.
- 695j-1. Medical Assistance Act of 1967.
- 695k. Texas State Committee on Aging.
- 695k-1. Contribution of Funds to Local Organizations Cooperating With Governor's Committee on Aging; Counties of 24,400 to 24,500.
- 695l. Uniform System of Accounting; Counties, Hospital Districts and Certain Cities; Quarterly Reports.

Art. 695b. Repealed by Acts 1939, 46th Leg., p. 544, § 47

Art. 695c. Public Welfare Act of 1941

Definitions

Sec. 1. As used in this Act:

- (1) "State Board" means the State Board of Public Welfare.
- (2) "State Department" means the State Department of Public Welfare.
- (3) "Commissioner of Public Welfare" means Commissioner of the State Department of Public Welfare.
- (4) "Public Welfare" means and includes all forms of public assistance and specific services provided for in this Act.
- (5) "Old Age Assistance" means money payments to needy aged individuals.
- (6) "Aid and Services to Needy Families with Children" means money payments and services with respect to needy families with a dependent child or children.
- (7) "Aid to the Blind" means money payments to blind individuals who are needy.
- (8) "Child Welfare Services" means services for children provided for in this Act.
- (9) "Applicant" means an individual who has applied for assistance under this Act.
- (10) "Recipient" means an individual who is receiving assistance under the provisions of this Act.

State Department of Public Welfare

Sec. 2. (1) There is hereby created a State Department of Public Welfare which shall consist of a State Board of Public Welfare, an Executive Director, and such other officers and employees as may be required to efficiently carry out the purposes of this Act. The State Board of Public Welfare shall be composed of three (3) members to be appointed by the Governor of the State of Texas with the advice and consent of the Senate on the basis of demonstrated interest in, and knowledge of, public welfare and who have had experience as an executive or administrator; the term of one member to expire January 20, 1943, the term of one member to expire January 20, 1945, and the term of one member to expire January 20, 1947; provided, however, that the present members of the State Board of Public Welfare who have previously been appointed by the Governor and confirmed by the Senate shall continue to hold office for the terms to which they have been appointed. The Governor shall designate which appointee he desires to fill each term and vacancies shall be filled for any unexpired term by appointment by the Governor with the advice and consent of the Senate. On January 20, 1943, and biennially thereafter, one member of said Board shall be appointed for a full term of six (6) years, and each member of said Board shall hold office until his successor has been appointed and has qualified by taking the oath of office. The State Board of Public Welfare shall have its office in Austin, Texas, in such building as shall be designated and approved by the State Board of Control.

(1)a. From and after the passage of this Act, the title of the office of "Executive Director" as created in Section 2 of this Act is and shall be changed to the title of "Commissioner of Public Welfare", and all of the powers and duties heretofore assigned to the "Executive Director" shall be vested in the "Commissioner of Public Welfare". Nothing in this Act shall be construed as removing any authority, duty or responsibility now vested in the "Executive Director". The only purpose is to change the title of the office from "Executive Director" to "Commissioner of Public Welfare".

Whenever the title "Executive Director" (of the Department of Public Welfare) or any reference thereto appears in the Legislative Statutes of Texas or in any amendments thereto, such title and such reference shall hereafter mean and apply to the "Commissioner of Public Welfare" in order to conform to the new title as provided herein.

(2) At the first meeting of the members of said Board, after their appointment and biennially thereafter upon the appointment of a new member thereof, one of the members thereof shall be elected Chairman to preside over all meetings of such Board, and two (2) members thereof shall constitute a quorum for the transaction of business.

(3) The members of the State Board of Public Welfare shall receive their actual expenses while engaged in the performance of their duties and a per diem of Twenty-five Dollars (\$25) per day for not exceeding sixty (60) days for any fiscal year.

**Executive Director of State Department;
Qualifications; Appointment**

Sec. 3. (1) The Board shall select and appoint, with the advice and consent of two thirds of the membership of the Senate, an Executive Director of the Department of Public Welfare, who shall be the executive and administrative officer of the State Department and shall discharge all administrative and executive functions of the State Department. Such person so selected and appointed shall be not less than thirty-five (35) years of age at the date of his appointment, and shall have been a resident citizen of the State of Texas for at least ten (10) years preceding the date of his appointment, and shall not have been an occupant of any elective State office at the time of his appointment, nor have occupied any elective State office during the six (6) months next preceding the date of his said appointment. He shall be a person of demonstrated executive ability and extensive experience in public welfare administration, or shall have had experience as an executive or administrator, and shall serve at the pleasure of the State Board. Provided, however, that the present Executive Director who has previously been appointed by the State Board and confirmed by the Senate shall continue to hold office for such period of time as may be determined by the State Board.

(2) The Board shall be responsible for the adoption of all policies, rules and regulations for the government of the State Department of Public Welfare.

(3) The Board, its agents, representatives, and employees shall constitute the State Department of Public Welfare and whenever, by any of the provisions of this Act, or of any other Act, any right, power, or duty is imposed or conferred on the State Department of Public Welfare, the right, power, or duty so imposed or conferred shall be possessed and exercised by the Executive Director unless any such right, power, or duty is specifically delegated to the duly appointed agents or employees of such department, or any of them, by this Act or by an appropriate rule, regulation, or order of the State Board.

Duties and Functions of State Department

Sec. 4. The State Department shall be charged with the administration of the welfare

activities of the State as hereinafter provided. The State Department shall:

(1) Administer aid to needy dependent children, assistance to needy blind, and administer or supervise general relief;

(2) Administer or supervise all child welfare service, except as otherwise provided for by law;

(3) Administer assistance to the needy aged;

(4) Cooperate with the Federal Social Security Board, created under Title 7 of the Social Security Act enacted by the Seventy-fourth Congress and approved August 14, 1935,¹ and any amendment thereto, and with any other agency of the Federal Government in any reasonable manner which may be necessary to qualify for Federal Aid for Assistance to persons who are entitled to assistance under the provisions of that Act, and in conformity with the provisions of this Act, including the making of such reports, in such forms and containing such information as the Federal Social Security Board or any other proper agency of the Federal Government may, from time to time, require, and comply with such requirements as such Board or agency may, from time to time, find necessary to assure the correctness and verifications of such reports;

(5) Assist other departments, agencies and institutions of the local State and Federal Governments, when so requested and cooperate with such agencies when expedient, in performing services in conformity with the purposes of this Act;

(6) Fix the fees to be paid to ophthalmologists or physicians skilled in treatment of diseases of the eye for the examination of applicants for, and recipients of, assistance as needy blind persons;

(7) Establish and provide such method of local administration as is deemed advisable, and provide such personnel as may be found necessary for carrying out in an economical way the administration of this Act. To serve in an advisory capacity to such local administrative units as may be established, there may be also established local advisory boards of public welfare, which boards shall be of such size, membership, and experience as may be determined by the Commissioner of the Department of Public Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject;

(8) Carry on research and compile statistics relative to the entire Public Welfare Program throughout the State, including all phases of dependency, delinquency, and related problems, and develop plans in cooperation with other public and private agencies for the prevention as well as treatment of conditions giving rise to public welfare problems;

(9) Have authority, any provision of law to the contrary notwithstanding, to dismiss without notice any person employed in the administration of this Act upon receipt of notice of a determination by the United States Civil Service Commission that such person has violated the provisions of the Act of Congress entitled an "Act to prevent pernicious political activities" as amended² (U.S.C., Title 18, Section 61a) and that such violation warrants the removal of such person from his employment;

(10) Have authority to establish by rule and regulation a Merit System for persons employed by the State Department of Public Welfare in the administration of this Act; and shall provide by rule and regulation for the proper operation and maintenance of such Merit System on the basis of efficiency and fitness, and may provide for the continuance in effect of any and all actions theretofore taken in pursuance of the purposes of this subsection. The State Department is empowered and authorized to adopt regulations that may be necessary to conform to the Federal Social Security Act approved March 14, 1935, as amended,³ and shall have the power and authority to provide for the maintenance of a Merit System in conjunction with any Merit System applicable to any other State agency or agencies operating under the said Social Security Act as amended.

The Social Security Board shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods.

It is further provided that if any Merit Council is set up under authority of this Act the members and the executive head thereof shall be appointed subject to the confirmation of two thirds of the Senate.

(11) The Council shall provide for a preference in every State Department in this State (under which the Council has supervision) to all honorably discharged soldiers, sailors, nurses, and marines from the army and navy of the United States in the late Spanish-American and Philippine Insurrection Wars and the late World War when the United States of America was engaged in war against the Imperial Government of Germany and its allies and who are and have been residents or citizens of the State of Texas for a period of ten (10) years and who are competent and fully qualified shall be entitled to preference in appointments and employment; provided further that they shall receive a credit of five (5) points to be added to their merit ratings.

(12) Notwithstanding any other provisions contained in the law, the State Department of Public Welfare is authorized and empowered, at such times as may be necessary in order that Federal matching

money will be available for public welfare programs administered by the Department for and/or on behalf of needy persons, and at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope of the public welfare programs and the services provided in relation to such programs to and on behalf of clients and related groups so as to include, in whole or in part, the entire range of public welfare assistance and/or services designed to help families and individuals attain or retain capability for independence or self-care and for such rehabilitation and other services as may be prescribed or authorized under Federal laws and rules and regulations, as they now are or as they may hereafter be amended.

The State Department shall have the authority to establish and maintain such programs designed to accomplish these objectives; and is authorized and empowered to enter into agreements with Federal agencies, other State agencies, or other public or private agencies, or individuals for the purpose of achieving these goals and accomplishing these purposes. Such agreements or contracts entered into between the State Department of Public Welfare and any other State agency shall not be subject to or controlled by "The Interagency Cooperation Act", being Article 4413(32), Vernon's Texas Civil Statutes.

The State Department of Public Welfare is authorized to accept, expend, and transfer any and all Federal and State funds appropriated for such purposes. The State Department of Public Welfare is authorized to accept, expend and transfer funds received from a county, municipality, or any public or private agency or from any other source; and such funds shall be deposited with the State Treasury, subject to withdrawal upon order of the Commissioner of Public Welfare in accordance with rules and regulations adopted by the Department and as authorized herein.

If any portion of the public welfare laws or amendments thereto are found to be in conflict with the provisions of the appropriate Federal statutes, as they now are or as they may hereafter be amended, then and in that event, the State Department of Public Welfare is specifically authorized and empowered to prescribe by means of rules and regulations such policies as may be necessary in order that the State may receive and expend Federal matching funds to the fullest extent possible within the Constitutional provisions relating to public welfare and in accordance with the provisions of this Act and the Federal statutes as they now are or as they may hereafter be amended and within the limits of appropriated funds.

¹ 42 U.S.C.A. §§ 901 to 904.

² See 18 U.S.C.A. § 595.

³ 42 U.S.C.A. § 301 et seq.

Divisions in State Department

Sec. 5. The Commissioner of Public Welfare is hereby authorized to create such divi-

sions within the State Department of Public Welfare as the commissioner may find necessary for effective administration and for carrying out the functions and responsibilities of the Department in compliance with the Federal and State Laws, as they now read or as they may hereafter be amended.

The commissioner shall have the power to allocate and reallocate functions among the Divisions within the Department and have the power and authority, subject to classification, to select, appoint, and discharge such assistants, clerks, stenographers, auditors, bookkeepers, and clerical assistants as may be necessary in the administration of the duties imposed upon the State Department of Public Welfare within the limits of the appropriations that may be made for the work of said Department.

State Department as Agency of State; Social Security

Sec. 6. The State Department is hereby designated as the State agency to cooperate with the Federal Government in the administration of the provisions of Title I,¹ Title IV,² Part 3 of Title V,³ and Title X,⁴ of the Federal Social Security Act and of the provisions of such other titles of the Federal Social Security Act as may be added thereto, from time to time, in the event no other State agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such title, or titles, as may be added to the Social Security Act and the Department is directed to enact and promulgate such rules and regulations as may be necessary to effect the cooperation as herein outlined and designated. The State Department is hereby authorized and directed to cooperate with the proper departments of the Federal Government and with all other departments of the State and local governments in the enforcement and administration of such provisions of the Federal Social Security Act and any amendments thereto and the rules and regulations issued thereunder, and in compliance therewith, in the manner prescribed in this Act or as otherwise provided by law.

¹ 42 U.S.C.A. §§ 301 to 306.

² 42 U.S.C.A. §§ 601 to 606.

³ 42 U.S.C.A. § 721.

⁴ 42 U.S.C.A. §§ 1201 to 1206.

State Department as Agency of State; "Economic Opportunity Act of 1964"

Sec. 6-A. (a) The State Department of Public Welfare is hereby designated as the State Agency to cooperate with the Federal Government in the administration of the provisions of Title V of the "Economic Opportunity Act of 1964"¹ and of the provisions of such other applicable titles of the "Economic Opportunity Act of 1964" as are now provided or as may be added thereto from time to time in the event no other State Agency is by law designated to cooperate with the Federal Government in the administration of the provisions of such title or titles as may be added to said Act, and the Department is directed to enact and promulgate such rules and regulations as may

be necessary to effect the cooperation as herein outlined and designated.

The State Department of Public Welfare is hereby authorized and directed to take all necessary and proper action to administer the programs contemplated in Title V and such other applicable titles of said Act and to cooperate with the proper Departments of the Federal Government and with all other Departments of the state and local governments in the enforcement and administration of such provisions of the "Economic Opportunity Act of 1964" and any amendments thereto and/or any other related Federal Acts enacted for the purpose of carrying out the provisions of the "Economic Opportunity Act of 1964" and any amendments thereto, and the rules and regulations issued thereto and in compliance therewith, in the manner prescribed in this Act or as otherwise provided by law.

(b) The State Department of Public Welfare shall establish reasonable rules and regulations for setting up and expanding experimental, pilot, or demonstration projects for the purpose of providing and extending the opportunities for constructive work experience and other needed training available to needy persons, who are unable to support or care for themselves or their families, so as to assist them in securing and retaining employment or attaining or retaining capability for self-support, subject to the limitations and restrictions, and within the limits of the appropriations provided under the "Economic Opportunity Act of 1964."

(c) The State Department of Public Welfare shall have the authority to employ such personnel as may be found necessary by the Commissioner of Public Welfare and/or to make such arrangements as are necessary to efficiently carry out the purposes of this Act.

At such time as appropriations are made available for such purposes, the State Department of Public Welfare is authorized to use such funds for the administrative cost of the operation of the programs established under the "Economic Opportunity Act of 1964," or as it may hereafter be amended, including but not limited to the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and administrative expenses of the State Department of Public Welfare, and said Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administration for the purpose of administering the public welfare programs for which the Department is responsible, and shall in no way lessen the authority

or the power of the Commissioner of Public Welfare to allocate and reallocate functions of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, Page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.²

(d) The State Department of Public Welfare shall establish reasonable rules and regulations for safeguarding the confidential nature of information obtained from and on behalf of persons affected by this program and shall establish sufficient safeguards to restrict the use or disclosure of information obtained from or pertaining to persons affected by the program to purposes directly connected with the administration of the program.

¹ 42 U.S.C.A. § 2921 et seq.

² Article 695c, § 5.

State Department as Agency of State; Distribution of Federal Surplus Commodities and other Federal Resources

Sec. 7. The State Department is hereby designated as the State agency to cooperate with the Federal Government in the proper administration and distribution of Federal surplus commodities and any other Federal resources now on hand and available, or that may be provided in the future. The State Department is hereby designated as the State agency to administer or supervise referrals and certifications to the Works Project Administration, the National Youth Administration and the Civilian Conservation Corps. The State Department may cooperate with any city or county in any manner deemed necessary for the proper operation of these programs.

Commodity Distribution; Food Stamps

Sec. 7-A. There is hereby created in the State Department of Public Welfare a new Division to be known as the "Commodity Distribution Division." The State Department of Public Welfare shall be responsible for the distribution of such commodities and/or food stamps as may be made available to the State Department of Public Welfare by the United States Department of Agriculture or any other federal agency or department. The State Department of Public Welfare shall establish policies of operation and place into effect appropriate rules and regulations to assure the widest and most efficient distribution of agricultural commodities and/or food stamps to eligible recipients of the State. The Department shall have the authority to establish Distribution Districts on a geographical basis and to employ such Distributing Agents as may be determined necessary by the Commissioner of the State Department of Public Welfare and/or make such arrangements to efficiently effect the distribution of commodities and/or food stamps as the Department shall deem necessary.

The State Department of Public Welfare shall select and is hereby authorized to employ such personnel as it may deem necessary to carry out the provisions of this Act.

In order to effectuate the provisions of this Act, the State Department of Public Welfare is hereby authorized and empowered to enter into agreements with the United States Department of Agriculture and any other federal agency or department as a prerequisite to the allocation of commodities and/or food stamps, and with eleemosynary institutions, schools and other eligible agencies and recipients of commodities and/or food stamps. The State Department of Public Welfare is further authorized and empowered to enter into contracts or agreements with any State institutions or agencies or with private agencies for the processing of perishable commodities in order that they may be preserved for subsequent distribution to eligible recipients, such contracts or agreements to be on a nonprofit basis, with the cost of processing to be borne by each recipient on a pro rata basis in relation to the amount of the processed commodities received by the respective Districts. It is further authorized and empowered to levy and assess reasonable handling charges against such recipients to the extent necessary in the distribution of commodities and/or food stamps provided that the total operations will be conducted on a nonprofit basis. Such assessments shall be uniform in each Distribution District and at a rate agreed upon by the State Department of Public Welfare, provided that such assessments for commodities and/or food stamps shall not exceed Sixty Cents (60¢) per annum per capita recipient. The assessments shall be made by the State Department of Public Welfare at such times and in such amounts, not to exceed the limitations herein stated, as the Department deems necessary for the proper administration of these Programs.

It is further provided that the money to be assessed shall be paid to the State Department of Public Welfare and shall be used for no other purposes except for the necessary economic operation of the Programs subject to rules and regulations which may be established by the State Department of Public Welfare, by the provisions of this Act, and by the provisions of the general appropriation Acts of the Legislature. The funds received by the State Department of Public Welfare shall be deposited in a separate account in the State Treasury, and shall be subject to withdrawals upon authorization by the Commissioner of said Department. The State Department of Public Welfare is hereby authorized and empowered to establish in each Distribution District, under the direction of the State Department of Public Welfare, a revolving fund or petty cash expense fund for the purpose of making emergency payments for services or goods, or other necessary emergency activities. The amounts of such funds shall be set by the Commissioner of the State Department of Public Welfare in relation to the anticipated needs of the respective Districts and in accordance with rules and regulations prescribed by the State Department of Public Welfare. Creation and reimbursement of said revolving fund shall be paid out of as-

assessments collected by the State Department of Public Welfare from the recipients of commodities and/or food stamps.

The Agent shall be bonded and it shall be the duty of the State Department of Public Welfare to audit his records at least once annually and at any other time as deemed expedient by the Department.

The revolving fund at the disposal of each Distributing Agent shall be deposited in a bank designated by the Commissioner of the State Department of Public Welfare in an account to be known as the "Commodity Distribution Fund" and such money shall be expended upon the authority of the Distributing Agent under the direction of the State Department of Public Welfare. The Distributing Agent will make a monthly report to the State Department of Public Welfare of funds received and disbursed. In the event of the termination of the Commodity Distribution Program and/or the Food Stamp Program, the money remaining on hand in the "Commodity Distribution Fund" in each District, after all due and just accounts are paid, will be refunded to the contributors on a pro rata basis. In the event of the termination of the Commodity Distribution Program and/or the Food Stamp Program, the money remaining on hand in the separate special fund in the bank in Austin created pursuant to and in accordance with the provisions of this Act, after all due and just accounts are paid will be refunded to the contributors on a pro rata basis.

All equipment or property now in use by the various Distributing Agents over the State which was purchased from funds made available directly or indirectly from the distribution of commodities and/or food stamps are hereby transferred to the State Department of Public Welfare and from and after the effective date of this Act shall be the responsibility of the State Department of Public Welfare. In the event of the termination of the Commodity Distribution Program and/or the Food Stamp Program, such equipment, or any subsequently purchased from the "Commodity Distribution Fund," shall be sold on the basis of competitive bids; the proceeds to be deposited in the "Commodity Distribution Fund" in the respective Districts and liquidated as provided elsewhere in this Act.

The State Department of Public Welfare is hereby authorized to sell used commodity containers and the proceeds from the sale of the used commodity containers in each District shall be deposited in the special fund known as the "Commodity Distribution Fund" to be used for the purpose of furthering the commodity program and expended as hereinbefore provided.

The State Department of Public Welfare may establish on a State and/or District level Advisory Boards to serve in advisory capacity to facilitate the operation of the Commodity Distribution Program and/or the Food Stamp Program; such Advisory Boards shall be of

such size, membership, and experience as may be determined by the Commissioner of the Department of Public Welfare to be essential for the accomplishment of the purposes of this Act not in conflict with or duplication of other laws on this subject.

State Department as Agency of State;
Dependent Children

Sec. 8. The State Department is hereby designated as the agency to cooperate with the Children's Bureau of the United States Department of Labor in:

(1) Establishing, extending, and strengthening, especially in predominantly rural areas, public welfare services for the protection and care of homeless, dependent, and neglected children in danger of becoming delinquent; and

(2) Developing State services for the encouragement and assistance of adequate methods of community child welfare organization and paying part of the cost of district, county or other local child welfare services in areas predominantly rural and in other areas of special need; and as may be determined by the rules and regulations of said State Department; and

(3) Developing such plans as may be found necessary to effectuate the services contemplated in this Section, and to comply with the rules and requirements of the Children's Bureau of the United States Department of Labor issued and prescribed in conformity with, and by virtue of the Federal Social Security Act as amended.¹

¹ 42 U.S.C.A. § 301 et seq.

Child-Caring Institutions

Sec. 8(a). As used in this Act, the following terms, words, and provisions shall be construed as defined and set forth herein.

1. *Definitions.*

(a) Child-Caring Institution. A child-caring institution is defined as any children's home, orphanage, institution or other place maintained or conducted, without profit, by any person, public or private association, or corporation, engaged in receiving and caring for dependent, neglected, handicapped, or delinquent children, or children in danger of becoming delinquent, or other children in need of group care, and which gives twenty-four (24) hours a day care to more than six (6) children.

(b) Commercial Child-Caring Institution. A commercial child-caring institution is defined as any children's home, orphanage, institution or other place maintained or conducted, for profit by any person, public or private association, or corporation, engaged in receiving and caring for dependent, neglected, handicapped, or delinquent children, or children in danger of becoming delinquent, or other children in need of group care, and which gives twenty-four (24) hours a day care to more than six (6) children.

(c) Day Care Center. A day care center is any place maintained or conducted under pub-

lic or private auspices, without profit, which cares for more than six (6) children during a part of the twenty-four (24) hours of the day.

(d) Commercial Day Care Center. A commercial day care center is any place maintained or conducted, for profit, under public or private auspices which cares for more than six (6) children during a part of the twenty-four (24) hours of the day.

(e) Commercial Boarding Home. A commercial boarding home is a private home or place of residence of any person or persons, which operates for profit, where six (6) or less children under sixteen (16) years of age are received for care and custody or maintenance, apart from their own family or relatives, for either part of the day or for twenty-four (24) hour-a-day care.

(f) Child-Placing Agency. A child-placing agency is hereby defined to mean any person, public or private association, or corporation, which assumes care, custody or control of one or more children under sixteen (16) years of age, and which plans for the placement of, or places, any child or children in any institution, foster or adoptive home, provided that natural parents of any such child or children are excluded from this definition.

Child-Placing Activity. Any person who arranges for the placement with a third party of a child not related to him, or aids or abets in such placement, shall be deemed to be engaged in a child-placing activity.

(g) Agency Boarding Home. An agency boarding home is a private home, caring for six (6) or less children, used only by a licensed child-placing agency, which agency has determined and has certified to the State Department of Public Welfare that such home meets minimum rules and regulations promulgated by the State Department of Public Welfare, and which agency shall provide supervision both for the boarding home and each child so placed therein.

(h) Convalescent Children's Boarding Home. A convalescent children's boarding home is any place under public or private auspices which gives twenty-four (24) hour-a-day care to six (6) or less children, who are physically handicapped, under medical and/or social supervision, away from their own homes, and not within a hospital.

(i) Convalescent Children's Foster Group Home. A convalescent children's foster group home is any place under public or private auspices which gives twenty-four (24) hour-a-day care to more than six (6) children, who are physically handicapped, under medical and/or social supervision, away from their own homes, and not within a hospital.

(j) Solicitation of Funds. Solicitation of funds herein means the acts of any person, association, or corporation in soliciting or collecting any contributions in money or other property by appeals through mail, or by other direct or indirect public solicitation, for the purpose of operating any institution, agency,

or facility coming within the purview of this Act.

2. *Provisions for License to Operate.*

(a) Child-Caring Facility. Every person, association, institution, or corporation, whether operating for profit or without profit, who shall conduct or manage a child-caring institution, agency, or facility coming within the purview of this Act shall obtain a license to operate from the State Department of Public Welfare, which license shall be in full force and effect until suspended or rescinded by the Department of Public Welfare as hereinafter provided.

(b) Child-Placing Facility. Every person, association, institution, or corporation, whether operating for profit or without profit, who shall conduct or manage a child-placing agency, who shall place any child or children who are under the age of sixteen (16) years, whether occasionally or otherwise, away from his own home or relative's home, shall obtain from the State Department of Public Welfare a license to operate as a child-placing agency, which license shall be in full force and effect until suspended or revoked by the Department of Public Welfare as hereinafter provided, except that nothing in this Act shall prohibit a natural parent from placing his own child or prohibit a grandparent, uncle, aunt, legal guardian, brother or sister, having attained their majority, from placing a child under the age of sixteen (16) years in the home of relatives or in a licensed institution, agency, or facility coming within the purview of this Act.

(c) Adoption. Every person, association or corporation, whether operating for profit or without profit, other than a natural parent, who shall place any child or children under the age of sixteen (16) years for adoption, whether occasionally or otherwise, shall obtain a license to operate in child-placing from the State Department of Public Welfare, which license shall be in full force and effect until suspended or rescinded by the State Department of Public Welfare as hereinafter provided.

(d) Free Choice of Agency. It is not the intent of this Act to deprive any person or persons of the right and privilege, except in instances where that right or privilege has been removed by court action, of choosing the licensed agency through which the child or children shall be placed for care or adoption whether the agency be private, public, or the State Department of Public Welfare; nor is it the intent of this Act to deprive any person or persons of the right and privilege of commencing and maintaining appropriate proceedings in a court of proper jurisdiction for custody or adoption of such child or children.

The State Department of Public Welfare shall maintain a complete list, or directory, of licensed child-caring and child-placing institutions and agencies, a copy of which shall be furnished any citizen of Texas upon request.

(e) Fees. (1) Child-placing agencies, in cases either of placement for adoption or of

placement for care and custody, shall not be prohibited from charging a reasonable fee for placement, consultation or other child-placing activities either from the parents or other person responsible for the child involved, or from the foster parents receiving the child; the natural parents, legal guardian, or foster parents may pay such agency a reasonable amount for staff and other services, board, maintenance, and medical care of such child and may reimburse the agency for medical care and maintenance plus staff and other services on behalf of the mother of such child in accordance with rules and regulations prescribed by the State Department of Public Welfare as hereinafter provided. (2) License to operate, for each type of facility as herein defined, shall be issued without fee, and under such reasonable and uniform rules and regulations as the State Department of Public Welfare shall prescribe as hereinafter provided; and the type of facility for which a license is issued shall be indicated on such license.

(f) Agency Boarding Home. When a person, association, institution, agency, or corporation is licensed to conduct or manage a child-placing agency, the boarding homes used by such agency for the care and custody of children who are under the agency's supervision are considered "agency boarding homes" and are not to be licensed separately by the State Department of Public Welfare, provided such agency boarding homes are designated as such in writing by such child-placing agency, with a copy of such written designation being sent to the State Department of Public Welfare; and provided further, that the State Department of Public Welfare is authorized to visit any such agency boarding home with a view of ascertaining whether the children cared for in such home are being properly cared for and properly supervised by such licensed child-placing agency. Agency boarding homes shall meet minimum uniform standards as prescribed by the State Department of Public Welfare as hereinafter provided, and any child-placing agency which uses homes falling below such standards shall be subject to suspension or revocation of its child-placing license as hereinafter provided.

3. *Solicitation of Funds.*

Licenses for solicitation of funds shall be issued to child-caring and child-placing facilities, under rules and regulations promulgated by the State Department of Public Welfare under processes hereinafter provided, and in keeping with the following provisions:

(a) Existing Facility. If funds are solicited for any institution, agency, or facility coming within the purview of this Act, a special license for solicitation, separate from the license to operate, must be obtained from the State Department of Public Welfare and, in addition, no solicitation of funds for institutions and agencies coming under the purview of this Act is to be

undertaken in any county without the approval of the County Judge of such county, which County Judge shall authorize solicitation only for persons, associations or corporations licensed by the State Department of Public Welfare to solicit funds; provided that:

(1) Any such organization, agency, association, institution, or corporation whose operation is state-wide in scope may be granted a special license by the State Department of Public Welfare to solicit funds on a state-wide basis without approval of the County Judge of the respective counties; except that each agent or solicitor representing any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must bear the approval of the County Judge of the county in which the solicitation is made.

(2) Any such organization, agency, association, institution, or corporation whose operation is less than state-wide in scope, may be granted a special license to solicit funds in the county, group of counties, or region of the State, which it serves without the necessity of securing approval of the County Judge of the respective counties; except that each agent or solicitor, representing any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must bear the approval of the County Judge of the county in which the solicitation is made.

(3) Nothing in this Act shall be construed to prohibit a religious or fraternal-order institution, agency, or facility coming within the purview of this Act, which is licensed by the State Department of Public Welfare and which is incorporated under the laws of the State of Texas as a non-profit facility and whose trustees or members of its corporate governing board are elected by, or are responsible to, a recognized fraternal order, church, or religious denomination or body, whose membership is state-wide, from soliciting funds; except that each agent or solicitor, representing

any such licensed facility, who solicits on the street, or from house to house, or from place of business to place of business, or from person to person as encountered by chance in the course of such movements, shall obtain a license to solicit, shall carry his license with him, and shall display said license to solicit each time he makes a solicitation, which license must bear the approval of the County Judge of the County in which the solicitation is made.

Nothing in this Act should be construed to prohibit the officers, committees, or members of a recognized fraternal order or one of its local lodges, state-wide church, or one of its local congregations, religious body, or one of its local bodies from soliciting in behalf of their respective facility or facilities coming within the purview of this Act.

(4) Nothing in this Act shall be interpreted to interfere with the activities of civic, business or professional clubs in the operation of their civic or charitable functions, unless said club or organization actually engages in the operation of child-caring and child-placing facilities coming within the purview of this Act.

(b) Proposed New Facility. A person, association, agency, institution, or corporation, before soliciting funds for the establishment of a proposed new institution, agency, or facility coming within the purview of this Act must secure a license in order to solicit funds, which license is to be issued on the basis of a written contract between the State Department of Public Welfare and such person, association, agency, institution, or corporation, and as approved by the Attorney General of the State of Texas, which contract shall provide that a minimum amount of funds must be secured and held in escrow until the project is actually undertaken; provided that such contract shall not include any provisions for meeting any standards higher than, nor complying with any rules and regulations other than, those in effect for existing licensed facilities coming within the purview of this Act at the time said contract is entered into.

4. Authority to Inspect or Visit.

The State Department of Public Welfare shall have the authority to visit and inspect all such facilities embraced within this Act, whether licensed or unlicensed, at all reasonable times, to ascertain if same are being conducted in conformity with the law or if any conditions exist which need correction.

5. Records.

(a) Every person, agency, association, institution or corporation coming within the pur-

view of this Act, shall maintain such reasonable individual social records and individual health records; except day care centers, commercial day care centers, commercial boarding homes, agency boarding homes, and convalescent children's boarding homes, as defined in this Act, as are promulgated under the process hereinafter provided and said records shall be open for inspection by the State Department of Public Welfare at all reasonable times.

(b) Every person, agency, association, institution or corporation coming within the purview of this Act, except day-care centers, commercial day-care centers, commercial boarding homes, agency boarding homes, and convalescent children's boarding homes, as defined in subsection 1(c), 1(d), 1(e), 1(g), and 1(h) of Section 1 of this Act, shall maintain statistical records and complete financial records of income and disbursements, and shall have its books audited annually by a licensed public accountant and shall submit, annually, a copy of such auditor's statement concerning receipts and disbursements to the Executive Director of the State Department of Public Welfare, or he may accept the financial report made to the fraternal order, church, religious or denominational body which owns or controls such licensed facility, or which is published in its official organ, handbook, or minutes in lieu of the said auditor's statement. It is further provided that every person, agency, association, institution or corporation coming within the purview of this Act, upon the written request of the Attorney General of the State of Texas, shall open its books for inspection by the Attorney General, to ascertain the honesty and legitimacy of its operation.

6. Children Improperly Cared For.

Whenever the State Department of Public Welfare has reason to believe that any person, association or corporation having the care or custody of a child subjects such child to mistreatment or neglect, or immoral surroundings, it shall cause a complaint or petition to be filed in the proper court, and said Department may be represented by the Attorney General of the State of Texas in such a proceeding.

7. Denial, Suspension and Revocation of License.

(a) The State Department of Public Welfare is authorized to deny a license to a person or to an unincorporated or incorporated institution, agency, or association coming within the purview of this Act, if it or he is organized so loosely, poorly, and intangibly, or if it or he operates by such methods that said State Department reasonably concludes that the manner of organization and/or operation admits of probability of fraud being perpetrated. Appeal may be made for a hearing as provided elsewhere in this Act.

(b) The State Department of Public Welfare is authorized to suspend or revoke any license if it ascertains failure to comply with the law or with the reasonable rules and regulations

provided for herein; provided that the following procedure is followed: (1) The State Department of Public Welfare, in writing, shall call to the attention of the licensee the particulars in which he fails to comply and shall specify a reasonable time by which it is probable that the licensee can remedy said failure; then, (2) if failure to comply persists, said Department shall give written notice of intention to suspend or revoke said license thirty (30) days thereafter if no appeal for a hearing is made by the licensee; (3) if, within said thirty (30) days, licensee files with the State Department of Public Welfare written request for a hearing, the matter then shall be referred to the Advisory Board, which shall conduct a hearing and render a written opinion, as elsewhere provided for in this Act; and (4) after receiving a copy of said opinion, the State Department of Public Welfare may proceed to suspend or revoke the license in question.

8. *Advisory Board.*

(a) In the event that any person, association, agency, corporation, or facility coming within the purview of this Act is denied a license to operate or solicit funds or said license to operate or to solicit funds has been suspended or revoked, said person, association, corporation, agency or facility shall have the right to appeal within a reasonable time, and upon filing written notice of appeal, said appellant shall be granted a reasonable notice and opportunity for a fair hearing before the Advisory Board created in this Act.

Within a reasonable time prior to the appellant's appeal hearing, he, or his authorized agent, shall be fully advised of the information contained in his record on which action was based if a request for such information is made in writing, and no evidence of which the appellant is not informed shall be considered by the Advisory Board or the State Department of Public Welfare as the basis for the decision after the hearing.

(b) The Advisory Board provided for herein shall consist of five (5) members appointed by the State Board of Public Welfare. The members shall be appointed at least thirty (30) days prior to the date set for the hearing and shall be comprised of the Executive Officers of institutions coming within the same classification as the appellant, provided that not more than one (1) member shall be appointed from any one (1) institution. When the Advisory Board is appointed, the Board shall immediately select its chairman and the chairman of the Board shall notify the appellant in writing of the date and place of the hearing, said hearing to be set within a period of not more than forty-five (45) days after the Advisory Board is notified of its appointment. Members of the Advisory Board shall serve on the Board without salary, but each member attending the appeal hearing shall be paid Ten Dollars (\$10) per day for expenses, for each day in session, said payments being made by the State Department of Public Welfare out of its funds. The

Advisory Board meeting shall be held in Austin or in the immediate vicinity of the appellant's residence.

(c) At the hearing all of the evidence shall be recorded verbatim, and a copy of the transcript shall be made available to the appellant and the State Department of Public Welfare, in accordance with rules and regulations promulgated by the Department of Public Welfare.

The Advisory Board shall make written opinions and recommendations to the State Department of Public Welfare within a period of ten (10) days after the hearing is closed and failure to make the report within the time prescribed may be considered by the State Board of Public Welfare as sufficient justification for the appointment of a new Advisory Board. These opinions and recommendations shall be advisory only, and shall not be binding upon the State Department of Public Welfare.

(d) Nothing in this Article 8 concerning Advisory Boards shall be interpreted to prevent any party involved from due recourse to the courts, and in case of flagrant violation of this Act which endangers either the health or welfare of the children in the institution or facility, the person, association, corporation, agency or facility may be temporarily enjoined from operation during the pendency of the appeal.

9. *Promulgations of Rules and Regulations.*

It is the expressed intent of this Act that the State Department of Public Welfare shall be given the right and the authority to promulgate reasonable rules and regulations governing the granting of licenses to the institutions and facilities coming within the purview of this Act, and for the suspension or revocation of such license for the operation of such institutions and facilities named in this Act, or for the solicitation of funds for the maintenance of such institutions and facilities; said rules and regulations shall be reasonable, and shall be uniform in nature. A copy of the rules governing the granting, suspension, or revocation of the licenses to operate or to solicit funds, which are currently used by the State Department of Public Welfare, shall be furnished to each person, organization, agency or facility contemplated in this Act and if the State Department of Public Welfare makes changes or revisions in said rules and regulations, copies of the proposed changes shall be sent to each person, association, corporation, agency or facility coming within the purview of this Act at least sixty (60) days prior to the effective date of the proposed changes or revisions in order to enable those persons, associations, corporations, or agencies affected an opportunity to review the proposed changes and make written recommendations or suggestions concerning them, if desirable.

9a. *Rules Relating to Immunization of Children.*

(a) The State Department of Public Welfare shall promulgate rules and regulations relating to the immunization of children admitted to institutions and facilities covered by this Act.

The rules shall require the immunization of each child at an appropriate age against diphtheria, tetanus, poliomyelitis, rubella, rubeola, and smallpox, and such immunization must be effective upon the date of first entry into the institution or facility; provided however, a person may be provisionally admitted if he has begun the required immunizations and if he continues to receive the necessary immunizations as rapidly as is medically feasible. The State Department of Health shall promulgate rules and regulations relating to the provisional admission of persons to institutions and facilities covered by this Act. The State Board of Health may modify or delete any of the immunizations listed in this section or may require immunization against additional diseases as a requirement for admission to institutions and facilities covered by this Act, provided however, that no form of immunization shall be required for a child's admission to an institution or facility if the person applying for the child's admission submits either an affidavit signed by a doctor in which it is stated that, in the doctor's opinion, the immunization would be injurious to the health and well-being of the child or any member of his family or household, or an affidavit signed by the parent or guardian of the child stating that the immunization conflicts with the tenets and practice of a recognized church or religious denomination of which the applicant is an adherent or member.

(b) Each institution or facility covered by this Act shall keep an individual immunization record for each child admitted, and the records shall be open for inspection by the State Department of Public Welfare at all reasonable times.

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

10. *State Institutions Exempt.*

Child-caring and child-placing institutions and agencies, which are owned and operated by the State of Texas, are exempt from the licensing and regulatory provisions of this Act; except that this provision shall not prevent the State Department of Public Welfare, or the Board which controls a state-owned child-caring or child-placing institution or agency, from requesting the State Department of Public Welfare, or an Advisory Board composed of the Executives of licensed institutions, to give counsel, to be expressed in a written opinion, on any matter which might contribute to the efficiency of said institution or agency, and hence might be in the public interest.

11. *Injunction.*

Any person, association, or corporation, for cause, may be enjoined from soliciting for, or conducting, or managing any institution, agency, or facility coming within the purview of this Act through suit brought by the Attorney General of the State of Texas, or by the county

attorney or district attorney, in the county where such illegal practices occur.

12. *Misdemeanor.*

Any person who (i) impersonates an official, employee, representative, agent, or solicitor of any licensed institution or agency within the scope of this Act, (ii) falsely represents himself as representing a licensee under this Act, (iii) solicits funds in the name of, or for, any licensee under this Act without authorization, or (iv) without a license conducts a child-caring institution, a commercial child-caring institution, a child-placing agency, or places children for adoption, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than One Thousand Dollars (\$1,000), or confinement in county jail for not more than one (1) year, or both. Each day of violation shall be considered a separate offense.

Powers and Functions Not Affected

Sec. 9. No provision of this Act shall in any manner interfere with the powers and functions of the Vocational Rehabilitation Division of the Department of Education, the State Commission for the Blind, or the Division of Maternal and Child Health of the State Health Department, or the Juvenile Boards of any of the counties authorized by Title 82, Revised Civil Statutes of Texas, as amended.¹

¹ Article 5119 et seq.

Budget

Sec. 10. The Executive Director shall prepare and submit to the Board, for its approval, a biennial budget of all funds necessary to be appropriated by the Legislature for the State Department for the purposes of this Act, including in such budget an estimate of all Federal funds which may be allotted to this State by the Federal Government for the purposes of the State Department. The budget so prepared shall by the State Board be submitted to and filed with the Board of Control in the form and manner and within the time prescribed by law.

Reports

Sec. 11. The Executive Director shall prepare annually a full report of the operation and administration of the State Department, together with such recommendations and suggestions as he may deem advisable, and such reports shall be submitted to the State Board not later than the first day of October of each year. The State Board, in turn, shall submit a report to the Governor and the Legislature.

Blind Persons; Assistance To

Sec. 12. Assistance shall be given under the provisions of this Act to any needy blind person who:

- (1) Is over the age of eighteen (18) years; and
- (2) Whose vision, with correctional glasses, is insufficient for use in an occupation for which sight is essential; and
- (3) Who resides in the State; and
- (4) Who is not publicly soliciting alms in any part of this State. The term "pub-

licly soliciting" shall be construed to mean the wearing, carrying, or exhibiting the signs denoting blindness, or the carrying of receptacles for the reception of alms, or the doing of the same by proxy, or by begging from house to house or on any public street, road, or thoroughfare within the state; and

(5) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health; and

(6) Who is a citizen of the United States.

Blind Persons; Exceptions to Aid

Sec. 13. No aid to needy blind persons shall be given under the provisions of this Act to any individual for any period with respect to which he is receiving Old Age Assistance.

Blind Persons; Amount of Assistance

Sec. 14. The amount of assistance which shall be given under the provisions of this Act to any individual as aid to the blind shall be determined by the State Department through its district or county agencies in the county or district in which the needy blind person resides with due consideration to the income and other resources of such blind person and in accordance with the rules and regulations of the State Department. In considering eligibility and the amount of the assistance grant, the Department shall exempt from consideration the earned income from employment of such blind applicant or recipient in such amounts as may be determined by the State Department of Public Welfare in conformity with rules and regulations promulgated by said Department and which are not inconsistent with the provisions of the Federal Social Security Act, as it now is, or as it may hereafter be amended, in respect to the earned income of blind recipients. The amount of assistance given shall provide such blind person with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided.

Blind Persons; Application for Assistance

Sec. 15. No application for assistance as a needy blind person shall be approved until the applicant shall have been examined by an ophthalmologist or physician skilled in treatment of diseases of the eye who is licensed to practice medicine in Texas and who has been approved by the State Department to make such examination, or an optometrist who is legally licensed to practice optometry in the State of Texas and who has been approved by the State Department to make such examination. The examining ophthalmologist or physician or optometrist shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. The State Department shall adopt

a reasonable fee schedule for such examinations, such fees not to exceed those customarily charged by the examiner for similar examinations for his private patients. Such fees shall be paid out of the funds appropriated to the State Department for the purpose of assistance to needy blind persons under the provisions of this Act or for administrative expense.

Blind Persons; Reexamination of Eyes; Rules and Regulations

Sec. 16. Every recipient of aid to the blind shall submit to a reexamination of his eyesight at least once every two (2) years, unless excused therefrom by the State Department. The State Department shall promulgate such rules and regulations stating in terms of ophthalmic measurements, the amount of visual acuity which an applicant or recipient may have and still be eligible for assistance under this Act.

Permanently and Totally Disabled Persons; Assistance To; Acceptance of Money from Federal Government

Sec. 16-A. The State Department of Public Welfare is hereby designated as the State Department to administer financial assistance to needy individuals who are permanently and totally disabled as defined in this Act, and is designated as the State Department to cooperate with the Department of Health, Education, and Welfare or any other Federal Agency which may hereafter be designated by Federal Statute to administer such aid to needy individuals who are permanently and totally disabled, so as to provide assistance payments to permanently and totally disabled persons who meet the eligibility requirements as are herein prescribed or as may hereafter be provided.

The State Department of Public Welfare is hereby authorized to accept money from the Federal Government for the purposes enumerated in this Act, and is hereby authorized to expend such sums as may be received for such purposes and in the manner prescribed in this Act or as otherwise provided by law.

Permanently and Totally Disabled Persons; Eligibility for Assistance; Definitions; Amount of Assistance

Sec. 16-B. (1) Assistance to the permanently and totally disabled shall be given under the provisions of this Act to any needy person:

1. Who is permanently and totally disabled as hereinafter defined; and
2. Who is eighteen (18) years of age or older but less than sixty-five (65) years of age; and
3. Who is a citizen of the United States, and
4. Who resides in the State; and
5. Who is in need as hereinafter defined; and
6. Who is not receiving Old Age Assistance, Aid to the Blind, or Aid to Families with Dependent Children; and
7. Who has not disposed of property, either personal or real, for the purpose of qualifying or increasing need for assistance, provided that the property, if still

available, would affect either eligibility or the amount of the assistance payment.

No application for assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is permanently and totally disabled by reason of a mental or physical impairment or a combination of both.

(2) The term "Permanently and totally disabled", as used in this Act, means that the individual has a permanent physical or mental impairment, disease, or loss, or a combination of such which is verifiable by medical findings, which is irreversible, or progressive, and not amenable to treatment, or requires treatment that is continuous, extremely hazardous, or of questionable benefit, and renders the individual totally disabled, as demonstrated by the fact that he is restricted in his performance of usual activities of daily living to the extent that he requires services, or the presence of another person in performing these activities, and which permanently precludes the applicant from engaging in a useful occupation as a homemaker or as a wage earner.

"Permanent and total disability", as defined herein, shall be established on the basis of a current applicable medical report of examination by a physician legally licensed to practice medicine in the State of Texas and who has been approved by the State Department of Public Welfare to make such examinations. The examining physician shall certify in writing, upon forms prescribed by the State Department, such information as the Department may require for proper diagnosis, prognosis, and recommendations as to medical and surgical treatment. Said reports shall be reviewed by a physician legally licensed to practice medicine in the State of Texas and employed by the State Department of Public Welfare, who shall approve or disapprove the medical evidence to substantiate the finding of "permanent and total disability". Said reviewing physician shall also determine the feasibility of referring said applicant for vocational rehabilitation. The State Department of Public Welfare shall adopt a reasonable fee schedule for examinations, when examinations are considered necessary by the State Department of Public Welfare for the purpose of determining eligibility for assistance of individuals who are permanently and totally disabled under the provisions of this Act, and the Department of Public Welfare is hereby authorized to pay for such examinations out of the funds appropriated to the State Department for the purpose of assistance to the permanently and totally disabled persons under the provisions of this Act or for administrative expense. The State Department of Public Welfare is hereby authorized to incur claims for medical examinations which may be paid later out of subsequent appropriations for medical expenses when the current appropriation is inadequate to pay for such medical examinations.

Each recipient of assistance who is permanently and totally disabled shall submit to a reexamination whenever such reexamination is deemed necessary by the State Department of Public Welfare for the continuance of the assistance grant.

(3) The Department of Public Welfare is authorized to provide through employment of properly qualified personnel such medical, social and related services as are found necessary for proper administration of this Act, and for most effective use of other resources for rehabilitation and restoration to health and independence. The Department of Public Welfare shall refer recipients who can be benefited thereby to the appropriate public and private resources for rehabilitation through retraining, restorative services, or treatment and therapy.

(4) In determining "need", the State Department of Public Welfare shall adopt reasonable rules and regulations for the purpose of determining eligibility, and shall take into consideration all of the resources and income available to the individual from any source. Assistance may not be granted if such individual has available resources which are sufficient to provide a reasonable subsistence compatible with health and decency; provided that in consideration of income and resources actually available to an applicant, the State Department shall take into consideration the income and resources which may be available to the relatives of an applicant or a recipient, who under rules and regulations promulgated by the Department pursuant to Federal rules and regulations, are responsible for his support.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining the amounts of assistance given to an applicant. The amount of assistance given shall be determined by the State Department of Public Welfare through its District or County Agents in the County or District in which the needy person resides. The amount granted shall provide such person with a reasonable subsistence compatible with health and decency and within the limitations and provisions of the Constitution of the State of Texas, as is now provided or may hereafter be provided. The amount of such assistance out of state funds to each person assisted shall never exceed the amount so expended out of Federal funds. The method of investigation and the determination of the amount of assistance granted shall comply with the limitations and provisions of the Federal Social Security Act as is now provided or may hereafter be provided.

Permanently and Totally Disabled Persons; General Provisions Applicable To

Sec. 16-C. Sections 22 through 42 of this Act and all the other general provisions of this Act shall be applicable to the program for assistance to the permanently and totally disabled.

Aid to Families with Dependent Children

Sec. 17. Aid to Families with Dependent Children shall be given under the provisions of this Act with respect to any dependent child. "Dependent Child" is any needy child:

(1) Who is a citizen of the United States; and

(2) Who resides in the State; and

(3) Who is under the age of eighteen (18), or under the age of twenty-one (21) and (as determined by the Department in accordance with standards prescribed by the Department) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment; and

(4) Who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent; and

(5) Who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece, in a place of residence maintained by one or more of such relatives as his or their own home; and

(6) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with decency and health. In determining need, the State Department of Public Welfare shall take into consideration any other income and resources of any child or relative claiming Aid to Families with Dependent Children, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, the State Department may, subject to limitations prescribed by the Department, permit all or any portion of the earned or other income to be set aside for the future identifiable needs of the dependent child.

Dependent Child; Definition

Sec. 17-A. The term "dependent child" shall, notwithstanding the provisions of Section 17 of this Act, also include a child:

(1) Who would meet the requirements of such Section 17 except for his removal from the home of a relative as specified in said Section, as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child; and

(2) Whose placement and care are the responsibility of the State Department of Public Welfare or some other agency with whom the State Department of Public Welfare has made an agreement for the care and supervision of such child, and in compliance with the rules and regulations promulgated by the State Department of Public Welfare for carrying out the provisions of this Act and for whose placement and care the State Department of Public Wel-

fare is responsible, and who has been placed in a foster family home or child-caring institution as a result of such determination, and for whom the State may receive Federal funds for the purpose of providing foster family care in accordance with rules and regulations promulgated by the Department; and the Department is empowered and authorized to accept and expend funds made available to it from any and all sources for the purpose of providing foster care on behalf of such children. Any such homes which may not be subject to the licensing provisions of this Act are hereby made subject to such licensing provisions.

Needy Family with Dependent Children; Amount of Assistance

Sec. 18. The amount of assistance which shall be given under the provisions of this Act with respect to any needy family with dependent children shall be determined by the State Department through its district or county agencies in the district or county in which the needy family with dependent children resides with due consideration to the income and other resources of such family in compliance with Sub-section (6) of Section 17 of this Act and in accordance with the rules and regulations of the State Department. The amount of assistance given shall provide such needy family with dependent children with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided or as may hereafter be provided.

Program for Welfare and Related Services; Federal Programs and Funds; Rules and Regulations

Sec. 18-A. (1) The State Department of Public Welfare shall provide for the development and application of a program for such welfare and related services for each child who receives Aid to Families with Dependent Children as may be necessary in the light of the particular home conditions and other needs of such child, and provide for coordination of such programs with any other services provided for children in the State, and particularly with the Child Welfare Services provided by the Department, with a view of making available welfare and related services which will best promote the welfare of such child and his family and which will help to maintain and strengthen family life by helping such parents or relatives to attain or retain their capabilities for maximum self-support and personal independence consistent with the maintenance of continued parental care and protection, and in accordance with reasonable rules and regulations prescribed by the State Department of Public Welfare in cooperation with other public and private welfare agencies for the care and protection of children.

(2) The State Department of Public Welfare is authorized to promulgate rules and regulations which will enable it to fully participate in the work and training programs authorized

by Federal Law as it now reads or as it may hereafter be amended; to provide through rules and regulations for all services required or deemed advisable under the provisions of the Program; and to accept, transfer and expend funds made available by the Government of the United States, the State of Texas, or through any other public or private source for the purpose of carrying out the provisions of this Section.

Support from Parent of Child Living Outside Home

Sec. 18-B. (1) In considering the resources and income available to families with dependent children, the State Department of Public Welfare shall explore with the parent or other relative with whom the child is living the possibility of obtaining support and/or services on behalf of such child from the parent of such child who is living outside the home, and shall, in all cases where it seems appropriate and feasible to the Department, require the parent or other relative with whom the child is living to take whatever action is necessary to obtain maximum support which has been ordered pursuant to a court order for the support of said child, and shall consider such support payments wherever available in determining the needs and resources of the family with dependent children. The Department shall also provide for prompt notice to appropriate law enforcement officials of the furnishing of Aid to Families with Dependent Children in respect to a child who has been deserted or abandoned by a parent.

(2) After every reasonable effort on the part of the person having the care and custody of the child has been exerted to obtain support payments from the absent or deserting parent or other person liable for the child's support and the payments are not being made, the State Department may grant assistance payments without taking into consideration the amount of such support payments. The State Department may not withhold an assistance payment on behalf of a dependent child because of a court order for support of such child unless the amount available to said child under such court order is sufficient to supply the needs of the child in accordance with standards and rules and regulations promulgated by the State Department. If such assistance payments are made by the State Department, the State Department is authorized to file notice with the court ordering the support payments and upon receipt of such notice, the court shall order that the payments be made to the State Department to the extent that the State Department has supplied the needs of such dependent child.

The State Department shall have the right, the authority, and the responsibility to collect the payments and to take whatever legal steps are necessary to initiate support payments and to assure continuance of such payments on behalf of such child through the courts.

If payments are resumed to the person having the care and custody of the child, then the

State Department may consider such payments as being available for meeting the needs of the child and will no longer continue to seek direct payments from the court.

Moneys received under the provisions of this Act shall be deposited by the State Department in the "Department of Public Welfare Assistance Operating Fund" and used for providing assistance and services on behalf of needy dependent children.

Assistance to Needy Family with Dependent Children Living with Relatives

Sec. 19. When the investigation discloses that a family with children in whose behalf application for assistance has been made is a needy family with dependent children as defined in this Act, and that such needy dependent child meets the other provisions of this Act and that such child is living, or will live, with one or more of the relatives prescribed in this Act, assistance and/or services may be allowed for the support of such needy family with dependent children. It is expressly provided that the Department shall:

(1) Formulate policies for studying and improving the home conditions and specific needs of the child,

(2) Make plans for services for the protection of children especially in relation to specific needs of children such as health and educational opportunities. The State Department shall require that each dependent child between the ages of eighteen (18) and twenty-one (21) years to whose family or relatives or others assistance or services are allowed for the support of such dependent child shall remain enrolled in the regular term of school in the community in which the child resides, unless the State Department finds that good cause exists for the nonattendance of the child at school. Failure to comply with this requirement shall, under applicable rules and regulations of the State Department, constitute good cause for a termination of such assistance or services,

(3) Develop a mutual plan of co-ordination between the Aid to Needy Families with Dependent Children and the Child Welfare Services Programs in order to carry out its responsibilities for the protection and care of children as provided in this Act.

Counseling and Guidance Services

Sec. 19-A. Whenever the State Department of Public Welfare has reason to believe that any payments of Aid to Families with Dependent Children made with respect to a child are not being or may not be used in the best interest of the child, the State Department of Public Welfare may provide for counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as is deemed advisable in order to assure use of the payments in the best interest of the child,

and may provide for advising the relative that continued failure to so use such payments will result in substitution therefor of protective payments. If the State Department of Public Welfare determines that protective payments are required in order to safeguard the best interest of the child, payments to a substitute payee may be made on a temporary basis in accordance with rules and regulations promulgated by the State Department of Public Welfare. If the situation in the home which made the protective payments necessary does not improve and it is determined that the relative with whom the children are living is unable or does not have the capacity to use the funds for the best interest of the children, then the Department may arrange with the family for other plans for the care of the children, such as removal of the children to the home of other relatives; the appointment of a guardian or legal representative of such relative with whom the child is living, and/or the imposition of criminal or civil penalties authorized under State Law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose, or the referral to a court of competent jurisdiction for removal of the child and placement in a foster home. The State Department of Public Welfare is further authorized to make payments on behalf of dependent children residing in foster family homes or child-caring institutions in accordance with the provisions of this Act and the rules and regulations promulgated by the Department.

Old Age Assistance; Persons Eligible

Sec. 20. Old Age Assistance shall be given under the provisions of this Act to any needy person:

(1) Who has attained the age of sixty-five (65) years; and

(2) Who is a citizen of the United States or who is a noncitizen and has resided within the boundaries of the United States for at least twenty-five (25) years; and

(3) Who resides in the State; and

(4) Who has not sufficient income or other resources to provide a reasonable subsistence compatible with health and decency. Provided that in consideration of income and resources actually available to applicant the State Agency shall not evaluate income and resources which may be available only to relatives of applicant. Income and resources to be taken into consideration shall be known to exist and shall be available to the applicant. An applicant for old age assistance shall not be denied assistance because of the existence of a child or other relative, except husband or wife, who is able to contribute to the applicant's support, and no inquiry shall be made into the financial ability of said child or other relative, except husband or wife, in determining applicant's eligibility.

The applicant's child or other relative, except husband or wife, is to be treated by the State Department in the same way as any person not related to the applicant; any aid or contributions to the applicant from such child or other relative, except husband or wife, must actually exist in fact, or with reasonable certainty, be available in the future to constitute a resource to the applicant.

(5) An applicant for old age assistance shall not be denied assistance because of the ownership of a resident homestead, as the term "resident homestead" is defined in the Constitution and Laws of the State of Texas.

Old Age Assistance; Amount of Assistance

Sec. 21. The amount of assistance which shall be given under the provisions of this Act to any individual as old age assistance shall be determined by the State Department through its district or county agencies in the county or district in which the needy aged person resides with due consideration to the income and other resources of such aged person and in accordance with the rules and regulations of the State Department. A voluntary statement by any child or other relative, except husband or wife, as to the amount and kind of aid or assistance he is contributing or expects to contribute to an applicant for old age assistance shall be accepted by the State Department as prima facie evidence of the availability and amount of such contribution; provided, however, that actual contributions to the applicant must be considered by the State Department. The amount of assistance given shall provide such aged person with a reasonable subsistence compatible with decency and health, within the limitations and provisions of the Constitution of Texas as are now provided, or may hereafter be provided.

Seasonal or Occasional Employment During War

Sec. 21a. Provided, however, that until the United States of America has concluded and entered into treaties of peace with all of the nations with whom she is now at war, commonly referred to as the Axis Powers, no grant of assistance to any recipient of old age assistance who is already on the rolls or who may hereafter be placed on said rolls, and is already receiving old age assistance, shall be reduced or revoked by reason of the fact that any such needy recipient may derive or receive other and additional income to take care of his additional needs above his grant, from seasonal or occasional employment, until and unless such needy recipient shall receive more than Two Hundred Fifty (\$250.00) Dollars of outside and additional income during a calendar year; provided said recipient of old age pension reports his said employment, in writing, to the local office of Public Welfare, giving the name and address of his employer or employers at the end of each month, and giving the amount of his earnings during the month just

passed. Provided further, that neither the State Department of Public Welfare nor any of its district or county agencies in the county or district in which the needy aged person resides shall give any consideration to any such income received by recipients of old age assistance up to the amount of Two Hundred Fifty (\$250.00) Dollars that is actually derived and received in payment for labor actually performed or services rendered during a calendar year.

It is the declared purpose of this section to encourage recipients of old age assistance to aid in overcoming the great shortage of manpower during this great war emergency by performing necessary labor when and wherever possible without being faced with the possibility of having pensions reduced, or being removed from the pension rolls altogether.

Applications for Assistance

Sec. 22. Application for old age assistance, aid to the blind, and aid to dependent children under the provisions of this Act shall be made in the manner and in the form prescribed by the rules and regulations of the State Department. Such application may contain a statement of the amount of property, both personal and real, in which the applicant has an interest and of all income which the applicant may have at the time of the filing of the application, and such other information as may be required by the State Department.

Investigations and Determinations by State Department

Sec. 23. Whenever the State Department shall receive an application for old age assistance, aid to the blind or aid to dependent children as provided under this Act, the State Department shall:

(1) Make an investigation and record of the circumstances of the applicant in order to ascertain the facts supporting the application and to obtain such other information as it may require.

(2) After completion of its investigation, determine whether the applicant is eligible for assistance under the provisions of this Act, the type and amount of assistance, the date on which such assistance shall begin, and the manner in which payment shall be made. All applicants shall be promptly notified of the final action taken by the State Department.

Reinvestigations

Sec. 24. All assistance granted under the provisions of this Act to any needy aged person, needy blind person or with respect to any dependent child shall be reconsidered as frequently as may be required by the rules of the State Department. After such reconsideration as the State Department may deem necessary or may require, the amount of assistance may be changed, or the assistance may be entirely withdrawn if the State Department finds that the recipient's circumstances have altered sufficiently to warrant such action. The State Department may at any time cancel and revoke

assistance or it may suspend assistance for such period as it may deem proper, upon the grounds of ineligibility of the recipient under the provisions of this Act. Whenever assistance is thus withdrawn, revoked, suspended, or in any way changed, the State Department shall at once notify the recipient of such decision. If at any time during the continuance of public assistance the recipient thereof becomes possessed of income or resources in excess of the amount previously reported by him, it shall be his duty to notify the State Department of this fact immediately on the receipt or possession of such additional income or resources.

Appeal to State Department from Local Unit

Sec. 25. (1) In the event that an application for public assistance by a needy blind person, a needy aged person, or with respect to a needy dependent child, is not acted upon by the local unit of administration within a reasonable time after the filing of such an application, or is denied in whole, or in part, or any award of assistance is modified or cancelled, or an applicant or recipient is dissatisfied with any action or failure to act on the part of the local administrative unit, the applicant or recipient shall have the right to appeal to the State Department and shall be granted a reasonable notice and opportunity for a fair hearing before the State Department.

(2) Within a reasonable time prior to an applicant's or recipient's appeal hearing he, or his authorized agent, shall be fully advised of the information contained in his record on which action was based if a request for such information is made in writing, and no evidence of which the applicant or recipient is not informed shall be considered by the State Department as the basis for a decision after a hearing.

Method of Assistance Payments

Sec. 26. All assistance payments provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the proper accounts of a "State Department of Public Welfare Fund"; for the purpose of permitting the State Comptroller to properly draw and issue such vouchers or warrants, the State Department of Public Welfare shall furnish the Comptroller with a list of or roll of those entitled to assistance from time to time, together with the amount to which each recipient is entitled. When such vouchers or warrants have been drawn they shall be delivered to the Executive Director of the State Department of Public Welfare, who in turn shall supervise the delivery of same to the persons entitled thereto.

Separate Accounts of State Department of Public Welfare Fund; Special Funds; Transfer of Funds; Accounting System; Custodian of Moneys

Sec. 27. (1) For the purposes of carrying out the provisions of this Act, the "Old Age Assistance Fund," the "Blind Assistance Fund," and the "Children Assistance Fund" as provided for in House Bill No. 8, Acts of the

Forty-seventh Legislature, Regular Session, 1941, as amended;¹ the "Disabled Assistance Fund" as created by House Bill No. 78, Acts of the Fifty-fifth Legislature, Regular Session, 1957, as amended;² and the "Medical Assistance Fund" as created by Senate Bill No. 79, Acts of the Fifty-seventh Legislature, Regular Session, 1961, as amended,³ are hereby made separate accounts of the "State Department of Public Welfare Fund." Provided, that all moneys in the separate accounts of the "State Department of Public Welfare Fund" shall be expended for the purposes of carrying out the provisions of this Act, and for the purposes for which said separate accounts were created or appropriated, and for such other purposes as the Legislature by statutory enactment may direct.

The State Comptroller of Public Accounts shall establish two (2) special funds in the State Treasury to be known as the "Department of Public Welfare Administration Operating Fund" and the "Department of Public Welfare Assistance Operating Fund."

The State Comptroller, after appropriate allocations, transfers, and credits to and from the various funds involved, is hereby authorized to transfer funds appropriated for the operation of the Department into the "Department of Public Welfare Administration Operating Fund" and/or the "Department of Public Welfare Assistance Operating Fund" and all other current revenues (including but not limited to grants, earnings, allotments, refunds and reimbursements) and balances on hand, such amounts as are designated and authorized by the Department of Public Welfare. The State Comptroller shall transfer between the "Department of Public Welfare Administration Operating Fund" and the "Department of Public Welfare Assistance Operating Fund" such amounts as are designated and authorized by the Department of Public Welfare.

The State Department of Public Welfare with the approval of the State Auditor shall establish an internal accounting system, and the expenditures of the State Department of Public Welfare shall be allocated to the various funds in accordance with such internal accounting system. At the close of each fiscal year of the biennium, any remaining unencumbered balance in the "Department of Public Welfare Administration Operating Fund" and/or the "Department of Public Welfare Assistance Operating Fund" shall be reported to the State Comptroller by funds to which it belongs as determined and designated by the Department of Public Welfare. Unencumbered balances thus identified with fund balances which revert to the General Revenue Fund under Legislative Acts, shall be returned to the appropriate funds as determined and designated by the Department of Public Welfare.

The revenues to, the balances in, and the appropriations out of the "Social Security Fund," the "Social Security Administration Fund," the "Commodity Distribution Fund" (including the "Food Stamp Fund"), and the

"Donated Commodity Distribution Fund" are excluded from the two (2) special Public Welfare operating funds established herein.

(2) Should the State Department of Public Welfare determine that a transfer among appropriated State funds is needed to match Federal Medical Assistance funds then, upon written authorization of the State Department of Public Welfare, the State Comptroller of Public Accounts is hereby authorized to transfer moneys allocated and appropriated for payments for Old Age Assistance, Blind Assistance, Children's Assistance, and/or Disabled Assistance out of the respective special assistance funds into the "Medical Assistance Fund," and the State Department is authorized to pay Medical Assistance out of said funds so transferred and appropriated so as to provide Assistance and Medical Assistance to the greatest extent possible within Federal and State Laws, and within the limitations of the Texas Constitution and within the limits of total appropriated funds.

(3) The State Treasurer is hereby designated as the custodian of any and all moneys which may be received by the State of Texas (which the State Department of Public Welfare is authorized to administer), from any appropriations made by the Congress of the United States, for the purpose of cooperating with the several provisions of the Federal Social Security Act, or as it may hereafter be amended, and all moneys received from any other source; and the State Treasurer is hereby authorized to receive such moneys, pay such moneys into the proper fund or the proper account of the General Fund of the State Treasury, provide for the proper custody thereof, and to make disbursements therefrom upon the order of the State Department and upon warrant of the State Comptroller of Public Accounts.

¹ Article 7083a, § 2(2).

² Article 7083a, § 2(6).

³ Article 7083a, § 2(7).

Proration of Assistance Grants

Sec. 28. If at any time, State funds are not available to pay all such grants of assistance in full as authorized in this Act, such grants shall be prorated as the State Board of Public Welfare may direct; except that during the fiscal year beginning September 1, 1957, in the operation of the Permanently and Totally Disabled Assistance Program the Department of Public Welfare is authorized to set up a maximum grant which may be paid to any individual in a lesser amount than the possible maximum within the Constitution of the State of Texas and the Federal Social Security Act¹ in order that the amount of money available out of State funds may be distributed more equitably until it is possible to determine an average grant.

¹ 42 U.S.C.A. § 301 et seq.

Non-transferability of Assistance; Exemptions; Death of Recipient before Warrant is Cashed

Sec. 29. Old age assistance, aid to the blind, or aid to dependent children as provided for under the provisions of this Act shall not

be transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law; the provision of this Act providing for old age assistance, aid to the blind, and aid to dependent children shall not be construed as a vested right in the recipient of such assistance; provided, however, in case any person who is an approved recipient of old age assistance, aid to the blind, or aid to dependent children, living on the first day of any month, or living at the date of the issuance of the check, or living at the date of the mailing of the check, and entitled to assistance for that month, dies before the check issued for such assistance, for the month in which the death occurs, has been endorsed or cashed by recipient, the amount of said check may be paid to any person determined by the Department of Public Welfare to have been responsible for the caring of the recipient at the time of his death and responsible for the payment of obligations incurred; the Executive Director of the State Department of Public Welfare will endorse the check payable only to the person whom the Department of Public Welfare has determined was responsible for the care of the recipient at the time of the latter's death and who is responsible for the payment of obligations incurred by the recipient; the State Department of Public Welfare shall adopt reasonable rules and regulations prescribing a method of payment and limitations of such payments in such cases and the manner of ascertaining the person entitled to receive the same; provided, however, that payments to recipients under the above provisions shall be made only in such manner and to such extent as are permissible under and consistent with the laws and regulations governing the disbursement of funds received through the Federal Social Security Board. And provided further, that all old age assistance, aid to the blind, and aid to dependent children warrants not cashed, as provided by this Act, within a reasonable time after issuance may be cancelled by the State Comptroller upon proper authorization of the State Department of Public Welfare.

Issuance of Duplicate Assistance Warrants

Sec. 29-A. If a warrant has been issued by the Comptroller in payment of assistance as provided under this Act, and if the claimant entitled to receive such warrant has lost or loses, or for any reason failed or fails to receive such warrant after such warrant is or has been issued by the Comptroller, and upon satisfactory proof of such, the Comptroller may issue to the claimant a duplicate warrant as provided for in Article 4365, Revised Civil Statutes of Texas, 1925, as amended by House Bill No. 519, Page 576, General and Special Laws of the State of Texas, Fifty-third Legislature, Regular Session, 1953, but in no event shall a duplicate warrant be issued after one year from the date of the original warrant.

Unlawful Acts; Penalties

Sec. 30. Any person or persons charged with the duty or responsibility of administering, disbursing, auditing, or otherwise handling the grants, funds, or moneys, provided for in this Act, and who shall misappropriate any such grants, funds, or moneys or who shall by deception or fraud to any other person wrongfully distribute the grants, funds, or moneys provided for in this Act, shall be deemed guilty of a felony and shall, upon conviction, be confined in the State Penitentiary for a term of not less than two (2) nor more than seven (7) years.

Officers and Employees of State Department; Unlawful Acts; Penalty

Sec. 31. No officer or employee of the State Department shall use his official authority or influence or permit the use of the programs administered by the State Department for the purpose of interfering with an election or affecting the results thereof or for any political purpose. No such officer or employee shall take any active part in political management or in political campaign or participate in any political activity, except that he shall retain the right to vote as he may please and express his opinion as a citizen on all political subjects. No such officer or employee shall solicit or receive, nor shall any such officer or employee be obliged to contribute or render, any service, assistance, subscriptions, assessments, or contributions for any political purpose. Any officer or employee of the State Department violating this Section shall be subject to discharge or suspension or such other disciplinary measures as may be provided by the rules and regulations of the State Department.

Legal Services; Fee Schedule; Licensed Attorneys; Solicitation

Sec. 32. (1) The State Department of Public Welfare is authorized to provide legal services to an applicant for or recipient of assistance, under any of the programs administered by the Department, in an appeal or fair hearing before the Department if the applicant or recipient requests such legal services. Such services shall be provided by an attorney legally licensed to practice in the State of Texas, or through the use of law students acting under the supervision of a law teacher or of a legal services organization, and who has been approved by the State Department of Public Welfare. The State Department shall adopt a reasonable fee schedule for such services, such fees not to exceed those customarily charged by the attorney for similar services for private clients. Such fees shall be paid only out of such funds as may be appropriated to the Department for this purpose.

(2) It shall be unlawful for any attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant or recipient of assistance with respect to any application before the State Department, or any of its agents, to charge a fee for his services in

aiding or representing any such applicant before the State Department, or for any other service in aiding such applicant to secure assistance or service unless such individual is an attorney legally licensed to practice in the State of Texas. It shall be unlawful for any person, firm or corporation, to advertise, hold himself out for or solicit the procurement of assistance or service.

Disclosure of Information Prohibited; Names of Recipients

Sec. 33. (1) It shall be unlawful, except for purposes directly connected with the administration of general assistance, old age assistance, aid to the blind, or aid to dependent children, and in accordance with the rules and regulations of the State Department, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of, or names of, or any information concerning, persons applying for or receiving such assistance, directly or indirectly derived from the records, papers, files, or communications of the State Department or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

(2) The rule-making power of the State Department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the State Department and its local offices. Wherever, under provisions of law, names and addresses of recipients of public assistance are furnished to or held by any other agency or department of government, such agency or department of government shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance.

Fraudulent Assistance; Penalty

Sec. 34. Whoever obtains, or attempts to obtain, or aids or abets any person to obtain, by means of a wilfully false statement or representation or by impersonation, or by other fraudulent means:

(1) Assistance, services, or treatment to which he is not entitled;

(2) Assistance, services, or treatment greater than that to which he is justly entitled;

(3) Or, with intent to defraud, aids or abets in buying, or in any way disposing of the property of a recipient of assistance without the consent of the State Department, or whoever violates Section 32 or Section 33 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not more than One Hundred Dollars (\$100) or be imprisoned for not less than six (6) months, nor more than two (2) years, or be both so fined and imprisoned.

Purpose of Act; Construction

Sec. 35. The purpose of this Act is to inaugurate a program of social security and to provide necessary and prompt assistance to the citizens of this State who are entitled to avail themselves of its provisions. This Act shall be liberally construed in order that its purposes may be accomplished as equitably, economically, and expeditiously as possible.

Assistance Grants Subject to Repeal, Etc.

Sec. 36. All assistance granted under the provisions of this Act shall be deemed to be granted and to be held subject to the provisions of any amending or repealing Act that may hereafter be passed, and no recipient shall have any claims for compensation or otherwise by reason of his assistance being affected in any way by any amending or repealing Act.

Oaths and Acknowledgments

Sec. 37. The local representatives of the Department, who are charged with the duty of investigating and determining the eligibility of applicants for assistance under the provisions of this Act, are authorized to administer oaths and take acknowledgments concerning all matters relating to the administration of this Act. No seal shall be required of such representatives of the Department in attesting to oaths administered or acknowledgments taken, but said representatives shall officially sign said oaths or acknowledgments, showing with such signature their position and title. In this connection, these local representatives of the Department, for the purposes of the administration of this Act, shall have the same authority as is now had by Notaries Public coextensive with the limits of the State of Texas.

Savings Clause; Assistance Grants to Individuals in Institutions; Alternate Care Arrangements

Sec. 38. (1) None of the provisions of this Act shall change, amend, alter or impair any of the provisions of House Bill No. 1059, Acts of the 47th Legislature, Regular Session.¹

(2) Notwithstanding any other provisions contained in the Law, Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children assistance grants may be paid to any individual who is in an institution, provided such individual would be eligible outside the institution and provided such payments are made in accordance with rules and regulations promulgated by the State Department of Public Welfare and in conformity with the Federal Laws and rules and regulations as they now are or as they may hereafter be amended.

(3) The State Department of Public Welfare, the designated single State Agency responsible for the administration of the Medical Assistance Program in the State of Texas, is hereby authorized to enter into any and all necessary agreements with the Department of Mental Health and Mental Retardation, the State Department of Health, and all other appropriate State Agencies affected by this Act which will enable the State Department of

Public Welfare to implement Title XIX² so as to provide Medical Assistance in behalf of individuals in institutions or in alternate care arrangements, and said agreements shall be in compliance with the Federal Law and the rules and regulations promulgated pursuant thereto as such laws now provide or as they may hereafter be amended; provided further, that the State Department of Public Welfare is hereby authorized to make Medical Assistance payments in accordance with such agreements and such agreements shall not be subject to or controlled by "The Interagency Cooperation Act," being Article 4413(32), Vernon's Texas Civil Statutes.

The Department of Mental Health and Mental Retardation, the State Department of Health, and any other State Departments or Agencies responsible for the administration of, or supervision of, facilities in which Medical Assistance payments may be made or are required in order for the State Department of Public Welfare to conform with Title XIX of the Federal Social Security Act² or any other Federal Law providing for Medical Assistance in behalf of such individuals are hereby required to enter into such agreements with the State Department of Public Welfare and to maintain compliance on a continuing basis in accordance with such agreements and as may be required to enable the State Department of Public Welfare to maintain its Medical Assistance program so as to receive Federal matching funds.

The State Department of Public Welfare is authorized to pay Medical Assistance in such other facilities as are required under Federal Law, rules and regulations as such laws, rules and regulations now read or as they may hereafter be amended.

¹ Acts 1941, 47th Leg., p. 815, ch. 505. See note following this article.

² 42 U.S.C.A. § 1396 et seq.

Responsibility of Counties and Municipalities Not Affected

Sec. 39. No provision of this Act is intended to release the counties and municipalities in this State from the specific responsibility which is currently borne by those counties and municipalities in support of public welfare, child welfare, and relief services. Such funds which may hereafter be appropriated by the counties and municipalities for those services may be administered through the county or district offices of the State Department, and if so administered, shall be devoted exclusively to the services in the county or municipality making such appropriation.

County Child Welfare Boards Continued

Sec. 40. County Child Welfare Boards established or hereinafter appointed in conformity with Section 4, Acts of 1931, Forty-second Legislature, page 323, Chapter 194,¹ shall function and/or continue to function as provided therein, and the Commissioners Court of any county may appropriate funds from its general funds, or any other available fund, for the ad-

ministration of such County Child Welfare Boards and provide for services to and support of children in need of protection and/or care.

¹ Article 695a, § 4.

Recipient Moving Out of State; Payments to Vendors of Medical Assistance

Sec. 41. Any person who is receiving assistance under the provisions of this Act and who moves out of and does not reside in the state shall, by virtue of that fact, be deemed ineligible to receive assistance in this state except that temporary absence from the state for such periods of time, and for such reasons as the State Department shall approve, shall not be deemed to interrupt the residence of the recipient.

Any person who is receiving Public Assistance as the term is defined in Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961, and being codified in Vernon's Texas Civil Statutes as Article 695j, or any amendments thereto, shall be eligible for Medical Assistance as the term is defined in Senate Bill No. 79, or any amendments thereto, so long as such recipient continues to be eligible to receive Assistance; and payments to vendors of Medical Assistance on behalf of such recipients, while temporarily visiting outside of the state, may be made on behalf of such recipients on a temporary basis for such periods of time and in accordance with the rules and regulations promulgated by the State Department of Public Welfare so long as said person remains eligible to receive Assistance from this state.

Persons Attaining Age 65; Other Public Relief

Sec. 42. No person, who has attained the age of sixty-five (65), and who is not receiving old age assistance, shall by reason of his age, be disbarred from receiving other public relief and care.

Short Title

Sec. 43. This Act shall be known and may be cited as "The Public Welfare Act of 1941."

Repeals

Sec. 44. Article II of House Bill No. 8, Acts, Forty-fourth Legislature, Third Called Session,¹ is hereby repealed.

Sec. 45. House Bill No. 26, Acts, Forty-fourth Legislature, Second Called Session,² is hereby repealed.

Sec. 46. Senate Bill No. 9, Acts, Forty-sixth Legislature, Regular Session,³ is hereby repealed.

¹ Articles 6243-3 to 6243-21, Penal Code, Art. 427e.

² Article 6243-1, Penal Code, Art. 427d.

³ Articles 6243-5, 6243-6.

Partial Invalidity; Severability of Act

Sec. 47. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act or the application thereof to any person or circumstances is held invalid, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1939, 46th Leg., p. 544; Acts 1941, 47th Leg., p. 914, ch. 562, § 1; Acts 1943, 48th Leg., p. 439, ch. 297; Acts 1943, 48th Leg., p. 708, ch. 393, § 1; Acts 1949, 51st Leg., p. 743, ch. 402, § 1; Acts 1951, 52nd Leg., p. 31, ch. 24, § 1; Acts 1951, 52nd Leg., p. 586, ch. 342, § 1; Acts 1953, 53rd Leg., p. 381, ch. 104, § 1; Acts 1953, 53rd Leg., p. 757, ch. 305, § 1; Acts 1953, 53rd Leg., p. 1040, ch. 428, § 1; Acts 1957, 55th Leg., p. 237, ch. 114, § 1; Acts 1957, 55th Leg., p. 672, ch. 284, § 1 to 3; Acts 1959, 56th Leg., p. 259, ch. 150, § 2; Acts 1959, 56th Leg., p. 882, ch. 405, § 1; Acts 1961, 57th Leg., p. 397, ch. 200, § 1; Acts 1961, 57th Leg., p. 643, ch. 299, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 205, ch. 80, § 1; Acts 1963, 58th Leg., pp. 83, 84, ch. 53, §§ 1 to 4; Acts 1963, 58th Leg., p. 700, ch. 257, § 1; Acts 1965, 59th Leg., p. 266, ch. 111, § 1, eff. May 6, 1965; Acts 1965, 59th Leg., p. 1444, ch. 634, § 1, eff. Aug. 30, 1965; Acts 1965, 59th Leg., p. 1619, ch. 693, § 1 eff. Aug. 31, 1965; Acts 1967, 60th Leg., p. 137, ch. 71, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., pp. 822 to 827, ch. 348, §§ 1 to 7, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1108, ch. 490, § 1, eff. Aug. 31, 1967; Acts 1969, 61st Leg., p. 2525, ch. 845, §§ 1 to 6, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 710, ch. 74, § 1, eff. April 26, 1971; Acts 1971, 62nd Leg., p. 2411, ch. 761, § 1, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2889, ch. 953, § 1, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 767, ch. 340, § 1, eff. June 12, 1973; Acts 1973, 63rd Leg., p. 1585, ch. 572, § 1, eff. Sept. 1, 1973.]

Section 46 of the Public Welfare Act of 1939, Acts 1939, 46th Leg., p. 544, repealed all conflicting laws and parts of laws; section 47 repealed article 695b; section 48 declared an emergency and provided that the Act should take effect from and after September 1, 1939.

Section 9 of the Public Welfare Act of 1939, Acts 1939, 46th Leg., p. 544, prior to the amendment and re-enactment of the Act as a whole by Acts 1941, 47th Leg., p. 914, ch. 562, constituting the Public Welfare Act of 1941, read:

"a. All of the rights, powers, and duties heretofore conferred by law on the Division of Child Welfare of the Board of Control, when not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose the Division of Child Welfare, records, and physical properties are transferred to the State Department and placed under its supervision, and the Division of Child Welfare of the State Board of Control is hereby abolished.

"b. All of the rights, powers, and duties heretofore conferred by law upon the Texas Relief Commission, not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon, the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act, and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose, the records, and physical properties of the Texas Relief Commission are transferred to the State Department of Public Welfare and placed under its supervision, and the Texas Relief Commission, as referred to in Chapter 30, of the Acts of 1935 [article 842e (repealed)], is hereby abolished.

"c. All of the rights, powers, and duties heretofore conferred by law upon the Texas Old Age Assistance Commission, when not otherwise in conflict with any of the provisions of this Act, are hereby continued in full force and effect, and are hereby transferred to, and conferred upon the State Department of Public Welfare as created by this Act, and shall be held, exercised, and performed by the State Department under the provisions of this Act, and the several Acts now in force, and any amendment or amendments thereto which might be made. To effectuate this purpose, the records and physical properties are hereby transferred to the State Department and placed under its supervision, and the Texas Old Age Assistance Commission is hereby abolished.

"d. Provided, that no provision of this Act shall in any manner interfere with the powers and functions of the Vocational Rehabilitation Division of the Department of Education, the State Commission for the Blind, or the Division of Maternal and Child Health of the State Health Department, or the Juvenile Boards of any of the counties authorized by Title 82, Revised Civil Statutes as amended. [Article 5119 et seq.]"

Section 40 of Acts 1939, 46th Leg., p. 544, prior to amendment and re-enactment of the entire act, by Acts 1941, 47th Leg., p. 914, ch. 562, effective July 2, 1941, was amended by Acts 1941, 47th Leg., p. 815, ch. 505, § 1, ef-

fective June 14, 1941, (see section 38 of this article), to read as follows:

"It is provided that grants of aid and assistance may be made to any needy blind person found to be eligible for such aid under the provisions of this Act immediately upon the allocation of funds to the 'Blind Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a]; and that grants of aid and assistance may be made for destitute and dependent children found to be eligible under the provisions of this Act immediately upon the allocation of funds to the 'Children's Assistance Fund' as created by House Bill No. 8, Acts of the Forty-seventh Legislature, Regular Session [Article 7083a]. To put these provisions into effect, there are hereby appropriated all funds allocated to said 'Blind Assistance Fund' for the purpose of providing and administering assistance to the needy blind under the provisions of this Act; and, there are hereby appropriated all funds allocated to said 'Children's Assistance Fund' for the purpose of providing and administering assistance to dependent and destitute children under the provisions of this Act. The State Department is hereby authorized and directed to integrate the administration of aid to the blind and aid for dependent children with all other programs and activities of the department in such manner as is necessary for proper, economical, and efficient administration."

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 757, ch. 305, made appropriations. Section 3 repealed conflicting laws or parts of laws to the extent of the conflict only. Section 4 provided that partial invalidity of the Act should not affect the validity of the remaining portions of the Act.

Section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 1040, ch. 428, and section 2 of the amendatory Act of 1953, Acts 1953, 53rd Leg., p. 381, ch. 104, repealed conflicting laws and parts of laws. Section 3 of each act provided that partial invalidity should not affect the remaining portions of the Act.

Sections 1, 3 to 5 of Acts 1959, 56th Leg., p. 259, ch. 150 created a temporary separate fund known as the Department of Corrections Special Fund and provided for appropriations and expenditures of moneys and a termination date of such fund.

Section 2 of the amendatory Act of 1957, Acts 1957, 55th Leg., p. 237, ch. 114, § 1, repealed all conflicting laws and parts of laws to extent of such conflict only. Section 3 provided that partial invalidity should not affect the remaining portions of the Act.

Section 5 of the amendatory Act of 1957, Acts 1957, 55th Leg., p. 672, ch. 284, made appropriations. Section 6 provided that the effective date of this law for the purpose of paying assistance grants shall be September 1, 1957. Section 7 repealed conflicting laws to the extent of such conflict only. Section 8 provided that partial invalidity should not affect the remaining portions of the Act.

Acts 1963, 58th Leg., p. 84, ch. 53, § 5, repealed conflicting laws and parts of laws. Section 5A thereof provided:

"On and after the effective date of this Act, wherever the reference is made in the laws of this State to 'Aid to Dependent Children,' the title of such Aid shall be changed to hereafter be known as 'Aid and Services to Needy Families with Children.'"

Acts 1965, 59th Leg., p. 266, ch. 111, § 1 amended this article by adding section 6-A; section 2 of the amendatory act of 1965 provided:

"The State Department of Public Welfare is authorized to accept and expend any Federal moneys allocated to the said Department for any projects or programs established for the purpose of carrying out the provisions of this Act and for administrative expenses and/or any other expenses incident to the administration of said projects or programs.

"The State Department of Public Welfare is authorized to receive and expend funds from the state, counties, and cities and from any other source for the purpose of carrying out the provisions of this Act.

"The Department shall deposit all such funds irrespective of source in the Special Fund hereinafter created in the State Treasury [See article 7083a, § 2(8)] and such funds shall be subject to withdrawals upon authorization of the Commissioner of Public Welfare, and all such funds deposited in said Special Fund in the Treasury are hereby appropriated to the State Department of Public Welfare."

Section 3 of the amendatory act of 1965 amended section 2 of article 7083a by creating in the State Treasury a special fund known as the "Economic Opportunity Fund—Welfare." See article 7083a, § 2(8).

Acts 1965, 59th Leg., p. 1619, ch. 693, § 1 amended section 16-B of this article; section 2 of chapter 693 amended article 7083a; section 3 thereof provided that the effective date of the act should be August 31, 1965.

Section 1 of Acts 1967, 60th Leg., p. 137, ch. 71 amended section 20 of this article. Sections 2 to 4 of chapter 71 provided:

"Sec. 2. The effective date of this Act for the purpose of paying assistance grants shall be September 1, 1967.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Acts 1967, 60th Leg., p. 822, ch. 348, §§ 1 to 7 amended sections 12, 16-B, 17, 19, 20, 38 and 41; sections 8 to 10 of chapter 348 provided:

"Sec. 8. The effective date of this Act for the purpose of paying assistance grants in accordance with the amendments contained herein shall be September 1, 1967.

"Sec. 9. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only, and Subsection (4) of Section 12, Subitem 5 of Subsection (1) and Subsection (5) of Section 16-B, and Subsection (4) of Section 20 shall be and are hereby repealed.

"Sec. 10. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Acts 1967, 60th Leg., p. 1108, ch. 490, which amended section 27 of this article, provided in sections 2 to 4 thereof:

"Sec. 2. The effective date of this Act shall be August 31, 1967.

"Sec. 3. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 4. The purpose of this Act is to authorize the State Department of Public Welfare to expend State and Federal funds allocated and appropriated to the Department for the purpose of providing Assistance, Medical Assistance, and such other services as may be required by Law, to needy individuals who meet the eligibility requirements for Assistance and/or Medical Assistance. In order to enable the State Department of Public Welfare to expend the funds in such a manner so as not to jeopardize the receipt of Federal funds provided for these purposes, the State Department is granted the latitude of expending the funds as provided herein so as to meet the needs of those individuals who are eligible for Assistance and/or Medical Assistance to the fullest extent possible as provided by Federal and State Laws, in accordance with rules and regulations promulgated pursuant thereto, within the constitutional limitations, and within the limits of total appropriated funds; therefore, if any Section or provision of this Act shall for any reason be held unconstitutional or invalid in whole or in part, then, and in that event, this Act shall be invalidated and of no force or effect in respect to such unconstitutional provisions only, and the Sections or parts of laws found to be amended or modified by the provision or Section found to be unconstitutional shall remain in full force and effect."

Acts 1969, 61st Leg., p. 2525, ch. 845, which amended various sections of this article, provided in sections 7 to 10:

"Sec. 7. The effective date of this Act shall be September 1, 1969.

"Sec. 8. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict only.

"Sec. 9. If any section, subsection, paragraph, sentence, clause, phrase, or word in this Act or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

"Sec. 10. The fact that under Federal Law the Department is required to extend the welfare programs and to provide services to and on behalf of the needy people served by the Department, and such services can, in many instances, be best provided through contracts and agreements with individuals or with other public or private agencies; the fact that by extending these programs and services, funds which could be made available to the Department through other public or private sources can be used for matching Federal funds; the fact that the Federal and State Laws enacted since the State Department of Public Welfare was created have added innumerable responsibilities to the Department thereby making the divisions which were created within the Department at that time inoperative; the further fact that the Department could more effectively operate and more effectively use staff time if divisions were restructured; the fact that many persons, particularly aged and disabled persons, live with their children or other relatives so as to receive personal care and assistance; the fact that these aged and disabled recipients have to frequently move across state lines in order to receive this care because the relatives with whom they live have to move across state lines due to military service or employment; the fact it works a grave hardship and injustice on the recipient whose public assistance grant is denied because of these factors beyond his control; the fact that part of the funds used in paying the grants come from Fed-

eral funds; the fact that the Federal courts have held that the durational residence requirement for recipients of public assistance is unconstitutional; the fact that under Title XIX durational residence for Medical Assistance is prohibited; the fact that the Social Security Amendments of 1967 provided additional funds for extending the assistance and services available to applicants for and recipients of Public Assistance, and the crowded condition of the calendar create an emergency and an imperative public necessity that the Constitutional Rule requiring bills to be read on three several days in each house be suspended, and the said Rule is suspended, and that this Act take effect and be in force from and after its passage and it is so enacted.

Sections 2 to 4 of Acts 1971, 62nd Leg., p. 2410, ch. 761, read:

"Sec. 2. The effective date of the assessments for food stamps and the increased assessments herein provided for commodities shall be September 1, 1971.

"Sec. 3. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only.

"Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Art. 695c-1. Finding Deserting Fathers

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

(a) "Deserting father" means a father who is divorced from, legally separated from or continually absent from his family and who neglects, or refuses to provide for the support of his children to the best of his ability.

(b) "Department" means the Department of Public Welfare.

(c) "Deserted child" means the child of a deserting father.

Sec. 2. The Department is hereby charged with the responsibility for finding a deserting father of any family applying for aid to dependent children, as provided for in the "Public Welfare Act of 1941," as heretofore or hereafter amended.

Sec. 3. The Department shall negotiate an agreement with the Federal Social Security Administration in accordance with State's Letter No. 198 so that location information can be obtained concerning any deserting father who leaves Texas and goes to another state.

Sec. 4. The mother or guardian of a deserted child shall supply the Department details concerning the deserting father such as complete name, known aliases or nicknames, date and place of birth, Social Security number, and such other information as shall be deemed necessary or advantageous in locating such father. The mother or guardian shall supply the Department any information she receives as to the whereabouts of the deserting father during the search for said father and shall initiate, with the assistance of the Department if necessary, any court action that is required to compel child support.

[Acts 1963, 58th Leg., p. 690, ch. 253.]

Art. 695c-2. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Texas Family Code.

This repealed article, requiring reports of child abuse, was derived from Acts 1965, 59th Leg., p. 277, ch. 117; Acts 1969, 61st Leg., p. 637, ch. 219, § 1; Acts 1971, 62nd Leg., p. 2790, ch. 902, § 1.

See, now, Family Code, § 34.01 et seq.
 Acts 1973, 63rd Leg., p. 881, ch. 398, § 1, added a § 9 to this article, which read:
 "Any person who knowingly fails to report in accordance with Section 3 of this Act when he has cause to believe that a child's physical or mental health or welfare has been or may be further adversely affected by abuse or neglect commits a misdemeanor punishable by a fine of not less than \$100 or more than \$500, or by imprisonment in jail for not less than 10 days or more than 6 months, or both."

Art. 695c-3. Fees for Assisting in Obtaining Welfare Assistance; Solicitation

Limitation on Fee; Solicitation

Sec. 1. It shall be unlawful for any attorney at law, or attorney in fact, or any other person, firm or corporation whatsoever, representing any applicant or recipient of assistance to the aged, to the needy blind, or to any needy dependent child, or for any child welfare service with respect to any application before the State department, or any of its agents, to charge a fee for his services in excess of Ten Dollars (\$10) in aiding or representing any such applicant before the State department, or for any other service in aiding such applicant to secure assistance of service. It shall likewise be unlawful for any person, firm, or corporation to advertise, hold himself out for, or solicit the procurement of assistance or service.

Soliciting Dues for Purpose of Collecting or Advertising or Sponsoring Pensions or Benefits Prohibited

Sec. 2. It shall be unlawful for any person, firm or corporation to solicit or collect dues or money for himself or itself, or any organization, association, partnership or corporation for the purpose or pretended purpose of collecting, or aiding in the collection of, or advertising or sponsoring old age pensions of any kind, or benefits for any person or group of persons from the Social Security program as it applies to old age assistance, blind persons, or dependent and destitute children; provided, however, an attorney at law, or attorney in fact, or any other person, representing any applicant or recipient of assistance to the aged, to the needy blind, or to any needy dependent child, or for any child welfare service with respect to any application, before the State department, or any of its agents, may charge a fee for his services not in excess of Ten Dollars (\$10) in aiding or representing any such applicant before the State department, or for any other service in aiding such applicant to secure assistance of service.

Persons Not Prohibited from Obtaining Social Security Benefits

Sec. 3. Nothing in this Act shall prohibit persons receiving Social Security Benefits from the State of Texas or from the United States Government, or who are eligible to receive Social Security Benefits from the State of Texas or from the United States Government, from organizing and sponsoring Social Security legislation.

Punishment for Violations

Sec. 4. Any attorney at law, or attorney in fact, or any other person, acting for himself or

as the agent or representative of a firm, corporation, organization, association, or other person, who violates this Act in any manner shall be deemed guilty of a felony and shall, upon conviction, be confined in the county jail for a term of not less than thirty (30) days nor more than one year or be confined in the State penitentiary for a term of not less than one nor more than five (5) years.

Civil Suits to Enforce Act; Enjoining Violations; Venue

Sec. 5. The Attorney General of Texas shall have the authority, right and power to bring civil suits to enforce provisions of this Act and to enjoin any violations thereof, and suits for injunction brought by the Attorney General shall be tried as ordinary injunction suits, and the venue of all of said suits shall be in Travis County.

[Acts 1939, 46th Leg., p. 252.]

Art. 695d. Time Limit for Presentation of Disbursing Orders for Relief Issued Before October, 1936

Sec. 1. Any person having a claim against the State of Texas based on any disbursing order issued for general or transient relief purposes by the Texas Relief Commission or The Texas Relief Commission Division of the State Board of Control,¹ or any of their authorized representatives, agents or employees, prior to October, 1936, shall, within six (6) months from the effective date of this Act, present the same to the State Department of Public Welfare for approval and payment, and failure to do so shall forever bar any claim based thereon against the State of Texas.

Sec. 2. Any person to whom a check was issued by the Texas Relief Commission or the Texas Relief Commission Division of the State Board of Control, or any of their authorized representatives, agents or employees, prior to July 1, 1936, for relief purposes, or his heirs, assigns or legal representatives, shall present the same to the State Department of Public Welfare for approval and payment within six (6) months from the effective date of this Act, and failure to do so shall forever bar any claim against the State of Texas evidenced by said check or upon the claim to satisfy which said check was given.

[Acts 1941, 47th Leg., p. 798, ch. 496.]

¹ Transfer of functions to State Department of Public Welfare, see note under article 695a.

Art. 695e. Transfer of Child Welfare Services from State Board of Control to Department of Public Welfare

All of the functions and duties which were designated as being the responsibility of the State Board of Control and/or the Division of Child Welfare of the State Board of Control as expressed in Chapter 194, Page 323, Acts of the Forty-second Legislature, Regular Session, 1931, being Article 695A of Vernon's Texas Civil Statutes, including Article 606A, Sections 6 and 7, of Vernon's Texas Penal Code, and the duties and functions of the State Health De-

partment as described in Chapter 204, Page 444, of the General and Special Laws of the Regular Session of the Forty-first Legislature, 1929, and being Article 4442A of Vernon's Texas Civil Statutes are hereby transferred to the State Department of Public Welfare, save and except where they apply to the child wards of the State of Texas who are being cared for and educated in the eleemosynary schools of the State. The expressed purpose of this Act is to correct a defective tranference of duties and responsibilities which relate to children and which may be classed as child welfare services, which transference was attempted in Senate Bill No. 36, Acts of the Forty-sixth Legislature, Regular Session;¹ and all duties, responsibilities, and functions set out in these Sections of the law are expressly transferred to the Department of Public Welfare.

[Acts 1945, 49th Leg., p. 297, ch. 215, § 1.]

¹ Article 695c.

Art. 695f. Child Welfare Service Fund

There is hereby created in the Treasury a special fund to be known as the "Child Welfare Service Fund" for the purpose of administering Child Welfare Services transferred to the State Department of Public Welfare by Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended and reenacted by the Public Welfare Act of 1941, House Bill No. 611, Acts of the 47th Legislature, Regular Session,¹ as same now exists or may hereafter be amended, or such services as otherwise prescribed by law.

[Acts 1945, 49th Leg., p. 322, ch. 236, § 1.]

¹ Article 695c.

Art. 695g. Federal Old Age and Survivors Insurance Coverage for County and Municipal Employees

Definitions

Sec. 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "employment" means any service performed by an employee in the employ of a county or municipality or other political subdivision of the state except (1) service which in the absence of an agreement entered into under this Act would constitute "employment" as defined in the Social Security Act;² or (2) service which under the Social Security Act may not be included in an agreement between the State and the Federal Security Administrator entered into under this Act; or (3) service in any policeman's position,

which is subject to an existing Retirement System at the time the agreement is undertaken, in incorporated cities having a population of 250,000 or more according to the most recent decennial Federal Census prior to the date of said agreement.

(c) The term "employee" includes an officer of a county, municipality, or other political subdivision of the State; also the word "employee" shall include any State Employee or officer who is paid wholly from United States funds and would be a Federal employee except for classification as a State employee by the Federal Government.

(d) The term "State Agency" means the State Department of Public Welfare.

(e) The term "Federal Security Administrator" includes any individual to whom the Federal Security Administrator has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of States and their political subdivisions.

(f) The term "municipality" means incorporated cities, towns, and villages.

(g) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act," (including regulations and requirements issued pursuant thereto), as such Act has been and may from time to time be amended.

(h) The term "political subdivision" includes an instrumentality of the State, of one or more of its political subdivisions, or of the State and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the State or subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the State or subdivision.

¹ 26 U.S.C.A. § 3101 et seq.

² 42 U.S.C.A. § 301 et seq.

Administration of Act

Sec. 2. The State Department of Public Welfare is designated the State Agency to administer the provisions of this Act. The Executive Director of the department shall act for it and shall direct and administer its functions under this Act.

Agreements with Federal Security Administrator

Sec. 3. The State Agency is authorized to enter into agreements with the Federal Security Administrator to obtain Federal old-age and survivor's insurance coverage for employees of any of the counties, municipalities or other political subdivisions of the State. These agreements may contain such provisions relating to coverage, benefits, contributions, effective date, modification, and termination of the agreement, administration, and any other ap-

propriate matters consistent with the Constitution and laws of Texas as the State Agency and Federal Security Administrator shall agree.

Agreements with County and Municipal Governing Bodies; Agreements Between Adjutant General, State Agency and United States Government

Sec. 4. The State Agency is authorized to enter into agreements with the governing bodies of counties and with the governing bodies of municipalities and with the governing bodies of other political subdivisions of the State which are eligible for Social Security coverage under Federal law when the governing body of any of said counties or municipalities or other political subdivisions desire to obtain coverage under the old-age and survivor's insurance program for their employees, these agreements to embrace such provisions relating to coverage benefits, contributions, effective date, modification and termination of the agreement, administration, and any other appropriate matters consistent with the Constitution and laws of Texas as the State Agency and the governing body of the county, municipality or other political subdivision shall agree. Any such agreement entered into shall include a provision that no action of the Federal Government shall ever impair or impede the retirement program of this State or its political subdivisions. Any instrumentality of the State, for which direct appropriations are made by the Legislature, may contribute to the old-age and survivor's insurance program of the Federal Government for employees covered under Chapter 470, Acts, 1937, Forty-fifth Legislature, Regular Session,¹ and amendments thereto, only such funds as are specifically appropriated therefor.

¹ Article 2922-1 (repealed; see, now, Education Code, § 3.01 et seq.)

Rules and Regulations; Terms of Agreements

Sec. 5. The State Board of Public Welfare is authorized and directed to promulgate all reasonable rules and regulations it deems necessary to govern applications for and eligibility to participate in this program, and it shall prescribe the terms of the agreements necessary to carry out the provisions of this Act and to insure financial responsibility on the part of participating counties, municipalities or other political subdivisions of the State.

Authority of Governing Bodies

Sec. 6. The respective governing bodies of the various counties, municipalities or other political subdivisions of the State which are now or shall hereafter become eligible under applicable Federal requirements are hereby authorized to enter into all necessary agreements with the State Agency to enable the employees of the respective counties, municipalities and other political subdivisions to have coverage under the Social Security Act. The respective governing bodies are authorized to pay contributions as required by these agreements from those funds from which the covered employees

receive their compensation, and it is expressly provided that all prior laws and parts of laws which fix a maximum compensation for any covered employees of counties are hereby amended to allow payment of the matching contribution necessary to this program in addition to any maximum compensations otherwise fixed by law.

Submission and Approval of Plans

Sec. 7. Each county, municipality or other political subdivision of the State is authorized to submit for approval by the State Agency a plan for extending the benefits of the Federal old-age and survivor's insurance system to employees of the county, municipality or political subdivision. The State Agency shall not finally refuse to approve a submitted plan and shall not terminate an approved plan without reasonable notice and opportunity for hearing to the affected county, municipality or political subdivision. Each plan shall be approved by the State Agency if it finds it is in conformity with requirements provided in the regulations of the State Agency, except that no plan shall be approved unless:

(a) it is in conformity with requirements of the applicable Federal law and with the Federal-State agreements;

(b) it specifies the source or sources from which the funds necessary to make the payments required are to be derived and contains guarantees that these sources will be adequate for this purpose (the State Agency may by appropriate rules and regulations require guarantees in the form of surety bonds, advance payments into escrow, detailed representations and assurances of priority dedication, or any legal undertakings to create adequate security that each county, municipality and political subdivision will be financially responsible for its share in this program for at least a minimum period equivalent to that specified by Federal requirements to precede coverage cancellation);

(c) provides such methods for administration of the plan by the county, municipality or political subdivision as are found by the State Agency to be necessary for proper and efficient administration;

(d) it provides the county, municipality or political subdivision will make reports in such form and containing such information as the State Agency may from time to time require and will comply with such provisions as the State Agency or appropriate Federal authorities may from time to time find necessary to assure the receipt, correctness and verification of these reports; and

(e) it authorizes the State Agency to terminate the plan in its entirety if it finds there has been a failure to comply with any provision contained in the plan, this termination to take effect at the expiration of such notice and upon such conditions as may be provided by regulations of

the State Agency consistent with applicable Federal law.

Contributions

Sec. 8. Each county, municipality or other political subdivision as to which a plan has been approved may and shall pay to the State Agency, with respect to employees' wages, at such time as the State Agency may by regulations prescribe, contributions in the amounts and at the rates specified by the applicable agreement entered into pursuant to the Federal-State agreement. Counties, municipalities or other political subdivisions required to make such payments are authorized, in consideration of the employees' retention in or entry upon employment, to impose upon its employees as to services which are covered by an approved plan, a contribution with respect to wages in keeping with applicable State and Federal requirements. Contributions so collected shall be paid to the State Agency in partial discharge of the liability of the county, municipality or political subdivision, but failure to deduct contributions from employees' wages shall not relieve the employee or the employer of liability for the contribution. If more or less than the correct amount of any contribution is paid or deducted, adjustments or refunds shall be made in the manner and at the time prescribed by the State Agency. Matching contributions by the employing counties, municipalities or other political subdivisions as prescribed by the approved plan in keeping with Federal requirements shall be paid from the respective sources of funds from which covered employees receive their compensation.

Assessment and Collection of Contributions

Sec. 9. When the governing body of a county, municipality or other political subdivision elects to enter into an agreement with the State Agency, it shall become the duty of the County Treasurer in the respective counties and of the person or persons who hold comparable positions in the municipalities or other political subdivisions to assess and collect the required contributions of the various employees in the respective counties, municipalities or other political subdivisions and transmit the same to the State Agency. Each plan approved by the State Agency will specify the responsible personnel of the undertaking county, municipality or other political subdivision who will be charged with the duty to make assessments, collections, and reports.

Administrative Expenses

Sec. 10. The respective governing bodies of the various counties, municipalities or other political subdivisions of this State which enter into agreements under this program are hereby authorized to pay to the State Agency, out of any available funds not otherwise dedicated, such amounts, separate and apart from employees' contributions and matching contributions, as may be agreed between the respective governing body and the State Agency to be

necessary to finance the county's, municipality's or other political subdivision's proportionate share in the administrative cost of this program at the State level. The State Agency shall require specific undertakings to defray a proportionate share of the administrative expenses at the State level in agreements negotiated with counties, municipalities or other political subdivisions on any basis mutually agreeable between the State Agency and the participating county, municipality or other political subdivision, whether as an annual fee for each participating county, municipality or other political subdivision, an annual fee per employee covered, a percentage based upon the contributions to the Federal authorities, or any other equitable measure. Annually at the close of each fiscal year, the State Agency shall pay from the Social Security Administration Fund to the State Treasurer for deposit to the General Revenue Fund of the State of Texas an amount not less than ten (10%) per cent of these contributions during the preceding year to defray administrative expenses until such time as the amount appropriated to the State Agency from funds of the State for administrative purposes has been reimbursed in full, at which time such payments shall cease.

Delinquent Payments

Sec. 11. The State Agency may require in agreements with counties, municipalities and other political subdivisions an undertaking to pay legal interest on delinquent payments. The State Agency is empowered to sue to collect any delinquencies and interest thereon in courts of competent jurisdiction. The State Agency may direct the deduction of any delinquent payments with interest from any moneys payable to the delinquent county, municipality or other political subdivision by the State or any department or agency of the State; provided, however, that deductions shall be made only from such prior appropriations as were expressly made subject to such deductions. The Comptroller and the State Treasurer are empowered and directed to comply with the State Agency's deduction directives and to remit the deducted amounts to the State Agency in trust for the contributions of the delinquent county, municipality or other political subdivision.

Social Security Fund; Social Security Administration Fund

Sec. 12. There is hereby established as a special fund, separate and apart from all public moneys or funds of this State, to be known as the Social Security Fund, which shall be administered as directed by the State Agency exclusively for the purposes of this Act. The State Treasurer shall be treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the State Agency, and the Comptroller shall issue warrants upon it in accordance with such regulations as the State Agency shall prescribe. The State Agency shall deposit all moneys collected

under the provisions of this Act, except moneys to defray administrative expenses at the State level, in the Social Security Fund. All moneys so deposited with the State Treasurer in the Social Security Fund shall be held in trust, separate and apart from all public moneys or funds of this State. The State Agency is vested with full power, authority, and jurisdiction over the fund and may perform any and all acts necessary to the administration thereof and to pay the amounts required to be paid to the appropriate Federal authorities and any refunds or adjustments necessary under this Act.

The State Agency shall deposit all moneys collected under the provisions of this Act from participating counties, municipalities or other political subdivisions to defray the cost of administering this program at the State level in a special fund to be known as the Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund, which shall be held separate and apart from all public moneys or funds of this State. The State Treasurer shall administer this fund in accordance with the directions of the State Agency. Moneys deposited in either of these special funds shall be disbursed upon warrants issued by the Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director of personnel of the agency to whom he expressly delegates this function. These funds will not be State funds and will not be subject to legislative appropriation.

Expenditures; Personnel

Sec. 13. The State Agency is authorized to expend moneys in the Social Security Administration Fund for any purpose necessary to carry on the administration of this program at the State level, including but not limited to salaries, traveling expenses, printing, stationery, supplies, equipment, bond premiums, postage, communications, and contingencies, and the State Agency is authorized to employ such personnel, purchase such equipment, incur such expenses as may be necessary to carry out the administration of this program at the State level, provided all salaries and expenditures from this fund shall be consistent with the letter and spirit of comparable items and general provisions in the general departmental appropriation bill then current.

Application of Law to Employees of Political Subdivisions Not Otherwise Provided For

Sec. 13a. All of the provisions of House Bill No. 603, Chapter 500, Acts 52nd Legislature, Regular Session, 1951, as amended by Senate Bill No. 124, Acts 53rd Legislature, Regular Session, 1953, shall be applicable to all such employees of political subdivisions of this State as are not otherwise provided for in said Act if and when a Constitutional Amendment providing for coverage of such employees, as embodied in House Joint Resolution No. 37, is adopted by vote of the people of this State.

[Acts 1951, 52nd Leg., p. 1480, ch. 500; Acts 1953, 53rd Leg., p. 544, ch. 197, §§ 1, 2; Acts 1954, 53rd

Leg., 1st C.S., p. 129, ch. 58 §§ 1, 2; Acts 1955, 54th Leg., p. 1253, ch. 501, § 1; Acts 1955, 54th Leg., p. 1254, ch. 502, §§ 1 to 4; Acts 1963, 58th Leg., p. 1170, ch. 456, § 1.]

Art. 695h. Federal Old Age and Survivors Insurance Coverage for State Employees

Definitions

Sec. 1. The following definitions of words and terms shall apply as used in this Act:

(a) The term "Wages" means all remuneration for employment as defined herein, including the cash value of all remuneration paid in any medium other than cash, except that such term shall not include that part of such remuneration which, even if it were for "employment" within the meaning of the Federal Insurance Contributions Act,¹ would not constitute "wages" within the meaning of that Act.

(b) The term "Employment" means any service performed by a State employee except (1) service which in the absence of an agreement entered into under this Act shall constitute "employment" as defined in the Social Security Act;² or (2) service which under the Social Security Act may not be included in an agreement between the State and the Secretary of Health, Education and Welfare entered into under this Act.

(c) The term "State Employee" in addition to its usual meaning shall include elective and appointive officials of the state; and shall not include those persons rendering services in positions the compensation for which is on a fee basis. The term "State Employee" shall not include any employees in positions subject to the Teacher Retirement System except those employed by state departments, state agencies, and state institutions as construed in their usual meaning.

(d) The term "State Agency" means the State Department of Public Welfare.

(e) The term "Secretary of Health, Education and Welfare" includes any individual to whom the Secretary of Health, Education and Welfare has delegated any of his functions under the Social Security Act with respect to coverage under such Act of employees of States.

(f) The term "Social Security Act" means the Act of Congress approved August 14, 1935, Chapter 531, 49 Stat. 620, officially cited as the "Social Security Act", (including regulations and requirements issued pursuant thereto), as such Act has been and may from time to time be amended.

(g) The term "Federal Insurance Contributions Act" means subchapter A and B of Chapter 21 of the Federal Internal Revenue Code of 1954 as such Code has been and may from time to time be amended; and the term "employee tax" means the tax

imposed by Section 3101 of such Code of 1954.

¹ 26 U.S.C.A. § 3101 et seq.
² 42 U.S.C.A. § 301 et seq.

Administration of Act

Sec. 2. The State Department of Public Welfare is designated the State Agency to administer the provisions of this Act. The Executive Director of the Department shall act for and shall direct and administer its functions under this Act. He is further instructed to negotiate the best possible contract for the employees of the State of Texas.

Agreements to Obtain Coverage

Sec. 3. The State Agency is authorized to enter into agreements with the Secretary of Health, Education and Welfare to obtain Federal Old Age and Survivors insurance coverage for State employees. These agreements may contain such provisions relating to coverage, benefits, contributions, administration and any other appropriate matters consistent with the terms and provisions of this Act as the State Agency and the Secretary of Health, Education and Welfare shall agree.

Contributions by State Agency from Social Security Trust Fund

Sec. 4. The State Agency is authorized to pay contributions as required by these agreements from the Social Security Trust Fund established by House Bill No. 603, Acts, Fifty-second Legislature, 1951;¹ and it is expressly provided that all laws and parts of laws which fix a maximum compensation for any covered employees of the State are hereby amended to allow payment of the matching contribution necessary to this program, in addition to any maximum compensations otherwise fixed by law.

¹ Article 695g.

Contributions by State Employees

Sec. 5. In consideration of State employees' retention in or entry upon employment, there is imposed upon said employees as to services which are covered by an agreement with the Secretary of Health, Education and Welfare a contribution with respect to wages (as defined in Section 1(a) of this Act) equal to the amount of the employee tax which would be imposed by the Federal Insurance Contributions Act¹ if such services constituted employment within the meaning of that Act. Such contributions shall be paid to the Social Security Trust Fund in the manner hereinafter detailed. An amount equal to the amount specified in the first sentence of this Section shall be paid by the State to the Social Security Trust Fund from the respective funds from which covered employees receive their compensation.

¹ 26 U.S.C.A. § 3101 et seq.

Collection of Contributions

Sec. 6. (a) The collection of said employees' contributions shall be as follows:

(1) Each department (including for the purpose of this Act any State office,

board, bureau, or agency) of the State shall cause to be deducted on each and every payroll of a covered employee for each and every payroll period beginning on the date of establishment of Social Security coverage for said employee the contributions payable by such employee, as provided in this Act. Each department head of the State shall certify to the proper disbursing officer of said department on each and every payroll a statement of the amount of the employee's contribution which should be deducted from each employee's salary and a statement of the total amount to be deducted from all salaries and shall include the total amount in the payroll voucher. Each department head at the end of each month shall certify to the State Agency copies of said payroll statement and voucher on forms prescribed by the State Agency.

(2) The proper disbursing officer of each State department on authorization from the department head shall make deductions from salaries of the employees as provided in this Act. The total amount deducted shall be paid by each department head to the State Treasurer as custodian of the Social Security Trust Fund, and the State Treasurer shall deposit said amounts in the Social Security Trust Fund.

(3) If less than the correct amount of an employee's contribution is deducted with respect to any remuneration, the employee shall remain liable therefor.

(4) If more than the correct amount of the employee's contribution is paid or deducted with respect to any remuneration, proper adjustments, or refund, if adjustment is impracticable, shall be made, without interest, in such manner and at such times as the State Agency shall prescribe.

(b) The collection of the State's contribution shall be made as follows:

(1) From and after the date of the establishment of Social Security coverage for State employees, there is hereby allocated and appropriated to the Social Security Trust Fund, in accordance with this Act, from the several funds from which the employees benefited by this Act receive their respective salaries, a sum equal to the amount of the tax which would be imposed by the Federal Insurance Contributions Act if the services of such employee constituted employment within the meaning of that Act for said employees whose compensation is paid from funds in the State Treasury. The State Agency shall certify to the State Comptroller of Public Accounts at the end of each month the total amount of the State's monthly contributions for employees whose salaries are paid from funds in the State Treasury. The State Comptroller upon receipt of such authorization shall pay said amount to the State Treasurer as custodian of the

Social Security Trust Fund. The State Treasurer shall deposit the amounts so received in the Social Security Trust Fund. Provided, however, that should the amount paid as the State's contribution vary from the net amount actually contributed by the employees during the fiscal year ending August 31st of each year the State Agency shall certify on or before October 1st of each year the amount of such difference by Fund and by Department to the State Comptroller who shall then make necessary adjusting entries.

(2) Thereafter, on or before the first day of November next preceding each Regular Session of the Legislature, the State Agency shall certify to the Governor for review and adoption the amount necessary to pay the contributions of the State of Texas for the ensuing biennium. This amount shall be included in the budget of the State which the Governor submits to the Legislature. The State Agency shall send a copy to the State Comptroller of Public Accounts of the certification to the Governor.

(3) All moneys hereby allocated and appropriated by the State to the Social Security Trust Fund shall be paid to the Fund in monthly installments.

(4) In those instances in which State employees are paid from funds not in the State Treasury, the department head at the end of each month shall certify to the proper disbursing officer the total amount of the State's contributions based upon compensation paid such employees and the disbursing officer shall thereupon pay that amount to the State Treasurer as custodian of the Social Security Trust Fund. The State Treasurer shall deposit said amounts in the Social Security Trust Fund. A copy of the department heads' certification in these instances shall be given to the State Agency at the same time the original is certified to the disbursing officer. These copies shall be on forms prescribed by the State Agency.

Powers and Duties of State Agency

Sec. 7. The State Agency shall have the power to make and publish such rules and regulations, not inconsistent with the provisions of this Act, and to require such reports from the Departments as it finds necessary or appropriate to the efficient administration of the functions with which it is charged under this Act. It is further provided that the State Agency shall certify to the Comptroller of Public Accounts any and all departments which have not filed required reports within the specified time, and the Comptroller of Public Accounts is hereby directed to withhold any salary warrants or expense reimbursement warrants to the heads or any employees of such departments as are on the certified list until such time as the State Agency shall notify the

Comptroller that such delinquent reports have been filed. In those instances in which State employees' salaries are paid from funds other than funds in the State Treasury, it shall be unlawful for the disbursing officer of a department to pay any salaries or expense reimbursements after notification by the State Agency that a required report is delinquent; and said disbursing officer shall be personally liable as well as liable on his official bond for payment of salaries or expense reimbursements after notification of delinquency by the State Agency.

State Social Security Administration Fund

Sec. 8. There is hereby created a special fund, separate and apart from all public moneys or funds of this State, to be known as the State Social Security Administration Fund. The State Treasurer shall be treasurer and custodian of the fund and shall administer it in accordance with directions from the State Agency. Money deposited in this fund shall be disbursed upon warrants issued by the Comptroller of Public Accounts pursuant to sworn vouchers executed by the State Agency acting through the executive director or personnel of the agency to whom he expressly delegates this function.

Expenditures; Personnel

Sec. 9. The State Agency is authorized to expend moneys in the State Social Security Administration Fund for any purpose necessary to the proper administration of this Act including, but not limited to, salaries, traveling expenses, printing, stationery, supplies, equipment, bond premiums, postage, communications, and contingencies; and the State Agency is authorized to employ such personnel, accountants and attorneys, purchase such equipment, and incur such expenses as may be necessary to carry out the administration of this Act, provided all salaries and expenditures from this fund shall be consistent with the letter and spirit of comparable items and general provisions in the general departmental appropriation bill then current.

Appropriation

Sec. 10. For the purpose of administering the provisions of this Act, there is hereby appropriated from any funds in the State Treasury not otherwise appropriated to the State Social Security Administration Fund the sum of Fifteen Thousand Dollars (\$15,000).

Benefits from both State Employees Retirement Act and Federal Social Security Act; Conflicting Laws Repealed

Sec. 11. Nothing shall prevent any employee from receiving benefits under both the State Employees Retirement Act¹ and the Federal Social Security Act² and any law in conflict herewith is repealed to the extent of such conflict.

[Acts 1955, 54th Leg., p. 1188, ch. 467; Acts 1957, 55th Leg., p. 2, ch. 2, § 1; Acts 1961, 57th Leg., p. 7, ch. 4, § 1.]

¹ Article 6228a.

² 42 U.S.C.A. § 301 et seq.

Art. 695i. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Art. 695j. Medical Assistance to Recipients of Public Assistance

Definitions

Sec. 1. The following definitions shall apply to words and terms used in this Act:

(a) The term "Medical Assistance" means monetary assistance paid to a vendor of medical services and/or vendor of hospital services or a vendor of nursing care rendered on behalf of a recipient of public assistance. "Medical Assistance" shall be in addition to and separate from the grants of public assistance made payable directly to the recipients.

(b) The term "vendor of medical services" means any person as defined under Subsection (i) of this Section providing medical services to a recipient of public assistance.

(c) The term "vendor of hospital services" means any person, association, or corporation as defined under Subsection (d) of this Section providing hospital services to a recipient of public assistance.

(d) The term "hospital" means any institution licensed as a hospital under the laws of this state.

(e) The term "nursing care" means care in an establishment licensed as a nursing home under the laws of this state where four (4) or more people unrelated to the proprietor are receiving care which requires the services of or services under the direction and/or supervision of a physician licensed by the Texas State Board of Medical Examiners or the services of or services under the direction and/or supervision of a nurse licensed under the laws of this state.

(f) The term "vendor of nursing care" means any person, association or corporation, providing nursing care, as defined herein, to a recipient of public assistance.

(g) The term "recipient of public assistance," for the purposes of this Act, means any person who was eligible and receiving a grant of Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children (including the children and/or the caretaker with whom the child lives) when medical or hospital services or nursing care were rendered.

(h) The term "Department" means the State Department of Public Welfare.

(i) The term "physician" means a person licensed by the Texas State Board of Medical Examiners.

(j) The term "optometrist" means a person licensed by the Texas State Board of Examiners in Optometry and "vendor of

optometric care" under this Act. The Assistance provided under this Act shall also include monetary assistance paid to a vendor of optometric care.

Medical Assistance Program Created; Purpose; Department of Public Welfare to Administer

Sec. 2. There is hereby created a program to be known as the Medical Assistance Program for the purpose of providing Medical Assistance to needy individuals receiving public assistance in accordance with the terms of this Act. The State Department of Public Welfare is hereby designated as the State Department to administer Medical Assistance on behalf of recipients of public assistance as defined in this Act, and in accordance with the laws of the State of Texas, and is designated as the State Department to cooperate with and enter into agreements with the Department of Health, Education, and Welfare, or any other Federal Agency which may hereafter be designated by Federal Statute to administer such aid, so as to provide Medical Assistance on behalf of recipients of public assistance as herein prescribed or may hereafter be provided.

The State Department of Public Welfare is hereby authorized to accept money from the Federal Government for the purposes enumerated in this Act and is hereby authorized to expend such sums as may be received for such purposes and in the manner prescribed in this Act or as otherwise provided by law.

Persons Eligible for Assistance

Sec. 3. Medical Assistance may be given under the provisions of this Act on behalf of any recipient of public assistance:

(1) Who is certified by the physician of his choice as having an illness, injury or physical deformity which requires immediate inpatient care in a hospital and that the illness, injury or physical deformity is such that the absence of such care would be gravely detrimental to the health of such recipient, or who is certified by the physician of his choice as having an illness, injury or physical deformity which requires that nursing care, as defined herein, be rendered him; and

(2) Who is not an inmate in a public institution (except as a patient in a medical institution) or is not a patient in an institution for tuberculosis or mental disease, or who has not been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof.

(3) In the event that all or any part of the above-described services become available to recipients of assistance through any other Governmental Agency, State or Federal, then and in that event, the State Department of Public Welfare may extend medical services to recipients to include, but not limited to, physician's services outside the hospital, outpatient hospital or clinic service, home health service, private duty nursing services, and such other serv-

ices, including optometric services as may be found to be necessary and within the limits of the appropriation for this program.

The State Department of Public Welfare shall adopt reasonable rules and regulations for determining need for the above-mentioned medical services, and for providing for payment of such services.

(4) Who is certified by the optometrist of the recipient's own choice and who uses the employment of objective or subjective means, without the use of drugs, for the purpose of ascertaining and measuring the powers of vision of the human eye, and fitting lenses or prisms to correct or remedy any defect or abnormal condition of vision. Nothing herein shall be construed to permit optometrists to treat the eyes for any defect whatsoever in any manner, nor to administer nor to prescribe any drug or physical treatment whatsoever unless such optometrist is a regularly licensed physician or surgeon under the laws of this state. The optometrist making such certification shall certify that the absence of such correction would adversely affect the recipient's efficiency, safety or welfare or the safety or welfare of others.

Establishment of Eligibility; Certification

Sec. 4. No application for Medical Assistance under the provisions of this Act shall be approved until it has been established in accordance with the rules and regulations promulgated by the State Department of Public Welfare that the applicant is eligible as evidenced by the fact that he has been certified by the Department as being a recipient of public assistance and that such recipient is eligible for Medical Assistance payments on his behalf.

Eligibility for Medical Assistance shall be established by the Department certifying to the vendor of medical and/or hospital services or to the vendor of nursing care that the patient is currently receiving public assistance within the month of entry into such hospital or nursing home. The attending physician(s) shall make necessary certifications upon forms prescribed by the Department certifying the necessity for entry into such hospital.

In the case of vendors of nursing care, the attending physician of the recipient shall make necessary certifications upon forms prescribed by the Department certifying the necessity for entry into a licensed nursing home for nursing care.

Rules and Regulations; Amount of Assistance Payments; Prorating Claims

Sec. 5. The State Department of Public Welfare shall adopt reasonable rules and regulations for administering the Program and for determining the amounts of Medical Assistance to be paid on behalf of public assistance recipients within the limitations of appropriated state and federal funds. The amount of such

Medical Assistance payments out of state funds shall never exceed the amount so expended out of federal funds.

If at any time, state funds are not available to pay all claims for Medical Assistance in full, such claims shall be prorated as the State Board of Public Welfare may direct.

Direct Vendor Payment Program

Sec. 6. The State Department of Public Welfare is hereby authorized to determine the method of administration for payment of claims for the Medical Assistance Program by establishing a direct vendor payment program administered by the Department or by an insurance plan or hospital service plan and/or a medical service plan authorized to do business in Texas, or by a combination of such plans.

Federal or State Hospitals and Institutions; Care of Inmates, Responsibility for not Released

Sec. 7. No provision of this Act is intended to release the federal or state institutions in this state from the specific responsibility which is currently borne by them in the care of those persons currently residing in either federal or state hospitals or institutions for the care or treatment of mentally retarded or mentally ill persons or for the treatment of tuberculosis or those who hereafter become eligible for or entitled to care or treatment in such institutions. It is further provided, that none of the moneys appropriated for Medical Assistance shall be used for the payment of assistance grants or for providing services to or on behalf of persons who are so hospitalized or whose mental or physical condition is such that his welfare and that of the general public would best be served by care and treatment in such public institutions and such public institutional care is available.

Medical Assistance Fund Created in Treasury

Sec. 8. At such time as appropriations are authorized by the Legislature for the purposes of carrying out the provisions of this Act, there shall be created in the Treasury a special fund to be known as the "Medical Assistance Fund," which shall constitute a separate account of the "State Department of Public Welfare Fund," and shall be expended only for the purposes of carrying out the provisions of this Act and for the purposes for which said separate account was created; provided, however, that the amount of such assistance or the amount of such medical care on behalf of such recipients out of state funds shall not exceed the amount that is matchable out of federal funds.

Sec. 9. [Added subsection 7 to Art. 7083a].

Use of Funds Appropriated; Personnel and other Administrative Expenses

Sec. 10. At such time as appropriations are made available for such purposes, the State Department of Public Welfare is authorized to use such funds for the administrative cost of the operation of the Medical Assistance Program, including but not limited to the payment

of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and administrative expenses of the State Department of Public Welfare, and said Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administration for the purpose of administering the public assistance programs, and shall in no way lessen the authority or the power of the Commissioner of Public Welfare to allocate and reallocate functions of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.¹

[Acts 1961, 57th Leg., p. 858, ch. 380; Acts 1965, 59th Leg. p. 1525, ch. 665, §§ 1 to 3, eff. Aug. 30, 1965.]

¹ Article 695c.

Art. 695j-1. Medical Assistance Act of 1967

Title

Sec. 1. This Act shall be known and may be cited as "The Medical Assistance Act of 1967."

Legislative Intent; Medical Assistance Defined; Liberal Construction of Act

Sec. 2. It is the intent of the Legislature to make statutory provision which will enable the State of Texas to provide Medical Assistance on behalf of needy individuals of this state and to enable the state to obtain all benefits provided by the Federal Social Security Act¹ as it now reads or as it may hereafter be amended, or by any other Federal Act now in effect or which may hereafter be enacted within the limits of funds available for such purposes. Wherever used in this Act the term "Medical Assistance" shall include all of the health care, services, assistance and benefits authorized or provided for in such Federal legislation.

This Act shall be liberally construed and applied in relation to Federal Laws and regulations so as to make adequate and high quality health care available to all children and adults who are in need of such care, but who are not financially able to pay for it. If by reason of any conflict between any Section, portion, clause, or part of this Act and the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, the State Plan is rendered out of conformity with the Federal Law to the extent that Federal matching money is not available to the state, then and in that event, the conflicting Section, portion, clause, or part of this

Act is declared inoperative to the extent that it is in conflict, and such finding or determination shall not affect the remainder of this Act.

¹ 42 U.S.C.A. § 301 et seq.

State Department of Public Welfare; Administrative Responsibilities

Sec. 3. The State Department of Public Welfare is hereby designated as the State Department to administer "The Medical Assistance Act of 1967" and any amendments thereto.

In fulfillment of its administrative responsibilities, the State Department shall:

(1) Cooperate with the Department of Health, Education, and Welfare or any other Federal Agencies which may hereafter be designated by Federal Statute to administer Medical Assistance on behalf of needy individuals, in any reasonable manner which may be necessary to qualify for Federal funds for Medical Assistance on behalf of individuals who are entitled to such Medical Assistance under the provisions of the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, including the making of such reports, in such form and containing such information as the Department of Health, Education, and Welfare or any other proper agencies of the Federal Government may require from time to time, and to comply with such requirements as that agency, or any other agencies hereafter designated, may from time to time find necessary and in conformity with the provisions of this Act;

(2) Enter into agreements with the Department of Health, Education, and Welfare or any other Federal Agencies which may be designated by Federal Statute to administer Medical Assistance on behalf of needy individuals so as to provide Medical Assistance on behalf of all recipients of public assistance and/or such other needy individuals as the State Department may determine in compliance with agreements with the Federal Government and within the limits of appropriated funds available;

(3) Accept money from the Federal Government for purposes coming within the scope of this Act and expend such sums as may be received from the Federal Government for such purposes in the manner prescribed in this Act, or as otherwise provided by law, and in accordance with such agreements as may be appropriate and necessary between the Federal Government and the State of Texas;

(4) Administer and expend state funds in accordance with rules and regulations promulgated by the State Department and within the limitations and restrictions of this Act and within the limits of appropriated funds for such purposes;

(5) Appoint a Medical Care Advisory Committee and such other advisory committees as the State Department may deem necessary and appropriate;

(6) Establish and provide such methods of administration as may be necessary for the proper and efficient operation of the program;

(7) Enter into such cooperative agreements with other state agencies and departments as may be required by law or as may be deemed expedient by the State Department;

(8) Promulgate reasonable rules and regulations for making Medical Assistance available on behalf of all recipients of public assistance and/or such other needy individuals as the State Department may determine in compliance with agreements with the Federal Government;

(9) Define and determine the scope, duration, and amount of Medical Assistance which may be provided in accordance with this Act or as it may hereafter be amended and establish priorities therefor;

(10) Provide opportunities for fair hearings before the State Department;

(11) Provide safeguards for preserving the confidentiality of records;

(12) Adopt rules and regulations for subrogation;

(13) Adopt rules and regulations for detecting and processing cases of fraud; and

(14) Adopt such other policies, rules, and regulations which will insure compliance with Federal Laws and rules and regulations necessary to implement Medical Assistance as contemplated by this Act or as it may hereafter be amended.

Scope of Services; Duration of Medical Assistance; Recipients of Public Assistance; Federal Matching Funds; Extension of Medical Assistance; Optional Medical Services

Sec. 4. The State Department is hereby authorized and empowered to determine the scope of the services to be covered, the amounts to be paid, and the duration of Medical Assistance to be furnished; provided, however, that the State Department shall provide Medical Assistance on behalf of all recipients of public assistance and such other related groups as are mandatory under Federal Laws and rules and regulations, as they now are or as they may hereafter be amended, in order to obtain Federal matching funds for such purposes.

Medical Assistance provided for these groups shall not be not less in scope, duration, or amount than is currently furnished such groups, and in addition, shall include at least the minimum services required under Federal Laws and rules and regulations to obtain Federal matching funds for such purposes.

The State Department is authorized and empowered, at such times as the State Department

may determine feasible and within the limits of appropriated funds, to extend the scope, duration, and amount of Medical Assistance on behalf of these groups of public assistance recipients and related groups as are mandatory so as to include, in whole or in part, the optional medical services authorized under Federal Laws and rules and regulations, and the State Department shall have the authority to establish and maintain the priorities to be given such optional medical services; provided, however, that Medical Assistance shall be provided to at least such groups and in such scope, duration, and amount as are required to obtain Federal matching funds, but in no event shall Medical Assistance be furnished on behalf of any groups or in any scope, duration, or amount for which Federal matching funds cannot be obtained.

Extension of Medical Assistance to Needy Individuals; Minimum Services; Optional Medical Services; Priorities; Selection of Provider of Medical Assistance

Sec. 5. In accordance with rules and regulations adopted by the State Department, Medical Assistance may be extended on behalf of such other groups as are found to be financially unable to meet the cost of medical services, and the State Department shall determine eligibility of such individuals.

As Medical Assistance is extended to such groups, the State Department shall include at least the minimum services required under Federal Laws and rules and regulations necessary to obtain Federal matching funds.

In addition to these minimum services required under Federal Laws and rules and regulations, the State Department is authorized and empowered, at such times as the State Department may determine feasible and within the limits of appropriated funds, to extend the scope, duration, and amount of medical services on behalf of these groups so as to include in whole or in part, the optional medical services authorized under Federal Laws and rules and regulations, and the State Department shall have the authority to establish and maintain the priorities to be given such optional medical services; provided, however, that no groups and no medical services may be included for which Federal matching funds are not available; and provided, however, that the State Department shall not reduce the standards or payments under the Vendor Drug Program below those standards and payments currently existing on January 1, 1973.

No recipient of Medical Assistance shall be denied freedom of choice in his selection of a provider of Medical Assistance that is authorized by the State Department of Public Welfare.

Selection of Practitioner for Foot Health Care

Sec. 5A. In administering this Act, and particularly Sections 4 and 5 hereof, the State Department shall assure that a recipient of public assistance may select a licensed podiatrist to perform any foot health care service or

procedure which is covered under this Act or the rules, procedures, policies and standards of the State Department promulgated hereunder and which falls within the scope of practice of the podiatrist. The State Department shall further assure that the recipient shall receive the medical assistance prescribed for the covered foot health care service or procedure, within the limitations of Acts 1951, 52nd Legislature, page 219, Chapter 132 as amended,¹ under the same rules, procedures, policies and standards applicable to practitioners of other branches of the healing art. This section shall be liberally construed to achieve its purpose, and in the event of any conflicts between this section and other provisions of this Act, this section shall control.

¹ Amends arts. 4567, 4567b, 4567c, 4569 to 4572, 4575 and Penal Code art. 778a (repealed).

Fees, Charges and Rates; Method of Payment of Claims

Sec. 6. The State Department is hereby authorized and empowered to determine under reasonable rules, regulations, and standards the reasonable fees, charges, and rates to which Medical Assistance Funds will be applied and paid as follows:

A. Reasonable fees, charges, and rates for professional fees or services shall be the usual and customary fees, charges, and rates prevailing in the community.

B. Reasonable fees, charges, and rates, paid for other Medical Assistance shall be the usual and customary fees, charges, and rates, provided, however, that if such payments are otherwise limited by Federal Law, such payments shall be as near the usual and customary fees, charges, and rates as may be permitted by law.

The State Department is hereby authorized and empowered to determine the method of payment of claims for Medical Assistance by establishing a direct vendor payment program administered by the State Department or by an insurance plan or hospital service plan, and/or a medical service plan, or any other health service plan authorized to do business in Texas or by any other fiscal intermediary or method of payment or a combination of such plans and/or methods which the State Department finds to be the most satisfactory and economical method of paying costs and/or processing claims, and said State Department may make whatever amendments or changes as it finds necessary from time to time in order to provide Medical Assistance in an economical and equitable manner consistent with simplicity of administration and in the best interest of the recipients.

If the State Department elects as part of its plan and/or methods to make payments directly to vendors of Medical Assistance as authorized in this Act, then such vendor payments provided for under the terms of this Act shall be paid by vouchers or warrants drawn by the State Comptroller on the proper accounts of a "State Department of Public Welfare Fund";

for the purpose of permitting the State Comptroller to properly draw and issue such vouchers or warrants, the State Department of Public Welfare shall furnish the Comptroller with a list of or roll of those entitled to such vendor payments from time to time, together with the amount to which each vendor is entitled. When such vouchers or warrants have been drawn they shall be delivered to the Commissioner of the State Department of Public Welfare, who in turn shall supervise the delivery of same to the vendors entitled thereto.

The amount of such Medical Assistance out of state funds on behalf of any individual shall not exceed the amount that is matchable out of Federal funds and provided further, that the total amount of Medical Assistance payments out of state funds on behalf of such eligible individuals shall not exceed the amount that is matchable out of Federal funds.

**Transfer as Assignment of Assistance or Funds;
Exemption from Legal Process**

Sec. 7. Neither Medical Assistance nor amounts payable to vendors out of public assistance funds are transferable or assignable, at law or in equity, and none of the money paid or payable under the provisions of this Act shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any insolvency law.

**Eligibility of Recipients of Public Assistance Grants
for Medical Assistance**

Sec. 8. All individuals who are receiving public assistance grants shall be automatically eligible for Medical Assistance as provided in this Act and an application for Old Age Assistance, Aid to the Blind, Aid to the Permanently and Totally Disabled, or Aid to Families with Dependent Children shall constitute an application for Medical Assistance as provided herein.

For any groups for which Medical Assistance is provided who are not recipients of public assistance, the State Department shall prescribe the necessary forms and shall adopt reasonable rules and regulations for accepting and processing applications for Medical Assistance.

Appeal

Sec. 9. Any individual whose application for Medical Assistance is denied or is not acted upon with reasonable promptness shall have the right to appeal to the State Department for a fair hearing. The provisions in the Public Welfare Act of 1941, as amended, or as it may hereafter be amended (codified as Article 695c, Section 25, Vernon's Texas Civil Statutes), granting the right of appeal to applicants and recipients of public assistance, shall be applied in relation to appeals for Medical Assistance insofar as applicable and the same rights and procedures shall be granted to applicants for and recipients of Medical Assistance.

Disclosure of Information Concerning Applicants or Recipients; Records, Papers and Files

Sec. 10. The State Department shall provide safeguards which restrict the use and/or disclosure of information concerning applicants or recipients of Medical Assistance to purposes directly connected with the administration of the Program.

It shall be unlawful, except for purposes directly connected with the administration of general assistance, old age assistance, aid to the blind, aid to families with dependent children, aid to the permanently and totally disabled, or Medical Assistance, and in accordance with the rules and regulations of the State Department, for any person or persons to solicit, disclose, receive, make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of, any list of, or names of, or any information concerning, persons applying for or receiving such public assistance or Medical Assistance, directly or indirectly derived from the records, papers, files, or communications of the State Department or subdivisions or agencies thereof, or acquired in the course of the performance of official duties.

The rule-making power of the State Department shall include the power to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the records, papers, files, and communications of the State Department and its local offices. Wherever, under provisions of law, names and addresses of recipients of public assistance or Medical Assistance are furnished to or held by any other agency or department of government, such agency or department or government shall be required to adopt regulations necessary to prevent the publication of lists thereof or their use for purposes not directly connected with the administration of public assistance or Medical Assistance.

Subrogation

Sec. 11. The State Department or any person, firm, or institution which has furnished service shall be subrogated to any applicant's or recipient's right of recovery from personal insurance or other sources or the right of recovery for personal injuries occasioned by the negligence or wrong of another to the extent of the cost of medical care services paid for by the State Department or to the extent of the services rendered by such person, firm, or institution which has furnished service. The State Department is authorized to adopt reasonable rules and regulations for the enforcement of its right of subrogation and the Commissioner of Public Welfare may, in his discretion, waive this right of subrogation to the extent that the Commissioner finds that the enforcement thereof would tend to defeat the purpose of the public assistance laws. The fact that an applicant for or a recipient of Medical Assistance has a claim for damages for personal injuries shall not be grounds for denying or discontinuing Medical Assistance.

Rules and Regulations to Minimize Fraud; Fraudulent Representations; Penalties

Sec. 12. The State Department shall adopt reasonable rules and regulations for minimizing the opportunity for fraud; for establishing and maintaining methods of detecting and identifying situations in which a question of fraud in the program may exist; and for referring cases where fraud appears to exist to the appropriate law enforcement agencies for prosecution.

Whoever obtains, or attempts to obtain, or aids or abets any person to obtain by means of a wilfully false statement or representation or by impersonation, or by other fraudulent means:

(1) Medical Assistance, services, or treatment to which he is not entitled;

(2) Medical Assistance, services, or treatment greater than that to which he is justly entitled;

(3) Or, with intent to defraud, aids or abets in buying, or in any way disposing of the property of a recipient of assistance or Medical Assistance without the consent of the State Department, or whoever violates Section 10 of this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be fined any sum not more than One Hundred Dollars (\$100) or be imprisoned for not less than six (6) months, nor more than two (2) years, or be both so fined and imprisoned. If any of the acts defined and punishable as a misdemeanor under this Act shall also constitute some other offense punishable under the laws of the State of Texas, the offender shall be amenable to prosecution, at the state's election, either under this Act, or for such other offense as may have been committed by him.

Rules and Regulations to Administer Medical Assistance Program; Personnel and Administrative Expenses

Sec. 13. The State Department is authorized to adopt reasonable rules and regulations for administering the Medical Assistance Program and is authorized to use such funds as may be appropriated for the administrative costs of the operation of the Medical Assistance Program including, but not limited to, the payment of salaries, travel expense, rent, bond premiums, postage, telephone and telegraph, freight, express, drayage, stationery, printed forms, office supplies, equipment, repairs, examining fees, medical services, maintenance, and miscellaneous and contingent expense (includes Merit System).

The personnel and other administrative expenses provided for in this Section shall constitute additional staff and additional administrative expenses of the State Department of Public Welfare, and said State Department is hereby authorized to establish position classifications, and such additional personnel and administrative expenses shall be integrated with the present staff and other costs of administra-

tion for the purpose of administering the Public Assistance and Medical Assistance Programs, and shall in no way lessen the authority or the power of the Commissioner of Public Welfare to allocate and reallocate functions, duties, and responsibilities of the employees as provided in Section 5 of Senate Bill No. 36, Acts of the 46th Legislature, Regular Session, 1939, as amended by House Bill No. 611, Chapter 562, Page 914, Acts of the 47th Legislature, Regular Session, 1941, as amended.¹

¹ Article 695c.

Comprehensive Staff Development Program

Sec. 14. In order to increase the effectiveness and efficiency of the administration of the Public Assistance and Medical Assistance Programs which will result in improved services to the needy of the State of Texas, it is necessary to assist employees to obtain the technical and professional education required in the administration of these Programs. The State Department is authorized and empowered under rules and regulations promulgated by the State Department and in conformity with the Plan of Administration with the Department of Health, Education, and Welfare, to establish personnel plans and policies which will enable the State Department to formulate a comprehensive Staff Development Program which shall include, among other things, a provision for granting paid educational leave to selected employees and to make payments in the form of grants, stipends, or other methods selected by the State Department out of Federal and State funds within the limits of appropriated funds.

Research and Demonstration Projects

Sec. 15. The State Department is authorized independently or in cooperation with any public or private agency or department to set up research and demonstration projects which in the judgment of the Commissioner of Public Welfare are likely to assist in promoting the objectives of Title I, Old Age Assistance; Title IV, Aid to Families with Dependent Children; Title X, Aid to the Blind; Title XIV, Aid to the Permanently and Totally Disabled; or Title XIX, Medical Assistance, as they now read or as they may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted. Federal funds made available for assistance payments and/or Medical Assistance, and/or Federal funds made available for research and demonstration projects may be used in paying the costs of such research and demonstration projects. The State Department is also authorized to use any state funds appropriated for such purposes in conducting such research and demonstration projects.

The State Department may conduct such research and demonstration projects and use funds available for any purpose which in the judgment of the Commissioner of Public Welfare would be beneficial to the programs administered by the State Department and which

is not contrary to or inconsistent with Federal and State Laws making such funds available.

Medical Care Advisory Committee

Sec. 16. The Commissioner of Public Welfare shall establish a Medical Care Advisory Committee, which Committee shall be of such size, membership, and experience as may be determined by the Commissioner of Public Welfare to be essential for the accomplishment of the purposes of this Act and in compliance with the requirements of the Department of Health, Education, and Welfare or any other Federal Agencies or Departments responsible for the administration of the Medical Assistance Program.

The State Department shall adopt reasonable rules and regulations for establishing membership on the Committee which will provide for rotation, stability, continuity, efficiency of operation, and representation of the various professions and disciplines authorized to provide Medical Assistance.

The members of the Medical Care Advisory Committee shall receive no compensation for their services except that they may receive their actual expenses while engaged in the performance of their duties.

As requested by the Commissioner of Public Welfare from time to time in the furtherance of the objectives of the Program, the Medical Care Advisory Committee shall cooperate with and advise the State Department in developing and maintaining the Medical Assistance Program and provide professional advice on immediate and long-range plans with the view of reaching the overall objectives and goals in providing high quality comprehensive medical and health services to needy individuals in the state.

The Commissioner of Public Welfare also is authorized to appoint regional and local medical care advisory committees and is authorized to appoint any other state or local advisory committees as may be considered appropriate and necessary in the administration of public welfare.

Medical Assistance Fund; Expenditures; Transfer of Monies

Sec. 17. At such time as appropriations are authorized by the Legislature for the purposes of carrying out the provisions of this Act, there shall be continued in the Treasury a special fund to be known as the "Medical Assistance Fund" created by Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961,¹ which constitutes a separate account of the "State Department of Public Welfare Fund," and shall be expended only for the purpose of carrying out the provisions of this Act or any amendments thereto, and for the purposes for which said separate account was created; provided, however, that the amount of Medical Assistance on behalf of such individuals qualifying for Medical Assistance out of state funds shall not exceed the amount that is matchable out of Federal funds.

Medical Assistance on a limited basis is currently provided for recipients of public assistance and with the implementation of Title XIX of the Federal Social Security Act, as it now reads or as it may hereafter be amended, or any other Federal Act now in effect or which may hereafter be enacted, it is imperative that Medical Assistance be extended, the cost of which is unpredictable and the assistance grants currently include, insofar as possible, amounts to meet medical needs within the limits of appropriated funds. Under Title XIX, some medical needs of recipients which were formerly included in assistance grants will be paid on a vendor basis; therefore, some of the funds allocated and appropriated for the purpose of paying assistance grants may be required for Medical Assistance payments.

If the necessity arises, the State Department by rules and regulations and as authorized in the Appropriations Act, may request the transfer of monies appropriated for the payment of assistance grants out of the Assistance Funds into the "Medical Assistance Fund" and is empowered and authorized to use such funds for the purpose of paying Medical Assistance in addition to the funds specifically appropriated out of the "Medical Assistance Fund" for such purposes.

¹ Article 695j.

Sec. 18. [Amended Art. 7083, § 2, subsec. 7].

Infringement on Health Programs; Cooperative Arrangements

Sec. 19. It is not the intention of this Act to preempt or dilute or in any way infringe upon the health programs for which any State Agency or Department is or may be responsible, and it is the intention of this Act that the state plan for Medical Assistance provide for entering into cooperative arrangements with other State Agencies and Departments responsible for administering or supervising the administration of health services in the state looking toward maximum utilization of such services in the provision of Medical Assistance under this plan.

Conflict with Federal Statutes; Money for Medical Assistance for Needy Persons

Sec. 20. If any portion of this Act or amendments thereto are found to be in conflict with the provisions of appropriate Federal Statutes as they now are or as they may be amended, then and in that event, the State Department is specifically authorized and empowered to prescribe in its rules and regulations such limitations and restrictions as may be necessary in order that money will be available for Medical Assistance for or on behalf of needy persons.

Effective Date; Implementation of Plans for Administration of Program

Sec. 21. If this Act meets the Constitutional requirements for becoming effective upon being signed by the Governor, the State Department shall immediately implement plans

for administering the Program, but the payments for Medical Assistance under the provisions of this Act shall be effective September 1, 1967.

Repealer

Sec. 22. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict only and it is specifically provided that the Medical Assistance Act, being Senate Bill No. 79, Acts of the 57th Legislature, Regular Session, 1961, as amended by Senate Bill No. 405, Acts of the 59th Legislature, Regular Session, 1965, and being codified as Article 695j, Vernon's Texas Civil Statutes, is retained in the law and shall remain operable insofar as it is not in conflict with this Act so as to enable the State Department to promulgate rules and regulations and to enter into agreements with the Federal Government to implement this Act, and to assure continuity of Medical Assistance to the individuals receiving Medical Assistance under provisions of that Act until such time as plans can be implemented and approved, and funds, both State and Federal, made available for carrying out the provisions of this Act.

Partial Invalidity

Sec. 23. If any Section, subsection, paragraph, sentence, clause, phrase, or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

[Acts 1967, 60th Leg., p. 310, ch. 151, §§ 1 to 17, 19 to 23, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 714, ch. 307, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1343, ch. 508, § 1, eff. June 14, 1973.]

Section 2 of Acts 1973, 63rd Leg., p. 714, ch. 307, provided: "If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 695k. Texas State Committee on Aging

Governor's Committee on Aging; Terms of Office; Compensation; Policies, Rules and Regulations; Meetings

Sec. 1. (a) There is hereby created a Texas State Committee on Aging to be known as the "Governor's Committee on Aging" which shall consist of nine (9) members appointed by the Governor, with the advice and consent of the Senate, all of whom shall have demonstrated their interest in and knowledge of problems of the aging.

(b) The term of office of the nine (9) members shall be six (6) years except that initially three (3) members shall be appointed for a six (6) year term, three (3) members shall be appointed for a four (4) year term, and three (3) members for a two (2) year term; and biennially thereafter, three (3) members of said Commission shall be appointed for a full term of six (6) years, and each member of the Committee shall hold office until his successor has

been appointed and has qualified by taking the oath of office. Said members shall be eligible for reappointment and a vacancy for an unexpired term shall be filled by the Governor.

(c) The members shall serve without compensation but shall be entitled to reimbursement for actual travel expenses incurred in the performance of their duties.

(d) The Governor's Committee on Aging shall be responsible for the adoption of all policies, rules, and regulations governing the functions of the Committee provided that nothing herein shall prohibit the Committee from delegating the rights, powers, or duties imposed or conferred upon the Committee to the Coordinator of the Aged hereafter provided for in accordance with the appropriate rule, regulation, or order of said Committee.

(e) The Governor's Committee on Aging shall hold two (2) meetings annually and may hold such other meetings as may be called by the Chairman.

Chairman; Duties; Compensation

Sec. 2. In addition to the nine (9) members provided for in Section 1, the Governor shall also appoint a Chairman of the Governor's Committee on Aging, who shall serve during the tenure of the Governor who appointed him, and until his successor has been appointed. If the Governor appoints a state officer as Chairman, the services of said Chairman shall not constitute any office but shall be considered as an extension of his other official duties. He shall direct the work of the Coordinator of the Aging and the Committee.

The Chairman shall serve without compensation but shall be entitled to reimbursement for actual travel expenses incurred in the performance of said duties.

Coordinator of Aging; Personnel; Salaries; Administrative and Executive Functions

Sec. 3. (a) The Governor shall appoint a Coordinator of Aging and such other personnel as are necessary and proper. The salaries for the Coordinator of Aging and other personnel and expenses incident to the operation of said office shall be paid from the appropriations to the Governor's Office for such purposes as authorized by the Legislature except that nothing herein shall be construed as prohibiting the Committee from accepting services performed in pursuance to the purposes of this Act by other cooperating Agencies and Departments.

(b) The Coordinator of Aging shall be the Executive and Administrative officer of the Committee and shall discharge all administrative and executive functions of the Committee. The person so selected by the Governor shall be a person with executive ability and a person who has had extensive experience in the area of aging and shall serve at the pleasure of the Governor.

Governor's Citizens Advisory Council

Sec. 4. There shall be a Governor's Citizens Advisory Council composed of at least two (2)

members from each Senatorial District in the state who shall be appointed by the Governor and serve at the pleasure of the Governor. These members of the Citizens Advisory Council shall serve without compensation, and shall work under the direction and in coordination with the Committee in carrying out the purposes of this Act.

Functions and Responsibilities of Committee

Sec. 5. In addition to the functions and responsibilities as set forth elsewhere in this Act the Committee shall:

1. Develop and strengthen the services available for the aging in the state by coordinating the existing services provided by Federal, state, and local departments and agencies, and private agencies and facilities;

2. Extend and expand services for the aged through coordinating the interests and efforts of local communities in studying the problems of the aged citizens of this state;

3. Encourage, promote, and aid in the establishment of programs and services on a local level for the betterment of the living conditions of the aged by making it possible for the aged to more fully enjoy and participate in family and community life; and

4. Sponsor voluntary community rehabilitation and recreational facilities for the purpose of improving the general welfare of the aged.

It shall also be the responsibility of the Committee, through its Coordinator of Aging to cooperate with Federal Agencies, other State Agencies, or Departments, and organizations to conduct studies and surveys on the special problems of the aged in such matters as mental and physical health, housing, family relationships, employment, income, vocational rehabilitation, recreation, and education, and to make such reports and recommendations as are appropriate to the Governor and other Federal and State Agencies.

Community Senior Citizens Employment Programs

Sec. 5a. (a) The Committee is authorized to establish and administer a community program for persons 55 years of age or older who lack suitable employment and have family incomes under federal poverty guidelines. As used in this section, "suitable employment" means employment commensurate with the individual's skills and ability and for which compensation is paid equal to the federal minimum wage rate.

(b) The Committee may contract with a public agency or a private nonprofit organization experienced in management of such programs, to employ persons under this program in providing recreation, beautification, conservation, or restoration services for state, county, city, or regional governments. The Committee may not contract with any organization which is

not a subscriber under Texas workmen's compensation law or which does not pay the federal minimum wage rate or the prevailing wage rate for the particular job, whichever is greater.

(c) The state shall finance 80 percent of the cost of the program, and the governments receiving the services shall finance 20 percent of the cost of the program.

Cooperation with Federal and State Agencies

Sec. 6. The Committee shall be the designated State Agency to handle programs of the Federal Government relating to the aging, requiring action within the state, which are not the specific responsibility of another State Agency under the provisions of Federal or State Law. This Committee is not intended to supplant or to take over from the counties and municipalities of this state or from other State Agencies or facilities of this state any of the specific responsibilities which are currently borne by them, but it is intended that this Committee shall cooperate with such Federal and State Agencies, counties, and municipalities and private agencies or facilities within the state in the furtherance of the purposes set forth in this Act on behalf of the aged.

Donations

Sec. 7. The Committee may accept and solicit gifts, grants, or donations of money or property from public or private sources. Donations of money shall be placed in a special fund in the state treasury and expended on warrants drawn by the comptroller on order of the Committee. Donations of real property and of personal property other than money shall be used or sold as the Committee deems proper.

[Acts 1965, 59th Leg., p. 669, ch. 320, eff. Aug. 30, 1965; Acts 1969, 61st Leg., 2nd C.S., p. 142, ch. 38, § 1, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 1040, ch. 404, § 1, eff. Aug. 27, 1973.]

Art. 695k-1. Contribution of Funds to Local Organizations Cooperating with Governor's Committee on Aging; Counties of 24,400 to 24,500

In all counties of the State of Texas having a population of not less than 24,400 and not more than 24,500, according to the last preceding federal census, any such county, or any city or town located in any such county, may cooperate with the Governor's Committee on Aging in carrying out the purposes of such committee on a local level by contributing funds to any local organization the functions of which, in whole or in part, are to cooperate with such committee, and which does operate with the approval and sanction of the Governor's Committee on Aging, as set out in Chapter 320, Acts of the 59th Legislature, Regular Session, 1965 (Article 695k, Vernon's Texas Civil Statutes). The fact that the buildings,

facilities, services, or programs operated by such organization may be in part for other community activities or benefits shall not prohibit the contributing of such funds provided the Governor's Committee on Aging has approved that part of the program applying to the aging.

[Acts 1969, 61st Leg., p. 1803, ch. 607, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1847, ch. 542, § 119, eff. Sept. 1, 1971.]

Art. 695l. Uniform System of Accounting; Counties, Hospital Districts and Certain Cities; Quarterly Reports

Sec. 1. The Commissioners Court of every county in this State, the governing body of each hospital district, and the governing body of each city in this State with a population of 10,000 or more, according to the last preceding federal census, shall establish and maintain a uniform system of accounting whereby adequate and accurate records are compiled setting forth all the expenditures made by the county, city, or hospital district in connection with any of its welfare assistance programs.

Sec. 2. The State Comptroller of Public Accounts, with the advice and assistance of the Texas Department of Public Welfare and the State Auditor, shall prescribe a uniform system of accounting and records to be used by the counties, hospital districts, and cities in the performance of their duties as required by Section 1 of this Act. The accounting system used and the records maintained by the counties, hospital districts, or cities in connection with Section 1 of this Act must be approved by and done in accordance with the directions of the State Comptroller of Public Accounts.

Sec. 3. On the first day of January, 1972, and thereafter quarterly, the Commissioners Court of each county, the governing body of each hospital district, and the governing body of each city covered by the provisions of this Act shall cause to be filed with the State Comptroller of Public Accounts a report setting forth all expenditures by the county, hospital district, or city in connection with welfare assistance programs participated in by the county, hospital district, or city. Such reports shall be submitted on forms prepared by the State Comptroller of Public Accounts and shall contain all such information as may be required by the State Comptroller of Public Accounts.

Sec. 4. All such reports filed with the State Comptroller of Public Accounts by the counties, hospital districts, and the cities shall be kept and maintained by the State Comptroller of Public Accounts and shall be available to such other agencies of the State of Texas as may have use for the information contained therein.

[Acts 1971, 62nd Leg., p. 1056, ch. 216, eff. May 17, 1971.]

TITLE 21

BOND INVESTMENT COMPANIES

Article

- 696. Deposit.
- 697. Default of Deposit.
- 698. Receiver.
- 699. Interchange of Deposit.
- 700. Return of Deposit.
- 700a. Penalty for Violation of Laws.

Art. 696. Deposit

Each corporation, company or individual, doing business in this State as a bond investment company, or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, shall deposit with the State Treasurer, in cash or securities approved by said Treasurer, the sum of five thousand dollars, and shall deposit semi-annually with said Treasurer, in cash or securities, to be approved by said officer, ten percent of all net premiums received until the sum deposited amounts to one hundred thousand dollars.

[Acts 1925, S.B. 84.]

Art. 697. Default of Deposit

If any such domestic corporation, shall fail, for sixty days after its organization, to make with the State Treasurer the deposit required by this title, it shall be considered to have forfeited its charter; and the Attorney General shall upon information thereof, bring suit in the name of the State to have such charter or certificate of incorporation declared forfeited, and the court, upon so finding, shall declare such charter forfeited and appoint a receiver for such company, whose duty it shall be, under the order of the court, to distribute to the shareholders the assets of the company. The court shall out of such assets make equitable compensation for the receiver.

[Acts 1925, S.B. 84.]

Art. 698. Receiver

In case of the failure of any such company, the district court of the county in which the principal office is located, upon the application of one or more shareholders, shall appoint a receiver for such company, whose duty it shall be to wind up its affairs, liquidate its debts, and distribute its assets, using therefor, upon

the order of the court, the deposit previously made with the State Treasurer to secure the shareholders. Said Treasurer is authorized to pay out such deposit upon the warrant of the Comptroller in accordance with requisitions made upon the Comptroller by said receiver, approved by the court.

[Acts 1925, S.B. 84.]

Art. 699. Interchange of Deposit

On request of any such company, the State Treasurer is authorized to permit such company to interchange cash for the securities or securities for the cash deposited by such company under the provisions of this title with said Treasurer, such securities always to be approved by said Treasurer on the written advice of the Attorney General.

[Acts 1925, S.B. 84.]

Art. 700. Return of Deposit

If any such company shall cease to do business in this State and satisfy the Comptroller and the Attorney General that it has no liabilities in this State, the Comptroller shall issue his warrant to the State Treasurer; and said Treasurer upon such warrant of the Comptroller, shall return to such company the cash or securities deposited by it under the provisions of this title.

[Acts 1925, S.B. 84.]

Art. 700a. Penalty for Violation of Laws

Any officer, agent, or representative of any domestic or foreign corporation or company doing business in this State as a bond investment company or company to place or sell bonds, certificates or debentures on the partial payment or installment plan, who shall attempt to place or sell shares or transact any business in the name of or on behalf of such company while it fails to comply with the laws of this State requiring deposits to be made with the State Treasurer, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail not less than thirty days nor more than six months, or both.

[1925 P.C.]

TITLE 22

BONDS—COUNTY, MUNICIPAL, ETC.

Chapter	Article
1. General Provisions and Regulations	701
2. Courthouse, Jail and Other Bonds	718
3. Public Road Bonds	726
4. Viaducts, Bridges, Etc.	785
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Art. 701. Shall Hold Election

The bonds of a county or an incorporated city or town shall never be issued for any purpose unless a proposition for the issuance of such bonds shall have been first submitted to the qualified voters who are property tax payers of such county, city or town.

[Acts 1925, S.B. 84.]

Art. 702. Question Submitted

In all cases when the governing body of a county, city or town shall order an election for the issuance of the bonds of the county, city or town or of any political subdivision or defined district of a county, city or town, such body shall at the same time submit the question of whether or not a tax shall be levied upon the property of such county, city or town, political subdivision or defined district for the purpose of paying the interest on the bonds and to create a sinking fund for the redemption of the bonds. Bonds issued by the governing body of any such county, city or town, political subdivision or defined district whether required by law to be submitted to the Attorney General

for approval or not, may be submitted by such governing body to the Attorney General for his approval in the manner provided for the approval of bonds issued by counties, cities, towns, and in case such bonds are so submitted to the Attorney General they shall be examined by him and approved or disapproved in accordance with laws governing bonds issued by counties, cities or towns, and if approved, such bonds shall be registered by the Comptroller as is provided in such laws.

[Acts 1925, S.B. 84; Acts 1953, 53rd Leg., p. 369, ch. 95, § 1.]

Art. 703. Submission of Proposition

The proposition to be submitted shall distinctly specify:

1. The purpose for which the bonds are to be issued;
2. The amount thereof;
3. The rate of interest;
4. The levy of taxes sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity;
5. The maturity date, or that the bonds may be issued to mature serially within any given number of years not to exceed forty.

[Acts 1925, S.B. 84.]

Art. 703a. Use of Bond Proceeds for Other Purposes; Election

This Act shall apply to all cities, including, but not limited to, home rule cities, which have heretofore issued, sold and delivered bonds for a specific purpose or purposes and such purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of such bond proceeds remain unexpended. In such cases, the governing body of each such city shall be authorized to call and hold an election, in the same manner provided for calling and holding bond elections, for the purpose of submitting to the duly qualified resident electors of such city who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such unexpended funds may be expended for other and different purposes specified in the election resolution or ordinance and the election notice. If a majority of those voting at such election vote in favor of the use of such unexpended funds for such designated purpose or purposes, then the governing body of such city shall be authorized to make such expenditures.

[Acts 1955, 54th Leg., p. 4, ch. 4, § 1.]

Art. 703b. Use of Unexpended Bond Proceeds for Other Purposes; Election

This Act shall apply to all cities, including but not limited to, home rule cities, which have sold and delivered bonds for a specific purpose or purposes and such purpose or purposes have been accomplished by other means or have been abandoned and all or a portion of such bond proceeds remain unexpended. In such cases, the governing body of each such city

shall be authorized to call and hold an election, in the same manner provided for calling and holding bond elections, for the purpose of submitting to the duly qualified resident electors of such city who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such unexpended funds may be expended for other and different purposes specified in the election resolution or ordinance and the election notice. If a majority of those voting at such election vote in favor of the use of such unexpended funds for such designated purpose or purposes, then the governing body of such city shall be authorized to make such expenditures.

[Acts 1957, 55th Leg., p. 557, ch. 263, § 1.]

Art. 704. Time of Election; Notice of Election

The time and place or places of holding said election shall be designated in the election order, and such election shall be held not less than fifteen (15) nor more than thirty (30) days from the date of such order. Notice of said election shall be given by posting a substantial copy of the election order in each of the election precincts of such county, city, or town, and also at the county courthouse if for a county election and at the city hall if for a city or town election. Such notice shall also be published on the same day in each of two (2) successive weeks in a newspaper of general circulation published within said county, city, or town, the date of the first publication to be not less than fourteen (14) days prior to the date set for said election. The provisions of this Article shall control over any city charter provisions to the contrary. Except as herein provided, the manner of holding said election shall be governed by the laws governing general elections.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., 1st C.S., p. 1558, ch. 382, § 1.]

Art. 705. Form of Ballot

All voters desiring to support the proposition shall have written or printed upon their ballots the words "For the issuance of bonds," and those opposed, the words "Against the issuance of bonds."

[Acts 1925, S.B. 84.]

Art. 705a. Cancellation of Unsold Bonds of Cities or Towns; Election

Sec. 1. Any incorporated city or town in this State, including cities incorporated under the Home Rule Provisions of the Constitution and Laws of Texas, which has heretofore or may hereafter vote in favor of or execute bonds which have been or may be unsold for a period of ten (10) or more years after the same have been or may be executed, may revoke and cancel such bonds at an election called by the governing body of any such city or town upon its own motion or upon petition of not less than ten per cent (10%) of the qualified property taxpaying voters voting in the last preceding city election, shall order an election to de-

termine whether or not such bonds shall be revoked or cancelled. None but qualified taxpaying voters may vote at such an election. Such election shall be ordered and held on a date stated in such order not less than twenty (20) nor more than thirty (30) days from the date of such order and notice thereof shall be given for fifteen (15) days before such election by publication of the notice thereof in some newspaper published in such city or town and such election shall be held and conducted in the same manner and form as required in elections to authorize the issuance of such bonds. Those voting to revoke and cancel such bonds shall have written or printed on their ballot: "FOR revocation of the bonds"; and those voting not to revoke or cancel such bonds shall have written or printed on their ballot: "AGAINST revocation of the bonds."

Sec. 2. The result of such election, whether favorable to the cancellation of such bonds or not, shall be duly recorded by the governing body of said city or town, and the returns thereof and the result duly entered on record in the minutes of said governing body, and in the event the result of such election for the cancellation and revocation of such bonds shall show that a majority of the qualified resident property taxpaying voters of such city or town, voting at such election, have voted for the cancellation and revocation of such unsold bonds, the governing body shall cancel and burn all such executed bonds, and forward to the Comptroller a certified copy of the minutes showing such revocation, cancellation and destruction. The Comptroller shall thereupon cancel the registration of said bonds on the records of his office.

Sec. 3. When said bonds have been destroyed the governing body of such city or town shall readjust the existing tax levies in such city or town by an amount equal to that levied or proposed to be levied for interest and sinking fund accounts of the bonds to be cancelled.

Sec. 4. After deducting any claims properly chargeable against such taxes, the unexpended part of all taxes that have been collected, with the view to the sale of such bonds as destroyed, shall be refunded to the taxpayers ratably upon order of the governing body. The City Treasurer shall take and file proper receipts for all funds so refunded.

Sec. 5. Nothing in this Act shall be construed as invalidating any bond election or any bonds which have been sold by such city or town.

[Acts 1947, 50th Leg., p. 675, ch. 340.]

Art. 706. Maturity Dates

Bonds may be issued to mature serially within any given number of years not to exceed forty, within the discretion of the governing body issuing the same.

[Acts 1925, S.B. 84.]

Art. 707. Interest and Sinking Fund

When the issuance of bonds has been authorized, the governing body of a county or town

shall provide for the levy and collection of a tax annually sufficient to pay the annual interest and provide a sinking fund for the payment of the bonds at maturity. Such bonds shall bear a rate of interest not exceeding six per cent.

[Acts 1925, S.B. 84.]

Art. 708. Sale Price

Bonds shall never be sold at less than their par value and accumulated interest, exclusive of commissions.

[Acts 1925, S.B. 84.]

Art. 708a. Authorizing Sale of Securities to Reconstruction Finance Corporation

Whenever any county, district, city or town, or other municipality or defined subdivision of this State shall own bonds or other securities, or warrants, notes or other obligations or evidences of indebtedness of any other county, district, city or town, or other municipality or defined subdivision of this State, the same may be sold to the Reconstruction Finance Corporation or any other agency of the United States of America or department of the Federal Government at such price, whether or not less than the par or face amount thereof, as shall seem to the governing body of the seller to be reasonable and for the best interests of the seller.

[Acts 1935, 44th Leg., p. 705, ch. 301, § 1.]

Art. 708b. Defense Bonds and Other United States Obligations; Investment of Bond Proceeds by Political Subdivisions

That any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purpose for which the bonds were issued may invest the proceeds of such bonds now on hand in defense bonds or other obligations of the United States of America; provided, however, that whenever war time or any other regulations shall permit such political subdivisions to acquire the necessary labor and materials, the obligations of the United States in which said proceeds are invested shall be sold or redeemed and the proceeds of said obligations shall be used for the purpose for which the bonds of any such political subdivision were authorized.

[Acts 1943, 48th Leg., p. 211, ch. 131, § 2.]

Art. 708b-1. Bond Proceeds Not Usable Because of Labor and Material Shortages; Investment in United States Obligations

Any political subdivision of the State of Texas which heretofore has issued and sold bonds and is unable to obtain labor and materials to carry out the purposes for which the bonds were issued may invest the proceeds of such bonds now on hand in government bonds or other obligations of the United States of America; provided, however, that whenever conditions shall permit such political subdivisions to acquire the necessary labor and materials the obligations of the United States in which said proceeds are invested shall be sold or redeemed

and the proceeds of said obligations shall be used for the purposes for which the bonds of any such political subdivision were authorized. [Acts 1947, 50th Leg., p. 388, ch. 216, § 2; Acts 1949, 51st Leg., p. 710, ch. 373, § 1.]

Art. 709. Examination of Bonds, Etc.

Before any bonds shall be offered for sale, the county judge or the mayor, as the case may be, shall forward the bonds to the Attorney General, together with a certified copy of the order or ordinance levying the tax to pay the interest and provide a sinking fund, and a statement of the total bonded indebtedness of the county, city or town, including the series of bonds proposed, together with the amount of the assessed value of the property of the county, city or town for purposes of taxation as shown by the last official assessment of such county, city or town. Such county judge or mayor shall also furnish the Attorney General with any additional information he may require.

[Acts 1925, S.B. 84.]

Art. 709a. Approval of Bonds of Improvement Districts of Home Rule Cities

Bonds issued by the governing body of any home rule city for and on behalf of an improvement district created within said city under the provisions of the home rule charter may be submitted to the Attorney General for his approval in the manner provided for the approval of bonds issued by cities and towns, and when so submitted such bonds shall be examined by the Attorney General and approved or disapproved in accordance with the laws governing bonds issued by cities and towns, and if approved, such bonds shall be registered by the Comptroller as in the case of bonds issued by cities and towns.

[Acts 1953, 53rd Leg., p. 753, ch. 301, § 1.]

Art. 709b. Home Rule Cities; Validation of Bonds

Sec. 1. All bonds heretofore authorized by any Home Rule City in the State of Texas which pledge the revenues of its water, sewer, or electric systems, or any combination of the revenues of such systems, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of charter or statutory authority of such city, or the governing body thereof to authorize and issue such bonds and make such pledge of revenue or revenues, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the charter or statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such city may be engaged in any suit or litigation questioning the power of such city to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may

be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and the bonds shall be incontestable.

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the voting qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such city being engaged in any suit or litigation questioning the power of such city, or the governing body thereof, to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack.

[Acts 1961, 57th Leg., p. 175, ch. 92.]

Art. 709c. Home Rule Cities; Advertising Bonds for Sale and Receipt of Bids Before Passage of Ordinance Authorizing Bond Issue

Sec. 1. This Act shall be applicable to any Home Rule City having a charter which provides that bonds issued by the city shall be advertised for sale after the bonds have been authorized and issued.

Sec. 2. In order for the city to receive competitive bids on the interest rate its bonds are to bear, as well as on the amount of the premium, the governing body of any city to which this Act is applicable shall advertise its bonds for sale and receive bids therefor before the passage of the ordinance authorizing the issuance of the bonds.

[Acts 1961, 57th Leg., p. 571, ch. 268.]

Art. 709d. Offer for Sale of Bonds, Obligations and Pledges; Submission to Attorney General; Certificate of Validity

When any county bonds, or the bonds of any incorporated city, independent or common school district, road precinct, drainage, irrigation, navigation and levee districts, or obligations and pledges of the University of Texas are offered for sale, the party offering, or proposing to sell, such bonds, obligations, and pledges shall first submit them to the Attorney General, who shall carefully inspect and examine the same in connection with the law under which they were issued, and shall diligently inquire into the facts and circumstances so far

as may be necessary to determine the validity thereof; and, upon being satisfied that such bonds, obligations, and pledges were issued in conformity with law, and that they are valid and binding obligations, he shall thereupon certify to their validity, and his certificate to that effect, so procured by the party offering such bonds, obligations, and pledges as the case may be, shall be submitted to the Comptroller or State Board of Education with the bonds, obligations, and pledges so offered for sale, and shall be carefully preserved by the Comptroller. If the same be purchased from the county, city, precinct, or district issuing the same or from the University of Texas, or from any person authorized to act for it in the negotiation or sale of the same, they shall thereafter be held to be valid and binding obligations in every action or proceeding in which their validity is or may be called in question, unless fraudulently issued, or issued in violation of the constitutional limitation. In every such action, such certificate of the Attorney General shall be admitted and received as prima facie evidence of the validity of such bonds, obligations, or pledges, and coupons thereto, which may have been so purchased.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 573, ch. 278, § 1; Acts 1971, 62nd Leg., p. 3024, ch. 994, § 16(a), eff. Aug. 30, 1971.]

The 1971 Act renumbered former article 2670 as article 709d.

Art. 710. Registration

When said bonds have been examined and certified by the Attorney General, they shall be registered by the Comptroller in a book kept for that purpose.

[Acts 1925, S.B. 84.]

Art. 711. Special Registration

The Comptroller shall indorse his certificate of registration on each city bond so registered, and at the request of the mayor, give his certificate to the amount of bonds so registered to date.

[Acts 1925, S.B. 84.]

Art. 712. Certificate of Approval

The certificate of the Attorney General to the validity of such bonds shall be preserved of record.

[Acts 1925, S.B. 84.]

Art. 713. Shall Cancel Old Bonds

In the case of funding or refunding bonds, the Comptroller shall not register the same until the original bonds are presented to him for cancellation.

[Acts 1925, S.B. 84.]

Art. 714. Requisites of Cancellation

After registration of the new bonds, the Comptroller shall cancel the old, and deliver the new bonds to the proper party or parties. The old bonds may be presented for cancellation in installments, and a like amount of the new bonds registered and delivered as herein provided.

[Acts 1925, S.B. 84.]

Art. 715. Evidence of Validity

Such bonds, after receiving the certificate of the Attorney General, and having been registered in the Comptroller's office, shall be held in every action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. In every action brought to enforce collection of such bonds, the certificate of the Attorney General, or a duly certified copy thereof, shall be admitted and received in evidence of its validity, together with the coupons attached thereto. The only defense which can be offered against the validity of such bonds shall be forgery or fraud. This article shall not be construed to give validity to any such bonds as may be issued in excess of the limit fixed by the Constitution, or contrary to its provisions.

[Acts 1925, S.B. 84.]

Art. 715a. Replacement for Damaged, Destroyed, Lost or Stolen Bonds

Sec. 1. This Act shall be applicable to (and the term "issuer" as used in this Act shall mean and include) the State of Texas, or any department, agency or instrumentality of the State of Texas or any county, municipal corporation, taxing district or other political district or subdivision of the State of Texas having power to borrow money and issue bonds.

Sec. 2. Any issuer may issue a replacement bond to be exchanged for any damaged or mutilated bond theretofore lawfully issued and which at the time of exchange is outstanding, and may also issue a replacement bond for any bond theretofore lawfully issued and which is outstanding to replace any such bond which has been destroyed, lost or stolen, without an election. Any bond issued to replace a destroyed, lost or stolen bond, shall be issued upon indemnity satisfactory to the issuer, and to the Trustee if such bond is secured by a Trust Indenture. The issuer may require an affidavit or any other form of evidence satisfactory to the issuer to establish proof of ownership and the circumstances of the loss, theft, destruction, mutilation or damage of such bond.

Sec. 3. Any bond issued pursuant to the provisions of this Act shall be of like tenor and effect as the bond which it is issued to replace, except that such replacement bond shall bear a date specified by the issuer and shall be signed manually, or in facsimile, as provided by law, by the officers of the issuer holding office at the time of issuance of the replacement bond.

Sec. 4. Any such replacement bond shall be submitted to the Attorney General for his approval. If the Attorney General finds that such bond has been issued in accordance with the provisions of this Act he shall approve same and shall transmit any such bond to the Comptroller of Public Accounts for registration. The Comptroller shall register any such replacement bond in the same manner as the original bond was registered, giving it the same registration number as the original bond, except that such number shall be preceded by

the letter R. The Comptroller shall date his registration certificate as of the date of registration of the replacement bond. Prior to registration of a bond issued to replace a mutilated or damaged bond, the Comptroller shall cancel the bond being replaced and return same to the issuer. The Comptroller shall register other bonds authorized herein upon certification from the Attorney General that such bond is being issued to replace a bond which has been lost, stolen or destroyed.

Sec. 5. This Act shall be cumulative of all existing laws relating to the issuance of bonds. [Acts 1965, 59th Leg., p. 701, ch. 334, eff. Aug. 30, 1965.]

Art. 716. Validity of Certain Bonds

No bonds or coupons legally and lawfully issued and signed by the duly authorized officers of any county, city, town, political subdivision, defined district, water improvement district or water control district or any school district of this State, shall ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to a purchaser, such bonds or coupons had been signed or executed by different officers acting in the same capacity or when such bonds or coupons had been signed or executed by officers who had succeeded other officers who had executed or signed a part of said bonds or coupons, nor shall any such bonds ever be held invalid by reason of the fact that at the time of the actual delivery of such bonds to the purchaser, the respective persons who had signed such bonds or coupons, or any part thereof, may have been replaced in their respective offices by other persons after the signing of such bonds or coupons or any part thereof and before the delivery thereof, and any officer acting in the same official capacity as his predecessor, shall have the same right to complete the execution of such bonds and their issuance in the manner and form as provided by law and to the same extent as did his predecessor and it shall be lawful for the official board or managing body of any such political subdivision or district to select in the manner provided by law another official or person in whom may be vested the authority and duty of the execution of such bonds and/or coupons and of issuing such bonds and completing the record in respect thereto, provided, however, such action or actions shall be set forth in the records of said subdivision or district.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 3rd C.S., p. 237, ch. 6, § 1.]

Art. 716a. Validating Municipal Bond Issues

Sec. 1. This Act may be cited as "The 1935 Validating Act."

Sec. 2. The following terms, whenever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" means a Water Control and Improvement District, Water Improvement District, Irrigation District, Conservation and Reclamation

District, Navigation District, Road District, School District, County, City or Incorporated town of this State.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

Sec. 4. Provided however, that the provisions of this Act shall not be construed as validating any such proceedings, or bonds or other obligations issued by virtue thereof, where the validity of any such proceedings or obligations or bonds issued thereunder has been contested or attacked in any pending suit or litigation. [Acts 1935, 44th Leg., 1st C.S., p. 1561, ch. 384.]

Art. 716b. Validating County Bond Issues and Elections Between June 19 and August 17, 1936

All proceedings heretofore had by the governing bodies of all counties, between June 19, 1936 and August 17, 1936, both inclusive, in the State of Texas in connection with the issuance of bonds for any purpose, including the orders for and notices of elections, the conduct and returns of elections, and the canvassing of such returns of such elections, and the bonds heretofore or hereafter issued pursuant thereto, are hereby in all things fully validated, confirmed, approved and legalized, including among others, instances wherein there have been irregularities in the calling of elections and the giving of notice of elections, notwithstanding the fact that the election order designated a time for holding the election on a day more than thirty (30) days from the date of

such order, and notwithstanding the fact that the notice of election was posted within such county instead of having been both posted and published in a newspaper of general circulation, and notwithstanding the fact that both such irregularities have occurred in connection with the same election. All bonds issued pursuant to such proceedings, when approved by the Attorney General of the State of Texas, registered in the office of the Comptroller of Public Accounts, and delivered to the purchasers thereof, shall constitute valid and binding obligations of such county. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, are hereby in all things validated, confirmed, approved and legalized.

Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, the validity of which is being contested or attacked in any suit or litigation pending at the time this Act becomes effective, or that may be filed sixty (60) days after the effective date hereof and shall not validate any levy, assessment of valuation made or placed on any property where any suit, as aforementioned, shall be or shall have been filed within the time aforementioned.

[Acts 1936, 44th Leg., 3rd C.S., p. 2098, ch. 504, § 1.]

Art. 717. Exceptions

The first three Articles of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, shall not apply to refunding bonds issued, or to be issued, for the refunding of any valid outstanding bonds of a county, city, or town; nor to any bond issue for a sum less than Two Thousand (\$2,000.00) Dollars, when issued for the purpose of repairing buildings or structures for the building of which bonds are allowed to be issued; provided, however, that the aggregate principal amount of bond issues for the repairing of such buildings and structures shall never in any one calendar year exceed Two Thousand (\$2,000.00) Dollars.

[Acts 1925, S.B. 84; Acts 1931, 52nd Leg., p. 67, ch. 40, § 1.]

Art. 717a. Refunding Indebtedness of Unorganized Counties Since Organized

Issuance of Refunding Bonds; Taxes and Sinking Fund

Sec. 1. That the Commissioners Court of any organized county in this State which was unorganized at the time¹ taking the next preceding United States Census, and which had a population of less than one hundred at the time of said census, is authorized and empowered to fund into the bonds of any such county such legal indebtedness of the county which is evidenced by the legally issued and outstanding warrants and scrip of such county issued for any purpose, as authorized by law, and which indebtedness existed on January 1st 1929. Said refunding bonds may be issued by the Commissioners Court of any such county, payable serially or otherwise, within a period of time not exceeding forty years as the court

may direct, and shall bear interest at a rate of not more than six per cent per annum, payable annually or semiannually; the rate of interest and payment dates to be determined by the Commissioners Court of such counties, to be issued in such denominations as may be prescribed by the Commissioners Court of such counties. At the time of the passage of an order of the Commissioners Court, authorizing the issuance of such bonds, it shall be the duty of the Commissioners Court of such counties to levy an annual Ad Valorem tax on all taxable property within the county sufficient to provide for the payment of the interest on such bonds and to create a sinking fund with which to pay the principal thereof as it matures; and in such cases it shall not be necessary to submit the question of the issuance of said refunding bonds to a vote of the people. The Commissioners Court of such counties are¹ authorized to issue said bonds in exchange for like amounts of the outstanding warrants or scrip of said counties as existed on January 1st 1929. Said bonds, when executed shall be approved by the Attorney General of the State of Texas and shall be registered by the Comptroller as in the case of other legally authorized refunding bonds.

Limitation on Warrants or Indebtedness

Sec. 2. From and after the taking effect of this act, it shall be unlawful for the Commissioners Court of any county coming within the provisions of this act to issue or cause to be issued any warrants, scrip, or evidence of indebtedness, or to create any debt against the road and bridge fund of such county, except as authorized by this act, in excess of the current revenues for said county road and bridge purposes; provided that in case of great calamity or urgent public necessity, said court may issue warrants against the road and bridge fund in excess of the current revenues for the purpose of repairing roads and building bridges occasioned by such calamity or urgent public necessity, but in no instance shall such warrants exceed the limitations provided by the constitution and laws of this State; and provided further that no warrant shall be issued for such purposes until first authorized by order passed by said court, and provided further that said order shall recite fully the necessity therefor and particularly specify the several purposes for which said warrants are to be issued, which said order shall be published at least one time in some newspaper published in said county before said warrants are issued. If no newspaper is being published in said county, then in some newspaper in an adjoining county nearest the county seat of said county.

[Acts 1929, 41st Leg., p. 503, ch. 240.]

¹ So in enrolled bill.

Art. 717a-1. Refunding Indebtedness of Counties of 100,000 or More; Taxes; Sinking Fund

Sec. 1. The Commissioners Court of any county in this State, having a population of

one hundred thousand (100,000) inhabitants, or more, according to the last preceding Federal Census, shall have the power to issue bonds for the purpose of refunding any and all outstanding indebtedness of such county, chargeable against the General Fund which existed on April 30, 1941. Items of indebtedness as of said date, in the form of scrip or time warrants, either or both, may be included in such refunding bond issue. Such refunding bonds may be issued by the Court payable serially, or otherwise, within a period of time not exceeding thirty (30) years as the Court may direct, and shall bear interest at a rate not to exceed five (5) per centum per annum, interest payable annually or semiannually as may be determined by the Court; provided, however, that the amount of bonds issued under this Act shall never reach an amount where a tax of Five (5) Cents on the one hundred dollars valuation of property will not pay current interest and provide a sinking fund sufficient to redeem them at maturity; and, provided further, that said refunding bonds shall have been first authorized by a majority vote cast by the duly qualified property taxpaying voters voting at an election held for that purpose.

Sec. 2. That said Commissioners Courts are further authorized and empowered to levy (within the maximum rate hereinabove prescribed) a tax upon all real and personal property situated in such county, out of the tax of Twenty-five (25) Cents authorized for county purposes by Section 9 of Article 8 of the Constitution of Texas, sufficient to pay the principal of and interest on such bonds, if voted or authorized as herein provided, and no bonds shall be issued under this Act until a tax levy, as herein provided, shall have been made, and when said levy shall have been so made, the same shall continue in force until the whole amount of the principal of and interest on such bonds shall have been fully paid.

Sec. 3. The general laws relative to county refunding bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval, and certification, and the registration of the bonds provided for in this Act.

Sec. 4. If any section, clause, or phrase of this Act is held to be unconstitutional, such decision shall not affect the remaining portion of this Act.

[Acts 1941, 47th Leg., p. 793, ch. 492.]

Art. 717b. Borrowing from Federal Agencies

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

[Acts 1933, 43rd Leg., p. 601, ch. 198, § 1.]

Art. 717c. Counties Authorized to Borrow from Federal Agencies and to Levy Tax to Repay Indebtedness

Borrowing and Receiving Grants Authorized; Restrictions

Sec. 1. All counties in this State acting by and through their respective Commissioners Courts may borrow money and/or receive grants of money from the Federal Emergency Administrator of Public Works or any other Federal agency that may be provided for similar purposes under the terms and provisions, and in accordance with the provisions of the Act of the Congress of the United States commonly known as the "National Industrial Recovery Act."¹ Provided that all actions taken by the Commissioners Courts in carrying out the provisions of this Act shall be done in accordance with, and subject to all the restrictions of Chapter 163 of the Acts of the Forty-second Legislature,² and nothing in this Act shall be construed as repealing any of the provisions of House Bill No. 312, passed by the Regular Session of the Forty-second Legislature.²

¹ Act June 16, 1933, ch. 90, 48 U.S.Stat. 195.

² Article 2368a.

Security for Repayment

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

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

(b) Such counties may issue their negotiable warrants or certificates of indebtedness and sell the same to the United States of America acting through the Federal Emergency Administrator of Public Works or other Federal Agency at not less than par value and accrued interest; and/or

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

Bonds or Security Approved by Attorney General; Contest of Validity

Sec. 3. In all instances where the Federal Emergency Administrator of Public Works or other Federal Agency delivers to any county

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

Expiration Date

Sec. 4. Any contract or agreement made and entered into by any such county under the authority and provisions of this Act shall be valid and in full force and effect for the period of time provided for in said contract and agreement made by such county.

Construction as to Existing Law

Sec. 5. The provisions of this Act shall be cumulative of any existing laws; provided, however, that the provisions of this Act shall apply wherever there is any conflict with any other law or laws during the period of the existence of this Act.

[Acts 1933, 43rd Leg., 1st C.S., p. 298, ch. 109; Acts 1935, 44th Leg., 1st C.S., p. 1653, ch. 423, §§ 1, 3.]

Art. 717d. Validating County Bonds for Road Construction and Tax Levies

Sec. 1. Where, under authority of Section 52, of Article 3, of the Constitution of the State of Texas, a two-thirds majority of the resident property taxpayers, being qualified electors of any county voting on the proposition, having voted at an election held in such county called by the County Commissioners' Court of such county, in favor of the issuance of bonds of such county and the levy of a tax upon the taxable property therein for the purpose of paying the interest on said bonds and providing a sinking fund for the redemption thereof for the construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof within such county, the canvass of said vote, revealing such majority having been recorded in the minutes of said County Commissioners' Court, and where thereafter the County Commissioners' Court of each such county, by order adopted and recorded in its minutes, authorized the issuance of such bonds of such county, prescribed the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, and providing for the levy of a tax upon the valuation of taxable property in each such county according to the value thereof as fixed for State and County purposes, sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, and such bonds were approved by the Attorney General of the State of Texas and thereafter issued and delivered, each such election and all acts and proceedings had and taken in connec-

tion therewith by such County Commissioners' Court in respect of such bonds, levy of taxes, construction, maintenance and operation of macadamized, graveled or paved roads or turnpikes, or in aid thereof, are hereby legalized, approved and validated; and such bonds are hereby validated and constitute the legal obligations of such county. Any such county bonds heretofore voted and authorized, as aforesaid, and not yet issued, may be issued and delivered by order of the County Commissioners' Court of such county when approved by the Attorney General of the State of Texas and such bonds shall constitute the valid and binding obligation of such county.

Sec. 2. Taxes, sufficient to pay the principal of and interest upon such bonds, so levied for such purpose upon the valuation of taxable property in such County, according to the value of taxable property as determined for State and County purposes, are hereby found and fixed as the amount to be raised in each such county, and constitute the basis for such taxation, and the assessment and levy of such taxes is hereby validated and legalized; and such taxes, in an amount sufficient to pay the principal of and interest upon such bonds now outstanding, or hereafter issued, as aforesaid, shall be annually assessed and collected according to the value of taxable property as fixed for State and County taxes, by the County Commissioners' Court of each such county and express authority so to do is hereby delegated and granted to such courts.

Sec. 3. Such orders, and all other orders adopted by such County Commissioners' Court in respect of such bonds and taxes, as the same appear upon the record of such court, or copies thereof duly certified, are hereby constituted legal evidence of such orders, and shall be authority for such court to annually levy, assess and collect taxes in an amount sufficient to pay the principal of and interest upon such bonds as the same mature and become due, such taxes to be levied and assessed upon the value of taxable property in such county as fixed for state and county taxes.

Sec. 4. The legislature hereby exercises the authority upon it conferred by Section 52, of Article 3, of the Texas Constitution, and confirms and ratifies the acts and proceedings of such courts in respect of such election, authorization, issuance and delivery of such bonds, the levy of taxes to pay principal thereof and interest thereon, with like effect, as though at the time or times said acts and proceedings were done or had, there existed statutory authority for the doing thereof. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law.

[Acts 1937, 45th Leg., p. 12, ch. 12.]

Art. 717e. Validating Bonds and Proceedings of Water Improvement Districts, Drainage Districts, and Other Districts and Cities, Towns, etc., Issued for Loans or Grants by Federal Agencies

Sec. 1. This Act may be cited as "The 1939 Validating Act."

Sec. 2. As used in this Act:

(a) The term "public body" includes a Water Control and Improvement District, Water Improvement District, Irrigation District, Conservation and Reclamation District, Drainage District, Levee District, Navigation District, Road District, School District, County, City or Incorporated Town or Village of this State.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien on encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to or for the benefit of which, any loan or grant or both has been made heretofore by the United States of America through the Federal Emergency Administration (or Administrator) of Public Works or the Reconstruction Finance Corporation for the purpose of financing or aiding in the financing of such work, undertaking or project, or for the purpose of funding or refunding previously existing indebtedness, including all proceedings for the authorization and issuance of such bonds, the provisions made for the payment thereof, and the sale, execution and delivery thereof, are hereby validated notwithstanding any lack of previous legislative authorization to such public body, or the governing body thereof, to issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body. All bonds heretofore authorized for such purposes by an election or by action of the governing body of a public body to or for which a loan or grant, or both has been made by the United States of America through the Federal Emergency Administration (or Administrator) of Public Works, or the Reconstruction Finance Corporation, shall, when issued (and when approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts if such approval and registration are authorized by statute) be binding legal, valid and enforceable obligations of such public

body, notwithstanding any lack of previous legislative authorization, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, or in the execution, sale or delivery thereof.

Sec. 4. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings, or bonds or other obligations issued by virtue thereof, where the validity of any such proceedings, or obligations or bonds issued thereunder has been contested or attacked in any suit or litigation instituted prior to the delivery of such bonds to the Federal Emergency Administration of Public Works or the Reconstruction Finance Corporation, and pending at the time this Act becomes effective.

[Acts 1939, 46th Leg., p. 687.]

Art. 717f. Validation of Election Revoking Authority to Issue Bonds

Sec. 1. All elections ordered by the Commissioners Courts of any and all counties for the purpose of revoking or cancelling the authority of such Courts to issue bonds (which bonds had been previously authorized at an election wherein a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election voted in favor of such bonds, but which bonds have not been issued) and in which election or elections a majority of the qualified property-taxpaying voters who had duly rendered the same for taxation voting at such election or elections voted in favor of such revocation or cancellation, are hereby in all things validated.

Sec. 2. Any and all acts of the Commissioners Courts and other county officials in levying and collecting taxes in anticipation of the issuance of any such bonds, the authority of the Commissioners Courts to issue such bonds having been so revoked or cancelled subsequent to such levy, are hereby in all things validated, and such taxes shall be placed in the constitutional fund out of which such taxes were levied and collected.

[Acts 1949, 51st Leg., p. 181, ch. 98].

Art. 717g. Revocation or Cancellation of Authority to Issue Bonds

Sec. 1. The Commissioners Court of any county and the governing body of any incorporated city or town, including Home Rule Cities, are hereby empowered and authorized to order an election or elections for the purpose of determining whether the authority to issue bonds theretofore voted but which have not at the time of ordering such election been sold and delivered shall be revoked or canceled. The authority granted by this Act shall apply to unsold and undelivered bonds whether the same constitute all or only a portion of an issue. Such election shall be ordered, held, and conducted in the same form and manner and under the same procedure as that at which such bonds were originally authorized. All voters desiring to support the proposition shall

have written or printed upon their ballots the words:

“FOR the revocation of bonds”; and those opposed, the words: “AGAINST the revocation of bonds.”

If the revocation election covers bonds of more than one voted issue, there shall be a separate proposition pertaining to the bonds of each voted issue.

Sec. 2. The Commissioners Court or the governing body of the city or town shall pass an order or resolution canvassing the returns, and if the election carries by the vote required under the statutes under which the bonds were originally voted, the authority to issue such bonds shall thereupon be revoked and canceled. If the bonds have been printed the Commissioners Court or governing body shall destroy the bonds by canceling and burning the same. If said bonds have been approved by the Attorney General and registered by the Comptroller, a certified copy of the order or resolution and the minutes pertaining thereto shall be forwarded to said Attorney General and Comptroller. If the bonds have not been printed, a certified copy of the order or resolution showing that the authority to issue such bonds has been revoked and canceled and the minutes pertaining thereto shall be forwarded to the Attorney General.

[Acts 1951, 52nd Leg., p. 174, ch. 110.]

Art. 717h. Bonds for Repair or Improvement of Toll Bridge Across Rio Grande

Sec. 1. This Act shall be applicable to all incorporated cities and towns, including Home Rule Cities, which own the portion of an international toll bridge over the Rio Grande River which is situated within the United States of America. Any such city or town may from time to time issue bonds payable from the net revenues derived from the operation of such bridge for the purpose of repairing or improving the bridge, acquiring approaches thereto, and constructing buildings to be used in connection therewith, or for any of such purposes. Such bonds shall be issued in conformity with and subject to the provisions of Chapter 1 of Title 22, Revised Civil Statutes of Texas, as amended.

Sec. 2. Where there are outstanding bonds payable from the net revenues derived from the operation of such bridge, additional revenue bonds are permitted or authorized by the provisions of the outstanding bonds and the proceedings relating to such outstanding bonds. The additional bonds shall be issued to the extent and under the conditions provided by the provisions of the outstanding bonds and the proceedings relative thereto, including any trust indenture securing the outstanding bonds, and such additional bonds may be secured by a pledge of and lien on the net revenues junior to the pledge and lien securing the outstanding bonds, or by a pledge of and lien on the net revenues on a parity with such outstanding bonds, depending upon the provisions

of said outstanding bonds and the proceedings relative thereto.

Sec. 3. If any word, phrase, clause, sentence, paragraph, section, or part of this Act shall be held by any court of competent jurisdiction to be invalid, it shall not affect any other word, phrase, clause, sentence, paragraph, section, or part of this Act.

[Acts 1951, 52nd Leg., p. 805, ch. 449.]

Art. 717i. Validation of County Bond Elections for Flood Control, Drainage or Irrigation; Issuance of Bonds Under Election Previously Ordered

Sec. 1. All county-wide election proceedings heretofore had for the issuance of bonds by the county for the purposes of improving rivers, creeks and streams for the prevention of overflows, for necessary drainage purposes in connection therewith, for constructing and maintaining lakes, pools, reservoirs, dams, canals and waterways for purposes of irrigation, or in aid thereof, or purchasing improvements already existing and adding thereto, and incidental expenses in connection therewith, including the acquisition of right of way for flood control and the site or sites for dams or other structures to prevent overflows and to provide necessary drainage, constructing flood control systems or aiding therein, and constructing canal systems or aiding therein, are hereby in all things validated. Without in any way limiting the generalization of the foregoing, petitions heretofore presented to the Commissioners Court praying for an election for the issuance of bonds for any or all of said purposes, orders or resolutions of the Commissioners Court heretofore passed or adopted ordering an election or elections to authorize the issuance of bonds for said purposes, election notices heretofore given, and the like, are hereby in all things validated, provided, that this validating section shall not be effective as to litigation pending at the time this Act becomes effective.

Sec. 2. All county-wide bond elections heretofore called and held for the issuance of county bonds for any or all of said purposes at which elections not less than two-thirds ($\frac{2}{3}$) of the resident qualified property taxpaying voters whose property had been duly rendered for taxation, voting at said election, voted in favor of said bonds are hereby in all things validated.

Sec. 3. All bonds for said purposes, the election for the authorization of which has heretofore been ordered by the Commissioners Court, but which election has not been held by the time that this Act becomes effective, may be issued if at the election not less than two-thirds ($\frac{2}{3}$) of the resident qualified property taxpaying voters whose property has been duly rendered for taxation, voting at said election, shall vote in favor of the issuance thereof, and said bonds, and bonds which have heretofore been authorized at an election as provided in Section 2 of this Act but which bonds have not

yet been issued, shall be issued in accordance with the applicable general laws governing the issuance of county bonds, being Chapter 1 of Title 22, Revised Civil Statutes, 1925, as amended. Such bonds shall be submitted to the Attorney General for approval, and if he approves the same, they shall be registered by the Comptroller of Public Accounts, as provided by general law. After said bonds are approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers thereof for not less than their par value and accrued interest, they shall thereafter be incontestable. Any bonds issued under the provisions of this Act may be refunded either through option provisions contained in such bonds or with the consent of the holder or holders thereof, at the same or lower rate of interest, said refunding bonds to mature serially in not to exceed forty (40) years, and said refunding bonds to be issued in the same manner as provided for and with the same effect as the original bonds, provided, however, that no election shall be necessary to authorize the issuance of said refunding bonds.

Sec. 4. Bonds issued under this Act are hereby declared to be bonds issued by counties under the authority of Section 52, Article III, Constitution of Texas, or by counties as conservation and reclamation districts under the authority of Section 59, Article XVI, Constitution of Texas, and the petition praying for the election to authorize the issuance of said bonds shall determine under which of said Constitutional provisions said bonds are issued or to be issued.

[Acts 1953, 53rd Leg., p. 962, ch. 406.]

Art. 717j. Repealed by Acts 1961, 57th Leg., p. 406, ch. 204, § 9

Art. 717j-1. Texas Uniform Facsimile Signature of Public Officials Act

Definitions

Sec. 1. As used in this Act:

(a) "Public security" means a bond, note, certificate of indebtedness, or other obligation for the payment of money, issued by this state, its political subdivisions, or by any department, agency, or other instrumentality of this state or its political subdivisions.

(b) "Instrument of payment" means a check, draft, warrant, or order for the payment, delivery, or transfer of funds.

(c) "Certificate of assessment" means any certificate or instrument, evidencing a special assessment, issued by any agency or political subdivision of this state which is authorized by law to levy such assessments.

(d) "Authorized officer" means any official of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions whose signature to a public security, instrument of payment or certifi-

cate of assessment is required or permitted.

(e) "Facsimile signature" means a reproduction by engraving, imprinting, lithographing, stamping, or other means of the manual signature of an authorized officer.

Facsimile Signature

Sec. 2. If the use of a facsimile signature is authorized by the board, body, or officer empowered by law to authorize the issuance of the public securities, instruments of payment or certificates of assessment, any authorized officer may execute, authenticate, certify, or endorse, or cause to be executed, authenticated, certified, or endorsed with a facsimile signature in lieu of his manual signature:

(a) Any public security, provided that at least one signature required or permitted to be placed thereon shall be manually subscribed; and

(b) Any instrument of payment; and

(c) Any certificate of assessment. In any suit or legal action instituted against the officer whose name is affixed under the provisions of this Act, it shall not be a defense that such name was affixed to any public security, instrument of payment or certificate of assessment, as herein defined, without his authority or consent. Upon compliance with this Act by the authorized officer, his facsimile signature has the same legal effect as his manual signature.

However, as to a public security required to be registered by the Comptroller of Public Accounts of the State of Texas, only his signature or that of a deputy designated in writing to act for the Comptroller is required to be manually subscribed to such public security or to a certificate thereon.

Facsimile Seal

Sec. 3. When the seal of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions is required in the execution, authentication, certification, or endorsement of a public security, instrument of payment or certificate of assessment, the authorized officer may cause the seal to be printed, engraved, lithographed, stamped, or otherwise placed in facsimile thereon. The facsimile seal has the same legal effect as the impression of the seal.

Penalty

Sec. 4. Any person who with intent to defraud uses on a public security an instrument of payment or a certificate of assessment:

(a) A facsimile signature, or any reproduction of it, of any authorized officer; or

(b) Any facsimile seal, or any reproduction of it, of this state, its political subdivisions, or any department, agency, or other instrumentality of this state or its political subdivisions shall upon conviction be confined in the penitentiary not less than two nor more than seven years.

Uniformity of Interpretation

Sec. 5. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Short Title

Sec. 6. This Act may be cited as the Texas Uniform Facsimile Signature of Public Officials Act.

Severability Clause

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

Applicability

Sec. 8. This Act applies to all public securities authorized and all instruments of payment executed after the effective date of this Act. The signature upon public securities authorized after the effective date of House Bill No. 725, Acts 1955, 54th Legislature, Chapter 293,¹ but prior to the effective date of this Act and which were not executed prior to the effective date of this Act may be placed upon these public securities by complying either with House Bill No. 725, Acts 1955, 54th Legislature, Chapter 293, or with this Act.

[Acts 1961, 57th Leg., p. 406, ch. 204; Acts 1967, 60th Leg., p. 701, ch. 290, § 1, eff. May 25, 1967.]

¹ Article 717j (repealed).

Art. 717k. State, County, Municipality or Political Subdivision; Issuer of Bonds, Notes, etc.

"Issuer" Defined; Applicability of Act

Sec. 1. This Act shall be applicable to (and the term "issuer" as used in this Act shall mean and include) the State of Texas, or any department, agency or instrumentality of the State of Texas or any county, municipal corporation, taxing district or other political district or subdivision of the State of Texas having power to borrow money and issue bonds, notes or other evidences of indebtedness; and which has the power to issue refunding bonds in lieu of outstanding obligations of the issuer.

Refunding Bonds; Power to Issue; Sale Price; Maturity; Interest Rate; Security; Combination Issuance; Election; Approval; Registration; Sale and Delivery; Legal Investments; Exception

Sec. 2. (a) The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds to be sold for cash in such principal amounts as are necessary to provide all or any part of the money required to pay the principal of any obligations being refunded and the interest to accrue on said obligations to the maturity thereof, and/or to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on any date or dates upon which said obligations are subject to such redemption,

including principal, and any required redemption premium, and the interest to accrue on said obligations to said redemption date or dates. Said refunding bonds shall be sold for not less than their par value plus accrued interest to date of delivery, shall mature not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure to pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any encumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, to the extent practicable, applicable, and appropriate. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, without the surrender, exchange, or cancellation of the obligations being refunded; and notwithstanding any provisions of this Act to the contrary, such bonds shall be so registered before the making of the deposit with the State Treasurer as required hereunder, and such refunding bonds may be sold and delivered to the purchaser thereof in order to permit the issuer to use the proceeds from such sale and delivery to make all or any part of said deposit. After such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. All refunding bonds issued under this Act, shall be legal and autho-

rized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the market value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder unless the obligations to be refunded are scheduled to mature or are subject to redemption prior to maturity within not more than five years from the date of the refunding bonds; and no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

(b) An issuer shall have the right to deposit, or cause to be deposited to the State Treasurer of the State of Texas a sum of money equal to the principal amount of the bonds, notes, and other evidences of indebtedness which it proposes to refund plus the amount of interest which will accrue thereon calculated to the date on which it is to become due or on which it may be redeemed, together with the amount of contract premium if any, required for redemption; and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth ($1/20$) of one per cent (1%) of the principal amount of said bonds and one-eighth ($1/8$) of one per cent (1%) of the interest to accrue on all of said underlying obligations, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said underlying obligations are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said underlying obligations, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such underlying obligations, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such

services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

Duty of State Treasurer

Sec. 3. Upon receipt of such deposits and payments, it shall be the duty of the State Treasurer, if the securities involved are to be redeemed at a place of payment other than his office, immediately and by the most expeditious means to forward to and deposit with the bank or trust company where such underlying securities are payable, the amount out of such deposits as is specified as being for the payment of the principal and interest, and contract premium, if any, on the securities to be redeemed, and for the payment of the service charges of such bank or trust company; provided however, that the issuer shall have made deposits and payments with the State Treasurer during normal banking hours at least one (1) business day prior to the date on which such securities are designated to be redeemed. The State Treasurer shall notify such bank or trust company to forward to him the underlying securities thus redeemed and cancelled, and after the State Treasurer shall have made a record of their payment and cancellation shall forward such cancelled bonds, coupons or securities to issuer.

Issuance and Sale of Refunding Bonds; Registration by Comptroller of Public Accounts

Sec. 4. When the issuer shall have deposited and paid into the Office of the State Treasurer the money, and shall have done the things required by Section 2 of this Act, it shall have authority to issue, sell and deliver refunding bonds in lieu of the underlying securities, despite the fact that the holders of other such underlying securities may not have surrendered or presented the same for payment; provided that the Attorney General of Texas shall certify to the Comptroller of Public Accounts as to any underlying securities which have not reached their normal maturity date that the issuer has validly called the bonds for redemption in accordance with the contract rights of the issuer. Where the issuer has complied with the requirements of this Act, the Comptroller shall register the refunding bonds despite the fact that some or all of the underlying securities shall not have been surrendered by the holder for payment and cancellation.

Cancellation of Underlying Securities not Required for Issuance, Sale or Registration of Refunding Bonds

Sec. 5. Regardless of any provisions to the contrary contained in prior laws requiring the issuance of refunding bonds, the issuer shall have the right to issue, register and sell such bonds without cancellation of the underlying securities provided the issuer has made the deposit required and has otherwise complied with the requirements of this Act.

Withdrawal of Deposits on Cancellation of Underlying Obligation

Sec. 6. After an issuer has made the deposits and payments required under Section 2 hereof, the issuer may apply to the State Treasurer to withdraw from the paying agent the amount of money deposited on the account of any underlying bond or security, together with the deposit for interest thereon and premium, if any, by exhibiting to the State Treasurer said obligation duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such instrument. No funds so deposited by issuer with the State Treasurer under the provisions of this Act shall otherwise be withdrawn by the issuer except upon the conditions stated above in this Section, or unless the Attorney General of Texas shall certify to the State Treasurer that the payment by the issuer of the underlying security is barred by limitation and that payment thereof by the issuer is forbidden by law.

Deposits with State Treasurer; Effect; Refunding of Obligations; Fees; Forwarding to Place of Payment; Time of Payment

Sec. 7. When the deposit of money required hereunder is made with the State Treasurer in accordance with this Act, for any obligations being refunded pursuant hereto, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded; provided, however, that, at the option of and within the discretion of the issuer, provision may be made in the proceedings authorizing the issuance of such refunding bonds for the subordination thereof to the obligations being refunded, but only in the manner and to the extent specifically provided in said proceedings. Notwithstanding any provisions of this Act to the contrary, the fees to be paid the State Treasurer for his services and expenses under this Act shall not exceed a maximum of \$1,000. Immediately after the receipt thereof, and by the most expeditious means, it shall be the duty of the State Treasurer to forward to and deposit with the place of payment (paying agent) for the obligations being refunded all of the money deposited with him pursuant hereto (excepting the fees for his services). If there is more than one place of payment for the obligations being refunded, the State Treasurer shall forward the aforesaid money directly to the one of said places of payment which is located in the State of Texas; provided that if more than one of such places of payment is located in the State of Texas, or if no place of payment is located in the State of Texas and there is more than one place of payment located outside of the State of Texas, then said money shall be forwarded directly to the one of such places of payment having the largest capital and surplus. It shall be the duty of the place of payment to deposit the aforesaid money received from the State Treasurer (excepting the amount thereof

representing the charges of the place of payment) into an interest and sinking fund to be established and maintained in trust and as a trust fund for the payment of the obligations being refunded. Further, it shall be the duty of the place of payment, out of said interest and sinking fund, to pay or redeem the obligations being refunded when duly presented therefor at the maturity, due date, or redemption date thereof. If there is more than one place of payment, the one having the deposit shall make appropriate financial arrangements so that the necessary funds will be available at the other place or places of payment to pay or redeem any of such obligations being refunded when so presented for payment or redemption. The holder or holders of any obligations being refunded by any refunding bonds issued and sold under this Act shall not have the right to demand or receive payment thereof at any time before the scheduled maturity date or dates, due date or dates, or redemption date or dates, respectively, of said obligations being refunded, unless the governing body of the issuer shall have specifically and affirmatively provided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

State Treasurer's Bond; Protection of Deposits of Moneys and Securities

Sec. 8. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer, shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Cumulative of Other Acts

Sec. 9. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

[Acts 1955, 54th Leg., p. 1256, ch. 503; Acts 1969, 61st Leg., p. 2316, ch. 783, §§ 1, 2, eff. June 14, 1969.]

Art. 717k-1. Public Securities; Issuance by State, County, Municipality or Political Subdivision; Denominations

Sec. 1. The term "public securities" as used herein shall mean bonds, notes, or other obligations for the payment of money which may hereafter be issued by this state, or by any department, agency, or other instrumentality of this state, or by any county, municipality, taxing district, or other political district or subdivision (whether included within one county or more than one county) which are now or may hereafter be authorized by law to borrow money and to issue bonds, notes, or other evidences of indebtedness.

Sec. 2. All public securities authorized under the laws of this state may hereafter be is-

sued in any denomination fixed and determined in the order, resolution, or ordinance authorizing the issuance of such securities, by the board, body, or officer empowered by law to authorize the issuance of such securities.

Sec. 3. The provisions of the Act shall be cumulative of all existing laws pertaining to the issuance of public securities, but the provisions hereof concerning the denominations in which public securities may be issued shall apply to all public securities, despite any provision in any earlier law to the contrary.

[Acts 1967, 60th Leg., p. 2043, ch. 752, eff. June 18, 1967.]

Art. 717k-2. Public Securities; Issuance by Public Agencies; Interest Rate

Sec. 1. As used in this Act, unless the context otherwise requires:

(a) The term "public agency" shall mean and include the State of Texas, any department, board, agency, or instrumentality of the State of Texas, any municipal corporation, any political subdivision, any district, and any body politic and corporate of the State of Texas.

(b) The term "public securities" shall mean any bonds, notes, or other obligations payable from taxes, or revenues, or both, which any public agency is now or hereafter may be authorized to issue and sell pursuant to provisions of law other than this Act.

(c) The term "net interest cost" with reference to an issue or series of public securities shall mean the total of all interest to accrue and come due thereon through the final scheduled maturity date thereof, plus any discount or minus any premium included in the price paid therefor. The term "bond years" with reference to each separate bond, note, or other obligation constituting part of an issue or series of public securities shall mean the figure obtained by dividing the principal amount (par value) of each such bond, note, or other obligation by one-thousand (1000) and multiplying such quotient by the number of years from the date interest commences to accrue thereon to its scheduled maturity date. The term "net effective interest rate" with reference to an issue or series of public securities shall mean the figure obtained by dividing the amount of the net interest cost of such issue or series by the aggregate total number of bond years of all bonds, notes, or other obligations constituting such issue or series, and then dividing such quotient by ten (10) and expressing the result as a rate of interest in per cent per annum.

Sec. 2. Any public agency is hereby authorized to issue and sell any issue or series of its public securities at any price or prices and bearing interest at any rate or rates, as shall be determined within the discretion of the governing body of the public agency, subject to

the exceptions hereinafter provided. Any public securities heretofore authorized by an election may be issued, sold, and bear interest as provided in this Act, except that public securities heretofore authorized by an election required by the Constitution of Texas shall not be issued at an interest rate greater than authorized at such election unless a further election is held resulting favorably to the issuance of such previously voted public securities at a price and at a rate authorized by this Act. Elections for that purpose shall be called and held, and notice thereof given, in the same manner as provided by law applicable to the previous election authorizing such public securities.

Sec. 3. The provisions of this Act concerning sale price and the maximum rates of interest which public securities may bear shall apply to all public securities notwithstanding the provisions or restrictions of any general or special law or charter to the contrary, but shall not apply to any public securities whose maximum rate of interest or maximum net effective interest rate is, at the time of issuance thereof, otherwise specifically fixed by the Constitution.

[Acts 1969, 61st Leg., p. 9, ch. 3, eff. Feb. 24, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 48, ch. 3, § 1, eff. Sept. 11, 1969.]

Art. 717k-3. Refunding Bonds; Issuance by Public Agencies; Approval; Registration; etc.

Definitions

Sec. 1. The term "issuer," as used in this Act, shall mean any department, board, authority, agency, subdivision, municipal corporation, district, public corporation, body politic, or instrumentality of the State of Texas of every kind or type whatsoever, including, without limitation, all counties, home rule charter cities, general law cities, towns, villages, state-supported educational institutions of higher learning, junior and regional college districts, school districts, hospital districts, water districts, road districts, navigation districts, conservation districts, and all other kinds and types of political or governmental entities. The term "governing body," as used in this Act, shall mean the board, council, commission, court, or other group which is authorized by law to issue bonds for or on behalf of any issuer.

Complete or Partial Refunding

Sec. 2. The governing body of any issuer shall be authorized to refund all or any part of any of its outstanding bonds, notes, or other general or special obligations by the issuance of refunding bonds.

Maturity; Interest; Security and Source of Payment; Combination Issuance; Election; Exception

Sec. 3. Said refunding bonds shall mature serially or otherwise in not more than forty years from their date, and shall bear interest at any rate or rates as shall be determined within the discretion of the governing body of

the issuer. Such refunding bonds may be secured by and made payable from the same source as the obligations being refunded thereby, or may be secured by and made payable from taxes or revenues, or both, or any other or different source, or any combination of sources, if the issuer is otherwise authorized by the Texas Constitution or any statute to secure or pay any kind or type of bonds by or from any such source. Said refunding bonds may be issued in combination with new bonds, and/or with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions, and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all within the discretion of the governing body of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any incumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, to the extent practicable, applicable, and appropriate. Notwithstanding any provisions of this Act to the contrary, no refunding bonds shall be issued hereunder to refund electric and gas system revenue bonds issued by any city having a population in excess of 500,000, according to the most recent federal census.

Negotiability; Redeemability; Issuance

Sec. 4. Said bonds, and any interest coupons appurtenant thereto, shall be negotiable instruments (except that such bonds may be made registrable as to principal alone or as to both principal and interest), and they may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions and details, and may be executed, as provided by the governing body of the issuer in the proceedings authorizing the issuance of said bonds.

Approval; Registration; Exchange

Sec. 5. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with the Texas Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. The refunding bonds authorized by this

Act shall be issued in exchange for, and upon surrender and cancellation of, the obligations being refunded thereby, and the Comptroller of Public Accounts shall register the refunding bonds and deliver the same to the holder or holders of the obligations being refunded thereby, in accordance with the provisions of the proceedings authorizing the refunding bonds. Any such exchange may be made in one or in several installment deliveries, and all or any part of any outstanding issue of bonds, notes, or other obligations may be refunded in whole or in part hereunder. Any outstanding issue of bonds, notes, or other obligations, whether payable from revenues, taxes, or otherwise, may be refunded hereunder in part provided that the issuer can demonstrate to the attorney general at the time of the refunding that adequate resources will remain, based on then current conditions, to provide for the payment of the unrefunded part of such issue when due.

Legal Investments; Security for Deposits

Sec. 6. All bonds issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees and guardians, and for the interest and sinking funds and other public funds of any issuer, as such term is defined in this Act. Said refunding bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and of any issuer, as such term is defined in this Act, to the extent of the value of said refunding bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 7. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 8. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of

this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1969, 61st Leg., p. 2319, ch. 784, eff. June 14, 1969.]

Art. 717k-4. Revenue Bonds; Issuance by Cities, Towns and Villages; Validation of Proceedings

Sec. 1. Where any city, town, or village incorporated under the laws of the State of Texas has heretofore submitted to the qualified electors who own taxable property in said city and who had duly rendered the same for taxation a proposition or propositions for the issuance of revenue bonds for a purpose or purposes provided by Chapter 10, Title 28, Revised Civil Statutes of Texas, 1925, as amended, and such revenue bonds were approved by a majority vote of the said participating property tax-paying voters, all election proceedings relating thereto are hereby validated, ratified, and confirmed and such bonds may be issued and made payable from and secured by the net revenues of one or more of the utility systems mentioned in the said proposition or propositions approved at the said election, but in no event shall any such pledge of net revenues be made which would conflict with the contract rights of the holders of any outstanding bonds.

Sec. 2. All proceedings of the governing body of an incorporated city with respect to the authorization of bonds payable from revenues (any sources except ad valorem taxes) are hereby ratified and confirmed and such bonds shall be payable from and secured by the revenues pledged to the payment thereof.

Sec. 3. In all instances where revenue bonds are validated by the provisions hereof, all proceedings relating to the authorization of such bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 4. The provisions hereof shall not be construed as validating any bonds where (i) such bonds were required by law to be approved at an election unless the issuance thereof was approved at such election by a majority of the participating resident qualified property taxpaying electors, or (ii) the bonds or election proceedings are involved in litigation questioning the validity thereof on the effective date of this Act if such litigation is ultimately determined against the validity thereof.

[Acts 1969, 61st Leg., 2nd C.S. p. 159, ch. 47, eff. Sept. 19, 1969.]

Art. 717l. County Bonds; Taxation to Pay; Surveys, Maps and Plats

Sec. 1. The Commissioners Court of any county in the State of Texas having a popula-

tion of five hundred thousand (500,000) inhabitants, or more, according to the last preceding or any future federal census, is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, for the purpose of paying for the cost of making any survey and of acquiring any maps and plats which said Commissioners Court is authorized to cause to be made, and is authorized to acquire under the provisions of Article 7344 of the 1925 Revised Civil Statutes of Texas.

Sec. 2. The Commissioners Court of any such county may also cause to be furnished to the assessor and collector of taxes of such county, block books showing the description of each block and subdivision, and the names of the record owners of each parcel of property therein, where known, and such other information relative thereto as will be of assistance to the assessor and collector of taxes of such county in the performance of his duties; and such Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof to pay for the cost of such block books and the compilation of such information.

Sec. 3. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds, which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which separate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Sec. 4. Such bonds under and pursuant to the provisions of this Act shall be an obligation of and a charge against the county; and it shall be the duty of such Commissioners Court to have assessed and collected a tax sufficient to pay the principal of and interest on such bonds as such principal and interest become due, which tax shall be levied pursuant to the authority of Article 8, Section 9, of the Constitution of the State of Texas, as amended, for general fund purposes. Such bonds may mature serially or otherwise as may be determined by the Commissioners Court of such county, not exceeding forty (40) years from their date; and such bonds may contain such option or options of redemption, or no option of redemption, as may be determined by the Commissioners Court; and the issuance of such bonds and the levying and collection of such taxes shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, as amended, governing the issuance of bonds by cities, towns and counties of this state.

Sec. 5. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the laws of the State of Texas on the same subject.

[Acts 1957, 55th Leg., p. 1371, ch. 467.]

Art. 717m. Declaratory Judgment; Authority to Issue Securities; Validity of Organization and Boundaries, Assessments and Taxes, Securities

In Rem Proceeding; Filing of Petition; Venue; Parties

Sec. 1. Any county, municipality, taxing district or other political district or subdivision, commission, authority, department or other public agency of the state (hereinafter called the "Issuer") authorized by law to borrow money and issue bonds, notes or other evidences of indebtedness whether payable from taxes, revenues, or both taxes and revenues, may, prior to the delivery to the purchaser of any particular issue of bonds, notes or other evidences of indebtedness which it proposes to issue (hereinafter called "the Securities"), institute a proceeding in rem in district court, by filing a petition as hereinafter provided, for the purpose of obtaining a declaratory judgment as to authority of the Issuer to issue the Securities and as to the legality of all proceedings taken and/or proposed to be taken in connection therewith (including, in proper cases, the validity of the organization or boundaries of Issuer, any assessments of taxes levied or to be levied, and the lien of such taxes, the levy of rates, charges, or tolls, and of proceedings or other remedies for the collection of such taxes, rates, charges or tolls), and as to the validity of the Securities to be issued. Such petition may be filed in any District Court of the county in which the Issuer may be situated (or if the Issuer is situated in more than one county, in the county wherein the Issuer maintains its principal office), as a class action against the taxpayers, property owners and citizens of such Issuer, including non-residents owning property or subject to taxation therein, and all other persons interested in or affected by the issuance of the Securities.

Contents of Petition

Sec. 2. The petition for declaratory judgment in such cases shall briefly set out, by proper allegations, references or exhibits, the petitioner's authority for issuing the Securities, the holding of an election and the results thereof where an election is required, the ordinance, resolution or other act or proceeding authorizing the issuance of such Securities and the minutes relating to adoption thereof, all other essential proceedings had or taken and/or proposed to be taken in connection therewith, the amount of the Securities to be issued, the rate of interest or maximum rate of interest they are to bear, and, in case it is desired to adjudicate the organization or validity of the Issuer, the authority for and proceedings had in the creation of the Issuer; the consideration to be received by the Issuer for the Securities, the county or counties in which the proceeds of the Securities, or any part thereof, are to be expended, and all other pertinent matters.

Order to Appear; Appearance by Attorney General; Procedure; Records of Issuer Open to Inspection

Sec. 3. The judge of the District Court wherein the petition is filed, shall, upon the filing and presentation thereof, make and issue an order in general terms in the form of a notice directed to "all property owners, taxpayers, citizens and others having or claiming any right, title or interest in any property or funds to be affected by the issuance of the Securities or affected in any way thereby," requiring, in general terms and without naming them, all such persons and the Attorney General of Texas to appear at or before 10 o'clock A.M. on the first Monday after the expiration of forty-two (42) days from the date of issue of said order, and show cause why the prayers of the petition should not be granted and the proceedings and the Securities validated and confirmed as therein prayed. A copy of the above mentioned petition, together with all exhibits attached, and a copy of said order shall be served upon the Attorney General at least twenty (20) days before the time fixed in said order for hearing as aforesaid; provided, that the Attorney General may waive such service when he has been furnished a certified copy of such petition, order and a full transcript of the proceedings relating to issuance of the Securities. The Attorney General shall carefully examine the petition and if it appears, or there is reason to believe, that the petition is defective, insufficient or untrue, or if in his opinion, the issuance of the Securities has not been duly authorized, defense shall be made thereto as he may deem proper. Such records and proceedings shall be open to inspection at reasonable times to any party to such suit. Any officer, agent or employee having charge, possession, custody or control of any of the books, papers or records of the Issuer shall, on demand of the Attorney General, exhibit for examination such books, papers or records and shall, without cost, furnish duly authenticated copies thereof, which pertain to the proceedings for the issuance of the Securities or which may affect the legality of the same, as may be demanded of him. It is specifically provided that if the validity of bonds or warrants or the security for the payment of either of them is not involved in the litigation, the Attorney General shall so allege and upon a finding by the court to this effect, the Attorney General may be dismissed as a party and the court shall proceed to a final determination of the cause. The Issuer shall pay the mileage and travel expenses of the Attorney General or his assistant in the same amount as is allowable by the state to such officials for travel on other official business; the claim for such expenses shall be filed in duplicate with the clerk of the court in which the proceeding is pending, and shall be taxed as costs against the petitioner.

Injunctions Against Actions Contesting Validity of Organizational Proceedings, Etc.; Joint Hearing; Consolidation of Proceedings

Sec. 4. Upon motion of the petitioner, whether before or after the date set for hear-

ing as provided in Section 3, the judge may enjoin the commencement by any person of any other action or proceeding contesting the validity of organizational proceedings of petitioner, or the validity of the Securities described in the petition, or the validity of the taxes, assessments, tolls, rates or other levies authorized to be imposed or made for the payment of such Securities or the interest thereon, or the validity of any pledge of revenues, or property to secure such payment, and shall order a joint hearing or trial before him of all such issues then pending in any action or proceeding in any court in the state, and may order all such actions or proceedings consolidated with the suit for declaratory judgment pending before him as herein authorized, and may make such orders as may be necessary or proper to affect such consolidation and as may tend to avoid unnecessary costs or delays or multiplicity of suits, and all such interlocutory orders shall not be appealable.

Publication of Order; Persons Considered Parties Defendant

Sec. 5. Prior to the date set for hearing as provided in Section 3, the clerk of the court wherein said petition is filed, shall cause a copy of said order to be published in a newspaper of general circulation, in the county wherein the petitioner is situated or, if the petitioner lies or functions in more than one county, then in each of such counties once in each of four consecutive calendar weeks; such publication to be made in each instance upon any business day of the week, but the publication in the first calendar week in each county to be not less than twenty-eight (28) days prior to the date set for hearing. By the publication of said order, all property owners, taxpayers, citizens or others having or claiming any right, title or interest in or against the petitioner or property subject to taxation thereby or otherwise affected by or interested in the issuance of the Securities described in the petition, shall be considered as and are made parties defendant to said proceedings, and the court shall have jurisdiction of them to the same extent as if individually named as defendants in said petition and personally served with process in the cause.

In the case of proceedings hereunder to adjudicate the validity of the Securities of any state agency, commission or department, the order shall be published in the manner herein provided in a newspaper of general circulation in Travis County, Texas.

Additional Named Parties; Hearing; Determination; Decree

Sec. 6. Any property owner, taxpayer, citizen or person affected by or interested in the issuance of the Securities may become a named party to said proceedings by pleading to the petition on or before the time set for hearing as provided in Section 3, or thereafter by intervention upon leave of court. At or after the time, and at place designated in the order for hearing, the judge shall proceed to hear and

determine all questions of law and fact in said proceedings and may make such orders as to the proceedings and such adjournments as will enable him properly to try and determine the same and to render a final decree therein with the least possible delay.

Appeals; Priority; Review by Writ of Error

Sec. 7. Any party to the cause, whether petitioner, defendant or intervenor or otherwise, dissatisfied with the final decree may appeal therefrom to the Court of Civil Appeals within twenty (20) days after the entry of such decree. Such appeal shall take priority over all other civil cases pending in said court except habeas corpus. The Supreme Court shall have authority to review by writ of error questions of law arising out of final judgments or decrees of the Court of Civil Appeals in such cases, in the manner, time and form applicable in other civil causes wherein the decision of Courts of Civil Appeals are not final.

Binding Effect of Decree; Permanent Injunction Against Actions Contesting Validity of Bonds, Notes, Etc.

Sec. 8. In the event the decree of the District Court determines that the Issuer has authority to issue the Securities for the consideration and upon the terms set forth in the petition for declaratory judgment hereunder, and adjudicates the legality of all proceedings taken and/or proposed to be taken in connection therewith, and no appeal is taken within the time above prescribed, or if taken and the decree of the District Court is affirmed, such decree shall, as to all matters adjudicated, be forever binding and conclusive, against the petitioner and all other parties to the cause, whether mentioned in and served with said notice of the proceedings, or included in the description "all property owners, taxpayers, citizens and others having or claiming any right, title or interest in any properties or funds to be affected by the issuance of the Securities or affected in any way thereby," and shall constitute a permanent injunction against the institution by any person of any action or proceeding contesting the validity of the bonds, notes or other evidences of indebtedness described in the petition, or the validity of provisions made for the payment of the same or of interest thereon.

Recording Decree

Sec. 9. The decree shall be recorded in the same manner as other decrees or judgments in each county in which notice of the hearing is required to be published by Section 5.

Notation as to Validity of Bonds and Other Evidences of Indebtedness

Sec. 10. Bonds, notes or other evidences of indebtedness adjudged valid as herein provided may have stamped or written thereon the following statement:

"Validated and confirmed by a decree of the _____ court (specifying the date when such decree was rendered and the court in which it was rendered and the style and number of the cause in said court) which

perpetually enjoins the institution of any suit, action or proceeding involving the validity of this security or the provision made for the payment of the principal and interest thereof."

Said certificate may be signed by the clerk, secretary or other official of the Issuer; said signature may be by facsimile if authorized by the governing body of the Issuer.

Filing Copy of Decree with Comptroller of Public Accounts; Registration of Securities

Sec. 11. Where the securities are required by other statutes to be registered by the Comptroller of Public Accounts before the same may be issued, a certified copy of the proceedings authorizing the issuance of the securities, and a certified copy of the final judgment or decree in a proceeding hereunder, adjudicating the validity of the securities, shall be filed with the Comptroller; he shall thereupon register the securities in the manner provided by law.

Costs

Sec. 12. The cost in each proceeding under this Act shall be paid by the petitioner except in cases where a taxpayer, citizen or other person may appear and contest the proceeding or intervene therein, the court may tax whole or any part of the cost against such party or parties as shall be equitable and just; provided, that in no event shall any costs be taxed against the Attorney General.

Cumulative Effect of Procedure

Sec. 13. The procedure prescribed herein is cumulative of all other methods permitted under law for approval and validation of securities and shall not have the effect of repealing any such laws. The method prescribed in this Act may be invoked only by the Issuer and when so used may be employed concurrently with, or after use of other means of approval or validation; nothing in this Act shall be construed as varying venue in, or the procedures prescribed by law for maintaining actions contesting any election. This Act shall not have the effect of repealing the existing right of an Issuer to apply for and of the Supreme Court to issue writs of mandamus to the Attorney General for the approval of bonds, in appropriate cases.

[Acts 1959, 56th Leg., p. 690, ch. 316.]

Art. 717n. Counties; Issuance of Certificates of Indebtedness

Adoption of Act; Eligible County Defined

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon the unanimous vote of the members of such court. An eligible county is defined to mean any county whose total taxable valuations at the time of the adoption of the provisions of this Act, according to the last approved tax rolls of the county, decreased by as much as seven per centum (7%) from the year

preceding and which county will not have sufficient funds available within the current fiscal year to meet its general fund operating expenses as the same shall become due.

Issuance of Certificates; Purpose

Sec. 2. Subject to the limitations contained in this Act, an eligible county is authorized to issue certificates of indebtedness for the purpose of paying the operating expenses of the county to be legally incurred payable from the county's constitutional general fund as the same shall become due. Any such certificates shall be sold for cash at not less than par and accrued interest and the proceeds thereof, excluding accrued interest, shall be used for the purpose authorized in this Act, provided, however, no such certificates shall be issued, sold or delivered after two (2) years from the effective date of this Act.

Maturity; Interest; Form of Certificates and Coupons

Sec. 3. Such certificates shall be authorized by order of the Commissioners Court, shall mature in not exceeding fifteen (15) years from their date and bear interest at a rate not to exceed five per centum (5%) per annum. Interest may be evidenced by coupons and the certificates shall be fully negotiable. The certificates and coupons pertaining thereto shall be signed by the county judge and attested by the county clerk, or the signatures of such officials may be lithographed or printed on such certificates or coupons in accordance with the provisions of Article 717j, Revised Civil Statutes of Texas, 1925, as amended, or any other law as may then be applicable to the execution of obligations issued by a county.

Tax

Sec. 4. When such certificates are issued, it shall be the duty of the Commissioners Court to levy and have assessed and collected a tax (out of the constitutional general fund tax as provided by Article 8, Section 9 of the Constitution of Texas) sufficient to pay the principal of and the interest on the certificates as such principal and interest become due, not to exceed ten cents (10¢) on the One Hundred Dollars (\$100.00) valuation of taxable property in said county, nor may any eligible county issue any certificates under the provisions of this Act in the aggregate principal amount in excess of one-half ($\frac{1}{2}$) of one per centum (1%) of the valuation of taxable property in said county according to the last approved tax rolls of such county at the time of the adoption of this Act.

Examination and Approval of Certificates

Sec. 5. The certificates and the record relating to their issuance shall be submitted to the Attorney General of Texas for examination and if they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and thereafter they shall be incontestable.

Legal and Authorized Investments

Sec. 6. The certificates of indebtedness shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, savings and loan associations, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas, and of any and all public funds of cities, towns, villages, counties, school districts, and other political subdivisions of the State of Texas; and such certificates shall be lawful and sufficient security for said deposits to the extent of their face value or to the extent of their market value, whichever value is the smaller, when accompanied by all unmatured coupons appurtenant thereto.

Refunding Bonds

Sec. 7. The Commissioners Court of an eligible county shall have the right at all times to issue refunding bonds for the refunding of certificates issued under the terms of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of any notice or right to referendum vote.

[Acts 1961, 57th Leg., p. 651, ch. 301.]

CHAPTER TWO. COURTHOUSE, JAIL AND OTHER BONDS

Article

- 718. County Issues Authorized.
- 719. Requisite Vote.
- 720. Term of Bonds.
- 721. Interest on Bonds.
- 722. Limit of Issue.
- 723. Interest and Sinking Fund; Disposition of Surplus.
- 724. Bonds to be Signed, Etc.
- 725. Substitution of Bonds.
- 725a. The 1935 Validating Act.
- 725b. Counties of Over 900,000; Bond Issue Authorized; Referendum.
- 725c. Validation of Proceedings in Connection with Bonds for Courthouse and Jail Buildings.

Art. 718. County Issues Authorized

After having been authorized as provided in Chapter One of this title, the Commissioners Court of a county may lawfully issue the bonds of said county for the following purposes:

1. To erect the county courthouse and jail, or either;
2. To purchase suitable sites within the county and construct buildings thereon to provide homes or schools for dependent and delinquent boys and girls or for either;
3. To establish county poor houses, farms, and homes for the needy or indigent in the county;
4. To purchase and construct bridges for public purposes within the county or across a stream that constitutes a boundary line of the county; or

5. To improve and maintain the public roads in the county.

When the Commissioners Court shall deem it advisable to issue bonds for both the purchase or construction of bridges and improvement and maintenance of the public roads, both questions may be submitted and voted on as one proposition.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 329, ch. 124, § 1.]

Art. 719. Requisite Vote

If a majority of the property tax paying voters voting at such election shall vote in favor of the proposition, then such bonds shall be thereby authorized and shall be issued by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 720. Term of Bonds

All bonds issued under this chapter shall run not exceeding forty years, and may be redeemable at the pleasure of the county at any time after five years after the issuance of the bonds, or after any period not exceeding ten years, which may be fixed by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 721. Interest on Bonds

Such bonds shall draw interest at a rate not exceeding six per cent. per annum, payable annually or semi-annually within the discretion of the governing body. Interest shall be evidenced by attached coupons.

[Acts 1925, S.B. 84.]

Art. 722. Limit of Issue

The issue of bonds under this Chapter shall be based upon the taxable values of the County according to the last approved assessment, and shall be limited as follows: Courthouse Bonds shall be limited to an amount not exceeding two per cent of said taxable values; Jail Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values; Joint Courthouse and Jail Bonds shall be limited to an amount not exceeding three and one-half per cent of said taxable values; Bridge Bonds shall be limited to an amount not exceeding one and one-half per cent of said taxable values. In determining the amount of the bonds of the respective kinds to be issued, previous indebtedness for said several purposes shall be considered. The total indebtedness of any County for the purposes provided in this Chapter, shall not be increased by any issue of bonds to a sum exceeding five per cent of its said taxable values.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 77, ch. 50, § 1; Acts 1931, 42nd Leg., p. 336, ch. 203, § 1.]

Art. 723. Interest and Sinking Fund; Disposition of Surplus

The commissioners court shall levy annual ad valorem taxes sufficient to pay the interest on said bonds and create a sinking fund for their redemption; which shall not exceed for

courthouse and jail bonds, one-fourth of one per cent; for bridge or road and bridge bonds, fifteen cents on each one hundred dollars.

Provided that when the principal and all interest on said bonds are fully paid, in the event there is any surplus remaining in the Sinking Fund, not in excess of One Thousand (\$1,000.-00) Dollars, said remaining surplus not used in the full payment of the principal and interest on said bond or bonds may be used by the county for maintaining and repairing the courthouse and jail and the roads and bridges of said county, as may be determined by the Commissioners Court.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 436, ch. 241, § 1.]

Art. 724. Bonds to be Signed, Etc.

The bonds shall be signed by the county judge and countersigned by the county clerk and registered by the county treasurer before delivery. The county treasurer shall keep an account of the amount of principal and interest paid on each, and no bond shall be sold at less than its par value and accrued interest, exclusive of commissions.

[Acts 1925, S.B. 84.]

Art. 725. Substitution of Bonds

Where bonds have been legally issued, or may be hereafter issued for any purpose authorized in this chapter, new bonds in lieu thereof bearing the same or a lower rate of interest may be issued, in conformity with existing law, and the commissioners court may issue such bonds to mature serially or otherwise, not to exceed forty years from their date.

[Acts 1925, S.B. 84.]

Art. 725a. The 1935 Validating Act

Sec. 1. This Act may be cited as "The 1935 Validating Act."

Sec. 2. The following terms, wherever used or referred to in this Act, shall have the following meaning:

(a) The term "public body" means any county within the State of Texas.

(b) The term "bonds" includes bonds, notes, warrants, debentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body, or including all instruments or obligations payable from a special fund.

Sec. 3. All bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such

work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than Constitutional) of such public body, or the governing board or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than Constitutional) in such proceedings, or in such sale, execution or delivery; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

[Acts 1935, 44th Leg., p. 534, ch. 224.]

Art. 725b. Counties of Over 900,000; Bond Issue Authorized; Referendum

Any county having in excess of nine hundred thousand (900,000) population according to the last preceding Federal Census is authorized to issue bonds for the purposes of erecting and equipping a courthouse and jail and county branch office buildings, and acquiring sites therefor, provided such bonds are voted and issued as required by Chapter 1, Title 22, Revised Civil Statutes, as amended. Bonds for any or all of said purposes may be submitted to the voters in a single proposition. The bonds, in the discretion of the Commissioners Court, may be made optional for redemption prior to maturity on any date specified by the court in the bonds. The bonds may be executed with the facsimile signatures as provided by law, and a facsimile seal of the Commissioners Court may be printed or lithographed thereon. The bonds shall be approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts in accordance with, and with the effect provided in said Chapter 1, Title 22. If any election is held prior to the effective date of this Act for the purposes herein authorized, the county is authorized to proceed with the issuance of such bonds in the manner herein provided.

[Acts 1961, 57th Leg., p. 1015, ch. 442, § 1.]

Art. 725c. Validation of Proceedings in Connection with Bonds for Courthouse and Jail Buildings

Sec. 1. All proceedings in connection with any county bonds heretofore favorably voted by a majority of the participating resident qualified electors of the county who owned taxable property and who had duly rendered the same for taxation on the tax rolls of such county, for the purpose of erecting, repairing and equipping courthouse and jail buildings and county branch office buildings, are hereby in all things validated, regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the language appearing on the ballot concerning any proposition so submitted. Said bonds may be issued and delivered by the Commissioners Court for the purpose or purposes so voted, may mature serially or otherwise and may con-

tain such option or options of redemption or no option of redemption, as may be determined by the Commissioners Court of the county. The issuance of such bonds and the levy and collection of taxes for the payment of principal and interest thereon shall otherwise be in accordance with the provisions of Chapters 1 and 2, Title 22, Revised Civil Statutes of Texas, 1925, as amended, and when so issued shall constitute valid and enforceable obligations of the issuer in accordance with the terms and provisions thereof.

Sec. 2. The provisions of this Act shall not apply to any such proceedings the validity of which has been or is being questioned in litigation pending in any court of competent jurisdiction on the effective date of this Act if such litigation is ultimately determined against the validity of the same.

[Acts 1962, 57th Leg., 3rd C.S., p. 15, ch. 5.]

CHAPTER THREE. PUBLIC ROAD BONDS

1. COUNTY AND DISTRICT BONDS

Article

- 726 to 752. Repealed.
- 752a. Power to Issue Road and Turnpike Bonds; Taxes for Interest and Sinking Fund for Redemption; Use of Surplus Funds.
- 752b. Bond Elections.
- 752c. Establishment of Road Districts.
- 752c-1. Abolishment of Dormant Road Districts.
- 752cc. Road District Including Portion of Previous Road District Containing Other Improvement District.
- 752d. Petition for Election.
- 752e. Hearing and Determination.
- 752f. Notice of Election.
- 752f-1. Election in Political Subdivision or Road District.
- 752f-2. Place of Holding Election in Subdivisions.
- 752g. Manner of Holding Election.
- 752h. Issuance of Bonds.
- 752i. Maturity Dates and Interest Rate.
- 752j. Sale of Bonds and Disposition of Proceeds.
- 752k. Ad Valorem Tax Levy.
- 752l. County Assessments.
- 752m. District and Subdivision Assessments.
- 752n. Duties of Assessor and Collector.
- 752o. Duties of Custodian and Depository of Proceeds.
- 752p. Disbursement of Proceeds by County Treasurer.
- 752q. Expenses.
- 752r. Districts and Subdivisions Bodies Corporate.
- 752s. Classification of County Bonds.
- 752t. Classification of Subdivision Bonds.
- 752u. Powers of County Commissioner.
- 752v. Award of Contracts.
- 752w. Certain County May Avail.
- 752x. Refunding Bonds.
- 752y. Bonds Validated; Tax Levy.
- 752y-1. County Road Bonds Validated.
- 752y-2. Refunding Road Bonds in Counties Lands of Which are Purchased for Reforestation.
- 752y-3. Unissued Road Bonds Validated.
- 752y-4. City Tax Bonds for Off-street Parking or Park and Off-street Parking Purposes; Validation of Proceedings.
- 752y-5. Validation of Road Bonds.
- 752y-6. Validation of Road Bonds.

2. COMPENSATION BONDS

- 753 to 767. Repealed.
- 767a. Compensation Bond Issue.
- 767b. Exchange of Bonds.

Article

- 767c. Issuance, Form and Requisites of Compensation Bonds.
- 767d. Previously Created Districts and Subdivisions.
- 767e. Bond Issue by Road District Including Previously Created Road District or Political Subdivision.
- 767f. Bond Issues and Elections Therefor Validated.
- 767g. Commissioners' Court Authorized to Levy Tax to Pay Road District Bonds.

3. CONSOLIDATED DISTRICTS

768 to 778. Repealed.

3a. DISTRICTS IN ADJOINING COUNTIES

- 778a. Power to Issue Bonds.
- 778b. Procedure Prescribed.
- 778c. Petition for Road District.
- 778d. Directors of District.
- 778e. Purchasing Improved Roads.
- 778f. Bond Election.
- 778g. Notice of Election and Declaring Result.
- 778h. Maturity Dates, Interest and Proceeds.
- 778i. Bond Tax.
- 778j. Issuance of Bonds.
- 778k. Sale of Bonds.
- 778l. Meetings of Commissioners' Courts.
- 778m. Bond Records.
- 778n. Warrants.
- 778o. Treasurer or Depository of District.
- 778p. Change of Roads.

4. GENERAL PROVISIONS

- 779. Investment of Sinking Fund.
- 780. Interest on Investments.
- 781 to 784. Repealed.
- 784a. Cancellation or Revocation of Unsold Road Bonds.
- 784b. Election for Repurchase and Cancellation of Bonds.

1. COUNTY AND DISTRICT BONDS

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

Section 31 of the repealing act contained a saving clause, as follows: "Nothing in this Act shall be construed as invalidating any bond elections previously ordered or held within and for any county in this state or any political subdivision or defined district of any county under the provisions of Chapter 2, Title 18, Revised Statutes of 1911, and amendments thereto, or Chapter 3, Title 22, Revised Statutes, 1925, or under authority of any special county road law."

Art. 752a. Power to Issue Road and Turnpike Bonds; Taxes for Interest and Sinking Fund for Redemption; Use of Surplus Funds

Any county, or any political subdivision of a county, or any road district that has been or may hereafter be created by any General or Special Law, is hereby authorized to issue bonds for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, in any amount not to exceed one-fourth of the assessed valuation of the real property of such county or political subdivision or road district, and to levy and collect ad valorem taxes to pay the interest on such bonds and provide a sinking fund for the redemption thereof. Such bonds shall be issued in the manner hereinafter provided, and as contemplated and authorized by Section 52, of Article 3, of the Constitution of this State. The term "Political Subdivision," as used in this Act, shall be construed to mean any commissioners

precinct or any justice precinct of a county, now or hereafter to be created and established. Provided, when the principal and all interest on said bonds are fully paid, in the event there is any surplus remaining in the sinking fund, said remaining surplus not used in the full payment of the principal and interest on said bond or bonds may be used by the county, political subdivision of the county, or any local district that has been or may hereafter be created by any General or Special Law for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes or in aid thereof or for any other lawful permanent improvement as may be determined by the Commissioners Court of any county or the officials of any political subdivision of a county or any said road district.

Provided further, that after each biennial appropriation has been made by the Legislature under the provisions of Section 7-a, Article VIII, Constitution of Texas, for the payment of principal, interest, and sinking fund requirements of bonds or warrants voted or issued prior to January 2, 1939, and declared eligible prior to January 2, 1945, for payment out of the County and Road District Highway Fund, all moneys in the interest and sinking fund of any such bond or warrant issue over and above whatever is necessary to supplement the funds made available under said appropriation for the biennium for which the appropriation is made, less such moneys as have been accumulated for sinking fund requirements for prior years as "sinking fund" is defined in Article 6674q-7(a), Vernon's Texas Civil Statutes, may be considered as surplus and may be used by the Commissioners Court for the purchase of right of ways in the county, or district, or political subdivision, as the case may be, for highways and roads constructed by, or constructed under the supervision of, or maintained by the State Highway Department; provided further, that if the funds appropriated by the Legislature shall ever for any reason be insufficient for the payment of the eligible portion of the principal, interest, and sinking fund requirements falling due during the biennium for which the appropriation is made, or if the Legislature shall fail to make an appropriation, then taxes shall be assessed, levied, and collected in an amount sufficient to insure full payment of said principal, interest, and sinking fund requirements. The Commissioners Court is limited to the expenditure of such surplus sinking funds as are on hand upon the effective date of this Act, and any further payments of any kind or character made to such sinking funds after that date shall not be available for the purchase of additional right of ways.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 1; Acts 1943, 48th Leg., p. 198, ch. 116, § 1; Acts 1955, 54th Leg., p. 348, ch. 69, § 1.]

Art. 752b. Bond Elections

Upon the petition of the resident property taxpaying voters of any county equivalent in

number to one percent or more of the total votes cast in said county in the last preceding general election for Governor, the commissioners court of such county, at any Regular or Special Session thereof, shall order an election to be held in such county to determine whether or not the bonds of such county shall be issued for the purpose of the construction, maintenance and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof, and whether or not taxes shall be levied on all taxable property of said county, subject to taxation, for the purpose of paying the interest on said bonds and to provide a sinking fund for the redemption thereof at maturity. Provided, however, that if said petition designates any particular road or roads; project or projects or any portion or portions thereof, the petition shall be accompanied with a written estimate of the cost thereof prepared by the county engineer at county expense. In lieu of the petition process described in this section the commissioners court of a county may, by majority vote, order the election. The election order and notice of election shall state the purpose for which the bonds are to be issued, the amount thereof, the rate of interest, and that ad valorem taxes are to be levied annually on all taxable property within said county sufficient to pay the bonds at maturity.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 2; Acts 1969, 61st Leg., p. 1654, ch. 518, § 1, eff. June 10, 1969; Acts 1973, 63rd Leg., p. 1699, ch. 618, § 1, eff. June 15, 1973.]

Art. 752c. Establishment of Road Districts

The County Commissioners' Courts of the several counties of this State may hereafter establish one or more road districts in their respective counties, and may or may not include within the boundaries and limits of such districts, villages, towns and municipal corporations, or any portion thereof, and may or may not include previously created road districts and political subdivisions or precincts that have voted and issued road bonds pursuant to Section 52 of Article 3, of the Constitution, by entering an order declaring such road district established and defining the boundaries thereof. Provided that nothing in this Act shall be construed so as to prevent the creation of defined road districts and the issuance of bonds of said districts in counties having outstanding county-wide road bonds, and said defined road districts may be created in such counties in the manner provided by statute for the creation of defined road districts and issuing the bonds thereof.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 3; Acts 1927, 40th Leg., 1st C.S., p. 250, ch. 92, § 1.]

Art. 752c-1. Abolishment of Dormant Road Districts

When any road district in any county in this State shall have paid off and discharged all of the bonds issued and sold by said road district, or when an election to issue bonds in such road district shall have failed by a vote of the people and such road district has issued no bonds,

and no further election has been held in such road district for a period of one year from date of its creation, or when the bonds issued by such road district have been assumed and exchanged for county bonds under the Compensation Bond Statutes, Chapter 16, page 23, General Laws, Thirty-ninth Legislature, First Called Session, 1926,¹ and in the opinion of the Commissioners Court of such county such road district has become dormant and there exists no further necessity for such road district, the Commissioners Court of any county is hereby authorized by an order duly passed abolishing such road district, to abolish such road district, and it shall thereafter cease to exist.

[Acts 1941, 47th Leg., p. 206, ch. 147, § 1.]

¹ Articles 752a to 752w, 767a to 767d.

Art. 752cc. Road District Including Portion of Previous Road District Containing Other Improvement District

If any road district, a portion of which is proposed to be incorporated into a new road district, should embrace the whole or any part of any levee improvement district, drainage district, or other improvement district created under any law passed pursuant to Section 52, Article 3, of the Constitution of this State, the territory covered by such other district and other territory adjacent thereto may be excluded from the district sought to be created, but except as herein specifically permitted, no fractional part of a previously created road district shall be included within the limits of the road district created under the provision of this Act, and such excluded territory shall continue to bear and pay its proper proportion or any existing debt created for the construction of macadamized, graveled, or paved roads and turnpikes or in aid thereof, but shall not pay any portion of any debt created for said purposes after such territory is excluded from the district.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 3a; Acts 1927, 40th Leg., 1st C.S., p. 201, ch. 75, § 1.]

Art. 752d. Petition for Election

Where any political subdivision, or any road district, desires to issue bonds, there shall be presented to the Commissioners' Court of the county in which such subdivision or district is situated, a petition signed by fifty or a majority of the resident property taxpaying voters of said subdivision or road district praying such court to order an election to determine whether or not the bonds of such subdivision or district shall be issued to an amount stated for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, and whether or not taxes shall be levied on all taxable property within said subdivision or district in payment thereof. Upon presentation of such petition, it shall be the duty of the court to which it is presented to fix a time and place at which such petition shall be heard, which date shall be not less than fifteen nor more than thirty days from the date of the order. The clerk of said court shall forthwith issue a

notice of such time and place of hearing, which notice shall inform all persons concerned of the time and place of hearing and of their right to appear at such hearing and contend for or protest the ordering of such bond election. Such notice shall state the amount of bonds proposed to be issued, and shall describe such political subdivision or road district by its name or number, and shall describe the boundaries thereof as such boundaries are described and defined in the order of the Commissioners' Court establishing such subdivision or district. The clerk shall execute said notice by posting true copies thereof in three public places within such subdivision or road district and one at the court house door of the county. Said notice shall be posted for ten days prior to the date of said hearing. Said notice shall also be published in a newspaper of general circulation in the subdivision or district, if a newspaper is published therein, one time, and at least five days prior to such hearing. If no newspaper is published in such subdivision or district, then such notice shall be published in some newspaper published in the county, if there be one. The duties herein imposed upon the clerk may be performed by said clerk in person or by deputy, as provided by law for other similar duties.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 4.]

Art. 752e. Hearing and Determination

At the time and place set for the hearing of the petition, or such subsequent date as may then be fixed, the court shall proceed to hear such petition and all matters in respect of the proposed bond election. Any person interested may appear before the court in person or by attorney and contend for or protest the calling of such proposed bond election. Such a hearing may be adjourned from day to day and from time to time, as the court may deem necessary. If upon the hearing of such petition, it be found that the same is signed by fifty or a majority of the resident property tax paying voters of such subdivision or road district, and that due notice has been given, and that the proposed improvements would be for the benefit of all taxable property situated in such subdivision or road district, then such court may make and cause to be entered of record upon its minutes an order directing that an election be held within and for such subdivision or road district at a date to be fixed in the order, for the purpose of determining the questions mentioned in such petitions; provided, however, that such court may change the amount of the bonds proposed to be issued, if, upon the hearing such change be found necessary or desirable. The proposition to be submitted at such election shall specify the purpose for which the bonds are to be issued, the amount thereof, the rate of interest, and that ad valorem taxes are to be levied annually on all taxable property within said district or subdivision sufficient to pay the annual interest and provide a sinking fund to pay the bonds at maturity.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 5.]

Art. 752f. Notice of Election

If the proposed issue of bonds and levy of taxes is for the entire county, notice of the election shall be given by publication in a newspaper published in such county, for three successive weeks, if there be one. In addition thereto, for three weeks prior to said election, notice shall be posted by the county clerk at four public places in the county, one of which shall be the courthouse door.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 6.]

Art. 752f-1. Election in Political Subdivision or Road District

If the proposed issue of bonds and levy of taxes is for a political subdivision or road district, notice of such election shall be given by publishing in a newspaper in the subdivision or district for three successive weeks, and by posting notices in at least three public places in such subdivision or district and at the courthouse door of the county. If no newspaper is published therein, then such published notice shall be given in some newspaper published in the county, if there be one.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 7.]

Art. 752f-2. Place of Holding Election in Subdivisions

The commissioners' court shall determine the time and place or places of holding such election, and the date of such election shall be not less than thirty days from the date of making the order of election.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 8.]

Art. 752g. Manner of Holding Election

The manner of holding such election and canvassing and making returns thereof, shall be governed by the General Laws of this State when not in conflict with the provisions of this Act.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 9.]

Art. 752h. Issuance of Bonds

If at such election two-thirds of the property tax paying voters, voting at such election, cast their ballots in favor of the issuance of bonds, the Commissioners' Court shall, as soon thereafter as practicable, issue said bonds on the faith and credit of said county, or political subdivision or road district, as the case may be.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16 § 10.]

Art. 752i. Maturity Dates and Interest Rate

Such bonds shall mature not later than thirty years from their date, except as herein otherwise provided; they shall be issued in such denominations, and payable at such time or times as may be deemed most expedient by the Commissioners' Court, and shall bear interest not to exceed five and one-half per cent per annum. The general laws relative to county bonds, not in conflict with the provisions of this Act,¹ shall apply to the issuance, approval and certification; the registration, the sale and payment of the bonds provided for in this Act.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 11.]

¹ Articles 752a to 752w, 767a to 767d.

Art. 752j. Sale of Bonds and Disposition of Proceeds

After approval and registration as provided by law relative to other bonds, such bonds shall continue in the custody and control of the Commissioners' Court of the county in which they were issued, and shall be by said court sold to the highest and best bidder for cash, either in whole or in parcels, at not less than their par value, and the purchase money therefor shall be placed in the county treasury of such county to the credit of the available road fund of such county, or of such political subdivision or road district of such county, as the case may be.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 12.]

Art. 752k. Ad Valorem Tax Levy

Before such bonds shall be put on the market, the County Commissioners' Court of the county in which such election was held, shall levy an ad valorem tax sufficient to pay the interest on such bonds and to provide a sinking fund to pay the bonds at maturity.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 13.]

Art. 752l. County Assessments

When such bonds are issued on the faith and credit of the county, the taxes herein authorized shall be assessed and collected in the same manner as now provided by law for the assessment and collection of other county taxes.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 14.]

Art. 752m. District and Subdivision Assessments

When such bonds are issued for and on the faith and credit of a political subdivision or road district, such taxes shall be assessed and collected in the same manner as is now provided by law for the assessment and collection of common school district taxes.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 15.]

Art. 752n. Duties of Assessor and Collector

The tax assessor and tax collector of the county wherein such taxes have been levied, shall assess and collect the same in the manner and at the time as other taxes; and when so collected, the tax collector shall pay them to the county treasurer as other taxes are paid.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 16.]

Art. 752o. Duties of Custodian and Depository of Proceeds

The county treasurer is custodian of all funds collected by virtue of this law, and shall deposit them with the county depository in the same manner as county funds are deposited. It shall be the duty of the county treasurer to promptly pay the interest and principal as it becomes due on such bonds out of the funds collected and deposited for that purpose.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 17.]

Art. 752p. Disbursement of Proceeds by County Treasurer

The purchase money for such county bonds shall be paid out by the county treasurer upon warrants drawn on the available road fund, issued by the county clerk, countersigned by the county judge, upon certified accounts approved by the Commissioners' Court of the county; and the purchase money for such bonds issued on the faith and credit of a political subdivision or road district shall be paid out by the county treasurer upon warrants drawn on the available road fund thereof, issued by the county clerk, countersigned by the county judge, and approved by the Commissioners' Court.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 18.]

Art. 752q. Expenses

The expense incurred in surveying the boundaries of a political subdivision or road district, and other expenses incident to the issuance of bonds of such subdivision or district, shall be paid from the proceeds of the sale of the bonds of the subdivision or district issuing the same.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 19.]

Art. 752r. Districts and Subdivisions Bodies Corporate

Any road district, or any political subdivision accepting the provisions of this Act, shall be a body corporate and may sue and be sued in like manner as counties; provided, however, that no such road district or political subdivision shall ever be held liable for torts.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 20.]

Art. 752s. Classification of County Bonds

When the road bonds have been issued by a county as a whole, such bonds shall be known and designated as "----- County Road Bonds," taking the name of the county issuing the same, and shall express on their face that they are issued under authority of Section 52, of Article 3, of the Constitution of Texas, and laws enacted pursuant thereto.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 21.]

Art. 752t. Classification of Subdivision Bonds

If the proposition to issue the road bonds of a political subdivision or road district is adopted, such bonds shall express on their face: The State of Texas, the name of the county, the number or corporate name of the subdivision or district issuing such bonds, and they shall be designated as "Road Bonds," and express on their face that they are issued under authority of Section 52, of Article 3, of the Constitution of Texas, and laws enacted pursuant thereto.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 22.]

Art. 752u. Powers of County Commissioner

The County Commissioner in whose Commissioners' precinct such political subdivision or road district is located, shall be ex officio road superintendent of said subdivision or district

with power to contract in behalf of such subdivision or district in an amount not to exceed fifty dollars, which shall be approved by the Commissioners' Court. All contracts exceeding the sum of fifty dollars shall be awarded by the entire court.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 23.]

Art. 752v. Award of Contracts

Before the Commissioners' Court shall let a contract for work in a county or road district or subdivision, bids shall be invited by publishing an advertisement in a newspaper published in such county, and outside of the county, if the Commissioners' Court deems it advisable to do so. All contracts shall be awarded to the lowest and best bidder. Any or all bids may be rejected.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 24.]

Art. 752w. Certain Counties May Avail

Any county operating under the provisions of special road tax law may take advantage of any of the provisions of this Chapter.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 29.]

Art. 752x. Refunding Bonds

That the Commissioners' Courts of the several counties in Texas shall have authority to refund any Road Bonds that have been issued or that may hereafter be issued by authority of any law enacted pursuant to Section 52 of Article 3 of the Constitution of Texas, when such Road Bonds have been issued for and on behalf of a political subdivision or defined district or consolidated district in such county. Such refunding bonds shall be made to mature serially over a period not exceeding forty years from their date, as may be determined by the Commissioners' Court, and they may be made to bear interest at the same or a lower rate than the original bonds which are being refunded. The Commissioners' Court shall have authority to pass all appropriate orders to properly carry out such refunding. When providing for such refunding, the Commissioners' Court shall provide for the levy of ad valorem taxes on all taxable property in the political subdivision, or defined district or consolidated district, as the case may be, sufficient to pay the current interest on such refunding bonds and to pay the principal as it matures.

[Acts 1929, 41st Leg., 2nd C.S., p. 149, ch. 74, § 1.]

Art. 752y. Bonds Validated; Tax Levy

That all road bonds heretofore voted and authorized by any political subdivisions, or by any road district, in accordance with the provisions and requirements of Section 52 of Article 3 of the Texas Constitution, and which bonds have not yet been issued and sold, are hereby validated, and the Commissioners' Court of the county including such political subdivision or road district, shall have the power, and is hereby expressly authorized, to make and enter any and all orders and provisions necessary for the purpose of issuing and selling the bonds so authorized to be issued by the qualified electors

of such political subdivision or road district, and such court is hereby further expressly authorized to levy general ad valorem taxes on all taxable property situated in such political subdivision or road district as such taxable property appears upon the assessment rolls for State and county taxes, in amount sufficient to pay the interest on such bonds and the principal thereof at maturity, and such bonds, when approved by the Attorney General, registered by the State Comptroller and delivered shall be the general direct and binding obligations of such political subdivision or road district issuing the same.

It is hereby expressly found that the property in all political subdivisions and road districts the bonds of which are validated by this act, will be benefited by the improvements proposed to be made with the proceeds of said bonds to an amount not less than the taxes which will be levied against said property for the purpose of paying principal of and interest on said bonds.

[Acts 1932, 42nd Leg., 3rd C.S., p. 106, ch. 41, § 1.]

Art. 752y-1. County Road Bonds Validated

In all instances wherein counties, acting by and through their Commissioners' Courts, have heretofore lawfully sold a part, or parts, of an issue of road bonds theretofore approved by the Attorney General of the State of Texas at a price of not less than their par value, and the purchase money therefor shall have been placed in the County Treasury of such County in accordance with the provisions of the Acts of the Thirty-Ninth Legislature, at its First Called Session, Chapter 16, Section 12,¹ and thereafter such counties, acting through their Commissioners' Courts, have permitted certain bonds of said issue or issues still owned and held by such counties to be exchanged for bonds of such issue or issues theretofore lawfully sold, and under such circumstances that such counties actually receive bonds of the same issue or issues in identical amounts as the bonds surrendered by any such county in such exchange or exchanges, the acts of said counties, by and through their respective Commissioners' Courts, in permitting such exchanges, in surrendering said bonds in said exchange or exchanges, and in receiving for the use and benefit of said counties the bonds in exchange, are in all things hereby authorized, confirmed and validated; that the bonds thus delivered by any such county have been delivered in accordance with law and that any such county received full value therefor; that the bonds thus received by any such county in exchange for said bonds are the property of said county and subject to sale and resale in accordance with law; provided, however, that no provisions of this Act shall apply wherein a county depository or treasury was designated to act as such, and was, at the time of the transfer or exchange of such bonds, located in some

county other than the county in which the bonds were originally voted.

[Acts 1934, 43rd Leg., 2nd C.S., p. 130, ch. 61, § 1.]

¹ Article 752j.

Art. 752y-2. Refunding Road Bonds in Counties Lands of Which are Purchased for Reforestation

The Commissioners Court of any county wherein the United States Government has or shall hereafter purchase or has designated a purchase unit of at least twenty-five (25) per cent in area of the land in said county for reforestation and other purposes may, with the consent of the Board of County and District Road Indebtedness and the holders of at least eighty (80) per cent of the bonds hereinafter described, refund, under the provisions of existing law, the road bonds of any such county or of any road district or political subdivision thereof, which bonds participate in the County and Road District Highway Fund, into one or more series of refunding bonds and may provide that the eligibility of the bonds being refunded shall be distributed among the various series of refunding bonds in such amounts, or none, as may be agreed upon; provided that the eligibility, in dollars and cents, of bonds whose owners do not agree to such distribution shall not be affected thereby.

[Acts 1937, 45th Leg., p. 371, ch. 181, § 1.]

Art. 752y-3. Unissued Road Bonds Validated

Sec. 1. All road bonds heretofore voted and authorized together with the levy of a tax to redeem them by a two-thirds ($\frac{2}{3}$) majority vote of the qualified taxpaying voters under authority of Section 52, Article 3, of the Constitution of the State of Texas, but which bonds are unissued and unsold, in all or any road districts or political subdivisions in any county in the State of Texas which embraces within its boundaries all or any portion of a previously created road district or road districts which has or have outstanding road bonds issued under authority of Section 52, Article 3, of the Constitution of the State of Texas, but for which said outstanding road bonds of such included district or districts no compensation bonds were voted, authorized or issued by the road district or political subdivision so embracing said road district, districts or portions thereof, are hereby in all things validated; and all proceedings had by the Commissioners Court of any county including such road district or political subdivision the bonds of which are hereby validated, in calling the election, the conduct of the election, canvassing returns of election and all other proceedings incident to the authorization of said bonds, are hereby legalized, approved and validated; and said Commissioners Court and each of them is hereby authorized and empowered to proceed in the issuance of said bonds in the manner provided by law for the issuance of road district bonds in ordinary road districts and just as

though there were no former road districts or parts thereof covering any of the territory embraced within the boundaries of the road district or political subdivision the bonds of which are validated hereby; and the said Commissioners Court of said counties respectively are hereby respectively authorized to levy, assess and collect ad valorem taxes on all taxable property situated in such road districts or political subdivision in amounts sufficient to pay the interest on said bonds and the principal thereof at maturity; and such bonds, when approved by the Attorney General, registered by the State Comptroller, and sold and delivered according to law, shall constitute general direct and binding obligations of such road district or political subdivision issuing the same.

Sec. 2. Nothing herein contained shall be construed as impairing, releasing or in any manner affecting the debt or lien, or the validity thereof, evidenced by any legally outstanding road bonds issued by any road district or road districts, all or any part of which is embraced within the boundaries of such road district or political subdivision the bonds of which are validated hereby, but all such bonds so outstanding shall be and remain the debt and obligation of the district issuing them in the first instance, and the Commissioners Court of each of such counties containing such road district is hereby expressly authorized and empowered to continue to levy, assess and collect ad valorem taxes upon the taxable property situated in such road districts, as originally created, in the manner provided by law for the payment of all principal and interest to mature on said outstanding bonds, the same as if such road district or road districts or portions thereof had never been embraced within the boundaries of the subsequently created road district or political subdivision.

Sec. 3. It is hereby expressly found and declared that all property situated in the road districts or political subdivisions, the bonds of which are validated hereby, including all or any portion of road districts which are included in the same, will be benefited by the improvements proposed to be made with the proceeds of the bonds herein validated to an amount not less than the amount of the taxes which will be levied and collected against said property for the purpose of paying the principal and interest on the bonds herein validated. [Acts 1947, 50th Leg., p. 379, ch. 213.]

Art. 752y-4. City Tax Bonds for Off-street Parking or Park and Off-street Parking Purposes; Validation of Proceedings

All proceedings in connection with any tax bonds heretofore favorably voted in any city, including any home-rule city, for the purpose of providing permanent public improvements by the acquisition of land and improvement thereof for off-street parking purposes, or for the purpose of extending and improving the park system of the city and to provide for mu-

nicipal off-street parking facilities, are hereby in all things validated, and said bonds may be issued and delivered by the governing body of any such city for the purpose or purposes so voted, and in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, regardless of any irregularities in the holding of any election at which any such bonds were voted and regardless of whether or not any such bonds so voted were submitted in only one proposition, and regardless of the wording of the language appearing on the ballots concerning any proposition so submitted; and the governing body of any such city is hereby in all things authorized to operate and maintain any facilities acquired or constructed with the proceeds from the sale of such bonds.

[Acts 1957, 55th Leg., 1st C.S., p. 48, ch. 21, § 1.]

Art. 752y-5. Validation of Road Bonds

Sec. 1. All road bonds heretofore voted and authorized under the provisions of Article 3, Section 52 of the Constitution of Texas by a two-thirds ($\frac{2}{3}$) majority vote of the resident qualified property taxpaying voters voting at an election held for such purpose who had duly rendered their property for taxation, and all proceedings had in connection therewith, including the petition for election, the order of election, the giving of notice of such election, the holding of the election and declaring the results thereof, and the order authorizing the issuance and levying of a tax in payment of such bonds are hereby in all things validated, and such bonds, when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts, and delivered to the purchaser shall be held to be general, direct and binding obligations of the political subdivision or road district issuing the same, and shall be incontestable except for fraud or forgery. All such bonds which have heretofore been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchaser, are hereby in all things validated and shall be held to be general, direct and binding obligations of the political subdivision or road district which issued the same and shall be incontestable except for fraud or forgery.

Sec. 2. The provisions of this Act shall not apply to any political subdivision or road district which is now or has been involved in litigation questioning the validity of its road bonds if the litigation is ultimately determined against the validity of such bonds.

[Acts 1959, 56th Leg., p. 476, ch. 205.]

Art. 752y-6. Validation of Road Bonds

Sec. 1. All road bonds heretofore voted and authorized under the provisions of Article 3, Section 52, of the Constitution of the State of Texas, by a two-thirds majority vote of the qualified resident property taxpaying voters, voting at an election held for such purpose in any road district or other defined district in

the State of Texas, as the case may be, who own taxable property in such road district, or other defined district, as the case may be, and who had duly rendered such property for taxation, and all proceedings had with respect to the voting of said bonds, including the petition praying for the calling of all such elections, the giving of notice of the hearing had upon such petition and the holding of the hearing thereon, and also including the order calling all such elections and the giving of the notices of election in all such elections, including also the holding of each such election and the declaring the results thereof, are hereby in all things validated. All such bonds heretofore voted and issued, including the order authorizing the issuance of such bonds and the levying of the tax in payment of such bonds, are hereby in all things validated; and all such bonds heretofore voted but not yet issued, when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas, and delivered to the purchaser, shall be held to be general, direct, and binding obligations of such road district, or other defined district, against which same is issued, and shall be incontestable except for fraud or forgery. All such bonds which have heretofore been approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas, and delivered to the purchaser, are hereby in all things validated and shall be held to be general, direct, and binding obligations of such road district, or other defined district, against which same is issued, and shall be incontestable except for fraud or forgery.

Sec. 2. All road districts or other districts, heretofore created and defined by the commissioners courts of this state which have heretofore voted and authorized the issuance of road bonds under the provisions of Article 3, Section 52, of the Constitution of Texas, by a two-thirds majority vote of the qualified resident property taxpaying voters of such road district or other defined district at an election held therein for such purpose, who owned taxable property in such road district or other defined district and who had duly rendered their property for taxation, are hereby in all things validated as though each such road district, or other defined district, had been created and defined in the first instance by the Legislature of the State of Texas.

Sec. 3. It is hereby expressly found and declared that all property subject to taxation situated in the road districts or other defined districts, the bonds of which have been heretofore voted by a two-thirds majority vote pursuant to the provisions of Article 3, Section 52, of the Constitution of the State of Texas, and which are hereby validated, will be or have been benefited by the improvements proposed to be made or which have been made with the proceeds of the bonds herein validated to an amount not less than the amount of the required levy of ad valorem taxes against said

property and the collection thereof for the purpose of paying the principal and interest on the bonds herein validated.

Sec. 4. The provisions of this Act shall not apply to any such road bonds or to any such road district or other defined district involved in litigation pending in any court of competent jurisdiction in this state on the effective date hereof, questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of the same; nor shall this Act apply to any such road bonds or to any such road district or other defined district which has been declared invalid by a court of competent jurisdiction in this state.

[Acts 1969, 61st Leg., p. 1586, ch. 482, eff. June 10, 1969.]

2. COMPENSATION BONDS

Arts. 753 to 767. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

Art. 767a. Compensation Bond Issue

Whenever in any political subdivision or road district in any county bonds have been issued under the authority of any general or special law enacted pursuant to Section 52, of Article 3, of the Constitution, and thereafter bonds are voted by the entire county for the purposes hereinafter authorized, such political subdivisions or road districts first issuing bonds may be fully and fairly compensated by the county in an amount equal in value to the amount of district bonds issued by such districts, and which shall be done in the form and manner hereinafter prescribed:

(1) It shall be the duty of the Commissioners' Court, upon the presentation of a petition signed by two hundred and fifty resident property taxpaying voters of the county, whether residing in such road district or districts, or not, to order an election under the provisions of this Act to determine whether or not the bonds of such county shall be issued for road construction purposes as authorized by subdivisions 3 and 4 of this section.

(2) Such county bonds to be issued in such an amount as may be stated in the order of the Commissioners' Court, but within the limitations of the constitutional and statutory provisions; and at such election there shall also be submitted to the resident property taxpaying voters of the county the question as to whether or not a tax shall be levied upon the property of said county, subject to taxation, for the purpose of paying the interest on said bonds and to provide a sinking fund for the redemption thereof.

(3) When such road district or districts have by the requisite vote of the qualified property taxpaying voters thereof authorized, the issuance of bonds, and the same have not been issued and sold, or, if sold

and the proceeds have not been expended at the time the election is to be ordered for the entire county, then the proposed county bonds shall be issued for the following purpose: "The issuance of county bonds for the construction of district roads and the further construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, throughout such county." If the proposition to issue such county bonds for said purpose shall receive the necessary favorable vote as is now provided by law, and said bonds shall have been approved and issued, then so much of the bonds so issued by the county as may be necessary to fairly and fully compensate such road district or districts shall be set aside by the Commissioners' Court for that purpose; provided, that in the event such district bonds have not been issued and sold, then so much of the bonds so issued by the county as may be necessary to fairly and fully compensate such road district or districts shall be set aside for that purpose, and the same shall be sold and the proceeds applied to the construction, maintenance and operation of the roads within and for such road district or districts as contemplated by the election or elections theretofore held within and for such road district or districts, and such unsold district bonds shall thereupon become totally void, and it shall be the duty of the Commissioners' Court of such county to immediately cancel and destroy such unsold district bonds; provided, however, that in the event such district bonds have been sold, then an exchange of a like amount of said county bonds may be made with the holder or holders of said district bonds as provided by subdivision 1 of Section 26, of this Act,¹ but if the Commissioners' Court should find that such exchange cannot be made, then so much of the county bonds as may be necessary shall be transferred and placed to the credit of the interest and sinking fund account of such road district or districts in conformity with the procedure prescribed by subdivision 2 of Section 26 hereof.

(4) Where such road district or districts have issued bonds for the construction of public roads therein and the proceeds derived from the sale of the bonds have been applied to the construction of roads within and for such districts, then such district roads may be merged into and become a part of the general county system of public roads and such road district or districts shall be fully and fairly compensated by the county in an amount equal in value to the amount of bonds outstanding against such road district or districts at the time the bonds are issued by the county, and the proposed county bonds shall be issued for the following purpose: "The issuance

of county bonds for the purchase of district roads and the further construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, throughout such county." In the event the proposition to issue such county bonds shall receive the necessary favorable vote as is now provided by law, and said bonds shall have been approved and issued, then so much of the bonds so issued by the county as may be necessary for that purpose shall be set aside and exchanged for a like amount of outstanding district bonds, or the same may be transferred and placed to the credit of such road district or districts for the purpose of paying and retiring such district bonds as the same may mature.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 25.]

¹ Article 767b.

Art. 767b. Exchange of Bonds

If the proposition to issue such county bonds shall receive the necessary favorable vote as is now provided by law, and said bonds shall have been approved and issued, the taxes theretofore levied and collected in any road district or districts shall from that date be dispensed with as hereinafter provided, and the bonds so set apart by the Commissioners' Court shall be used exclusively for the purpose of constructing the roads in any such subdivisions or districts or for the purpose of purchasing or taking over the improved roads in any such subdivisions or districts, as the case may be. The exchange of such county bonds for such outstanding district bonds shall be made in one of the following methods, to wit:

(1) An exchange of said bonds may be made with the holder or holders of any outstanding district bonds. The agreement for such exchange shall be evidenced by order of the Commissioners' Court authorizing the same and by the written consent of the holder or holders of such district bonds, properly signed and acknowledged, as provided for the acknowledgment of written instruments by the laws of this State, which said order of the Commissioners' Court, written agreement properly executed by the holder or holders of such district bonds, together with the county bonds to be given in exchange, shall be presented to and approved by the Attorney General of the State and shall bear his certificate of approval before the exchange is finally consummated. When such exchange of county bonds for district bonds shall have been consummated, it shall be the duty of the Commissioners' Court to cancel and destroy said district bonds, and thereafter no tax shall ever be levied or collected therefor under the original election in such subdivisions or districts and the sinking funds then on hand to the credit of any such subdivisions or districts shall be passed to the sinking fund account of the county.

(2) In the event the exchange of the county bonds for the outstanding district bonds cannot be made as hereinabove provided for, it shall then be the duty of the Commissioners' Court, at as early a date as practicable, to deposit with the county treasurer for the credit of the interest and sinking fund account of such road district or districts an amount of county bonds equal in value to the amount of outstanding district bonds. The order of the Commissioners' Court authorizing the deposit of county bonds for the credit of the interest and sinking fund account of such road district or districts, together with the county bonds so authorized to be deposited, shall be presented to and approved by the Attorney General of the State and shall bear his certificate of approval before such deposit of county bonds shall be made and credit passed to such road district or districts; provided, however, that such county bonds before deposited shall have printed or written across the face thereof the word "Non-negotiable" and shall further recite that they are deposited to the credit of the interest and sinking fund account of the road district therein named as a guarantee for the payment of the outstanding district bonds that have not been exchanged, and the coupons annexed to such county bonds so deposited shall have written or printed thereon the word "Non-negotiable." After such county bonds shall have been deposited for the credit of the interest and sinking fund accounts of any such road district or districts the sinking fund then on hand to the credit of such road district or districts shall be passed to the credit of the sinking fund account of the county and the Commissioners' Court shall no longer levy and collect the taxes provided for under the original election for said bonds in such road district or districts, but in lieu thereof the said court shall, from the taxes levied for the purpose of providing the necessary interest on the county bonds hereinabove provided for, pay annually the interest on said county bonds deposited for the credit of such road district or districts, detaching the coupon therefor, and said payment of interest shall be passed to the credit of the interest account of such road district or districts as the owner or owners of said county bonds, and the funds so realized by said road district or districts shall be used by the Commissioners' Court for the purpose of paying the interest on all such outstanding district bonds. It shall also be the duty of the Commissioners' Court to set aside annually, from the taxes levied to provide the necessary sinking fund for such county bonds, the necessary sinking fund for the retirement of said county bonds and upon maturity of said county bonds the Commissioners' Court shall pay said bonds in full and said payments shall

be passed to the credit of the sinking fund of such road district or districts and the funds so realized by said road district or districts shall be used by the Commissioners' Court to pay in full all outstanding district bonds.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 26.]

Art. 767c. Issuance, Form and Requisites of Compensation Bonds

The county bonds issued for the purpose contemplated in subdivisions three and four of Section 25¹ hereof, shall be issued in similar denominations, bearing the same rate of interest, having the same date or dates of maturity and with similar options of payment as the outstanding district bonds, it being the intent hereof that said county bonds shall in every respect be similar to said district bonds, except they shall be county obligations instead of district obligations, and shall be dated on a date after the date of the election at which they were authorized; and the county bonds issued in excess of the amount required to exchange, offset and retire said outstanding district bonds shall be issued and sold in the manner now provided by law and may mature serially or otherwise at the discretion of the Commissioners' Court and may run for a term not to exceed forty years and such bonds shall bear not more than five and one-half per cent interest per annum, and the proceeds thereof shall be credited to the available road fund of the county and shall be expended by the Commissioners' Court in constructing, maintaining and operating macadamized, graveled, or paved roads and turnpikes, or in aid thereof, throughout such county. The issuance and sale of the bonds herein authorized and the levy and collection of taxes therefor shall be conducted as now required by law on other county bonds, except as herein otherwise provided; and provided further that the necessary expense incident to the issuance of said bonds may be paid out of the proceeds from the sale thereof.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 27.]

¹ Article 767a.

Art. 767d. Previously Created Districts and Subdivisions

Where any road district created under the provisions of this Act includes within its limits any previously created road district, or any political subdivision or precinct, having at such time road bond debts outstanding, such included district or subdivision shall be fully and fairly compensated by the new district in an amount equal to the amount of the bonds outstanding against such included subdivision or district, and which shall be done in the form and manner prescribed for the issuance of county bonds under Sections 25 to 27, inclusive of this Act,¹ except the petition shall be signed by fifty or a majority of the resident property taxpaying voters of the new district, and the bonds proposed to be issued shall be for the purchase or construction of roads in the in-

cluded subdivisions or districts and the further construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof.

[Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 28.]

¹ Articles 767a to 767c.

Art. 767e. Bond Issue by Road District Including Previously Created Road District or Political Subdivision

Where any road district includes within its limits a portion of any previously created road district, or portion of any political subdivision or precinct, pursuant to authority of Section 1, Chapter 75, of the General Laws passed by the Fortieth Legislature, at its First Called Session, in 1927,¹ and which previously created road district, political subdivision or precinct, as the case may be, had road bond debts outstanding, power and authority is hereby conferred upon the newly created road district to issue bonds for the purchase of the roads within the previously created district, subdivision or precinct, and further construction of macadamized, graveled or paved roads and turnpikes in such subsequently created road district, and which said bonds shall be authorized and issued in the form and manner prescribed in Sections 25 to 28, inclusive, of Chapter 16, of the General Laws passed by the Thirty-Ninth Legislature, at its First Called Session, in 1926;² provided, however, that nothing herein shall be construed as affecting or impairing the obligation or indebtedness evidenced by the outstanding bonds of the previously created district, subdivision or precinct, but such indebtedness shall remain chargeable against the territory which voted the same.

[Acts 1931, 42nd Leg., 2nd C.S., p. 58, ch. 36, § 1.]

¹ Article 752cc.

² Articles 767a to 767d.

Art. 767f. Bond Issues and Elections Therefor Validated

That where, under authority of Section 52, Article 3, of the Constitution of the State of Texas, a two-thirds majority of the resident property tax-payers, being qualified electors of any road district, embracing portions of any previously created road district, subdivision or precinct, and which district was created in conformity with the provisions and requirements of Section 1, Chapter 75, of the General Laws passed by the Fortieth Legislature, at its First Called Session, in 1927,¹ voting on the proposition, having voted at an election held in such road district in favor of the issuance of bonds, for the purchase of roads within the road district, subdivision or precinct, portions of which were and are included within the new district, and also voting on the proposition of the further construction of roads within the new district, and the levy of taxes in payment of said bonds, the canvass of said vote revealing such two-thirds majority having been recorded in the minutes of the County Commissioners' Court, and where, thereafter, the County Commissioners' Court of the County in

which such road district is situated, by orders adopted and recorded in its minutes, authorized the issuance of such bonds, prescribed the date and maturity thereof and rate of interest the bonds were to bear, the place of payment of principal and interest, providing for the levy of taxes upon taxable property in each such road district sufficient to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity; and providing further that territory of any such district, subdivision or precinct not included in the newly created road district shall continue to bear and pay its proper proportion of the outstanding road bond debts thereof, and such bonds were approved by the Attorney General and registered by the Comptroller of the State of Texas, each such election, and all acts and proceedings had and done in connection therewith by the County Commissioners' Court in respect of such bonds and the levy of taxes, are hereby legalized, approved and validated, and all bonds voted, or issued, thereunder, are validated and declared to be the legal and binding obligations of such several districts, according to their terms; and power and authority is hereby expressly conferred upon the Commissioners' Court of the County in which any such district is situated, to adopt all orders and to do all acts necessary in the issuance or sale of any unissued or unsold bonds of any such district; provided, that the manner of issuing the district compensation bonds for any such districts shall be the same as that provided for the issuance of other district and County compensation bonds; provided, further, that nothing in this Act shall be construed as impairing, releasing, or in any manner affecting the lien evidenced by outstanding bonds on any portion of any road district, subdivision or precinct, not included within the limits of the subsequently created road district, authorizing or issuing the bonds for the purchase of roads from the previously created district, subdivision or precinct, but such excluded territory shall continue to bear and pay its proper proportion of any such existing debt and, provided further, that any such subsequently created road district shall assume only that portion of the outstanding bonded indebtedness of the previously created district, subdivision or precinct, in the same ratio that the assessed valuation of the property of any such previously created road district, subdivision or precinct (and which property is included in the subsequently created district), bears to the assessed valuation of the property situated within the original boundaries of any such previously created road district, subdivision or precinct.

[Acts 1931, 42nd Leg., 2nd C.S., p. 58, ch. 36, § 1.]

¹ Article 752cc.

Art. 767g. Commissioners' Court Authorized to Levy Tax to Pay Road District Bonds

That taxes, in an amount sufficient to pay the principal of, and interest upon, any such bonds now outstanding, or hereafter issued, as aforesaid, shall be annually assessed and col-

lected according to the value of taxable property as fixed for State and County taxes, by the County Commissioners' Court of each County in which any such district, subdivision or precinct is situated, and express authority so to do is hereby delegated and granted to such Commissioners' Courts.

[Acts 1931, 42nd Leg., 2nd C.S., p. 58, ch. 36, § 2.]

3. CONSOLIDATED DISTRICTS

Arts. 768 to 778. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30

3a. DISTRICTS IN ADJOINING COUNTIES

Art. 778a. Power to Issue Bonds

That, pursuant to authority conferred by Section 52, of Article 3, of the Constitution, any number of adjoining counties within this State are hereby empowered and authorized to issue bonds in any amount not to exceed one-fourth of the assessed valuation of the real property of the territory included within such counties, and to levy and collect annually ad valorem taxes to pay the interest upon such bonds and to provide a sinking fund for the redemption thereof, for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof. The phrase "any number of adjoining counties" as used in this Act, shall be construed to mean "two or more counties contiguous to each other."

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 1.]

Art. 778b. Procedure Prescribed

In the event the qualified property taxpaying voters residing within two or more adjoining counties desire to combine such counties into one defined road district, for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, it shall be lawful for them to do so by following the procedure prescribed in the subsequent sections of this Act.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 2.]

Art. 778c. Petition for Road District

The petition for the creation and establishment of a defined road district composed of two or more adjoining counties, shall be signed by not less than fifty qualified voters and property taxpayers in each county. A separate petition for the establishment of said district shall be presented to the commissioners' court of each county in said proposed district. The following proceedings shall be had in each county:

(1) Each petition shall describe in general terms the road or roads proposed to be constructed, and in like general terms the cities, towns and villages, if any, to be connected by such road or roads, and shall name each county proposed to be included within such road district. Each petition shall request the commissioners' court to

order an election to determine whether said county shall be included in the proposed road district;

(2) Upon presentation of each petition, it shall be the duty of the court to which it is presented, to fix a time such petition shall be heard, and the date of hearing shall be not less than fifteen nor more than thirty days from the date of the order, and the place of hearing shall be the regular meeting place of the commissioners' court in the county courthouse;

(3) The county clerk shall forthwith issue notice of such time and place of hearing, which notice shall inform all persons concerned of the time and place of hearing, and of their right to appear at such hearing and contend for or protest the ordering of such election. Such notice shall set forth in substance the contents of the petition, and shall give the name of each county proposed to be included within the road district. The clerk shall execute said notice by posting true copies thereof in five public places, within the county, to-wit: One copy at the courthouse door, and one copy in each commissioners' precinct. Said notice shall be posted for ten days prior to the date of such hearing. Said notice shall also be published in a newspaper of general circulation, published in the county one time, and at least five days prior to such hearing; provided, however, that if no newspaper is published in the county, then the posting of the notice as hereinabove directed, shall be sufficient. The duties herein imposed upon the clerk, may be performed by said clerk in person, or by deputy, as provided by law for similar duties;

(4) At the time and place set for the hearing of the petition or such subsequent date as may then be fixed, the court shall proceed to hear such petition and all matters in respect of the proposed road district. Any person interested may appear before the court in person, or by attorney, and contend for or protest the creation of the proposed road district. Such hearing may be adjourned from day to day, and from time to time, as the court may deem necessary. If upon the hearing of such petition, it be found that the same is signed by fifty of the resident property taxpaying voters of the county, and that due notice thereof has been given, and that the creation of the proposed district by the consolidation of such county with the other counties named in the proceedings, would be for the benefit of all taxable property situated in such county, then such court may make and cause to be entered of record upon its minutes, an order directing that an election be held within such county at a date to be fixed in the order, but not less than fifteen nor more than thirty days from the date of the elec-

tion order. Notice of such election shall be given in the same manner and for the same time required for notices of the hearing on the petition. Provided, however, that the elections shall be held in each county on the same date;

(5) The manner of holding such election and canvassing and making the returns thereof, shall be governed by the General Laws of this State, when not in conflict with the provisions of this Act;

(6) When the election for the creation of the district has been held, the officers named by the commissioners' courts of the different counties to hold the election in their respective counties, shall make returns of the election to the commissioners' courts of their respective counties, and return all ballot boxes to the clerk of the commissioners' court of the county. It shall be the duty of the commissioners' court of each county in the proposed road district, upon receiving the returns of the election, to canvass the same and certify the result of the election in the county to the county judge of the county having the largest number of inhabitants, as shown by the last Federal census. Upon receipt of the returns of the election in the different counties of the district, the county judge designated to canvass the vote, shall canvass such vote and certify the result to each county in the proposed district. If the votes cast in each and all counties show a majority in favor of the consolidation of such counties into a defined road district, the commissioners' court of each county shall thereupon declare such defined road district created, and such district shall be known as _____

Counties Road District of Texas, enumerating the counties embraced within such district in alphabetical order.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 3.]

Art. 778d. Directors of District

The county judges and county commissioners of the counties composing such district shall be ex-officio directors of such district, and they shall have the same power and authority with reference to the management of the affairs of said district as commissioners' courts have in respect of road districts wholly within one county. Said district when so formed, shall be a defined district within the meaning of the Constitution, and a body corporate.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 4.]

Art. 778e. Purchasing Improved Roads

Such road district may or may not purchase or take over improved roads already constructed by any county or other road district included therein; provided, that in the event it is determined to take over or purchase such improved roads, then the same shall be done in conformity with the procedure prescribed by Section 25 et seq., of Chapter 16, of the Gener-

al Laws passed by the Thirty-ninth Legislature, at its First Called Session, in 1926,¹ except that no petition shall be necessary.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 5.]

¹ Article 767a et seq.

Art. 778f. Bond Election

After the creation of any such road district, the commissioners' court of the counties included therein, at a joint meeting held in the county having the largest number of inhabitants, as shown by the last Federal census, may order an election to be held within such district at a time not less than thirty days from the date of said order, at which election there shall be submitted this proposition:

"Shall the _____ Counties Road District of Texas, be authorized to issue the bonds of said district in the total sum of _____ dollars (\$_____), and to levy annually ad valorem taxes on all taxable property in said district to pay the interest on said bonds and create a sinking fund to redeem the principal at maturity, for the purpose of the construction, maintenance and operation of macadamized, graveled or paved roads and turnpikes, or in aid thereof, within said district.

"The roads to be constructed from the proceeds of the sale of said bonds, and the amount apportioned to each road is as follows:

"(Here set out the road or roads as described in the order and notice of the election to determine the creation of the district, and the amount to be expended on each such road or roads.)"

In the event it is proposed to purchase or take over the improved roads already constructed by an included county, or any included road district, then the election order shall be in conformity with the provisions of Section 25, of Chapter 16, of the General Laws passed by the Thirty-ninth Legislature, at its First Called Session, in 1926.¹

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 6.]

¹ Article 767a.

Art. 778g. Notice of Election and Declaring Result

After such election order has been passed at such joint meeting of the commissioners' courts, as the ex-officio directors of said road district, a certified copy thereof shall be transmitted to the county clerk of each county within such district. Thereupon, the commissioners' court of each county, at a regular or special session held in their respective counties, shall give notice of such proposed bond election to be held on the date named in the order of the courts passed at such joint meeting. Each election notice shall state the time and place of holding such election, and shall also state in substance the contents of such election order, and all other proceedings in respect of the question so submitted shall be in accordance with the provisions of Chapter 16, of the

General Laws, passed by the Thirty-ninth Legislature, at its First Called Session, in 1926,¹ relative to county road bond elections. The commissioners' courts of such counties as ex-officio directors of said road district, shall by order declare the result, and the county judge shall certify the result to the county judge of the county having the largest population. If at such election two-thirds of the property tax-paying voters of each county, voting at such election cast their ballots in favor of the issuance of the bonds, the commissioners' court of each county, as soon after the declaration of the result as practicable, shall pass all such orders that may be necessary in the issuance of such bonds and the levy of taxes in payment thereof.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 7.]

¹ Article 752a et seq.

Art. 778h. Maturity Dates, Interest and Proceeds

The General Laws relative to county road bonds authorized pursuant to Section 52, of Article 3, of the Constitution, shall apply to the authorization and issuance, approval and certification, the registration, the sale and payment, of the bonds provided for in this Act, except as herein otherwise provided. Such bonds shall mature not later than forty years from their date, and shall bear interest not to exceed six per cent per annum. The necessary expense incident to the issuance of said bonds may be paid out of the proceeds from the sale thereof. Upon the issuance and sale of the bonds provided for herein, the commissioners' court of each county may pass all such orders that may be necessary, setting aside so much of the proceeds derived from the sale of such bonds as the ex-officio directors of said road district may deem necessary to be used for the maintenance, repair and upkeep of the roads of such district.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 8.]

Art. 778i. Bond Tax

The amount of the bond tax to be levied annually shall be determined by the commissioners' courts of the respective counties before the period at which the annual levy of taxes is made in the counties composing said district, and the proportion of the tax levied against the property in each of the counties, respectively, shall be levied by the commissioners' court of such county at the same time and in the same manner that other taxes in such counties are levied, and the levy and collection thereof shall be governed by the same laws that govern the levy and collection of county taxes.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 9.]

Art. 778j. Issuance of Bonds

Said bonds shall be issued as nearly as may be in form now in use in this State in the issuance of county bonds, except that said bonds shall be issued in the name of the district, and shall be signed by the county judges of the

several counties composing said district, and countersigned by the county clerks of such counties, with the seals of the commissioners' courts of such counties impressed thereon, and such bonds shall be attested by the treasurer or depository of said district.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 10.]

Art. 778k. Sale of Bonds

The commissioners' courts of the counties embraced in such district, at a joint meeting held in the county having the largest number of inhabitants, as shown by the last Federal census, shall advertise such bonds for sale, and the advertisement or notice of such proposed sale, shall be published in a newspaper of general circulation published in the district, one time, and at least ten days before the time fixed for such sale. The commissioners' courts shall convene in joint meeting on the date specified in such published notice for the sale of said bonds, and which joint meeting shall be held in the county having the largest number of inhabitants, for the purpose of considering bids for the purchase of such bonds. Said courts shall have the right to reject any and all bids. Such bonds shall be sold by said courts, at such joint meeting, to the highest and best bidder for cash, either in whole or in parcels, at not less than their par value. The purchase money therefor shall be placed in the treasury or depository of said district to the credit of the available road fund of such district.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 11.]

Art. 778l. Meetings of Commissioners' Courts

Any joint meeting of the courts may be adjourned from day to day and from time to time, as such courts may deem necessary and advisable.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 12.]

Art. 778m. Bond Records

The county commissioners' courts for each county included within such district shall provide a well bound book in which a list of said bonds shall be kept by the county clerk of each county, showing their numbers, amount, rate of interest, date of issue, when due, where payable, and said books shall be public records in each county.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 13.]

Art. 778n. Warrants

The purchase money for such bonds shall be paid out by the treasurer or depository, of such district, upon warrants drawn on the available road fund issued by the county clerk of the county having the largest number of inhabitants, but such warrants shall be countersigned by the county judge of each county situated within the road district, and no such warrant shall be issued except in payment of certified accounts approved by the commissioners' court of each county.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 14.]

Art. 778o. Treasurer or Depository of District

The treasurer or depository of such district shall be any bank, banking corporation or individual banker resident in such district, and such treasurer or depository shall be selected by the commissioners' courts of the counties included within such district, at joint meetings held for that purpose in the county having the largest number of inhabitants. The treasurer or depository shall be governed by the same laws and shall be subject to the same penalties as are provided by law for depositories of county funds; provided, before any such treasurer or depository shall be entitled to receive any funds of the district, it shall give bond to the district with a corporate surety company as surety, which is authorized to do business in the State of Texas, in an amount equal to the funds so deposited, conditioned upon the safekeeping of such funds and paying of the same.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 15.]

Art. 778p. Change of Roads

The commissioners' court of any such county shall have authority to change any road or roads designated in the petition to create such road district, provided, it shall be found at the hearing on such petition that such change is necessary and practicable, and would be a public benefit, and would be beneficial to all taxable property in the county. Nothing in this Act shall be construed as requiring any commissioners' court to grant a petition for the establishment of such road district, if at the hearing herein provided for it be found that it would not be beneficial to the taxable property in the county to include such county within the proposed road district.

[Acts 1927, 40th Leg., 1st C.S., p. 218, ch. 80, § 16.]

4. GENERAL PROVISIONS**Art. 779. Investment of Sinking Fund**

The Commissioners Courts may invest sinking funds accumulated for the redemption and payment of any bonds issued by such county, political subdivision, road district, or defined district thereof, in bonds of the United States, of Texas, or any county in this State, or any school district or road district of this State, or any incorporated city or town of this State; or in bonds of the Federal Farm Loan Bank system, or in war-savings certificates, and certificates of indebtedness issued by the Secretary of the Treasury of the United States. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 899, ch. 552, § 1.]

Art. 780. Interest on Investments

All interest on such investments shall be applied to the sinking fund to which it belongs, and the use of such funds for any other purpose shall be considered a diversion thereof

and punished as provided by article 94 of the Penal Code.

[Acts 1925, S.B. 84.]

Arts. 781 to 784. Repealed by Acts 1926, 39th Leg., 1st C.S., p. 23, ch. 16, § 30**Art. 784a. Cancellation or Revocation of Un-sold Road Bonds****Election**

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

Record of Result of Election; Method of Cancellation

Sec. 2. The result of such election, whether favorable to the cancellation of such bonds or not, shall be duly recorded by the Commissioners' Court, and the returns thereof and the result duly entered of record in the minutes of said Court, and in the event the result of such election for the cancellation and revocation of such unsold bonds shall show that two-thirds of the qualified resident property taxpaying voters of such county, political subdivision or defined district of such county, voting at such election, have voted for the cancellation and revocation of such unsold bonds, the Commissioners' Court shall cancel and burn all such bonds, and forward to the Comptroller a certified copy of the minutes showing such destruction and cancellation. The Comptroller shall thereupon cancel the registration of said bonds on the records of his office.

Readjustment of Tax Levies

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

Refund to Taxpayers

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

plus of such taxes, after a period of twenty (20) years and after a diligent effort has been made to return such unclaimed surplus, said surplus may be used by the county, political subdivision of the county, or any local district that has been or may hereafter be created by any General or Special Law, for the purpose of the maintenance, operation and improvement of macadamized, graveled or paved roads as may be determined by the Commissioners Court of any county or the officials of any political subdivision of a county or any said road district.

Expenses

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

Other Bond Elections or Bonds Not Affected

Sec. 6. Nothing in this Act shall be construed as invalidating any bond election or any bonds which have been sold by such county, political subdivision or defined district thereof. [Acts 1932, 42nd Leg., 3rd C.S., p. 94, ch. 31; Acts 1959, 56th Leg., p. 532, ch. 236, § 1.]

Art. 784b. Election for Repurchase and Cancellation of Bonds

Petition; Conduct of Election

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

Record of Result of Election

Sec. 2. The result of such election, whether favorable to the repurchase, cancellation and revocation of such bonds or not, shall be duly recorded by the commissioners' court and the result thereof duly entered in the records of said court, and in the event the result of such election for the repurchase, cancellation and revocation of such bonds shall show that two-thirds of the qualified resident property tax-paying voters of such county, political subdivision or defined district of such county voting at such election have voted for the repurchase, cancellation and revocation of bonds theretofore sold, the commissioners' court shall be authorized to advertise for and purchase said outstanding bonds from the holders thereof and upon completion of said purchase shall

cancel and burn all such bonds so purchased and forward to the Comptroller of Public Accounts a certified copy of the minutes showing such purchase, destruction and cancellation. The Comptroller shall thereupon cancel the registration of said bonds on the records of his office to the extent of the amount so repurchased, cancelled and destroyed.

Expenses Paid from General Funds

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

Prior Bond Elections or Bonds Not Invalidated

Sec. 4. Nothing in this Act shall be construed as invalidating any bond election or bonds which have been sold by such county, political subdivision or defined district thereof. [Acts 1933, 43rd Leg., 1st C.S., p. 289, ch. 105.]

CHAPTER FOUR. VIADUCTS, BRIDGES, ETC.

Article

- 785. May Order Election.
- 786. Survey and Estimate.
- 787. Submission of Resolution.
- 788. Conduct of Election.
- 789. Ballot.
- 790. Issue of Bonds.
- 791. Limit of Issue.
- 792. Tax Levy.
- 793. Court May Contract.
- 794. Maintenance Fund.
- 795. Rules and Regulations.
- 795a. Bond Issue to Refund Outstanding Causeway Revenue Bonds.

Art. 785. May Order Election

The county commissioners court of any county having a population in excess of fifty thousand inhabitants according to the last United States census, may in their discretion, order an election to determine the propriety of a bond issue to provide for the construction and maintenance of causeways, viaducts, bridges and approaches across any river and bottoms within the limits of such county, irrespective of any municipal boundaries.

[Acts 1925, S.B. 84.]

Art. 786. Survey and Estimate

The commissioners court of such county shall, prior to ordering any such election, provide for preliminary surveys and estimates for such work, and shall prescribe in the election order the amount and terms of such bond issue.

[Acts 1925, S.B. 84.]

Art. 787. Submission of Resolution

The resolution providing for such election shall be recorded in the minutes of the commissioners court and shall be submitted to the property owning qualified voters of said county as a proposition at a regular or special election which may be ordered by said court for that purpose. If a majority of the votes cast

shall be for such resolution, the same shall be deemed to be adopted.

[Acts 1925, S.B. 84.]

Art. 788. Conduct of Election

Such election shall be governed in all respects by the laws governing elections in this State, and the returns made and canvassed in the same manner, and the results declared by proclamation of the county judge of said county. Such proclamation shall be posted in at least three public places in said county, and at the option of the county judge, published in some newspaper in said county.

[Acts 1925, S.B. 84.]

Art. 789. Ballot

Those desiring to vote for the resolution shall have written or printed on their ballots the words "For the Resolution to Issue Bonds to . . ." (here insert purpose of the proposed bond issue as set forth in said resolution), and those desiring to vote against the resolution shall have written or printed on their ballots the words "Against the Resolution to Issue Bonds to . . ." (here insert such purpose of the proposed bond issue, as set forth in said resolution). Such ballots shall be written or printed on plain white paper, with black ink or pencil, and shall contain no distinguishing mark or device, except as above provided.

[Acts 1925, S.B. 84.]

Art. 790. Issue of Bonds

If the resolution be voted, the commissioners court, under the supervision and direction of the Comptroller, shall prepare and execute the bonds of the county accordingly. They shall bear interest not exceeding five per cent payable annually, and be redeemable in not less than five nor more than forty years from the date thereof. The time of maturity shall be expressed on the face of the bonds. Such bonds shall be registered or enrolled as other county bonds, and shall not be sold or negotiated at less than their par value.

[Acts 1925, S.B. 84.]

Art. 791. Limit of Issue

In no case shall bonds be issued under this chapter for a greater sum than that a levy of five cents of the one hundred dollars property valuation of said county will yield sufficient revenue to pay the interest as it accrues, and create a sinking fund sufficient to pay the principal of such bonds at maturity.

[Acts 1925, S.B. 84.]

Art. 792. Tax Levy

When bonds are issued under the provisions of this chapter, the commissioners court shall levy an annual ad valorem tax on all property of the county, which shall be used only for the purpose of paying interest on said bonds and creating a sinking fund to pay the principal.

[Acts 1925, S.B. 84.]

Art. 793. Court May Contract

The commissioners court may contract with individuals, firms or corporations for the use of such causeways, viaducts, bridges and approaches, or constructing and maintaining and using tracks, telegraph lines or other such privileges, but shall make no exclusive nor preferential contracts, and before executing any such contracts, shall give notice by posting at the courthouse door and in three other public places in said county the full terms and nature of such proposed contracts.

[Acts 1925, S.B. 84.]

Art. 794. Maintenance Fund

Revenues that may accrue from any contract or contracts so made may be applied to the maintenance and repair of such structure or structures; and such court may make adequate provision for such maintenance and repair. In the event the revenues accruing from the use of any such structure shall exceed the expenditures for its maintenance and repair, such excess shall be applied to the road and bridge fund of the county.

[Acts 1925, S.B. 84.]

Art. 795. Rules and Regulations

The commissioners court may make rules for the use of any structure erected under the provisions of this chapter, and provide for the enforcement thereof.

[Acts 1925, S.B. 84.]

Art. 795a. Bond Issue to Refund Outstanding Causeway Revenue Bonds

Authority to Issue Bonds; Ad Valorem Taxes

Sec. 1. That the Commissioners Court of any county in the State of Texas which has heretofore or shall hereafter issue bonds, to construct, acquire, improve, operate or maintain a causeway, and the interest on such bonds and the principal thereof are payable from revenues derived from the operation of such causeway, is hereby authorized to issue bonds for the purpose of refunding such outstanding revenue bonds and to levy and collect ad valorem taxes to pay the interest on such refunding bonds and to provide a sinking fund for the redemption thereof.

Aggregate Principal Amount

Sec. 2. That the aggregate principal amount of bonds issued from time to time pursuant to this Act and at any time outstanding, shall not exceed a principal amount which will permit the interest on and the principal of such bonds to be paid from a tax levied within the eighty cent (80¢) limitation provided by Article 8, Section 9 of the Texas Constitution, and provided that the Commissioners Court shall not authorize the issuance of bonds under authority of Section 1 hereof unless authorized at an election at which only the qualified voters who reside in the county and who own taxable property therein and who have duly rendered the same for taxation shall be allowed to

vote, and unless the majority of the votes cast thereat are in favor of issuing the bonds. Said election shall be conducted in accordance with the terms of Title 22 of Vernon's Revised Civil Statutes of Texas, as amended.

Detail of Bonds; Manner of Sale; Redemption; Exchange; Use of Accumulated Monies

Sec. 3. That the Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof, providing that the bonds shall not mature later than forty (40) years after their date, and no such sale shall be made at a price so low as to require the payment of interest on the money received therefor at more than six per cent (6%) per annum, computed with relationship to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computations the amount of any premium to be paid on redemption of any bonds prior to maturity. The bonds may be redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court prior to the issuance of the bonds. All bonds issued hereunder shall and are hereby declared to have all of the qualifications and incidents of negotiable instruments under the Negotiable Instrument Law of Texas. Provision may be made for registration of such bonds as to principal only. The bonds issued hereunder may be exchanged for the revenue bonds being refunded or the proceeds of the bonds issued hereunder may be used to pay the principal amount of the bonds being refunded and any premium required by the terms thereof to be payable on redemption prior to maturity. Any monies accumulated in the funds established by the resolution or order authorizing the issuance of the bonds to be refunded may be used by the Commissioners Court, upon cancellation of such bonds to be refunded, to pay accrued interest on and the principal of any such bonds to be refunded, to pay any premium required to be paid thereon in event of redemption prior to maturity, to pay into the road and bridge fund of the county, or may be used for any other lawful purpose.

Taxes to Pay Interest; Sinking Fund for Redemption of Bonds

Sec. 4. That any county issuing bonds pursuant to this Act shall continue to levy ad valorem taxes to pay the interest on such bonds and to provide a sinking fund for the redemption thereof even though the facilities constructed with the proceeds of the bonds to be refunded by the bonds issued pursuant to this Act shall become a part of the State Highway System.

Refunds; Terms and Conditions

Sec. 5. Any bonds issued pursuant to this Act may be refunded by the Commissioners Court upon such terms and conditions, including interest rates and maturity, as may be determined by the Commissioners Court, provided

that such terms and conditions shall not be inconsistent with the application of the constitutional provision to which reference is herein made. Any such bonds may be so refunded by issuance of refunding bonds, either to be exchanged for the bonds being refunded, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds being refunded.

Legal and Authorized Investments

Sec. 6. All bonds, whether original or refunding, heretofore or hereafter issued pursuant to this Act, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts and all other political corporations or subdivisions of the State of Texas; and all said bonds shall be lawful and sufficient security for said deposits to the extent of their par value when accompanied by all unmatured coupons appurtenant thereto.

Approval of Attorney General; Registration

Sec. 7. Prior to the delivery thereof to the purchasers, all bonds authorized to be issued hereunder and the records related to the issuance shall be submitted to the Attorney General of Texas for his examination, and if he finds they have been issued in accordance with the Constitution and this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and upon such approval and registration they shall be uncontestable.

[Acts 1963, 58th Leg., p. 441, ch. 156.]

CHAPTER FIVE. FUNDING, REFUNDING AND COMPROMISES

Article

- 796. In Case of Storms, Etc.
- 797. Regulation of Bonds.
- 798. Order of Commissioners Court.
- 799. Classification of Issues.
- 800. Apportionment of Taxes.
- 801. Requisites of Bonds.
- 802. Registration and Sale.
- 802a. Funding Indebtedness Representing Difference Between Wages Paid and Wages Required to be Paid to Firemen and Policemen by Cities of Over 75,000 Population.
- 802b-1. Home Rule Cities Without Specified Utilities Authorized to Issue Funding Bonds or Warrants.
- 802b-2. Refunding Bonds Supported by Ad Valorem Tax or by Pledge of Income of Specified Utilities; Issuance by Cities Operating Under Charters Authorized.

Article

- 802b-3. Cities of 35,000 to 45,000 Under Special or Home Rule Charters May Issue Notes to Fund or Refund Warrants.
- 802b-4. Exposition and Convention Hall or Coliseum Bonds, Refunding; Cities Over 100,000.
- 802b-5. Home Rule or Special Charter Cities and Towns; Bonds to Pay Existing Judgments Authorized.
- 802c. Refunding Bonds of Certain Cities Operating Utilities.
- 802d. Refunding Bonds of Cities Whose Streets Link State Highways.
- 802e. Validation of Refunding Bonds of Cities and Proceedings Therefor.
- 802f. Wharf and Terminal Facility Bonds of Cities or Towns, Bonds to Redeem; Subrogation.
- 802g. Refunding Bonds Due Serially Issued Under Composition Plan Approved Under Bankruptcy Act.
- 802h. Refunding Bonds Adjudicated to be Valid by Federal Court or Issued Pursuant to Plan of Composition Under Bankruptcy Laws.

Art. 796. In Case of Storms, Etc.

Any county or any city incorporated under the general laws which may suffer great destruction or damage of property or depreciation of the value of taxable property from storms, floods or other disasters, may fund, refund, compromise or settle its valid outstanding bonded and floating indebtedness.

[Acts 1925, S.B. 84.]

Art. 797. Regulation of Bonds

For such purpose, the bonds of the county or city may be issued by the governing body without a vote of the tax payers in denominations of not less than one hundred, nor more than one thousand dollars each, for an amount sufficient to consummate such compromise or settlement, not to exceed the amount unpaid on the outstanding indebtedness. Such bonds may be exchanged for bonds or other evidences of outstanding indebtedness of such county or city, or may be sold and the proceeds applied in the purchase of outstanding bonds or the payment of outstanding floating indebtedness, and may be exchanged or sold from time to time in such amounts as may be required for refunding said outstanding bonds and funding or settling said floating debts.

[Acts 1925, S.B. 84.]

Art. 798. Order of Commissioners Court

Before issuing such bonds, and not later than two years after the disaster, the governing body of the county or city shall, by an order or ordinance, entered on the minutes, recite the nature and date of such disaster, the taxable value of the remaining property subject to taxation in said city or county as shown by the first approved assessment roll of such county or city made after such disaster, and the amount of bonds that will be sufficient to fund, refund or settle the outstanding bonded and floating indebtedness of such county or city, stating also, the amount of new bonds that will be required for refunding or settling each outstanding issue of bonds, and the

amount of new bonds necessary to fund or settle the outstanding indebtedness charged against each particular fund.

[Acts 1925, S.B. 84.]

Art. 799. Classification of Issues

Separate classes of bonds shall be issued to refund or settle, respectively, each separate issue of outstanding bonds, and to fund or settle, respectively, the indebtedness against each particular fund.

[Acts 1925, S.B. 84.]

Art. 800. Apportionment of Taxes

The court or council shall determine and record in the minutes the proportion of the several annual ad valorem taxes authorized by law that can be applied, respectively, in payment of the interest and sinking funds of the several classes of bonds without depriving the city or county of the funds which will be required to meet the necessary current annual expenses of such county or city. A levy in proportion to such excess or excesses beyond the amount required for current annual expenses may be made to pay the interest and sinking fund, respectively, of the said several classes of bonds. The constitutional limitation as to the rates and purposes of the several taxes shall not be exceeded nor disregarded.

[Acts 1925, S.B. 84.]

Art. 801. Requisites of Bonds

The court, or city council, shall also by order or ordinance, prescribe the form and the classes of said bonds, and provide for the issuance thereof, at such dates as may be expedient. Such bonds may be made payable at any date deemed expedient by the commissioners court or city council, not later than forty years from the date of the execution, and provision may be made for their redemption after five years, or after such longer period as may be deemed expedient. Said bonds shall bear interest as stipulated and specified in coupons attached thereto, not to exceed four per cent per annum. Said bonds shall be issued under and subject to all requirements of chapter one of this title, which are not in conflict with the requirements and provisions of this chapter, and shall be signed by the county judge or mayor, and attested by the county or city clerk, as the case may be.

[Acts 1925, S.B. 84.]

Art. 802. Registration and Sale

When examined and certified by the Attorney General, said bonds shall be registered by the Comptroller without requiring the old bonds, warrants or other evidence of indebtedness to be presented to him for cancellation. Said bonds shall be delivered to the county or city treasurer, and said officer shall register said bonds in a book kept for that purpose, and said bonds may thereafter be sold or exchanged for not less than their face value and accrued interest. Before delivery of the bonds, the

date of the sale or exchange thereof shall be indorsed and certified on the bonds by the county judge or mayor, whose signature shall be attested by the county or city clerk.

[Acts 1925, S.B. 84.]

Art. 802a. Funding Indebtedness Representing Difference Between Wages Paid and Wages Required to be Paid to Firemen and Policemen by Cities of Over 75,000 Population

Sec. 1. All cities within the State of Texas, whether incorporated under General Law or Special Law or operating under charters adopted under the provisions of Article XI, Section 5, of the Constitution of Texas, with a population of more than seventy-five thousand (75,000) enumerated by the preceding United States Census, shall have the power to fund by ordinance enacted by the governing body the whole or any part of any legal debt of said city, which debt is the difference between the wages paid or to be paid the firemen and the policemen, and the wages required to be paid the firemen and the policemen by the terms of Senate Bill No. 89, passed and approved the 19th day of April, A. D. 1937, by the Forty-fifth Legislature of Texas, at the Regular Session,¹ and which debt accrued or will have accrued before the 31st of May, A. D. 1939, and to issue negotiable bonds with or without coupons, bearing interest at an annual rate as provided by the Charter of the City which issues the said obligations. The proceeds from the sale of such bonds shall be used exclusively for the purpose of paying the debt which may be legally due such firemen and policemen.

Sec. 2. Articles 709 to 715 and Article 4398 of the Revised Statutes of Texas for 1925 shall apply to all bonds issued under this Act.

Sec. 3. The provisions of this Act shall be cumulative of all laws on this subject, and wherever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof, in so far as same are in conflict with any existing law or laws, shall govern and control.

[Acts 1939, 46th Leg., p. 98.]

¹ Penal Code, art. 1583 (repealed).

Art. 802b-1. Home Rule Cities Without Specified Utilities Authorized to Issue Funding Bonds or Warrants

Sec. 1. The governing body of any city or town operating under its special charter adopted under the Home Rule Amendment to the Constitution, having outstanding as of January 1, 1939, unpaid and delinquent indebtedness against its General Fund, whether in the form of scrip warrants, warrants or notes, or in either or all of such forms, in an amount exceeding thirty-three and one-third (33 $\frac{1}{3}$ %) per cent of its current tax levy for General Fund purposes, and which did not, on said date, own any one of the following utilities from which it could derive revenues: water system, sanitary sewer system, electric lighting system, or natu-

ral gas distribution system, is hereby authorized to issue funding bonds or funding warrants for the purpose of funding any such items which constitute legal indebtedness of such city. No election nor notice of intention to issue such funding bonds or warrants shall be required. If funding bonds are issued they shall be issued in the manner prescribed by Article 717 of the Revised Civil Statutes for the issuance of refunding bonds.

Sec. 2. Such funding bonds or warrants shall mature serially, or otherwise, not to exceed thirty (30) years from their date and shall bear a rate of interest not to exceed five (5%) per cent per annum, payable annually or semi-annually.

Sec. 3. When said funding bonds or warrants are issued it shall be the duty of the governing body of such city to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Sec. 4. If funding bonds are issued they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925, and shall be registered by the Comptroller of Public Accounts as is provided in said Articles.

Sec. 5. All such outstanding indebtedness is hereby validated, provided that the provisions of this section shall not be applicable to any such items of indebtedness which may be in litigation at the time this Act becomes effective.

Sec. 6. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws the provisions hereof shall prevail and be effective to the extent of such conflict. [Acts 1939, 46th Leg., p. 103.]

Art. 802b-2. Refunding Bonds Supported by Ad Valorem Tax or by Pledge of Income of Specified Utilities; Issuance by Cities Operating Under Charters Authorized

Eligible Cities

Sec. 1. This Act shall be applicable to any city operating under a charter either adopted or amended by vote of the people which owns and operates its waterworks and sanitary sewer systems, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding forty (40) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city, for the purposes of this Act, shall be an eligible city.

Classes of Refunding Bonds Authorized; Prerequisites

Sec. 2. Any eligible city is authorized to issue refunding bonds of two classes. One class of its refunding bonds, which may be in one or more series, shall not be supported by an ad valorem tax but by a pledge to the payment of the principal and interest thereof of all or a

stipulated part of the net income from the operation of its waterworks system or its sewer system, or both, and by a deed of trust or a mortgage upon such systems, and by a grant to the purchaser, under sale or foreclosure thereunder, a franchise to operate the systems and property so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. The other class, which may be in one or more series, shall be supported by an ad valorem tax levied at a rate or in an amount sufficient to pay the interest thereon and the principal at maturity. Such city shall designate the several issues or parts of issues of outstanding bonds or time warrants, or both, eligible to be refunded by the issuance of the respective classes of its refunding bonds, provided, however, that bonds and warrants which were issued for waterworks or sewer purposes shall be refunded into the class which is secured by the revenues from, and deed of trust or mortgage upon such systems, and all other bonds and warrants shall be refunded in the class of bonds payable from ad valorem taxes. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than fifteen (15) per cent, and unless it obtains a reduction in the average interest rate of its refunded indebtedness so that the average interest rate borne by its two classes of refunding bonds shall be not more than three (3) per cent per annum. Such city shall not be permitted to deliver refunding bonds of said two classes unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds (66 $\frac{2}{3}$) per cent of aggregate principal amount of its outstanding indebtedness, which sixty-six and two-thirds (66 $\frac{2}{3}$) per cent shall include not less than one hundred (100) per cent of the revenue bonds outstanding against said system or systems, or unless such refinancing plan shall have been made effective in composition proceedings instituted by such city under Title 11, Chapter 9, of the United States Code and amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds, the expenses of operation and maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas of 1925, as amended, which is applicable to the income of an encumbered utility system or encumbered utility systems. When such city issues refunding bonds under the provisions of this law, it shall be the duty of the city, after making said pledge of such utility income, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

¹ 11 U.S.C.A. §§ 401 to 404.

Revenue Bonds, Refund of

Sec. 3. Such city also shall refund, par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, and bonds issued to refund such revenue bonds may be included in any refunding issues under the class secured by the pledge of utility revenues authorized by this Act.

Form; Registration; Procedure

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provisions of Title 22 and Title 28 of the 1925 Revised Civil Statutes of Texas and amendments thereto; no notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General, their registration by the Comptroller, and the effect of approval by the Attorney General shall be applicable to bonds issued under this law.

Law as Cumulative; Conflicting Laws

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1941, 47th Leg., p. 43, ch. 32.]

Art. 802b-3. Cities of 35,000 to 45,000 Under Special or Home Rule Charters May Issue Notes to Fund or Refund Warrants

Sec. 1. All cities in this State, operating under a Special or Home Rule Charter and having a population of not less than thirty-five thousand (35,000) nor more than forty-five thousand (45,000), according to the last preceding Federal Census, are hereby authorized and empowered to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against the General Fund for general operating expenses, subject to the limitations and provisions contained hereinafter in this Act.

Sec. 2. Before any city of the classification prescribed in Section 1 hereof may avail itself of the provisions of said Section, the governing body of such city shall order an election on the question of whether or not the governing body

shall be authorized to issue notes for the purpose of funding or refunding outstanding and unpaid warrants drawn against its General Fund. Such election shall be held, and notice thereof given, and the results thereof declared, in the same manner as prescribed by General Law on the question of the issuance of municipal bonds. Only qualified electors, who own taxable property in such city and who have duly rendered same for taxation, shall be allowed to vote at such election.

Sec. 3. In the event such election results favorably to the issuance of such notes, the governing body of such city shall have the authority to pass all appropriate ordinances and resolutions to effect their issuance. The notes so authorized shall mature serially over a period not exceeding ten years from their date, and may bear interest not exceeding five (5) per cent per annum and may be redeemable at the pleasure of the governing body. The full faith and credit of such city may be pledged to the payment of such notes and the interest thereon. Provided, however, that only such general fund warrants issued during the calendar year prior to the calendar year in which such funding or refunding operation is performed may be funded or refunded by the issuance of such notes; and provided further, that all warrants drawn against the General Fund during the calendar year in which such funding or refunding operation takes place and all warrants drawn against the General Fund in subsequent years in which such funding or refunding takes place shall be paid out of current funds appropriated for that purpose and shall never be funded or refunded.

[Acts 1941, 47th Leg., p. 163, ch. 120.]

Art. 802b-4. Exposition and Convention Hall or Coliseum Bonds, Refunding; Cities Over 100,000

Eligible Cities; Issuance of Refunding Bonds

Sec. 1. This Act shall be applicable to any city of over one hundred thousand (100,000) population according to the last preceding Federal Census, which owns and operates an Exposition and Convention Hall or Coliseum against which there are outstanding revenue bonds issued for the construction thereof, and which owns and operates an unencumbered natural gas distribution system which serves the inhabitants of all or a part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city is authorized, without an election and without notice of intention to issue such bonds, to issue refunding bonds for the purpose of taking up and in lieu of its outstanding revenue bonds issued for the purpose of financing the construction of its Exposition and Convention Hall or Coliseum, and may secure said refunding bonds by a pledge of the net revenues from the operation of such Exposition and Convention Hall or Coliseum, and by the net revenues from the operation of its natural gas distribution system; provided that the

revenues from its natural gas distribution system shall not be pledged as security for such refunding bonds unless such refunding bonds are issued to bear an interest rate lower than the rate borne by said outstanding revenue bonds.

Maturity; Interest; Options; Bonds as Special Obligations

Sec. 2. The bonds issued under this Act shall mature serially within a period of time not exceeding thirty (30) years from their date. The governing body of such city shall prescribe the interest rates, maturities and any options of redemption prior to maturity of such bonds. Such bonds which constitute special obligations of the issuing city, shall never be considered indebtedness of such city or town, but solely a charge upon the revenues pledged for the payment of such bonds, and shall never be reckoned in determining the power of such city to issue tax supported bonds for any purpose authorized by law.

Books and Accounts; "Net Revenues"; Rates; Rentals; Charges; Reserve; Lien

Sec. 3. Whenever the income of such Exposition and Convention Hall or Coliseum and of such natural gas distribution system shall be encumbered as authorized in this Act it shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged. The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered Exposition and Convention Hall or Coliseum shall constitute "net revenues." The total revenues remaining after providing for payment of reasonable operating, maintenance, depreciation, replacement, improvement, necessary expansion and repair charges, resulting from the operation of the encumbered natural gas distribution system shall constitute "net revenues." The ordinance authorizing such revenue bonds shall prescribe the conditions under which such revenues may be used to pay depreciation, replacement, improvement and necessary expansion charges. It shall be the duty of any city issuing bonds under the provision of this Act to fix and maintain rates, rentals, and charges in the instance of each such encumbered property to assure receipt of income sufficient to pay reasonable operating, maintenance, improvement, necessary expansion and repair charges in connection with the proper operation of such property and to assure net revenues from the property or properties encumbered sufficient to pay the principal and interest of such bonds according to their tenor and effect, and to establish and maintain a reasonable reserve in the interest and sinking fund to be provided for such bonds. The requirement for a "reasonable reserve" shall be satisfied by establishing and maintaining in the Interest and Sinking Fund, in addition to

requirements for a given calendar year, money sufficient to pay the principal and interest scheduled to mature and accrue during the succeeding calendar year. After such reserve account shall have been established and so long as it shall remain intact and while there are no delinquencies of principal or interest on any of the outstanding bonds, such city may use the pledged revenues in excess of such requirements for any other lawful purpose. The pledging of the revenues as authorized herein shall not constitute a lien on the physical properties of the Exposition and Convention Hall or Coliseum or of the Natural Gas Distribution System.

Required Clause; Transcript of Proceedings

Sec. 4. Every contract and bond, or other evidence of indebtedness, issued pursuant to this Act shall contain substantially the following clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." It shall be the duty of the officials of any such city to file with the Attorney General of the State of Texas a proper transcript of proceedings authorizing the issuance of such refunding bonds and evidencing the pledge of revenues from which the principal and interest of said bonds are to be paid, and to deliver to the Attorney General the executed refunding bonds. It shall be the duty of the Attorney General to approve such record and said bonds when issued in accordance with this law.

Registration of Bonds; Defenses

Sec. 5. After said bonds have been examined and approved by the Attorney General they shall be registered by the Comptroller and delivered in exchange for a like principal amount of said original revenue bonds. After receiving the approval by the Attorney General and having been registered in the office of the Comptroller of Public Accounts, said bonds shall be held in every action, suit or proceeding in which their validity is or may be brought into question, valid and binding obligations. In every action brought to enforce collection of such bonds the certificate of approval by the Attorney General or a duly certified copy thereof shall be received in evidence of the validity of such bonds. The only defense which can be offered against the validity of such bonds shall be forgery or fraud.

Law as Cumulative; Conflicting Laws

Sec. 6. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with or are inconsistent with the provisions of any other law, general or special, or with the provisions of the charter of any such eligible city, the provisions of this Act shall take precedence over any such conflicting or inconsistent provisions.

[Acts 1941, 47th Leg., p. 652, ch. 395.]

Art. 802b-5. Home Rule or Special Charter Cities and Towns; Bonds to Pay Existing Judgments Authorized

Sec. 1. The governing body of any city or town operating under a special charter granted by the Legislature or adopted or amended pursuant to the Home Rule Amendment to the Constitution, having outstanding as of January 1, 1943, against its General Fund unpaid judgments or judgment in an amount exceeding fifty (50) per cent of its general fund revenue derivable from ad valorem taxes levied for the fiscal year within which the bonds hereinafter authorized are directed to be issued, bearing interest at a rate of five (5) per cent or more per annum, shall be authorized to order an election for the purpose of submitting to the resident qualified property taxpaying voters thereof the proposition of the issuance and sale of its bonds to provide funds for the payment of such judgment or judgments and the levy of a tax sufficient to pay the principal and interest as it matures.

Sec. 2. Such bonds shall be authorized, issued and sold in the manner prescribed in the General Law relating to the issuance and sale of bonds by cities and towns, shall mature serially or otherwise in not to exceed twenty (20) years from their date and shall bear interest not to exceed four (4) per cent per annum, payable annually or semiannually.

Sec. 3. When said bonds are issued it shall be the duty of the governing body of such city to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Sec. 4. Before such bonds are sold they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, and shall be registered by the Comptroller of Public Accounts as provided in said Articles.

Sec. 5. No bonds shall be delivered until the judgment or judgments for the payment of which such bonds are authorized has or have been released and such release of judgment is delivered to the city.

Sec. 6. All such judgments are hereby declared to be final and conclusive, and the evidences of obligations upon which such judgments were obtained are hereby validated and declared to be general obligations of such city, provided that this Section shall not be applicable to any such judgments from which an appeal is now pending or to obligations which may be in litigation at the time this Act becomes effective.

Sec. 7. No provision in the charter of any such issuing city relating to the authorization, issuance and sale of bonds shall be applicable to the bonds issued hereunder but the provisions of this Act shall prevail.

Sec. 8. This law shall be cumulative of all other laws on the subject. In the event any of the provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with a provision of the charter of any such city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1943, 48th Leg., p. 26, ch. 23.]

Art. 802c. Refunding Bonds of Certain Cities Operating Utilities

Eligible Cities

Sec. 1. This Act shall be applicable to cities operating under charters either adopted or amended by vote of the people, which own and operate waterworks, electric light and sanitary sewer systems, and whose outstanding bond and time warrant indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than thirty-five (35) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

Refunding Bonds Authorized; Proceedings under Municipal Bankruptcy Act Authorized; Pledge of Revenues from Utilities

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness evidenced by bonds or interest-bearing time warrants, or both, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. In the event not less than seventy-five (75) per cent of the total amount of its outstanding indebtedness is refunded in accordance with the provisions of this Act, by consent of the holders of such portion of such indebtedness, or under a plan of composition confirmed or to be confirmed by the Court in proceedings instituted by such city under Title 11, Chapter 9, of the United States Code,¹ and amendment thereto, which proceedings by any such city are hereby expressly authorized, the governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the

purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income, including salaries and wages of employees of such utility or utilities, the setting aside of a five (5) per cent (of such gross income) reserve for replacements, depreciations, and obsolescence, and for the construction of such extensions and additions as may be determined by the governing body to be reasonably necessary and economically justified. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to establish and maintain utility rates adequate to yield revenues sufficient to operate and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

¹ 11 U.S.C.A. §§ 401 to 404.

Amount of Bonds; Procedure; Registration

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure of the issuance of said refunding bonds shall be that which is prescribed in the Statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Form of Bonds; Exemptions from Certain Charter Provisions

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issuing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the Refunding Bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation. No provisions in the charter of any such issuing city shall be applicable to the Refunding Bonds thus to be issued but the provisions of this Act and other General Laws shall prevail as to said Refunding Bonds. Particularly, and without limiting the generality of the foregoing, said Refunding Bonds shall be exempt from any charter provision restricting the interest rate to be borne by said bonds, limiting the maximum tax rate which may be levied to pay the principal and interest thereof, restricting the

place of payment, restricting the recovery of interest upon defaulted principal and interest coupons, requiring the registration of said bonds, requiring notice of intention as a condition precedent to the right to bring suit on said bonds or coupons, or requiring an election thereon.

Utility Improvement Revenue Bonds

Sec. 5. (a) Whenever a city shall have issued refunding bonds under the provisions of this law as passed originally or under any amendments thereof supported by a tax levy and by a pledge of a designated portion of the net revenues from the operation of one or more of its utility systems and so long as any part of such indebtedness is outstanding either as refunded originally or as again subsequently refunded, it may refund such indebtedness and it is further authorized and empowered to issue its fully negotiable coupon bonds, hereinafter called "Utility Improvement Revenue Bonds," from time to time, to finance repairs, replacements, extensions and improvements of and to one or more of its utility systems, payable from and secured as to principal and interest by a pledge of the net revenues only of any or all of said utility systems, provided that so long as any refunding bonds issued under the provisions of Chapter 103, Acts of the Regular Session of the Forty-seventh Legislature of Texas remain outstanding and unpaid, either as refunded originally or as again subsequently refunded, the pledge of the net revenues securing such Utility Improvement Revenue Bonds shall be of equal dignity with the pledge securing such refunding bonds, provided further, that while any of such refunding bonds are outstanding no Utility Improvement Revenue Bonds shall be issued except to the extent expressly permitted by the ordinance authorizing such outstanding refunding bonds and in no event shall Utility Improvement Revenue Bonds be issued in an amount and under terms which would cause the aggregate amount of all annual pledges, securing the refunding bonds and Utility Improvement Revenue Bonds to exceed sixty-six and two-thirds per cent ($66\frac{2}{3}\%$) of the average net revenues of such utility systems for the three (3) completed fiscal years next preceding.

(b) Such Utility Improvement Revenue Bonds may be issued to mature serially or otherwise not more than forty (40) years from their date, with or without option of prior redemption as may be determined by the governing body, the terms of which option, if any, shall be prescribed in the authorizing ordinance and in the bonds, bearing interest at not exceeding five per cent (5%) per annum. No such Utility Improvement Revenue Bonds shall be issued until authorized at an election for such purpose called and held in the manner provided in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, for the issuance of bonds by cities.

(c) When Utility Improvement Revenue Bonds shall have been issued hereunder they shall constitute special obligations of such city and such bonds shall never be a debt of the city, but solely a charge upon the pledged revenues and shall never be reckoned in determining the power of the city to incur obligations payable from taxation. The bonds hereby authorized shall contain substantially the following provision:

The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation.

(d) The term "net revenues" as used herein shall mean the amount of gross revenues of the city's utility systems remaining after deducting:

(1) Expense of operation of said systems and collection of the income, including salaries and wages of employees thereof;

(2) Maintenance and repair of same;

(3) Five per cent (5%) of gross income therefrom as a reserve for depreciation and obsolescence, which sum may be invested in bonds of such city, the State of Texas, or the United States of America, and which reserve may be used for repairing damage caused by wars, riots, floods, hurricanes, fires, or acts of God or other causes not within the control of the governing body of the city;

(4) Cost of such extensions and repairs, as in the judgment of the governing body are necessary to keep the utility systems in operation and render adequate service to the city and its inhabitants or such as may be necessary to meet some physical accident or condition which would otherwise impair the efficient operation of the utility system;

(e) When any such bonds shall have been authorized and issued as herein permitted it shall be the duty of the governing body of the city, enforceable by any bondholder through mandamus or through any other method, to fix and maintain rates for services rendered by any and all of the city's utility systems sufficient to pay all operating and maintenance expenses, depreciation, replacement and betterment charges and to assure payment of the interest and principal of all of such Refunding Bonds and Utility Improvement Revenue Bonds;

(f) Before any such Utility Improvement Revenue Bonds are sold they shall be submitted to and approved by the Attorney General in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of Texas, 1925, as amended and except as prescribed in this Act said bonds shall be executed and issued in the manner provided by the charter of the city.

[Acts 1941, 47th Leg., p. 132, ch. 103; Acts 1947, 50th Leg., p. 78, ch. 54, § 1.]

Acts 1947, 50th Leg., p. 78, ch. 54, added a new section 5, without mentioning or affecting a former section 5, which appeared in the original act, and which is entitled "Law cumulative; conflicting provisions".

Art. 802d. Refunding Bonds of Cities Whose Streets Link State Highways

Issuance

Sec. 1. The governing body of any city or town in this State whose street or streets form a connecting link between State Highways, having outstanding as of the effective date of this Act, unpaid and delinquent indebtedness against its general fund, whether in the form of scrip warrants, warrants or notes, or in either or all of such forms, and which cannot derive revenues for general fund operating purposes from any publicly owned utilities at this time, is hereby authorized to issue funding or refunding bonds for the purpose of funding any such items which constitute legal indebtedness of such city or town. No election nor notice of intention to issue such funding or refunding bonds shall be required. If funding or refunding bonds are issued they shall be issued in the manner prescribed by Article 717 of the Revised Civil Statutes of Texas, 1925, for the issuance of refunding bonds.

Maturity; Interest Rate

Sec. 2. Such funding or refunding bonds shall mature serially or otherwise, not to exceed thirty (30) years from their date and shall bear a rate of interest not to exceed five (5) per cent per annum, payable annually or semiannually.

Tax Levy to Pay Bonds and Interest

Sec. 3. When said funding or refunding bonds are issued it shall be the duty of the governing body of such city or town to levy a tax sufficient to pay the principal and interest thereon as such principal and interest mature.

Approval and Registration

Sec. 4. If funding or refunding bonds are issued they shall be submitted to the Attorney General of the State of Texas for his examination and approval in the same manner and with the same effect as is provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas, 1925, and shall be registered by the Comptroller of Public Accounts as is provided in said Articles.

Outstanding Indebtedness Validated

Sec. 5. All such outstanding indebtedness is hereby validated, provided that the provisions of this Section shall not be applicable to any such items of indebtedness which may be in litigation at the time this Act becomes effective.

Debt Burden Not Increased

Sec. 6. This Act shall not be interpreted so as to authorize an increase in the debt burden of any such city or town.

Act Cumulative; Conflicting Provisions

Sec. 7. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws the provisions hereof shall prevail and be effective to the extent of such conflict.

Certificate of Necessity of Improvement

Sec. 8. If funding or refunding bonds are issued such city or town shall furnish to the Attorney General, at the time of submission of the bond transcript, a certificate of the necessity of such street improvement by the State Highway Department.

[Acts 1941, 47th Leg., p. 937, ch. 566.]

Art. 802e. Validation of Refunding Bonds of Cities and Proceedings Therefor

Wherever any city, pursuant to election and to ordinance adopted by the governing body thereof, has heretofore issued bonds of the city for any corporate purpose and where such bonds have been purchased from the holders thereof for the bond and sinking funds of such city and have been paid for with money taken from such funds, and where such bonds have been cancelled, through error or otherwise, and where the governing body of such city has heretofore adopted an ordinance authorizing the issuance of the refunding bonds of such city for the purpose of refunding the indebtedness so represented, the proceedings authorizing such refunding bonds are hereby validated and confirmed and the bonds to be issued pursuant to such proceedings are validated and confirmed and shall, when duly issued, constitute the valid and legally binding obligations of such city in accordance with their terms. Each such city is authorized to do all things necessary to complete the issuance of such bonds and, within constitutional limitations, is hereby required to levy such taxes as may be necessary and fully sufficient to assure the prompt payment of principal of and interest on such bonds.

[Acts 1947, 50th Leg., p. 227, ch. 131, § 1.]

Art. 802f. Wharf and Terminal Facility Bonds of Cities or Towns, Bonds to Redeem; Subrogation

Sec. 1. Whenever any city or town in this state incorporated under general law or having a special charter, has outstanding unpaid revenue bonds issued for the purchase price, in whole or in part, of the wharf and terminal facilities, or an interest therein, theretofore purchased by such city or town, which bonds are subject to call and redemption prior to their maturity and are secured by an encumbrance on such wharf and terminal facilities, or an interest therein, and a pledge of the revenues thereof, such city or town, subject to the below prescribed requirements, conditions and restrictions, through its governing body, may, for the purpose of redeeming such revenue bonds, issue negotiable bonds of such city or town in an aggregate principal amount not greater than the aggregate principal amount of the

revenue bonds redeemed and the interest thereon accrued to the date of redemption and having an interest rate less than the interest rate of the revenue bonds redeemed, and may make provision for the payment of the bonds issued under authority of this Act, by annual levies of taxes to pay the interest thereon and provide a sinking fund to pay them at maturity; provided, however, that no such bonds shall be issued under authority of this Act unless the issuance thereof, and the levy of annual taxes to provide for the payment of the interest thereon and create a sinking fund with which to pay them at maturity, shall have been authorized at an election called and conducted under the provisions of Chapter 1, Title 22 of the Revised Civil Statutes of the State of Texas¹ and laws amendatory thereof and supplementary thereto which shall govern the issuance of all bonds issued under the authority herein given.

Sec. 2. Any city or town which may redeem its outstanding revenue bonds in the manner prescribed in Section 1 hereof, shall thereupon become subrogated to the rights of the holders of the bonds so redeemed insofar as payments from the revenues of the wharf and terminal facilities are concerned, and be entitled to have paid into its general fund from such revenues like amounts as would have been payable on the bonds redeemed had the same remained outstanding; but such rights on the part of such city or town shall in nowise limit any encumbrance on the properties securing any other outstanding revenue bonds secured by such encumbrance, nor shall such encumbrance in anywise inure to the benefit of such city or town, or in anywise be enforceable by it, but shall remain in full force for the sole benefit of the holders of any unpaid revenue bonds whose rights to enforce such encumbrance shall remain superior to the right of such city or town to payments from the revenues of the wharf and terminal facilities properties above prescribed. Nor shall anything herein contained be deemed as affecting the right of any such city or town to payments from such revenues provided to be made by the terms of any contract under which its revenue bonds may have been issued, but such contract right on the part of such city or town shall remain unaffected, and payments to which such city or town is entitled thereunder shall be made in addition to the payments above prescribed in this section.

[Acts 1947, 50th Leg., p. 683, ch. 345.]

¹ Article 701 et seq.

Art. 802g. Refunding Bonds Due Serially Issued Under Composition Plan Approved Under Bankruptcy Act

Eligible Cities

Sec. 1. This Act shall be applicable to any city which has outstanding refunding bonds, whether revenue bonds or tax supported bonds, or both, issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws

which do not mature in annual installments, hereinafter called "Term Bonds".

Maturities; Interest Rate; Pledge of Revenues

Sec. 2. Any such city is hereby authorized to issue refunding bonds (hereinafter called "Serial Refunding Bonds") having serial maturities and bearing interest at a rate to be determined by the governing body of the city provided that the interest cost to the city, calculated by the use of standard interest tables currently in use by insurance companies and investment houses, does not exceed an average rate of four (4%) per cent per annum, for the purpose of refunding such outstanding term bonds, in the manner provided by law for the issuance of city refunding bonds. Where serial refunding bonds are issued to refund outstanding revenue bonds, the governing body of the city is authorized to secure the serial refunding bonds by a deed of trust upon the utility system as well as by a pledge of the net revenues of the system if the bonds being refunded so provide.

Sale of Refunding Bonds in Lieu of Exchange for Term Bonds

Sec. 3. In lieu of exchanging the serial refunding bonds for the term bonds in the manner otherwise provided by law, the city may, at any time after calling the outstanding term bonds for redemption in the manner provided in said bonds, sell the serial refunding bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale together with the additional amount necessary to pay the interest to the call date, with the bank where the term bonds are payable, in which event, a certified copy of the ordinance or resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register the serial refunding bonds without cancellation of the underlying term bonds and deliver them as provided in said ordinance or resolution. No city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law.

Existing Ordinances Relating to Bonds Validated

Sec. 4. If, prior to the effective date of this Act, any such city has passed an ordinance or ordinances authorizing the issuance of serial refunding bonds and making provisions for the payment and security thereof, including, in the case of revenue bonds, the pledge of revenues and the encumbrance on the properties of the utility system or systems, such ordinance or ordinances and the provisions for the payment and security of the serial refunding bonds, are hereby validated and ratified.

Incontestability of Bonds

Sec. 5. When such serial refunding bonds shall have been authorized by ordinance of the governing body of the city, signed by the Mayor and City Secretary or Clerk of said city, approved by the Attorney General of Texas, and

registered by the Comptroller of Public Accounts, they shall be incontestable and shall constitute valid and binding obligations of such city.

[Acts 1955, 54th Leg., p. 665, ch. 236.]

Art. 802h. Refunding Bonds Adjudicated to be Valid by Federal Court or Issued Pursuant to Plan of Composition Under Bankruptcy Laws

Eligible Cities

Sec. 1. This Act shall be applicable to any city which has outstanding refunding bonds adjudicated to be valid by a decree of the Federal Court, or issued pursuant to a plan of composition confirmed by a United States District Court under the National Bankruptcy Laws, where the ordinance authorizing the issuance of such refunding bonds provides that not less than a fixed rate of tax therein specified shall be levied, assessed and collected each year so long as any of such bonds or interest thereon are outstanding. Such bonds are herein called "Original Refunding Bonds."

Maturities; Interest Rate

Sec. 2. Any such city is hereby authorized to issue refunding bonds (hereinafter called "New Refunding Bonds") having serial maturities and bearing interest at a rate to be determined by the governing body of the city, not to exceed six percent (6%) per annum, for the purpose of refunding such Original Refunding Bonds, in the manner provided by law for the issuance of city refunding bonds.

Sale of New Refunding Bonds in Lieu of Exchange for Original Refunding Bonds

Sec. 3. In lieu of exchanging the New Refunding Bonds for the Original Refunding Bonds in the manner otherwise provided by law, the city may sell the New Refunding Bonds (or the unexchanged portion of them) at not less than par and accrued interest and deposit the principal amount received from such sale, together with the additional amount necessary to pay the interest to the call date, or maturity dates, with the bank where the Original Refunding Bonds are payable, in which event, a certified copy of the ordinance or resolution so providing shall be transmitted to the Comptroller of Public Accounts and he shall register the New Refunding Bonds without cancellation of the Original Refunding Bonds and deliver them as provided in said ordinance or resolution. No city charter provision relating to the terms, issuance, sale and delivery of bonds shall be applicable to bonds issued under this law.

Incontestability of Bonds

Sec. 4. When such New Refunding Bonds shall have been authorized by ordinance of the governing body of the city, signed by the Mayor and city secretary or clerk of said city, approved by the Attorney General of Texas, and registered by the Comptroller of Public Accounts, they shall be incontestable and shall

constitute valid and binding obligations of such city.

[Acts 1961, 57th Leg., 1st C.S., p. 130, ch. 27; Acts 1967, 60th Leg., p. 307, ch. 149, § 1, eff. Aug. 28, 1967.]

CHAPTER SIX. RECLAMATION AND IRRIGATION BONDS

Article

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Art. 803. Power to Issue

For the purpose of constructing and maintaining pools, lakes, reservoirs, dams, canals and waterways for irrigation purposes or in aid thereof, or purchasing any such improvements already existing and adding thereto and paying incidental expenses connected therewith, counties may issue bonds not to exceed one fourth of the assessed valuation of its real property and levy and collect necessary taxes to pay the interest and provide a sinking fund for the redemption thereof.

[Acts 1925, S.B. 84.]

Art. 804. Order for Election

Upon the petition of fifty or more resident property taxpaying voters of a county for an election upon the question of issuing bonds under the provisions of Section 52, Article 3, or Section 59 of Article 16 of the State Constitution, the commissioners court shall at a regular or special session thereof, order an election to determine whether or not the bonds of such county shall be issued in an amount not to exceed one fourth of the assessed valuation of the real property of such county for the purposes stated in the preceding article, and whether or not a tax shall be levied upon the property of said county for the purpose of paying the interest on such bonds and providing a sinking fund for the redemption thereof.

[Acts 1925, S.B. 84.]

Art. 805. Amount of Bonds, etc.

The amount of bonds proposed to be issued, with the rate of interest thereon not to exceed six per cent per annum, payable annually or semi-annually, and the date of maturity, shall be stated in the petition, in the order for the election, and in the notice therefor; or such

order and notice may provide that the bonds may bear interest at a rate to be fixed by the commissioners court, not to exceed six per cent per annum, payable annually or semi-annually, and that the bonds may mature at such times as may be fixed by the commissioners court, serially or otherwise, not to exceed forty years from their date.

[Acts 1925, S.B. 84.]

Art. 806. Limit of Indebtedness

Where such county contains any district or districts organized under Section 52 of Article 3, or Section 59 of Article 16 of the State Constitution, the percentage of indebtedness of any such district based upon its assessed valuation of real property in the district, together with the percentage of the proposed county indebtedness based upon the assessed valuation of the real property of the county as shown by the last approved assessment rolls of such district and of the county, shall never exceed in any one or more of such districts, or in the county, twenty-five per cent of the assessed valuation of real property of such district or districts, or of such county.

[Acts 1925, S.B. 84.]

Art. 807. Election

These rules shall govern the conduct and holding of such election:

1. Only resident property taxpayers who are qualified electors of the county shall be allowed to vote in such election, and a two-thirds vote shall be necessary to carry the proposition submitted thereat.

2. The ballots to be used at such election shall have written or printed thereon the words "For the issuance of the bonds and levy of tax in payment thereof," and "Against the issuance of the bonds and levy of tax in payment thereof." The commissioners court shall furnish the ballots for each of the polling places.

3. The election order shall fix the time of holding said election and shall designate the polling place or places in each voting precinct in the county where said election shall be held, and shall name a presiding judge, a judge and two clerks for each polling place, or may name more election officers for any polling place if the court considers it necessary.

4. A copy of the election order signed by the county judge shall serve as proper notice of said election, and one copy shall be posted at each polling place and one at the courthouse door for at least full twenty days prior to the date of the election, and shall also be published in a newspaper published in said county for three consecutive weeks prior to the date of said election, the first publication to be full twenty-one days before the date of the election.

5. The manner of conducting said election shall be governed by the election laws

of this State, except as otherwise herein provided.

6. Immediately after the election the presiding judge at each polling place shall make returns of the result of the election showing the total number of votes cast, the number cast for and against the proposition, and he shall deliver such returns to the county clerk who shall keep them in a safe place and deliver them to the commissioners court, who shall at a regular or special session, canvass said returns and declare the result of said election by order entered upon the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 808. Order of Issuance

If the issuance of the bonds and levy of the tax have been so adopted, the commissioners court, at a regular term thereof, shall make and enter an order directing the issuance of the bonds authorized, and in said order shall provide for the levy and collection of a tax annually sufficient to pay the annual interest thereon, payable at such place or places as provided in said order, and to redeem such bonds at maturity.

[Acts 1925, S.B. 84.]

Art. 809. Additional Bond Issue

If bonds have been authorized to be issued, or have been issued as herein provided, and if the commissioners court of such county shall consider it necessary to make any modifications in any of the proposed improvements, or shall determine to purchase or construct further or additional improvements and issue additional bonds, or purchase additional property in order to carry out the purposes of the project, or to best serve the interests of the county, such findings shall be entered of record, and an order for an election shall be entered and notice thereof given, and such election shall be held and the result thereof declared, in accordance with the provisions of this chapter, and if the result of such election be in favor of the issuance of such additional bonds, the commissioners court may order such additional bonds to be issued in the manner herein provided.

[Acts 1925, S.B. 84.]

Art. 810. May Issue Notes

Whenever a county shall have constructed or purchased improvements and the same shall be damaged so that it may be necessary to raise funds to repair such damage, the county may issue bonds to raise such funds in the manner provided in this chapter, or may issue its notes therefor. Such notes shall run not to exceed twenty years and bear interest not to exceed six per cent per annum payable annually or semi-annually.

[Acts 1925, S.B. 84.]

Art. 811. Shall Order Election

Before such notes are issued, the commissioners court shall order an election and give

notice thereof, as required for elections upon bond issues, stating the purpose for which they are to be issued, the time they are to run, the rate of interest, and the time and place or places of election.

[Acts 1925, S.B. 84.]

Art. 812. Ballot, etc.

The ballots for such election shall have written or printed thereon "For the issuance of notes," and "Against the issuance of notes." Such election shall be held and returns made and canvassed as provided herein for bond elections. If a two-thirds majority of those voting at such election voted in favor of the issuance of such notes, the commissioners court may issue and sell same for the benefit of said county and the purpose or purposes for which authorized.

[Acts 1925, S.B. 84.]

Art. 813. Requisites of Issuance

The commissioners court shall pass and enter an order directing and authorizing the issuance of the notes, and in said order provisions shall be made for the levy and collection of a tax annually sufficient to pay the current interest and provide a sinking fund for the payment of the principal at maturity. Said notes may be issued to mature serially or otherwise, as may be provided in the election order and notice of election. The limitation of indebtedness hereinbefore provided shall also apply to the issuance of such additional bonds and such notes.

[Acts 1925, S.B. 84.]

Art. 814. Issuance of Bonds and Notes

All bonds and notes issued under the provisions of this chapter shall be issued in the name of the county, and such bonds shall be designated ". . . County Water Improvement Bonds," and such notes shall be designated ". . . County Water Improvement Notes," and shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer, and the seal of the commissioners court shall be impressed thereon, and may be in such denominations as may be fixed by the commissioners court.

[Acts 1925, S.B. 84.]

Art. 815. May Exchange Bonds

The commissioners court may exchange bonds for property or in payment of the contract price for work to be done in the construction of said improvements.

[Acts 1925, S.B. 84.]

Art. 816. Sale of Bonds and Notes

The commissioners court shall sell or exchange such bonds and notes on the best terms and for the best obtainable price, not less than their par value. When the bonds or notes are sold, the proceeds shall immediately be delivered to the county treasurer.

[Acts 1925, S.B. 84.]

Art. 817. Other Counties May Avail

Any county desiring to issue bonds in accordance with the provisions of this chapter, shall bring an action in the district court of such county, or in the district court of Travis County, to determine the validity of such bonds in the manner provided for the validation of Water Improvement District Bonds in Chapter 2 of the Title "Water"¹ and each provision of said chapter relative to such suit, the duties of the Attorney General and Comptroller, the judgment to be rendered, the effect of such judgment, and other matters connected therewith, shall apply to the validation of such county bonds.

[Acts 1925, S.B. 84.]

¹ Article 7622 et seq. (repealed; see, now, Water Code).

Art. 818. Special Powers

Counties operating under the provisions of this chapter are hereby empowered to own and construct reservoirs, dams, levees, wells, canals and other improvements, and to acquire the necessary rights-of-way and other lands by purchase or by condemnation in the manner provided for the condemnation of right-of-way by railroad companies, and to do, construct, purchase and acquire all other works and improvements required for the proper and efficient irrigation of the lands in such county.

[Acts 1925, S.B. 84.]

Art. 819. Special Fund

The commissioners court shall annually levy a tax sufficient to pay the current interest on such bonds and to pay the principal thereof as the same becomes due, and said tax shall be assessed and collected as other county taxes, and when collected shall constitute a special fund and shall not be diverted or used for any other purpose than in this article provided.

[Acts 1925, S.B. 84.]

Art. 820. Control of System

The commissioners court shall have and exercise the control and management of the affairs and operation of the irrigation system of such county to the same extent and in the manner provided in Chapter 2 of the Title "Water,"¹ as conferred upon the directors of Water Improvement Districts, and said court shall exercise all of the powers relative to the control, management, affairs and operation of such county irrigation system as such directors have under the provisions of said chapter, and all the provisions of said chapter relative to the control, management, affairs and operation of Water Improvement Districts shall apply to the control, management, affairs and operation of such county irrigation system.

[Acts 1925, S.B. 84.]

¹ Article 7622 et seq. (repealed; see, now, Water Code).

Art. 821. Other Improvements

Any county authorized under the provisions of this chapter, may issue bonds for the improvement of rivers, creeks and streams to pre-

vent overflow and for all necessary drainage purposes in connection therewith, and bonds proposed to be issued for the combined purposes stated in this chapter, or for any two of said purposes, shall be treated and deemed as for one purpose and may be voted upon as one proposition.

[Acts 1925, S.B. 84.]

Art. 822. Repealed by Acts 1953, 53rd Leg., p. 962, ch. 406, § 5

CHAPTER SIX A. NAVIGATION AID BONDS

Article

822a. Power to Issue.

822b. Eminent Domain.

822c. Elections and Order for Issuance.

822d. Bonds and Warrants.

822e. Right of Way and Conveyance to United States.

822f. Bonds by Coastal Counties for Canal Purposes.

Art. 822a. Power to Issue

Any county in this State may, upon a vote of a two-thirds majority of the resident property tax payers voting thereon, who are qualified electors of such county, at an election held hereunder as hereinafter provided, in addition to all other debts, issue bonds or warrants or otherwise lend its credit in any amount not to exceed one-fourth of the assessed valuation of the real property of such county, and levy and collect such taxes to pay the interest thereon, and provide a sinking fund for the redemption thereof, as herein provided, for the purpose of navigation, or in aid of navigation, by securing right-of-way and necessary dumping privileges for any canal or water-way, authorized to be constructed under any Act of the United States Congress now in force, or hereafter enacted, and shall have the power, after any right-of-way and necessary dumping privileges have been secured, to convey same to the Government of the United States, if necessary to do so to aid in any navigation by waterways, or canals.

[Acts 1927, 40th Leg., p. 129, ch. 84, § 1.]

Art. 822b. Eminent Domain

Sec. 2. Any county in this State shall have the right of eminent domain for the purpose of carrying out the authority granted in Section 1 of this Act.¹

Sec. 3. Said county shall have the right in lieu of exercising its right to eminent domain, as hereinbefore provided, to permit the Government of the United States to exercise its right of eminent domain, and lend its credit in guaranteeing the Government of the United States to pay such judgment or assessment of damages, as may be entered against said Government of the United States, for the value of such property as it may condemn for such right-of-way and necessary dumping privileges.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹ Article 822a.

Art. 822c. Elections and Order for Issuance

Sec. 4. The commissioners' court of any county in this State may, upon its own motion, and shall, upon a petition presented to it by twenty-five of the resident property tax payers therein, at a regular or special term of said court, order an election for the purpose of determining as to whether or not said county shall issue bonds or warrants, or otherwise lend its credit for the purpose of navigation or in aid thereof, by securing the necessary right-of-way for the purposes indicated in Section 1 hereof;¹ said election order shall describe as near as may be, the navigation purposes, or the aid thereto proposed, or the right-of-way and necessary dumping privileges, necessary to be secured and the amount of bonds or warrants, or extent of credit proposed to be authorized for such purposes; and if bonds or warrants are to be issued, their maturity dates and the rate of interest; and if it is proposed to lend the credit of the county in lieu of the issuance of bonds or warrants, said election order shall state the manner in which said credit is proposed to be used, and the extent thereof, and the terms and conditions thereof. Twenty days notice of the holding of said election shall be given by publication in some newspaper published at the county seat of said county, and by posting in three public places in the county, one of which, shall be at the county seat.

Sec. 5. The ballots for said election shall have printed thereon, the words and none other: "For the issuance of bonds (or warrants) or (loaning of credit) and levy of a tax in payment thereof," and "Against the issuance of bonds (or warrants) or (loaning of credit) and the levy of a tax in payment thereof."

Sec. 6. If the proposition submitted to the voters of said county is at said election, adopted by them, the commissioners' court shall enter the same in the minutes of said court, setting out the date of election, the notice of election, the result of the election, together with an order providing for the issuance of such bonds, or warrants, stating the amount thereof, the maturities thereof, and the rate of interest, and at the same time levy a tax sufficient to pay the interest of said bonds or warrants, and providing a sinking fund sufficient to liquidate same at maturity, or as the case may be, setting out the mode and manner and conditions under which it is determined at said election to lend its credit and the extent thereof.

Sec. 7. If, at said election, the credit of the county is to be used otherwise than by the issuance of bonds or warrants, and in such manner as that its use creates a debt against the county, the commissioners' court shall, at a regular or special term thereof, at the time of the entering of said order, authorizing the use of said credit and the creation of said debt, levy a tax sufficient to pay said debt, or such amount thereof, as may mature during the cur-

rent year, and shall from year to year, levy a tax sufficient to liquidate same as it accrues.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹ Article 822a.

Art. 822d. Bonds and Warrants

Sec. 8. All bonds or warrants issued under the provisions of this Act¹ shall be issued in the name of the county; shall be signed by the county judge and attested by the county clerk under the seal of the commissioners' court; they shall be issued in such denominations and payable at such time, or times, not to exceed forty years from their date as may be deemed most expedient by the court, and shall bear interest not to exceed 6% per annum. All bonds shall be approved by the attorney general and registered by the comptroller as other county bonds are approved and registered; all bonds or warrants shall be sold by the commissioners' court on the best terms and for the best price possible, but for not less than face par value and accrued interest, and all moneys received therefor, shall be paid to the county treasurer, and by him placed to the credit of the navigation fund of such county, and paid out on warrants, as other county funds are disbursed.

Sec. 9. When bonds or warrants have been voted, the commissioners' court shall levy and cause to be assessed and collected annually, taxes sufficient to pay the interest on such bonds, and to provide a sinking fund to redeem the same at maturity, and if the credit of the county is used otherwise than by the issuance of bonds and warrants, in such a way as that a debt against the county is created, said court shall levy and cause to be assessed and collected annually a tax sufficient to pay said indebtedness as and when it accrues. The sinking fund of said bonds or warrants, shall be invested as the sinking fund of other county bonds are invested.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

¹ Articles 822a to 822e.

Art. 822e. Right of Way and Conveyance to United States

Sec. 10. When right-of-way and necessary dumping privileges have been secured by such county under the provisions hereof, either by purchase, condemnation, or donation, such county shall have the right, and is hereby authorized to convey said right-of-way and necessary dumping privileges to the Government of the United States by deed executed as other deeds by counties are required to be executed.

Sec. 11. The purpose of this Act being to grant authority to the counties of Texas to issue bonds, warrants or otherwise lend their credit to acquire and convey to the United States Government, the necessary right-of-way for waterways or navigable canals, the construction of which has been, or may be, authorized by the Government of the United States; the cost of construction and maintenance of which, is to be borne by the Government of the United States, and for no other purpose, and

the provisions of this Act shall be liberally construed for the purpose of carrying out such intent.

[Acts 1927, 40th Leg., p. 129, ch. 84.]

Art. 822f. Bonds by Coastal Counties for Canal Purposes

The right of eminent domain is hereby conferred upon all counties adjacent to the Gulf of Mexico of the State of Texas, for the purpose of condemning and acquiring land, right of way or easement or dumping ground privileges in land, private or public, except property used for cemetery purposes, where said land, right of way, easement or dumping ground privilege is necessary in the construction of an intra-coastal canal.

All such condemnation proceedings shall be instituted under the direction of the Commissioners' Court, and in the name of the county, and the assessing of damages shall be in conformity to the Statutes of the State of Texas for condemning and acquiring of right of way by railroads. Provided, that no appeal from the finding and assessment of damages by the Commissioners appointed for that purpose shall have the effect of causing the suspension of work by the county or the Government of the United States, in connection with which the land, right of way, easement, etc., is sought to be acquired; and provided, further, that in case of appeal counties shall not be required to give bond, nor shall they be required to give bond for costs.

In all of the counties of this State adjacent to the Gulf of Mexico, the Commissioners' Courts are authorized to issue time warrants bearing interest at a rate not exceeding six per cent (6%) per annum, to be used for the purpose of purchasing or paying for lands for right of way and easement and dumping ground purposes for an intracoastal canal. The lands needed may be acquired by direct purchase or by payment after condemnation proceedings.

[Acts 1931, 42nd Leg., p. 834, ch. 347, § 1; Acts 1931, 42nd Leg., 1st C.S., p. 7, ch. 4, § 1.]

CHAPTER SEVEN. MUNICIPAL BONDS

Article

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- 835p. Cities of 600,000 or More; Limitation on Bonded Indebtedness.
- 835q. Revenue Bonds and Ad Valorem Tax Bonds; Validation of Proceedings.
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Art. 823. May Issue Bonds

Any city or town may issue its coupon bonds for such sum as it may deem expedient for the purpose of the construction or purchase of public buildings, waterworks, sewers, and other permanent improvements within the city limits, and for the construction and improvement of the roads, bridges, and streets of such city or town. This article includes building sites and buildings for the public free schools and institutions of learning within such cities and towns which assume the exclusive control of their public free schools and institutions of learning. Such bonds shall bear interest not to exceed six per cent per annum and shall become due and payable serially or otherwise not to exceed forty years from their date and may be payable at such place as may be fixed by ordinance.

[Acts 1925, S.B. 84.]

Art. 824. Limitations

The limitations now provided by law upon the bonds that such cities may issue shall not apply to bonds issued under this law.

[Acts 1925, S.B. 84.]

Art. 825. Signature

All bonds issued by a city or town shall be signed by the mayor and countersigned by the city secretary.

[Acts 1925, S.B. 84.]

Art. 826. Shall Provide for Tax

The governing body, when the issuance of bonds has been authorized, shall provide for the levy and collection of a tax annually suffi-

cient to pay the annual interest and provide a sinking fund for the payment of such bonds and all other outstanding bonds of such city or town issued since September 25, 1883.

[Acts 1925, S.B. 84.]

Art. 827. Funding of Debt

The governing body shall pass all necessary ordinances to provide for funding the whole or any part of the existing debt of the city or any future debt by cancelling the evidences thereof, and issuing to the holders or creditors, notes, bonds or treasury warrants, with or without coupons, bearing interest at any annual rate not to exceed six per cent.

[Acts 1925, S.B. 84.]

Art. 827a. Payment of Warrants and Vouchers Previously Issued

The towns and cities, organized under and governed by the General Laws of the State of Texas, may renew, extend and pay warrants and vouchers executed and delivered for the purpose of securing funds and for the purpose of borrowing funds for the use of such towns and cities prior to June 1, 1932, and all extensions and renewals thereof; provided that the provisions hereof shall apply only where such funds received and borrowed, and used by such towns and cities prior to June 1, 1932, do not exceed the total sum of Eight Thousand (\$8,000.00) Dollars. Such warrants and vouchers may be so issued to bear interest at the rate of not to exceed six per cent (6%) per annum and may be so issued without the necessity of the approval thereof by the Attorney General and without the necessity of a registration thereof by the Comptroller, and may be made payable within one year from date of the issuance or more than one year; taxes may be levied and used to provide for the payment thereof; providing, however, that nothing herein shall affect any pending litigation.

[Acts 1937, 45th Leg., p. 304, ch. 159, § 1.]

Art. 828. May Compromise Debts

The governing body, by their resolution or ordinance, by referring to this law and adopting the same, are authorized to compromise and fund any existing valid indebtedness issued by the city or town, whether bonded or floating, and the coupons due upon the bonded debt. For such purpose, they are authorized to issue new bonds in denominations of not less than fifty nor more than one thousand dollars, in their discretion, with interest coupons payable annually, to become due and payable in not exceeding thirty years, and to bear interest not to exceed six per cent per annum.

[Acts 1925, S.B. 84.]

Art. 829. Exceptions

No compromise shall be made by which any debt shall be funded when such debt is barred by the statutes of limitations.

[Acts 1925, S.B. 84.]

Art. 830. Liquidation Board

Whenever a compromise of the debt of any city or town shall be so affected, and the bonds are delivered to the creditors, a board of liquidation consisting of five reputable citizens of such city or town shall forthwith be appointed and organized in the manner following:

1. One each shall be appointed by the mayor of the city or town, the city council, the Governor, any district judge of the district in which such city or town is situated, and the holders of said indebtedness or a majority of them, and each shall fill vacancies in the office of their respective appointee in said board.

2. In case of failure, neglect or refusal of any or all of said officers to appoint a member of said board or to fill vacancies therein, then the holders of said bonds or any one or more of them may apply to any district court of the district in which such town or city is situated, or to the judge thereof in vacation, for the appointment of the members necessary to complete said board, and said court or judge shall make such appointment.

3. The members of said board shall serve without compensation, and shall hold office for four years. Each member of said board shall take an oath to faithfully perform the duties of his office. A majority of said board shall be a quorum to transact business.

[Acts 1925, S.B. 84.]

Art. 831. Liquidation

These rules shall govern the handling and disposition of all moneys coming under the control of the board as herein provided:

1. Said board shall select some solvent depository for such moneys, for whose acts they shall be responsible, and shall, in writing, signed by them, notify the tax collector of said city or town, of said selection.

2. Said collector shall thereupon deposit at the close of business of each day one-half of all moneys collected by him for the twenty-four hours next preceding, on account of all the taxes of whatever nature levied by said city or town, with the said depository, whose receipt therefor shall be an acquittance of said collector.

3. The collector shall be liable on his official bond for any failure to promptly make such deposits and for ten per cent thereto as penalty, which sums may be recovered by said board in a suit therefor, which they shall promptly institute.

4. Whenever the total of said deposits shall equal the annual interest on said bonds, it shall be lawful for the collector to discontinue said deposits until he shall be notified in writing by said board that said deposits are reduced below that sum.

5. Said funds shall be subject to said board and shall be applied by it to the payment, first of the interest on the said bonds as they mature, secondly, to the payment of the principal thereof, and thirdly, to the payment of interest of any valid bonds issued by such city and not embraced in any issue of bonds issued under the provisions of this law, and fourthly, to the payment of the principal of bonds of the character last referred to on the maturity of the same.

6. The members of said board shall be liable for the prompt payment of interest out of said funds, and in case of failure or refusal, they shall in addition be liable to ten per cent of the amount of such interest as damages to be recovered by any person aggrieved thereby.

7. Whenever there shall be in the hands of such depository a sufficient sum to pay two per cent of the principal of said bonds in addition to one year's interest, said board shall use the same in the purchase of outstanding bonds as provided by law, and such bonds when so purchased shall be returned to the city council together with all coupons which have been paid.

8. Expenses incurred by the board in advertising for purchasers of bonds shall be paid out of said funds.

9. Said board shall make semi-annual reports to the city council of its acts and of all receipts and disbursements of money coming under their control.

[Acts 1925, S.B. 84.]

Art. 832. State Tax Laws

Whenever such compromise shall be entered into and accepted in good faith, either by the holders of the present bonds or by any persons purchasing new bonds, as herein provided, all laws now or hereafter in force for the assessment and collection of State taxes shall also be in force and apply to the assessment and collection of taxes levied to meet the interest and sinking fund of said new bonds; and in any suit instituted to enforce the payment of said bonds or coupons against any such city or town, no defense either in law or equity, shall be admitted in any court of this State, except such as originated upon, or subsequent to, the issuance of such new bonds.

[Acts 1925, S.B. 84.]

Art. 833. Payment of Taxes with Bonds

The new bonds thus issued by a city or town shall be exempt from the payment of all taxes levied by such city or town. The taxes levied to pay such new bonds may be paid with the bonds or coupons thereof if matured. Said coupons and bonds shall only be received in payment of taxes which have been levied for the purpose of paying such bonds and coupons.

[Acts 1925, S.B. 84.]

Art. 834. Further Compromise

Cities and towns may compromise and liquidate their indebtedness and issue bonds therefor under such conditions as are prescribed in this title conferring such authority on counties, cities and towns, and as may be otherwise provided by law.

[Acts 1925, S.B. 84.]

Art. 835. Harbor Bonds

When necessary therefor, cities which border on the Gulf of Mexico may issue the coupon bonds of such cities to bear interest at not exceeding five per cent per annum for the purpose of improving or aiding the improvement of their harbors and the bars at the entrance thereof in such amounts as may be deemed necessary not to exceed the limit of indebtedness fixed by their respective charters, and may appropriate for such purpose money out of any surplus fund which may be on hand at any time, and when any bonds may be on hand, the issuance of which has been made for other purposes and may not be needed for such purpose. Such surplus bonds may be sold and the proceeds used for such improvements.

[Acts 1925, S.B. 84.]

Arts. 835a, 835b. Repealed by Acts 1931, 42nd Leg., p. 33, ch. 26, § 1; Acts 1931, 42nd Leg., p. 771, ch. 309, § 8

Art. 835c. Hospital Sites in Cities and Counties

Any city or county in this State, acting by or through the governing body of such city or Commissioners Court of such county, may issue negotiable bonds of the city or county, as the case may be, and levy taxes for the sinking fund of such bonds, and the levying of such taxes being in accordance with Chapter 1, Title 22, of the Revised Civil Statutes, of 1925,¹ which bonds may be sold and the proceeds thereof shall be applied to condemnation or purchase, either or both, of lands to be used for hospital purposes; and which lands when so acquired, or if such city or county shall already own land or sites that are suitable and adequate for hospital purposes, then such lands so owned, may be by such city or county donated to the State of Texas or the United States of America for hospital purposes, where the State of Texas or United States of America has or may agree to erect and maintain hospitals thereon; or if any such city or county has in its general fund sufficient funds for the acquisition of such property, same may be diverted and applied for such use; provided also that such city or county may stipulate for and agree to accept a nominal award as full compensation for such lands in any condemnation proceeding, including proceedings pending when this Act becomes effective, instituted by the State of Texas or the United States of America for the acquisition of such lands for hospital purposes; provided further that all such donations or contracts to make such dona-

tions made or entered into by and between any city or county in this State and the United States of America prior to the date of the approval of this Act, whether consummated by voluntary conveyance, condemnation proceedings, or otherwise, be and the same are fully and completely validated, ratified, and confirmed; and provided further that nothing in this Act shall be construed by any city or county to exceed the limits of indebtedness placed upon it under the Constitution.

[Acts 1930, 41st Leg., 5th C.S., p. 125, ch. 10, § 1; Acts 1939, 46th Leg., p. 381, § 1.]

¹ Article 701 et seq.

Art. 835d. Unconstitutional

This article, derived from Acts 1931, 42nd Leg., p. 771, ch. 309, was held invalid as creating "debt" against city in violation of Const. art. 11, §§ 5 and 7. *City of Fort Worth v. Bobbitt*, 121 T. 14, 41 S.W.2d 228.

Art. 835e. Bonds Validated

That all proceedings had prior to March 1, 1935, by the governing bodies of all independent school districts, cities and towns, including home rule cities, in the State of Texas in the issuance and sale of bonds, to aid in financing any undertaking for which a loan or grant has been made by the United States through the Federal Emergency Administration of Public Works, or any other agency, department or division of the Government of the United States of America are hereby in all things fully validated, confirmed, approved and legalized and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such independent school districts, cities or towns, and all bonds which were prior to March 1, 1935, authorized but not yet issued shall, when delivered and paid for, constitute valid and binding obligations of such independent school district, city or town. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, notes or warrants are hereby in all things validated, confirmed, approved and legalized. Provided that this Act shall not validate any bonds now in litigation.

[Acts 1935, 44th Leg., p. 147, ch. 60, § 1.]

Art. 835e-1. Refunding Bonds of Home Rule Cities Validated

Sec. 1. In each instance wherein any city operating under a special charter, either adopted by vote of the people or granted by the Legislature and thereafter amended by vote of the people, which allocates its permitted taxing power to specified purposes at fixed rates for each such purpose, has passed an ordinance or ordinances authorizing the issuance of refunding bonds to refund all of the outstanding bonds of such city, and said refunding bonds and bonds to be refunded thereby have been approved by the Attorney General of the State of Texas, the proceedings had by such city in authorizing the issuance of said refunding bonds and the tax levied to pay the principal and interest thereof are hereby validated, and said refunding bonds, when registered by the

Comptroller of Public Accounts in exchange for the bonds to be refunded thereby are hereby validated, notwithstanding the fact that one or more issues of such refunding bonds or of the bonds refunded thereby may have been authorized and issued for the purpose of refunding bonds originally payable from such separate tax allocations, and the taxes levied to pay the principal and interest of such refunding bonds are hereby validated and shall not be affected by any provisions of such charter requiring allocation of such taxes to such specific purposes.

Sec. 2. The provisions of this Act shall not be construed as validating any bonds, the validity of which is being questioned in litigation pending at the time this Act becomes effective. [Acts 1939, 46th Leg., p. 699.]

Art. 835e-2. Fire-Fighting Equipment Bonds Validated

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of equipping fire stations or purchasing firefighting equipment, including all proceedings and the authorization and issuance thereof are hereby validated, ratified, approved, and confirmed notwithstanding the lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings or bonds issued pursuant thereto the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1947, 50th Leg., p. 250, ch. 146.]

Art. 835f. Sale of Bonds or Obligations by Municipal or Political Subdivisions to Reconstruction Finance Corporation or Federal Agency

That all counties, municipalities, and political subdivisions of this State, which may own bonds or any other obligations or evidences of indebtedness, of an irrigation, levee, drainage, or school district of this State, or of any County, Municipality, or other political subdivisions thereof, or that may own any other kind of municipal bonds or evidences of indebtedness, are hereby authorized to sell, compromise or exchange the same to, or with, the Reconstruction Finance Corporation or any other agency of the Federal Government, at less than par and/or at a price which may seem just and fair and agreed upon by the owners of such securities, provided, that in all such sales, exchanges or compromises, the bonds, obligations, securities, or evidences of debt so acquired by such Reconstruction Finance Corporation, or other

agency of the Federal Government, shall never become a charge against the irrigation, levee, drainage, or school district, or the county or municipality issuing same, for more than the amount paid therefor by said Reconstruction Finance Corporation or other agency of the Federal Government, plus interest at the rate provided for in such securities. The privilege of purchasing, compromising or exchanging such bonds, obligations, or evidences of indebtedness for less than par value, shall only apply to purchases, compromises, or exchanges made by the Reconstruction Finance Corporation, or by any other agency of the Federal Government, acting through its own representative or through the district, county, municipality or political subdivision obligated to pay such securities.

[Acts 1935, 44th Leg., p. 54, ch. 18, § 1.]

Art. 835g. Use for Other Purposes of Bond Monies Dedicated to Specific Public Improvement in Certain Cities and Towns; Election Authorizing Transfer

Sec. 1. All cities and towns in this State having a population of not less than 15,100 and not more than 15,250, according to the last preceding Federal Census, which have the exclusive control of the schools within its limits, are hereby expressly authorized to utilize bond monies on hand, which have heretofore been authorized by the Council of said City, for public improvements of whatsoever character within said city, for the use and benefit of the public schools within such city or any purpose authorized by City Commission. Provided that before any such transfer shall be authorized the question of the transfer shall be submitted to the property tax paying voters of said city at an election to be held in accordance with the provisions of the law which were followed in issuing the bonds originally. And no such transfer shall be made unless a majority of the legally qualified voters of said City vote in favor of such transfer. Provided further, that this law shall not apply in any case wherein the funds are being expended upon the public works for which they were voted. It is expressly provided that it shall only apply in case the public improvement for which the bonds were originally issued have never been commenced.

Sec. 2. The City Council, by following the procedure set out in Section 1, is hereby authorized to repurchase and cancel such bonds, if in their discretion the same is for the benefit of the property tax paying voters of the municipality.

[Acts 1937, 45th Leg., 2nd C.S., p. 1865, ch. 2.]

Art. 835h. Bonds for Improvement of Parking Lots

Bonds Authorized; Pledge of Revenues

Sec. 1. The governing body of any city in this State having less than sixty thousand (60,000) population which is operating under a

home rule charter and which city on January 1, 1949, owned and was operating a public parking lot or lots is hereby authorized to issue negotiable revenue bonds of the city for the purpose of constructing, building, or erecting buildings and other permanent improvements on said public parking lot or lots then being used for the public parking or storage of motor vehicles, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said parking lot or lots and the buildings and other permanent improvements thereon. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Issuance, Maturity and Interest; Election; Incontestability

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds shall be sold for not less than par and accrued interest. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property tax-paying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter One, Title 22, Revised Civil Statutes of Texas.¹ Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud and forgery. It shall not be necessary to submit any of such bonds or proceedings to the Attorney General, and the Attorney General shall have no power or authority to examine and approve or disapprove the same.

¹ Article 701 et seq.

Personnel; Fees and Tolls

Sec. 3. Such city is authorized to employ necessary personnel to operate the parking facilities authorized by this Act, and is authorized to prescribe and enforce the fees and

tolls which are to be charged for the use of such parking lot or lots and buildings and other improvements thereon. The expense of operation and maintenance thereof shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees and tolls which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay expenses of operation and maintenance and to pay the principal of and interest on the outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

Additional Bonds

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

Exemption from Taxation

Sec. 5. Any bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of the State.

Partial Invalidity

Sec. 6. In case any one or more of the Sections or provisions of this Act shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other Sections or provisions of this Act.

[Acts 1949, 51st Leg., p. 385, ch. 205.]

Art. 835i. Bonds for Fire Truck and Fire Equipment; Validation

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of purchasing a fire truck and fire equipment, including all proceedings and the authorization and issuance thereof are hereby validated, ratified, approved, and confirmed notwithstanding the lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any such proceedings or bonds issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1949, 51st Leg., p. 444, ch. 238.]

Art. 835j. Revenue Bonds for Air Conditioning Equipment in Municipal Auditorium or Theatre

Authority to Issue; Payable from Revenue

Sec. 1. The governing body of any city in this State which has a population of not less than one hundred and seventy-five thousand (175,000) inhabitants according to the last preceding United States Census is hereby authorized to issue negotiable revenue bonds of the city for the purpose of acquiring, purchasing and installing air conditioning equipment in and for the municipal auditorium and/or municipal theatre owned and operated by said city, such negotiable revenue bonds to be secured solely by a pledge of, and payable from, the net revenues derived from the operation of said municipal auditorium and/or municipal theatre. "Net revenues" is defined as the gross revenues minus all operation and maintenance expenses. No such bonds shall ever be considered as a debt of the city, but solely a charge upon the pledged revenues, and such bonds shall never be reckoned in determining the power of the city to incur obligations payable from taxation. Such bonds shall contain on the face thereof the following provision:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Term; Interest; Signatures; Elections; Approval and Registration

Sec. 2. Such bonds shall be payable serially in not more than forty (40) years from date and shall bear interest at not more than five per cent (5%) per annum. Such bonds shall be signed by the Mayor and countersigned by the City Secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on the interest coupons attached thereto. Such bonds may be issued without the necessity of any election therefor; provided, however, that the governing body, if it so determines, may order an election to determine whether a majority of the legally qualified property taxpaying voters who have taxable property and who have duly rendered the same for taxation voting therein desire the issuance of such bonds, such election to be held in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas.¹ Such bonds may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by cities or towns. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Any bonds issued under this Act shall be incontestable after issuance and delivery except for fraud, forgery, or unconstitutionality.

¹ Article 701 et seq.

Operation and Maintenance; Fees, Tolls and Charges

Sec. 3. Such city is authorized to employ necessary personnel to operate such municipal

auditorium and/or theatre, and to properly maintain and keep the same in proper repair, the costs of which shall be classed as operation and maintenance expenses. Such operation and maintenance expenses shall always be a first lien and charge against the income thereof. So long as any of said bonds or any interest thereon remain outstanding, the city shall charge or require payment of fees, tolls and charges for the use of such auditorium and/or theatre and their facilities which shall be equal and uniform within classes defined by the governing body of such city, and which shall be sufficient to pay all expenses of operation and maintenance and to pay the principal of and interest on the outstanding bonds as such principal matures and as such interest accrues, and to establish and maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the bonds.

Additional Bonds

Sec. 4. So long as any such revenue bonds are outstanding, no additional bonds of equal dignity shall be issued against the pledged revenues, except to the extent and in the manner expressly permitted in the ordinance authorizing the bonds.

Exemption from Taxation

Sec. 5. Any bond issued pursuant to the provisions of this Act shall be exempt from taxation by the State of Texas or by any municipal corporation, county or other political subdivision or taxing district of the State.

Partial Invalidity

Sec. 6. If any word, phrase, clause, sentence, paragraph, Section or part of this Act shall for any reason be held to be unconstitutional, it shall not affect any other word, phrase, clause, sentence, paragraph, Section or part of this Act.

[Acts 1949, 51st Leg., p. 936, ch. 510.]

Art. 835k. Bonds for Municipal Garage or Park Band Shell Validated

Sec. 1. All bonds heretofore voted and authorized by any city for the purpose of constructing and equipping of a municipal garage and for the purpose of constructing a municipal public park band shell, either or both, including all proceedings and the authorization and issuance thereof, are hereby validated, ratified, approved, and confirmed notwithstanding any lack of charter or statutory power of such city or the governing body thereof to authorize and issue such bonds and notwithstanding that the election may not in all respects have been ordered and held in accordance with statutory provisions; and such bonds when approved by the Attorney General of the State of Texas, and sold and delivered for not less than par and accrued interest, shall be binding, legal, valid, and enforceable obligations of such cities. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority

of the qualified property taxpaying voters whose property had been duly rendered for taxation voting on separate propositions voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued pursuant thereto, the validity of which has been contested or attacked in any suit or litigation pending at the time that this Act becomes effective.

[Acts 1949, 51st Leg., p. 1178, ch. 592.]

Art. 835k-1. Bonds for Public Recreation Tower Structure; Validation

Sec. 1. All bonds payable from ad valorem taxes heretofore issued, sold, and delivered by any city for the purpose of making improvements for public recreation purposes, to wit: the construction and equipment of a tower structure, to include observation, dining, concession, and other facilities, are hereby validated in all respects.

Sec. 2. All elections heretofore held or attempted to be held at which the issuance of all such bonds shall have been authorized or attempted to be authorized for said purpose are hereby validated in all respects.

Sec. 3. All proceedings, ordinances, and other acts or attempted acts of the governing body of any city pertaining to the authorization, issuance, sale, and delivery of all such bonds and the election authorizing same or attempting to authorize same are hereby validated in all respects.

Sec. 4. This Act shall not validate any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1967, 60th Leg., p. 1198, ch. 535, eff. Aug. 28, 1967.]

Art. 835l. Harbor, Wharf and Dock Facilities; Cities and Towns of 5,000 or Less on Gulf or Connecting Waters

Sec. 1. Any city or town in this State, having five thousand (5,000) or less inhabitants, located on the coast of the Gulf of Mexico, or on any channel, canal, bay, or inlet connected with the Gulf of Mexico, organized and operating under the general law, shall have the authority to purchase, construct, own, maintain, improve, repair, operate, or lease any wharf, pier, pavilion, dock, harbor or boat basin, and such other facilities as may be deemed advisable in connection therewith, including ferries.

Sec. 2. Any such city or town may issue its negotiable bonds for the purposes above enumerated and may provide for the payment of the principal of and interest on such bonds from the income of such facilities after deducting the reasonable cost of the operation and maintenance thereof, or such city or town may issue its negotiable bonds for such purposes in the manner now provided for the issuance of other municipal bonds payable from an ad va-

lorem tax levied on all the taxable property within such city or town.

Sec. 3. In the event bonds are issued payable from the income of such facilities, the governing body of such city or town shall have the authority to issue such bonds without the giving of any notice or submitting the question to a vote of the qualified property taxpaying voters, and may prescribe the terms and provisions of such bonds in any manner such governing body may deem advisable. If any such bonds are issued payable from an ad valorem tax on the property in such city or town, the question of the issuance of such bonds shall first be submitted to a vote of the qualified electors of such city or town who own taxable property therein and who have duly rendered the same for taxation, and such bonds shall not be issued unless authorized by a majority vote of the voters voting at such election.

Sec. 4. Before any such bonds shall be issued and sold, they shall first be submitted to the Attorney General for his approval and if approved by him, to the Comptroller of Public Accounts of the State of Texas, to be registered by him in the manner provided for other municipal bonds. The approval of the Attorney General of such bonds and registration thereof by the Comptroller of Public Accounts shall have the same effect as in the case of other municipal bonds.

[Acts 1951, 52nd Leg., p. 339, ch. 210.]

Art. 835m. Municipal Libraries; Fire Stations; Validation of Bonds

Sec. 1. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of enlarging and improving a municipally owned and operated library building or constructing a new municipal library building, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. All bonds heretofore voted by any incorporated city or town, including home rule cities, for the purpose of constructing a fire station or a fire station and dormitory, either or both, and all proceedings relating thereto, are hereby in all things validated, ratified, approved, and confirmed, notwithstanding the fact that the election may not in all respects have been ordered and held in accordance with mandatory statutory provisions. Such bonds, when approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of Texas, and sold and delivered for not less than their par value plus accrued interest, shall be binding, legal, valid, and enforceable obligations of such city or town and shall be incontestable. Provided, however, that this Act shall apply only to such bonds which were authorized at an election or elections wherein a majority of the qualified property taxpaying voters whose property had

been duly rendered for taxation voted in favor of the issuance thereof.

Sec. 2. This Act shall not be construed as validating any such bonds or proceedings, the validity of which has been contested or attacked in any suit or litigation pending at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 2, ch. 2.]

Art. 835n. Issuance of Bonds for Fire Fighting Equipment in Cities of Less Than 5,000 Population

Cities and towns of less than five thousand (5,000) population are authorized to issue negotiable bonds for the purpose of providing money to purchase fire fighting equipment. Chapter 1, Title 22, Revised Civil Statutes of Texas, as amended,¹ relating to the voting and issuance of bonds, the approval thereof by the Attorney General, and registration by the Comptroller of Public Accounts, shall be applicable to bonds issued under this law.

[Acts 1959, 56th Leg., 1st C.S., p. 18, ch. 5, § 1.]

¹ Article 701 et seq.

Art. 835o. Home Rule Cities; Street and Drainage Improvements; Fire Stations; Validation of Bonds

Sec. 1. All bonds heretofore authorized by any Home Rule City in the State of Texas, for the purpose of providing street and drainage improvements, or for the purpose of constructing new fire stations, and any and all proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of Charter or statutory authority of such City, or the governing body thereof to authorize and issue such bonds, and notwithstanding the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the Charter or Statutes, and the issuance, sale and delivery of such bonds are hereby authorized and approved irrespective of the fact that any such City may be engaged in any suit or litigation questioning the power of such City to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to function under such Home Rule Charter may be contested or under attack in such suit or litigation; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, in accordance with law, shall be binding, legal, valid and enforceable obligations, and the bonds shall be incontestable.

Sec. 2. This Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the voting qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is

contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings or bonds, except insofar as such proceedings or bonds might be affected by any such City being engaged in any suit or litigation questioning the power of such City, or the governing body thereof, to annex territory wherein the validity of its Home Rule Charter and the authority of the governing body to so function under such Home Rule Charter may be contested or under attack.

Sec. 4. This Act shall be strictly construed to achieve the purposes hereof, and no action by any City hereunder shall be validated by this Act except for the specific and limited purposes enumerated herein.

[Acts 1962, 57th Leg., 3rd C.S., p. 59, ch. 21, §§ 1 to 4.]

Art. 835p. Cities of 600,000 or More; Limitation on Bonded Indebtedness

Sec. 1. This Act shall be applicable to all cities having a population of six hundred thousand (600,000) or more according to the then last preceding Federal Census.

Sec. 2. Any such city shall be authorized to incur total bonded indebtedness by the issuance of tax-supported bonds, whether voted prior to or after the effective date of this Act, in an amount not exceeding ten (10%) per cent of the total assessed valuation of property shown by the last assessment roll of such city, notwithstanding that the limit of total bonded indebtedness fixed in dollars by the city charter is a lesser amount.

[Acts 1967, 60th Leg., p. 38, ch. 18, eff. March 17, 1967.]

Art. 835q. Revenue Bonds and Ad Valorem Tax Bonds; Validation of Proceedings

Sec. 1. Where any city in the state which operates under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes, are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, and to do everything necessary to the issuance of revenue bonds and ad

valorem tax bonds in the amounts so authorized as provided by the statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, and lawful proceedings hereinafter had shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of same.

[Acts 1969, 61st Leg., p. 67, ch. 25, eff. March 25, 1969.]

Art. 835r. Bonds for Payment of Judgments; Election

Sec. 1. Whenever a final judgment or decree of a court of competent jurisdiction shall have been heretofore entered or may hereafter be entered against any city or town or for which the payment thereof is the legal responsibility of such city or town which judgment or decree awards the plaintiff or plaintiffs a cash judgment or decree against such city or town and such city or town does not have funds available with which to pay said judgment or decree and the interest thereon in cash and the cost and expenses connected therewith, the governing body of such city or town shall have the right, power and authority, after due notice, to call and hold an election, in the same manner provided for calling and holding other bond elections, for the purpose of submitting to the qualified resident electors of such city or town who own taxable property within said city and who have duly rendered the same for taxation the proposition of whether or not such city or town shall issue, sell and deliver to a purchaser thereof its negotiable bonds in an amount sufficient to pay said judgment or decree and the interest thereon and any costs and expenses connected therewith. If a majority of those voting at such election vote in favor of the issuance of such bonds, there shall be levied and collected a tax against all the taxable property in said city or town to pay the interest on said bonds and to create a sinking fund to redeem the principal of said bonds as same becomes due. Such bonds shall be issued to mature serially or otherwise not to exceed forty (40) years from their date and to bear interest at a rate not to exceed six and one-half percent (6½%) per annum and in such denominations as may be determined by the governing body of such city or town. Except as otherwise provided in this Act, the general laws governing the issuance of bonds by cities and towns shall be applicable to the issuance of said bonds.

Sec. 2. Said bonds or refunding bonds and the record pertaining to same shall be submitted to the Attorney General of Texas for his examination and if he approves same they shall

be registered by the Comptroller of Public Accounts of Texas and delivered to the purchaser thereof at a price of not less than the par value thereof and accrued interest. After such approval by the Attorney General and registration by the Comptroller of Public Accounts, said bonds in the hands of the original purchaser or subsequent holders thereof shall be legal, valid and binding general obligations of such city or town and shall be incontestable for any cause.

Sec. 3. Said governing body shall have the authority to refund such bonds in accordance with the general laws authorizing the issuance of refunding bonds by cities and towns, except such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a savings will result in the total amount of interest to be paid.

[Acts 1969, 61st Leg., p. 1679, ch. 540, eff. Sept. 1, 1969.]

CHAPTER EIGHT. SINKING FUNDS— INVESTMENTS, ETC.

Article

836. Investments.

837. Secondary Investments.

837a. Investment of Sinking Funds of County or Navigation District in Counties in Excess of 190,000.

838. Repealed.

839. Disbursements.

840. Diversion of Funds; Penalties.

841. Recovery.

842. Federal Farm Loan Bonds.

842a. Securities Issued by Federal Agencies; Texas Securities; Investments.

842a-1. Obligations Wholly or Partly Insured by United States or State, Investment In.

Art. 836. Investments

The legally authorized governing body of any county, city or town, or the trustees of any school district or school community, may invest their respective sinking funds for the redemption and payment of the outstanding bonds of such county, city or town, or community, in bonds of the United States; war-savings certificates; and certificates of indebtedness issued by the Secretary of the Treasury of the United States; in bonds of Texas, or any county of this State, or of any incorporated city or town; and in shares or share accounts of building and loan associations organized under the laws of this State, or Federal Savings and Loan Associations domiciled in this State, where such shares or share accounts are insured under and by virtue of the Federal Savings and Loan Insurance Corporation. No such bonds shall be purchased which, according to their terms, mature at a date subsequent to the time of maturity of the bonds for the payment of which such sinking fund was created.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 812, ch. 437, § 1.]

Art. 837. Secondary Investments

In the event a governing body is unable to purchase securities of the character mentioned in the preceding article, which mature at a date prior to the time of maturity of the bonds for the payment of which such sinking fund was created, then they may invest such funds in the bonds of any school district or school community authorized to issue bonds, under the same restrictions as provided in the preceding article.

[Acts 1925, S.B. 84.]

Art. 837a. Investment of Sinking Funds of County or Navigation District in Counties in Excess of 190,000

This Article shall apply only to and in counties having a population in excess of 190,000 according to the last preceding or any future Federal Census. Investments of sinking funds of any county and Navigation District shall be made in the manner provided by Article 837 and the terms governing the purchase of any securities authorized by this Chapter, shall be reflected by appropriate minutes of the governing body with a complete description of the securities purchased. Upon receipt of said securities and payment therefor the same shall be forthwith delivered to the Depository and in the event there is no Depository, then to the Treasurer of the county, who shall arrange for said securities to be placed in a safety deposit vault or other secure place if no safety deposit vault is available, and the contract of arrangement shall provide simultaneous or joint access to said securities by the Treasurer and the County Auditor. A written record of the securities purchased and deposited in said safety deposit box shall be maintained therein, and shall at all times reflect the condition of the investments. A copy of such record shall be maintained by the Depository. Access to said box shall be only in the presence of the above named officials and officers of the Depository. The bond of the Depository shall secure said securities.

The County Auditor shall prescribe the system of accounts for said security record and the type of reports necessary thereto, and shall not less than once in each six months audit the same and count the securities in said safety deposit vault, and file a report thereof with the governing body of said county or Navigation District respectively, and also with the Depository. The duties herein imposed are official duties and are within the terms of the official bonds of the officers named who shall be responsible for the safe deposit and withdrawal of said securities. No securities shall be withdrawn from said safety deposit box except upon the written order of the Commissioners' Court, recorded in its minutes, a copy of which shall be furnished the Depository and the County Auditor.

[Acts 1937, 45th Leg., p. 193, ch. 101, § 1.]

Art. 838. Repealed by Acts 1963, 58th Leg., p. 1102, ch. 428, § 1**Art. 839. Disbursements**

No city or county treasurer shall honor any draft upon the interest and sinking fund provided for any of the bonds of such city or county, nor pay out nor divert any of the same, except for the purpose of paying the interest on such bonds or for redeeming the same, or for investment in such securities as may be provided by law.

[Acts 1925, S.B. 84.]

Art. 840. Diversion of Funds; Penalties

Any treasurer who shall divert said fund or apply said fund for any other purpose than as permitted by the preceding Article shall be subject to a penalty of not less than Five Hundred Dollars (\$500.) nor more than One Thousand Dollars (\$1,000.), to be recovered by the state, and in addition thereto, shall be liable for the amount of such fund so diverted.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 1102, ch. 428, § 2.]

Art. 841. Recovery

The Comptroller, whenever the reports of any treasurer show that he has diverted said funds, or when he shall fail to make such reports, shall notify the Attorney General or the district attorney of the district in which such treasurer resides, or county attorney in counties in which there is no district attorney provided for by law, of the fact, who shall thereupon institute suit against such treasurer and his official bondsmen for the amount of such penalty and of said fund so diverted. The amount of such penalty so recovered shall be paid into the State Treasury, and the amount of the diverted fund so recovered shall be paid into the county or city treasury to the credit of the fund from which it was so diverted.

[Acts 1925, S.B. 84.]

Art. 842. Federal Farm Loan Bonds

All bonds issued under and by virtue of the Federal Farm Loan Act, approved by the President of the United States, July 17, 1916,¹ and all consolidated bonds, bonds, debentures, and other similar obligations issued by virtue of the Farm Credit Act of 1971, P.L. 92-181, approved by the President of the United States, December 10, 1971, and as thereafter amended,² shall be a lawful investment for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds or mortgages are authorized by law to be accepted. Such bonds shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees and receivers, for saving departments of banks incorporated under the laws of Texas, for banks, savings banks and trust companies chartered under the laws of Texas, and for all insurance companies chartered or transacting business under the laws of Texas, where investments are required or permitted by the laws of this State.

[Acts 1925, S.B. 84; Acts 1973, 63rd Leg., p. 1252, ch. 455, § 1, eff. June 14, 1973.]

¹ 12 U.S.C.A. § 641 (repealed; see, now, § 2001 et seq.).
² 12 U.S.C.A. § 2001 et seq.

Art. 842a. Securities Issued by Federal Agencies; Texas Securities; Investments

Sec. 1. Hereafter, all mortgages, bonds, debentures, notes, collateral trust certificates, and other such evidences of indebtedness, issued or that hereafter may be issued under the terms and provisions of the National Housing Act, approved by the President of the United States on June 27, 1934, as amended¹ and as may hereafter be amended, and all "insured accounts" issued or that may hereafter be issued by any institution insured under the provisions of Title IV of the National Housing Act, approved June 27, 1934, as amended and as may hereafter be amended,² or any evidences of indebtedness or accounts that may be issued or insured by any lawful agency created thereunder, all mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended,³ debentures, notes, collateral trust certificates, or other such evidences of indebtedness, which have been or which may hereafter be issued by the Federal Home Loan Bank Board, or any Federal Home Loan Bank, or the Home Owners' Loan Corporation, or by the Federal Savings and Loan Insurance Corporation, or by the Federal Farm Loan Board, or by any Federal Land Bank, the Federal Intermediate Credit Banks, or Banks for Cooperatives, or by any National Mortgage Association, or by any entity, corporation or agency, which has been or which may be created by or authorized by any Act, which has been enacted or which may hereafter be enacted by the Congress of the United States, or by any amendment thereto, which has for its purpose the relief of, refinancing of or assistance to owners of mortgaged or incumbered homes, farms, and other real estate, and the improvement or financing or the making of loans on any real property, shall hereafter be lawful investments for all fiduciary and trust funds in this State, and may be accepted as security for all public deposits where deposits of bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, or mortgages are authorized by law to be accepted. Such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates and other such evidences of indebtedness, insured accounts shall be lawful investments for all funds which may be lawfully invested by guardians, administrators, trustees, and receivers, for building and loan associations, savings departments of banks, incorporated under the laws of Texas, for banks, savings banks and trust companies, chartered under the laws of Texas, and all insurance companies of every kind and character, chartered or transacting

business under the laws of Texas, where investments are required or permitted by the laws of this State; providing further that where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, and other such evidences of indebtedness are issued against and secured by promissory notes, or other obligations, the payment of which is secured in whole or in part, by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates, or other such evidences of indebtedness are acquired, directly or indirectly, in exchange for or in substitution of notes, or other obligations, secured by mortgage, deed of trust, or other valid first lien upon real estate situated in Texas, or where such "insured accounts" are issued by building and loan associations chartered under the laws of Texas or by Federal Savings and Loan Associations domiciled in Texas, then such mortgages, bonds, consolidated bonds issued under the Farm Credit Act of 1971, P.L. 92-181, and as thereafter amended, debentures, notes, collateral trust certificates or other such evidences of indebtedness, "insured accounts," so issued and so secured, or so acquired or insured, shall be regarded for investment purposes by insurance companies as "Texas Securities," within the meaning of the laws of Texas governing such investments.

The provisions of this Act shall be cumulative of all other provisions of the Civil Statutes of the State of Texas, affecting the investment of funds or moneys by fiduciaries, guardians, administrators, trustees and receivers, building and loan associations, savings departments of banks, incorporated and doing business under the laws of Texas, commercial banks, savings banks and trust companies, chartered and doing business under the laws of Texas, insurance companies of any kind and character, chartered and transacting business under the laws of Texas, and all corporate creatures, organized and doing business under the laws of Texas.

It is hereby declared to be the legislative intent to enact a separate provision of this Act independent of all other provisions, and the fact that any phrase, sentence, or clause of this Act shall be declared unconstitutional, shall in no event affect the validity of any of the provisions hereof.

[Acts 1933, 43rd Leg., p. 406, ch. 160, § 1; Acts 1935, 44th Leg., p. 33, ch. 12, § 1; Acts 1935, 44th Leg., p. 90, ch. 31, § 1; Acts 1941, 47th Leg., p. 1356, ch. 618, § 1; Acts 1961, 57th Leg., p. 1119, ch. 507, § 1; Acts 1973, 63rd Leg., p. 1252, ch. 455, § 2, eff. June 14, 1973.]

¹ 12 U.S.C.A. § 1701 et seq.
² 12 U.S.C.A. § 1724 et seq.
³ 12 U.S.C.A. § 2001 et seq.

Art. 842a-1. Obligations Wholly or Partly Insured by United States or State, Investment In

Savings and loan associations, banks, insurance companies, and other corporations or other organizations, similar or dissimilar, are hereby authorized to lend, and to buy and sell for their own account, obligations in which except as to value of property and dignity of lien thereon securing the obligation it is otherwise lawful for such investor to invest its own funds, (by direct loan or by purchase), if the entire amount of the indebtedness is insured or guaranteed in any manner by the United States or by this State; or, if not so wholly insured or guaranteed, the difference between the entire amount of the indebtedness and that portion thereof insured or guaranteed by the United States or by this State, does not exceed the amount permissible under the law of this State, and meets the requirements thereof as to value of property and dignity of lien thereon, provided; further authorizing that any such lender may make an unsecured loan not exceeding Five Hundred Dollars (\$500), if at least one-half thereof is guaranteed pursuant to the Servicemen's Readjustment Act of 1944.¹

[Acts 1945, 49th Leg., p. 315, ch. 230, § 1.]

¹ 38 U.S.C.A. § 693 et seq.

CHAPTER NINE. STATE BONDS**Article**

842b to 842f. Repealed.

842g. Suits on Bonds Issued in 1861.

Arts. 842b to 842f. Repealed by Acts 1934, 43rd Leg., 3rd C.S., p. 59, ch. 34, § 39; Acts 1935, 44th Leg., p. 79, ch. 30, § 22; Acts 1951, 52nd Leg., p. 362, ch. 228, § 1

Art. 842g. Suits on Bonds Issued in 1861

Sec. 1. The consent of the Legislature of the State of Texas is hereby given to all lawful holders of bonds issued under the Act of April 8, 1861, their executors, administrators and heirs to file and prosecute suit against the State of Texas, Comptroller of Public Accounts and the State Treasurer for moneys alleged to be due in unpaid principal and interest on said bonds prorated to the extent only of the amount heretofore reimbursed to the State of Texas by the United States government for the principal and interest on said bonds.

Sec. 2. Said suit shall be brought in Travis County at any time within two (2) years from the date of this Act.

Sec. 3. The State and said Comptroller and Treasurer may appeal from any judgment had thereby as provided by law without executing any bond and upon final judgment against said defendants, same shall be paid out of the General Funds of the State Treasury not otherwise appropriated.

Sec. 4. Service in the said cause shall be had by citing the Governor, Comptroller, Treasurer and Attorney General.

Sec. 5. The invalidity of any section, term or provision hereof shall not render invalid the remaining sections, terms and provisions hereof which would otherwise be valid.

Sec. 6. Nothing herein shall be construed as tolling the Statute of Limitations on such cause, or as reviving such cause if same is now barred by the Statute of Limitations.

Sec. 7. Nothing herein shall be construed as an admission of liability on the part of the State of Texas in such cause.

[Acts 1951, 52nd Leg., p. 677, ch. 392.]

TITLE 23**BRANDS AND TRADE MARKS [Repealed]**

Art. 843. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 843 effective September 1, 1967.

See, now, Business and Commerce Code, § 17.29.

Arts. 844 to 851-B. Repealed by Acts 1962, 57th Leg., 3rd C.S., p. 62, ch. 24, § 19

Art. 851-C. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 851-C effective September 1, 1967.

See, now, Business and Commerce Code, § 16.01 et seq.

TITLE 24

BUILDING—SAVINGS AND LOAN ASSOCIATIONS

Article

852a. Savings and Loan Act.
852 to 881. Repealed.
881a-1 to 881a-69. Repealed.
881b. Repealed.

Art. 852a. Savings and Loan Act

CHAPTER ONE. SHORT TITLE, FORM, DEFINITIONS

Short Title

Sec. 1.01. This Act shall be known and may be cited as the "Texas Savings and Loan Act."

The Savings and Loan Act was enacted by Acts 1963, 58th Leg., p. 269, ch. 113, § 1.

Sections 2 to 5 of Acts 1963, 58th Leg., p. 269, ch. 113, read as follows:

"Sec. 2. Repeal of Conflicting Laws.

"(a) In connection with the general purpose of this Act the following Statutes and Acts, together with all laws or parts of laws in conflict herewith, are hereby repealed:

"(1) Articles 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881 of Title 24, Revised Civil Statutes of Texas; Articles 1134, 1135, 1136, Penal Code of Texas, and all amendments to said Articles.

"(2) Acts 1929, Forty-first Legislature, Second Called Session, page 100, Chapter 61, as amended Acts 1930, Forty-first Legislature, Fifth Called Session, page 193, Chapter 51; Acts 1931, Forty-second Legislature, page 53, Chapter 36; Acts 1931, Forty-second Legislature, page 320, Chapter 191; Acts 1931, Forty-second Legislature, page 331, Chapter 198; Acts 1932, Forty-second Legislature, Third Called Session, page 34, Chapter 18; Acts 1932, Forty-second Legislature, Third Called Session, page 32, Chapter 17; Acts 1935, Forty-fourth Legislature, page 159, Chapter 68; Acts 1939, Forty-sixth Legislature, Title: Building and Loan Associations, page 74, Chapter 1, page 76, Chapter 2, page 87, Chapter 3; Acts 1941, Forty-seventh Legislature, page 346, Chapter 188; Acts 1943, Forty-eighth Legislature, page 482, Chapter 323; Acts 1945, Forty-ninth Legislature, page 28, Chapter 18; Acts 1947, Fiftieth Legislature, page 348, Chapter 196; Acts 1947, Fiftieth Legislature, page 488, Chapter 285; Acts 1949, Fifty-first Legislature, page 486, Chapter 263; Acts 1949, Fifty-first Legislature, page 696, Chapter 363; Acts 1949, Fifty-first Legislature, page 966, Chapter 534; Acts 1951, Fifty-second Legislature, page 204, Chapter 119; Acts 1951, Fifty-second Legislature, page 233, Chapter 139; Acts 1953, Fifty-third Legislature, page 1028, Chapter 425; Acts 1957, Fifty-fifth Legislature, page 1319, Chapter 445 (Article 881a, Subdivision 1-69, Vernon's Civil Statutes of Texas).

"(3) Acts 1949, Fifty-first Legislature, page 601, Chapter 319 (Article 881b, Vernon's Civil Statutes of Texas).

"(b) The repeal of a prior act by this Act shall not impair or otherwise affect any right accrued or established, or any liability or penalty incurred, under the provisions of such act prior to the repeal thereof.

"Sec. 3. Severability. If any part, Section, Subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

"Sec. 4. Effective Date. This Act shall take effect on January 1, 1964.

"Sec. 5. Emergency. The fact that the present laws relating to savings and loan associations are in many respects inadequate, containing in many instances overlapping, ambiguous, inconsistent and obsolete provisions and seriously impairing the efficient operation of such associations and their ability to serve the public needs in home financing creates an emergency and an imperative public necessity, demanding that the Constitutional Rule requiring all bills to be read on three several days in each House be suspended and such Rule is hereby suspended and this Act shall take effect and be in full force

from and after the date specified in Section 4 hereof and it is so enacted."

Form

Sec. 1.02. This Act has been organized and divided in the following manner:

(1) The Act is divided into Chapters, containing groups of related Articles. Chapters are numbered consecutively with cardinal numbers.

(2) Chapters are divided into Sections, numbered consecutively with Arabic numerals.

(3) Sections are divided into Subsections. The Subsections within each Section are numbered consecutively with Arabic numerals enclosed in parenthesis.

Definitions

Sec. 1.03. As used in this Act the following terms, unless otherwise clearly indicated by the context, have the meanings specified below:

(1) "Association" shall mean a savings and loan association subject to the provisions of this Act.

(2) "Savings and Loan Association" shall mean an association whose primary purpose is to promote thrift and home financing and whose principal activity is the lending to its members of money accumulated in savings accounts of its members on the security of first liens on homes and other improved real estate.

(3) "Loss Reserves" shall mean the aggregate amount of the reserves allocated by an association for the sole purpose of absorbing losses.

(4) "Savings Liability" shall mean the aggregate amount of the withdrawal value of the savings accounts of the members of an association at any particular time as shown by the books of the association.

(5) "Savings Account" shall mean that part of the savings liability of an association which is credited to a member by reason of the placement of funds in the association.

(6) "Withdrawal Value of a Savings Account" shall mean the credit balance of a savings account at any particular time as shown by the books of an association.

(7) "The Commissioner" shall mean the Savings and Loan Commissioner appointed under the provisions of House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the

same may be hereafter amended from time to time.

(8) "Surplus" shall mean the aggregate amount of the undistributed earnings of an association held as undivided profits or unallocated reserves for general corporate purposes and any paid-in surplus held by an association.

(9) "Federal Association" shall mean a savings and loan association incorporated pursuant to the Home Owner's Loan Act of 1933 as now or hereafter amended,² whose principal business office is located within the territorial limits of this State.

(10) "Member" shall mean a person holding a savings account in an association, or owning one or more shares of its Permanent Reserve Fund Stock, or borrowing from or assuming or obligated upon a loan in which an association has an interest, or owning property which secures a loan in which an association has an interest. The voting rights of members shall be as provided in the bylaws of each respective association.

(11) "Dividends on Saving Accounts" shall mean that part of the net income of an association which is declared payable on savings accounts from time to time by the Board of Directors, and is the cost of savings money to the association.

¹ Article 342-205.

² 12 U.S.C.A. § 1461 et seq.

Effect of Headings, Etc.

Sec. 1.04. The division of this Act into Chapters and Sections and the use of captions in connection therewith are solely for convenience and shall have no legal effect in construing the provisions of this Act.

CHAPTER TWO. FORMATION OF ASSOCIATIONS

Application for Charter

Sec. 2.01. Application for a charter for a savings and loan association may be made by five (5) or more citizens of this State (hereinafter referred to as incorporators) by tendering to the Commissioner along with the proper filing fee, an application consisting of the following:

(1) Two (2) copies of Articles of incorporation for the proposed association stating (i) the name of the association, (ii) the site of the principal office and (iii) the names and addresses of the initial directors.

(2) A statement as to (i) the amount, if any, of Permanent Reserve Fund Stock which has been subscribed and paid for at the time of filing, (ii) the names and addresses of such subscribers and the amount subscribed by each, (iii) the amount of savings liability, if any, with which the association will commence business, (iv) the amount of paid-in surplus or

expense fund with which the association will commence business.

(3) Two (2) copies of the bylaws under which the association proposes to operate.

(4) Statements, exhibits, maps and other data sufficiently detailed and comprehensive as to enable the Commissioner to pass upon the matters set forth in Section 2.08(2), (3) and (4) of this Act and such other information in regard to the proposed association and its operation as may be required by duly promulgated rules and regulations of the Commissioner and the Building and Loan Section of the Finance Commission of Texas.

The Articles of incorporation and all statements of fact tendered to the Commissioner in connection with an application for charter shall be subscribed and sworn to under the sanction of an oath, or such affirmation as is by law equivalent to an oath, made before an officer authorized to administer oaths.

Proposed Managing Officer of Applicants; Approval

Sec. 2.01a. The applicants for a charter for a new association shall not be required at any contested hearing concerning the granting of the charter by the Commissioner, to identify in the public record of that hearing the name and qualifications of the proposed managing officer of the new association, but such evidence may be presented to the Commissioner before, during, or after other determinations required by this Act are made; provided, however, no new association shall commence business without first having presented to the Commissioner the name and qualifications of its proposed managing officer, and until that managing officer is approved as qualified by the Commissioner.

Permanent Reserve Fund Stock

Sec. 2.02. The charter of an association may provide for the issuance of Permanent Reserve Fund Stock. No other form or type of stock or shares may be issued. Such Permanent Reserve Fund Stock, when issued, may not be retired or withdrawn except as hereinafter provided, until after all liabilities of the association shall have been satisfied in full, including the withdrawal value of all savings accounts. Such stock must be fully paid for in cash in advance of issuance and the association may not make any loans against the shares of such stock. Shares of such stock may be issued with par value of not less than One Dollar (\$1) nor more than One Hundred Dollars (\$100). With the prior written approval of the Commissioner as to the number of shares to be issued, the bylaws of an association may provide that its Permanent Reserve Fund Stock may be issued with no par value. An association authorized to issue such stock must have at all times issued and outstanding stock with a value on its books of at least Twenty-five Thousand Dollars (\$25,000) or two and one-half per cent (2½%) of its gross as-

sets, whichever is greater, but no association shall be required to have an amount of such stock with a value on its books of more than Two Hundred and Fifty Thousand Dollars (\$250,000). Associations whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation may retire in whole or in part any such stock heretofore issued when such associations are authorized to do so by a majority vote at any annual meeting of its members, or any special meeting of members called for such purpose; provided, that the basis of such retirement shall have been first approved by the Commissioner and consent to such retirement upon the part of the Federal Savings and Loan Insurance Corporation has been filed in writing with the Commission.

Stock Requirements for Proposed Permanent Reserve Fund Stock Associations

Sec. 2.03. Incorporators of proposed associations with authority to issue Permanent Reserve Fund Stock, as a prerequisite to the approval of an application for a charter shall be required to have subscribed and paid for in cash to the credit of the proposed association an aggregate amount of Permanent Reserve Fund Stock as the Commissioner shall specify within the limits set for such stock in the preceding Section. Such stock shall be issued within thirty (30) days from the date of incorporation.

Paid-in Surplus Requirements for Permanent Reserve Fund Stock Associations

Sec. 2.04. As a prerequisite to approval of any application for a proposed association with authority to issue Permanent Reserve Fund Stock the Commissioner may require in addition to the amount paid in for such stock a paid-in surplus up to but not in excess of the aggregate amount of the Permanent Reserve Fund Stock required under the preceding Section. Such paid-in surplus may be used in lieu of earnings to pay organization and operating expenses, dividends on savings accounts and to meet any loss reserve requirements. If the application should not be approved or if the proposed association does not proceed to do business, the stock subscriptions for Permanent Reserve Fund Stock and paid-in surplus shall be returned pro-rata to the subscribers, less any lawful expenditures.

Savings Account Requirements for Proposed Associations Without Permanent Reserve Fund Stock

Sec. 2.05. As a prerequisite to the approval of an application for a charter of an association without Permanent Reserve Fund Stock the incorporators must show to the satisfaction of the Commissioner subscribed and paid-in savings accounts in the following aggregate amounts in relation to the population of the community in which the home office of the association is to be located:

(a) in communities having not more than ten thousand (10,000) inhabitants, the

minimum sum of Fifty Thousand Dollars (\$50,000);

(b) in communities having more than ten thousand (10,000) but less than one hundred thousand (100,000) inhabitants, the minimum sum of One Hundred Thousand Dollars (\$100,000);

(c) in communities having one hundred thousand (100,000) or more inhabitants, the minimum sum of Two Hundred Thousand Dollars (\$200,000);

provided, that the Commissioner may, in his discretion, require a larger amount to be paid in. The population of the community shall be determined by the Commissioner based upon the latest Federal census.

Expense Fund Requirements for Proposed Association Without Permanent Reserve Fund Stock

Sec. 2.06. In addition to the savings account subscriptions required by the preceding Section the incorporators of an association without Permanent Reserve Fund Stock must show to the satisfaction of the Commissioner that an expense fund has been subscribed and paid into the credit of the proposed association equal to not less than fifty per cent (50%) of the minimum specified amount of required savings accounts set out in Section 2.05, from which expense fund the expense of organizing the association and its operating expenses in addition to such dividends as may be declared and paid or credited to its savings account holders may be paid until such time as its earnings are sufficient to pay same. The amounts so contributed to the expense fund shall not constitute a liability of the association except as hereinafter provided. Such contributions may be repaid pro-rata to the contributors from the net earnings of the association after provision for required loss reserve allocations and payment or credit of dividends declared on savings accounts. In case of the liquidation of an association before contributions to the expense fund have been repaid, any contributions to the expense fund remaining unexpended, after the payment of expenses of liquidation, all creditors, and the withdrawal value of all savings accounts shall be paid to the contributors pro-rata. The books of the association shall reflect such expense fund. Contributors to the expense fund shall be paid dividends on the amounts paid in by them and for such purpose such contributions shall in all respects be considered as savings accounts of the association.

Hearings on Charter Applications

Sec. 2.07. When a proper application for a charter has been filed, the Commissioner shall cause public notice of such application to be given and give any interested party an opportunity to appear, present evidence and be heard for or against such application.

Approval of Application for Charter

Sec. 2.08. The Commissioner shall not approve any charter application unless he shall

have affirmatively found from the data furnished with the application, the evidence adduced at such hearing and his official records that:

(1) the prerequisites, where applicable, set forth in Sections 2.02, 2.03, 2.04, 2.05, and 2.06 have been complied with and that the Articles of incorporation comply with all other provisions of this Act;

(2) the character, responsibility and general fitness of the persons named in the Articles of incorporation are such as to command confidence and warrant belief that the business of the proposed association will be honestly and efficiently conducted in accordance with the intent and purpose of this Act and that the proposed association will have qualified fulltime management;

(3) there is a public need for the proposed association and the volume of business in the community in which the proposed association will conduct its business is such as to indicate profitable operation;

(4) the operation of the proposed association will not unduly harm any existing association.

If the Commissioner so finds, he shall state his findings in writing and issue under his official seal a certificate of incorporation and deliver a copy of the approved Articles of incorporation and bylaws to the incorporators and retain a copy thereof as a permanent file of his office, whereupon the proposed association shall be a corporate body with perpetual existence unless terminated by law and may exercise the powers of a savings and loan association as herein set forth.

Refusal of Charter Application

Sec. 2.09. If the Commissioner is unable to make the findings as required by the preceding Section, he shall endorse upon each copy of the proposed Articles of incorporation the word "refused" with the date of such endorsement and attach thereto a written statement of his grounds for such refusal. One copy of the proposed Articles and attached grounds of refusal shall be promptly mailed to the incorporators by certified mail.

Forfeiture of Charter for Failure to Commence Business

Sec. 2.10. Any association whose charter has been approved under this Act shall commence business within six (6) months after the date of such approval. If an association has not commenced business within such time, the incorporators may request a hearing before the Commissioner; and if good cause is shown for such failure, the Commissioner may grant a reasonable extension of the time for commencing business to give such association an opportunity to overcome the cause for the delay in commencing business. Failure to commence business as herein required shall constitute grounds for forfeiture of the association's

charter at the suit of the Attorney General upon request of the Commissioner brought in the County where the association proposes to locate its principal office.

Amendment of Charter and Bylaws

Sec. 2.11. Any association may, by resolution adopted by a majority vote of its members at any annual meeting or any special meeting called for such purpose, amend its charter or bylaws in any manner not inconsistent with the provisions of this Act; provided, that before such amendments become effective they must be filed with and approved by the Commissioner.

Corporate Name; Exclusive Use by Associations

Sec. 2.12. The name of every association shall include either the words "Savings Association," or "Savings and Loan Association." These words shall be preceded by an appropriate descriptive word or words approved by the Commissioner. An ordinal number may not be used as a single descriptive word preceding the words "Savings Association," or "Savings and Loan Association," unless such words are followed by the name of the town, city or county in which the association has its home office. No certificate of incorporation of a proposed association having the same name as any other association authorized to do business in this State under this Act or a name so nearly resembling it as to be calculated to deceive shall be issued by the Commissioner, except to an association formed by the reincorporation, reorganization, or consolidation of other associations, or upon the sale of the property or franchise of an association. No person, firm, company, association, fiduciary, partnership or corporation, either domestic or foreign, unless authorized to do business in this State under the provisions of this Act shall do business under any name or title which indicates or reasonably implies that the business is the character or kind of business carried on or transacted by an association or which is calculated to lead any person to believe that the business is that of an association. Upon application by the Commissioner or any association, a court of competent jurisdiction may issue an injunction to restrain any such entity from violating or continuing to violate any of the foregoing provisions of this Section.

Change of Office or Name

Sec. 2.13. No association shall, without the prior approval of the Commissioner (i) establish any office other than the principal office stated in its articles of incorporation, (ii) move any office of the association from its immediate vicinity or (iii) change its name. When his approval is applied for, the Commissioner shall give any person who might be affected an opportunity to be heard on the action proposed to be taken for which approval is sought.

Preference to Local Control

Sec. 2.14. In any instance where there is a conflict between an application for the approv-

al of a charter for a new association and an application for the establishment of an additional office by an existing association both seeking to locate in the same community and the principal office of the existing association is located in a different county than such community, the Commissioner may give additional weight to the application having the greater degree of control vested in or held by residents of the particular community.

CHAPTER THREE. DIRECTORS, OFFICERS AND MEMBERS

Board of Directors

Sec. 3.01. The business of the association shall be directed by a board of directors of not less than five (5) nor more than twenty-one (21) elected by a majority vote at each annual meeting of the members; provided, that associations authorized to issue Permanent Reserve Fund Stock by their bylaws may provide in such bylaws that all or at least a majority of the board of directors shall be elected from among the holders of such stock. The number of directors shall be fixed from time to time within the limits above prescribed by resolution adopted at any annual meeting of members, or any special meeting called for such purpose.

Organization Meeting

Sec. 3.02. Within thirty (30) days after the corporate existence of an association shall begin, the initial board of directors shall hold an organization meeting and, pursuant to the provisions of this Act and the bylaws, shall elect officers and take such other action as is appropriate in connection with beginning the transaction of business by the association. The Commissioner upon good cause shown may extend by order the time within which the organization meeting shall be held.

Qualification of Directors

Sec. 3.03. The bylaws of an association may prescribe other qualifications for directors, but no person shall be eligible to election as a director unless he is the owner in good faith and his own right on the books of the association either in the form of a savings account or Permanent Reserve Fund Stock or a combination of both having a value on such books of at least One Thousand Dollars (\$1,000) and which shall not be reduced by withdrawal or pledge for a loan by the association, so long as such person remains a director. Any director, who after his election as such, ceases to be the owner in his own right of the necessary qualifying interest shall cease to be a director; provided, that no action of the board of directors shall be invalidated through the participation of such director in such action; provided, further, that if a director becomes ineligible under the terms of this Section by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 6.16, he shall remain validly in office until

the expiration of his term or until he otherwise becomes ineligible, whichever may occur first. Any vacancy among directors may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting of members. In the event of a vacancy on the board of directors from any cause, the remaining directors shall have full power and authority to continue direction of the association until such vacancy is filled.

Officers

Sec. 3.04. The officers of an association shall consist of a president, one or more vice presidents, a secretary and such other officers as may be prescribed by the bylaws. Such officers shall be elected by majority vote of the board of directors. The president shall be a member of the board of directors.

Indemnity Bonds of Directors, Officers and Employees

Sec. 3.05. Every association shall maintain on file with the Commissioner an effective blanket indemnity bond with an adequate corporate surety protecting the association from loss by or through any fraud, dishonesty, forgery or alteration, larceny, theft, embezzlement, robbery, burglary, holdup, wrongful or unlawful abstraction, misappropriation, or any other dishonest or criminal action or omission by any officer or employee of such association and any director of such association when performing the duty of an officer or employee. Associations which employ collection agents, who for any reason are not covered by a bond as hereinabove required, shall provide for the bonding of each such agent in an amount equal to at least twice the average monthly collection of such agent. Such agents shall be required to make settlement with the association at least monthly. No bond coverage will be required of any agent which is a bank insured by the Federal Deposit Insurance Corporation or an institution insured by the Federal Savings and Loan Insurance Corporation. The amounts and form of such bonds and sufficiency of the surety thereon shall be approved by the board of directors and the Commissioner. All such bonds shall provide that a cancellation thereof either by the surety or the insured shall not become effective unless and until thirty (30) days' notice in writing first shall have been given to the Commissioner, unless he shall have approved such cancellation earlier.

Meetings of Members; Voting Rights

Sec. 3.06. The annual meeting of the members of each association shall be held each year at the time fixed in the bylaws of the association. Special meetings may be called as provided in the bylaws. Those members or stockholders who shall be entitled to vote at any annual or special meeting of the association shall be those members or stockholders of record as of the end of the calendar year preceding the meeting or those of record 20 business days prior to the date on which the notice of the

meeting is given, whichever is later, except those who have ceased to be members or stockholders between the record date and the date of the meeting. The bylaws may provide the basis for computing the number of votes which a member shall be entitled to cast, and in the instance of a Permanent Reserve Fund Stock association the bylaws may provide that only holders of Permanent Reserve Fund Stock shall have the right to vote. In the absence of any bylaw provision to the contrary, in the determination of all questions requiring action by the members, each member shall be entitled to cast one (1) vote by virtue of his membership, plus an additional vote for each share or fraction thereof of the Permanent Reserve Fund Stock of the association, if any, owned by such member, and an additional vote for each One Hundred Dollars (\$100) or fraction thereof of the withdrawal value of savings accounts, if any, held by such member. A loan or a savings account shall create a single membership for voting purposes even though more than one person is obligated on such loan or has an interest in such savings account. Voting may be in person or by proxy. Every proxy shall be in writing and signed by the member or his duly authorized attorney-in-fact and, when filed with the secretary, shall, unless otherwise specified in the proxy, continue in force from year to year until a revocation in writing is duly delivered to the secretary or until superseded by subsequent proxies. The bylaws of each association shall specify the quorum requirements and other voting requirements for conducting business at membership meetings.

Access to Books and Records

Sec. 3.07. Every member shall have the right to inspect such books and records of an association as pertain to his loan, Permanent Reserve Fund Stock or savings account. Otherwise, the right of inspection and examination of the books and records shall be limited to the Commissioner or his duly authorized representatives as provided in this Act, to persons duly authorized to act for the association and to any Federal instrumentality or agency authorized to inspect or examine the books and records of an association whose savings accounts are insured by the Federal Savings and Loan Insurance Corporation. The books and records pertaining to the accounts and loans of members shall be kept confidential by the Commissioner, his examiners and representatives, except where disclosure thereof shall be compelled by a court of competent jurisdiction, and no member or other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. The books, records and files of an association shall not be admissible as evidence in any proceeding concerning the validity of any tax assessment or the collection of delinquent taxes, penalties and interest except where

(i) the owner of an account is a proper party to the proceeding in which event the books, files and records pertaining to the account of such party shall be admissible or

(ii) the association itself is a proper party to the proceeding in which event any book, file or record material to the proceeding shall be admissible.

CHAPTER FOUR. CORPORATE POWERS OF ASSOCIATIONS

General Corporate Powers

Sec. 4.01. Every association incorporated pursuant to or operating under the provisions of this Act shall have all the powers enumerated, authorized, and permitted by this Act and such other rights, privileges, and powers as may be incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association.

Power to Borrow

Sec. 4.02. An association shall have power to borrow an aggregate amount equal to twenty-five per cent (25%) of its savings liability on the date of borrowing from any non-governmental source and may pledge its assets to secure the repayment of money so borrowed. Any borrowing from non-governmental sources in excess of such amount must first be approved in writing by the Commissioner. Notwithstanding the aforesaid limitation, an association which is a member of a Federal Home Loan Bank shall have power to borrow or obtain advances from such bank in such amounts and upon such terms as may be prescribed by such bank from time to time. In addition, an association may, at any time through action of its board of directors, issue such capital notes, debentures or other capital obligations as shall be authorized under rules and regulations promulgated by the Building and Loan Section of the Finance Commission and the Commissioner acting pursuant to the rule-making power delegated by Chapter 198, Acts of the 57th Legislature, Regular Session, 1961, as the same may be amended from time to time.

Insurance of Savings Accounts

Sec. 4.03. Every association shall have the power and right to obtain and maintain insurance of its savings accounts by the Federal Savings and Loan Insurance Corporation. No association or corporation or foreign association or any other person shall advertise or represent or offer to accept any savings accounts in this State as insured or guaranteed accounts or as the savings accounts of an insured or guaranteed institution unless the same are insured by either the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation.

Fiscal Agent

Sec. 4.04. Any association shall have power to act as fiscal agent of the United States, and, when so designated by the Secretary of the

Treasury, it shall perform under such regulations as he may require, and shall have power to act as agent for any instrumentality thereof, and as agent of this State or any governmental subdivision or instrumentality thereof.

Power to Act Under Self-Employed Retirement Act of 1962

Sec. 4.05. Any association and any Federal association (insofar as its charter and applicable Federal rules and regulations permit) may exercise all powers necessary to qualify as a trustee or custodian under the Federal Self-Employed Individuals Tax Retirement Act of 1962¹ or any amendments thereto and may invest any funds held in such capacities in the savings accounts of the institution if the trust or custodial retirement plan does not prohibit such investment.

¹ 26 U.S.C.A. § 401 et seq.

CHAPTER FIVE. LOANS, INVESTMENTS, OWNERSHIP OF REAL PROPERTY

Original Real Estate Loans

Sec. 5.01. Every association may make real estate loans to members secured by a mortgage, deed of trust or other instrument creating or constituting a first and prior lien on improved real estate and may make additional real estate loans secured by liens subsequent to its own first lien upon the same property. Additional security may also be taken by the association in connection with any such loan if deemed necessary and proper.

Power to Deal in Real Estate Loans

Sec. 5.02. Every association may purchase real estate loans upon security of the same character against which such association may make an original loan and also may lend money on the security of such real estate loans.

Participation in Real Estate Loans with Others

Sec. 5.03. Subject to the requirements of any rules and regulations adopted under Section 5.04 hereof, every association may participate with other lenders in real estate loans of any type that such association could originate; may sell with or without recourse any real estate loan it holds or any participating interest therein; and may service any real estate loans sold by it.

Loans Shall Conform to Rules and Regulations of the Commissioner and Building and Loan Section of the Finance Commission

Sec. 5.04. The Commissioner and the Building and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ as the same may be amended shall, from time to time, promulgate such rules and regulations in respect to loans by associations operating under this law as may be reasonably necessary to assure that such loans are in keeping with sound lending practices and promote the purposes of this Act; provided that such rules and regulations shall not pro-

hibit an association from making any loan or investment that a Federal association could make under applicable Federal regulations.

¹ Article 342-205.

Requirements in Regard to Lending Transactions

Sec. 5.05. In no event shall an association make a loan, purchase or sell a note or lien or enter into any participation transaction authorized in Sections 5.01, 5.02, and 5.03 in violation of any rule or regulation promulgated under Section 5.04 and no association shall:

(1) Make a real estate loan to an officer or director of the association unless such loan be first approved unanimously by its board of directors and such approval recorded in the minutes of the meeting of the board at which such loan was approved.

(2) Make a real estate loan or loans to any one borrower in the aggregate in excess of Fifty Thousand Dollars (\$50,000) or the sum of its loss reserves, surplus and permanent Reserve Fund Stock, if any, or within such limits as may be fixed by appropriate rule and regulation promulgated under Section 5.04 hereof, whichever is the greater amount.

(3) Make a real estate loan unless an appraisal by an appraiser or committee of appraisers appointed by the board of directors first be made and filed in writing with the association as a part of its permanent files; reappraisals may be required by the Commissioner on real estate securing loans which are delinquent more than twelve (12) months at the expense of the association.

(4) Make a real estate loan which is not secured by a first and prior lien upon the property described in the mortgage, deed of trust or other instrument creating or constituting such lien, unless every prior lien thereon is owned by such association.

(5) Make a real estate loan unless the association is furnished with either a satisfactory abstract of title or a policy of title insurance issued by a title company authorized to insure titles in this state showing that the lien securing such loan meets the requirements of the preceding subsection (4).

(6) Make a real estate loan unless the insurable improvements thereon are insured against loss by a fire and extended coverage policy or its equivalent issued by an insurance company authorized to do business in this state.

(7) Sell or transfer a prior lien held by the association while retaining a junior lien on the same security to secure an unsatisfied obligation due the association unless such junior lien or liens were created in connection with a loan made under Sections 5.08 and 5.10 of this Act.

(8) Fail to promptly record in the proper county records every mortgage, deed of trust or other instrument, creating, constituting or transferring any lien securing in whole or in part any real estate loan or the association's interest therein.

Advances to Pay Taxes, Etc., on Security

Sec. 5.06. Associations may pay taxes, assessments, insurance premiums, and other similar charges for the protection of their interests in properties securing their real estate loans, which such advances may be carried on their books as an asset of the association and for which they may charge and collect interest, or such advances may be added to the unpaid balance of the loan as of the first day of the month in which such advances are made. All such advances shall constitute a valid lien against the real estate securing the loan for which they were made. Associations may require borrowers to pay monthly in advance, in addition to interest or interest and principal, the equivalent of one-twelfth ($\frac{1}{12}$) of the estimated annual taxes, assessments, insurance premiums, and other charges upon the real estate securing any loan, or any of such charges, so as to enable the association to pay same as they become due from the funds so received. The amount of such monthly charges may be increased or decreased as is necessary for the payment of same. Associations may carry such funds in trust in an account or may credit the same to the indebtedness and advance the money for taxes, insurance or other charges as they come due. Every association shall keep a record of the status of taxes, assessments, insurance premiums, and other charges on all real estate securing its loans and on all real and personal property owned by it.

Expenses, Fees and Charges for Real Estate Loans

Sec. 5.07. Every association may require borrowing members to pay all reasonable expenses incurred in connection with the making, closing, disbursing, extending, readjusting or renewing of real estate loans, which such charges may be collected by the association from the borrower and retained by it or paid to any persons, including any director, officer, or employee of the association rendering services in connection therewith, or paid directly by the borrower. In addition, associations may charge premiums for making such loans as well as penalties for prepayments or late payments; provided, that unless agreed in writing to the contrary, any prepayment of principal shall be applied on the final installment of the note or other obligation until fully paid, and thereafter on the installments in the inverse order of their maturity. The expenses, fees and charges authorized herein shall be in addition to interest authorized by law, and shall not be deemed to be a part of the interest collected or agreed to be paid on such loans within the meaning of any law of this State which

limits the rate of interest which may be exacted in any transaction. No director, officer or employee of an association shall receive any fee or other compensation of any kind in connection with procuring any loan for an association, except for services actually rendered as above provided. A loan settlement statement shall be furnished by or on behalf of the association to each borrower upon the closing of every real estate loan, indicating in detail the expenses, fees and charges such borrower has paid or obligated himself to pay to the association or to any other person in connection with such loan. A copy of such statement shall be retained in the records of the association.

Insured and Guaranteed Loans

Sec. 5.08. Any association may make, without regard to any loan limitations or restrictions otherwise imposed by this Act, any loan, secured or unsecured, which is insured or guaranteed in any manner and in any amount by the United States or any instrumentality thereof.

Loans on Security of Savings Accounts

Sec. 5.09. Any association may make loans on the sole security value of the accounts owned or otherwise pledged for or by the borrower. No such loan shall be made when an association has applications for withdrawal which have been on file more than sixty (60) days and not reached for payment.

Property Improvement Loans and Other Loans to Members

Sec. 5.10. Any association may make property improvement loans to home owners and other property owners for maintenance, repair, modernization, improvement and equipment of their properties, and may make other loans to members, on such terms and conditions as may be fixed by rules and regulations adopted under Section 5.04 hereof and which shall not be subject to the requirements of Section 5.05 of this Act.

Investment in Securities

Sec. 5.11. Every association shall have power to invest in obligations of, or guaranteed as to principal and interest by, the United States or this State; in stock of a Federal Home Loan Bank of which it is eligible to be a member, and in any obligations or consolidated obligations of any Federal Home Loan Bank or Banks; in stock or obligations of the Federal Savings and Loan Insurance Corporation; in stock or obligations of a national mortgage association or any successor or successors thereto; in demand, time, or savings deposits with any bank or trust company the deposits of which are insured by the Federal Deposit Insurance Corporation; in stock or obligations of any corporation or agency of the United States or this State, or in deposits therewith to the extent that such corporation or agency assists in furthering or facilitating the association's purposes or power; in savings accounts of any association operating under the provisions of

this Act and of any Federal association; in bonds, notes, or other evidences of indebtedness which are a general obligation of any city, town, village, county, school district, or other municipal corporation or political subdivision of this State; and in such other securities or obligations which the Commissioner may approve and place on a published list. An association investing in securities which are listed by the Commissioner shall not be required to dispose of such securities if at a later time the Commissioner shall remove same from list. No security owned by an association shall be carried on its books at more than the actual cost thereof unless a different treatment is permitted by the Commissioner in writing.

Acquisition of Real Property

Sec. 5.12. An association may own during the period of its corporate existence real property upon which any facility used in connection with the operation of such association is located. Every other parcel of real estate acquired by such association in the course of business shall be disposed of within five (5) years from the date acquired unless the Commissioner shall have extended the time in which such disposition shall be made. Any of such real property may be sold, conveyed, leased, improved, repaired, mortgaged or exchanged for other real estate when such is authorized by the board of directors.

Limitation on Investment in Office Buildings

Sec. 5.13. An association may not invest more in office buildings than an amount equal to the aggregate dollar value of its loss reserves and surplus plus the par value of any outstanding Permanent Reserve Fund Stock as reflected by its books at the time of such investment unless the investment of a greater amount is authorized by the Commissioner in writing.

Valuation of Real Property on the Books of an Association

Sec. 5.14. No association shall carry any real estate on its books at a sum in excess of the total amount invested by such association on account of such real estate, including advances, costs and improvements, but excluding accrued but uncollected interest unless the Commissioner has specifically approved in writing a higher valuation. Any association selling real estate under a contract of sale may carry the amount due the association under the terms of such contract as an asset upon its books; provided, that at no time shall the contract be considered as having an asset value greater in amount than the sales price agreed upon in the contract, or greater in amount than the value at which such property so sold was permitted to be carried upon the books of the association.

Appraisals of Real Estate Owned

Sec. 5.15. Every association shall appraise every parcel of real estate at the time of acqui-

sition thereof and upon completion of any permanent improvements thereto. The report of such appraisal shall be in writing and kept in the records of the association.

Enlargement of Powers

Sec. 5.16. Any provisions of this Act to the contrary notwithstanding, any association may make any loan or investment which such association could make were it incorporated and operating as a Federal association domiciled in this State.

CHAPTER SIX. SAVINGS ACCOUNTS

No Limitation on Savings Accounts

Sec. 6.01. There shall be no limit on the number and value of savings accounts an association may accept unless limits are fixed by its board of directors.

Who May Open a Savings Account

Sec. 6.02. Investments in savings accounts may be made only with cash and may be made by any person in his own right or in a trust or other fiduciary capacity and by any partnership, association, corporation, political subdivision, public and governmental unit or entity.

Savings Contracts

Sec. 6.03. Each holder of a savings account shall execute a savings contract setting forth any special terms and provisions applicable to such account and the conditions upon which withdrawals may be made not inconsistent with provisions of this Act. Such savings contract shall be held by the association as part of its records pertaining to such account. The savings contract in respect to savings accounts of political subdivisions and public and governmental units or entities shall provide that the holder of any such account shall not become a member of the association.

Evidence of Ownership of an Account

Sec. 6.04. As evidence of each savings account the association shall issue to the holder of such account either an account book or certificate.

Transfer of Savings Accounts

Sec. 6.05. Savings accounts shall be transferable only on the books of the association upon presentation of evidence of transfer satisfactory to the association accompanied by proper application for transfer by the transferee who shall accept such account subject to the terms and conditions of the savings contract, the bylaws of the association and the provisions of its charter. The association may treat the holder of record of a savings account as the owner thereof for all purposes without being affected by any notice to the contrary unless the association has acknowledged in writing that a pledge of such savings account has been made.

Lost or Destroyed Account Books or Certificates

Sec. 6.06. A new account book or certificate may be issued in the name of the holder

of record at any time when requested by such holder or his legal representative upon proof satisfactory to the association that the original book or certificate has been lost or destroyed. The new account book or certificate shall expressly state that it is issued in lieu of the one lost or destroyed and the association shall in no way be liable thereafter on account of the original account book or certificate. The association may if it desires require indemnification against any loss that might result from the issuance of the new account book or certificate.

Savings Accounts of Married Women and Minors

Sec. 6.07. Any association operating under this law and any Federal savings and loan association doing business in this State may accept savings accounts from any married woman or minor as the sole and absolute owner of such savings account, and receive payments thereon by or for such owner, and pay withdrawals, accept pledges to the association, and act in any other manner with respect to such accounts on the order of such married woman or minor. Any payment or delivery of rights to a married woman or to any minor, or a receipt or acquittance signed by a married woman or by a minor who holds a savings account, shall be a valid and sufficient release and discharge of such institution for any payment so made or delivery of rights to such married woman or minor. In the case of a minor, the receipt, acquittance, pledge or other action required by the institution to be taken by the minor shall be binding upon such minor with like effect as if he were of full age and legal capacity; provided, if any parent or guardian of such minor should not desire the minor to have authority to pledge, hypothecate, control, transfer or make withdrawals from his savings account, such fact may be made known to the association in writing by such parent or guardian, in which event the right of the minor to pledge, hypothecate, control, transfer and make withdrawals from the account during the minority of such minor shall not be exercised by him except with the joinder of such parent or guardian. In the event of the death of such minor, the receipt or acquittance of either parent or guardian of such minor shall be valid and sufficient discharge of such institution for any sum or sums not exceeding in the aggregate One Thousand Dollars (\$1,000).

Savings Accounts in Two or More Names

Sec. 6.08. When a savings account is opened in any association operating under this law or Federal Savings and Loan Association doing business in this state in the names of two or more persons, whether minor or adult, and the savings contract provides that the moneys in such account may be paid to or on the order of any one of such persons, then the institution may pay the moneys in such account to or on the order of any one of such persons either before or after the death of the

other person or persons named on such account and such institution shall have no further liability for the amounts so paid, but if the savings contract provides that the signatures of more than one of such persons during their lifetimes or of more than one of the survivors after the death of any one of them are required on any check, receipt or withdrawal order, then the institution shall pay the moneys in the account only in accordance with such instructions; provided, that any one of the parties to such an account may give written notice to the institution not to permit withdrawals in accordance with the terms of the savings contract, in which event the institution may refuse, without liability, to honor any check, receipt or withdrawal request on the account pending determination of the rights of the parties thereto.

Joint Accounts by Husband and Wife

Sec. 6.09. A husband and wife shall have full power to enter into a savings contract involving a savings account consisting of funds which are community property of their marriage so as to create a joint tenancy with right of survivorship as to such account and any future additions or dividends made or credited thereto and, to the extent necessary to accomplish such result in law, such contract shall constitute a partition of such community property or reciprocal gifts from the respective spouses, if the same is in writing and subscribed to by such husband and wife even though not acknowledged by either of them.

Pledge to Association of Joint Savings Accounts

Sec. 6.10. The pledge or hypothecation to any association or Federal association of all or part of a savings account issued in the names of two (2) or more persons signed by any person or persons upon whose signature or signatures withdrawals may be made from the account shall, unless the terms of the savings account provide specifically to the contrary, be a valid pledge and transfer to the institution of that part of the account pledged or hypothecated, and shall not operate to sever or terminate the joint and survivorship ownership of all or any part of the account.

Savings Accounts of Fiduciaries

Sec. 6.11. Any association operating under this law or any Federal savings and loan association doing business in this State may accept savings accounts in the name of any administrator, executor, custodian, guardian, trustee, or other fiduciary for a named beneficiary or beneficiaries, and any such fiduciary shall have power to vote as a member as if the membership were held absolutely, to open and make additions to, and to withdraw from any such account in whole or in part. Except when otherwise provided by law, the payment to any such fiduciary or a receipt or acquittance signed by any such fiduciary to whom any payment is made shall be a valid and sufficient release and discharge of an institution for the

payment so made. Whenever a person holding an account in a fiduciary capacity dies and no written notice or order of the probate court of the revocation or termination of the fiduciary relationship shall have been given to the institution and the institution has no written notice or order of the probate court of any other disposition of the beneficial estate, the withdrawal value of such account, and dividends thereon, or other rights relating thereto may, at the option of the institution, be paid or delivered, in whole or in part, to the beneficiary or beneficiaries, and such institution shall have no further liability therefor.

Trust Accounts Where Trust Instrument Not Disclosed

Sec. 6.12. Whenever an account shall be opened by any person, describing himself in opening such account as a trustee for another and no other or further notice of the existence and terms of a legal and valid trust than such description shall have been given in writing to such institution, withdrawals from such account may be made on the signature of the person so described as trustee, and in the event of the death of such person, the withdrawal value of such account, or any part thereof, together with dividends thereon, may be paid to the person for whom the account was thus stated to have been opened, and the institution shall have no further liability therefor.

Powers of Attorney on Savings Accounts

Sec. 6.13. Any association operating under this law or any Federal association doing business in this State may continue to recognize the authority of an attorney-in-fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a member until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this Section, written notice of the death or adjudication of incompetency of such member shall constitute written notice of revocation of the authority of his attorney.

Savings Accounts as Legal Investments

Sec. 6.14. Administrators, executors, guardians, trustees and other fiduciaries of every kind and nature; counties, cities, towns and all other political subdivisions or instrumentalities of this State; insurance companies doing business in this State; business and nonprofit corporations; charitable or educational corporations or associations; banks, credit unions and all other financial institutions are hereby specifically authorized and empowered to invest funds held by them in savings accounts of any association operating under this law or any Federal association. Any such investments made by insurance companies shall be eligible for tax reducing purposes under Article 7064 of the Revised Civil Statutes of 1925, as amended, and any such investment by a school district of any of its funds in such savings accounts which are insured by the Federal

Savings and Loan Insurance Corporation shall for all purposes be considered as meeting the requirements of Section 1, Acts 1953, Fifty-third Legislature, Regular Session, page 464, Chapter 150, as amended (Article 2786d, Vernon's Annotated Civil Statutes), and Article 2832, Revised Civil Statutes of Texas, 1925, as amended. If upon the effective date of this Act the shares and share accounts of associations operating under Article 881a of the Revised Civil Statutes of 1925, as amended, are legal investments for any particular business, organization, corporation, fiduciary or political subdivision, the savings accounts of associations subject to terms of this Act shall be deemed to be legal investments to the same extent as such shares and share accounts.

Withdrawals from Savings Accounts

Sec. 6.15. Any savings account holder may at any time present a written application for withdrawal of all or any part of his savings account except to the extent the same may be pledged to the association or to another person on the books of the association. The association may pay in full each and every withdrawal request as presented and without requiring that written application therefor be made or the association may elect to number, date and file in the order of actual receipt every withdrawal application and to pay such requests out of its net receipts. Not more than one half of the net receipts of the association in any month shall be applied to the payment of withdrawal applications unless the board of directors specifically authorizes the use of a greater portion of such receipts for such purpose. By the term "Net receipts" is meant the cash receipts of the association as loan repayments, interest and investments in savings accounts less disbursements for all expenses necessary and incidental to the operation of the association in carrying on its business. Whenever the net receipts so made applicable to withdrawal applications on file for a particular month are not sufficient to pay such applications in full, the applications on file shall be paid out of such net receipts on a pro-rata basis or, with the approval of the Commissioner, the board of directors may fix maximum amounts to be paid upon any one application during any one month and payments shall be made pro-rata out of such net receipts to all applications on file subject to such maximum payment limitation. No association can obligate itself to pay withdrawals on any plan other than that set forth above. While an application for withdrawal by a member remains in effect and unpaid, no withdrawal applications subsequently filed by the same member shall be paid and no loan shall be made secured by transfer or pledge of the account. A member filing a withdrawal application shall not become a creditor of the association by reason of such filing. Full payment may be made at any time to members whose entire interest in the association amounts to One Hundred Dollars (\$100) or less. The Commissioner with the approval

of the Building and Loan Section of the Finance Commission and the Governor of Texas may invoke a uniform limitation on the amounts withdrawable from savings accounts of associations subject to this Act during any period when such limitation is necessary in the public interest. The membership of a savings account holder who has filed an application for withdrawal shall remain unimpaired so long as any withdrawal value remains to his credit on the books of the association. An application for withdrawal may be cancelled in whole or in part at any time by a member.

Redemption of Savings Accounts

Sec. 6.16. At any time funds are on hand for the purpose an association shall have the right to redeem by lot or otherwise, as the board of directors may determine, all or any part of any of its savings accounts on a dividend date by giving thirty (30) days' notice by certified mail addressed to each affected account holder at his last address as recorded on the books of the association. No association shall redeem any of its savings accounts when the association is subject to receivership action under Section 8.16 hereof or when it has applications for withdrawal which have been on file for more than thirty (30) days and have not been reached for payment. The redemption price of savings accounts redeemed shall be the withdrawal value thereof. If the aforesaid notice of redemption shall have been duly given, and if on or before the redemption date the funds necessary for such redemption shall have been set aside so as to be and continue to be available therefor, dividends upon the accounts called for redemption shall cease to accrue from and after the dividend date specified as the redemption date, and all rights with respect to such accounts shall forthwith, after such redemption date, terminate, except only the right of the account holder of record to receive the redemption price.

Lien on Savings Accounts

Sec. 6.17. Every association operating under this law or any Federal association doing business in this State shall have a lien, without further agreement or pledge, upon all savings accounts owned by any member to whom or on whose behalf the association has made an advance of money by loan or otherwise and upon the default in the repayment or satisfaction thereof, the association may, without notice to or consent of the member, cancel on its books all or any part of the savings accounts owned by such member and apply the value of such accounts in payment on account of such obligation. An association may by written instrument waive its lien in whole or in part on any savings accounts. Any association may take the pledge of savings accounts of the association owned by a member other than the borrower as additional security for any loan secured by an account or by an account and real estate, or as additional security for any real estate loan.

Method of Paying Dividends on Savings Accounts

Sec. 6.18. Dividends shall be credited to savings accounts on the books of the association unless a savings account holder shall have requested and the association shall have agreed to pay dividends on such savings account in cash. Dividends payable in cash may be paid by check or bank draft.

Permissive Bylaw Provisions in Respect to Priority of Savings Accounts and Notice of Withdrawal

Sec. 6.19. The bylaws of an association may provide that in the event of voluntary or involuntary liquidation, dissolution, or winding up of the association or in the event of any other situation in which the priority of savings accounts is in controversy, all savings accounts shall, to the extent of their withdrawal value, be debts of the association having the same priority as the claims of general creditors of the association not having priority (other than any priority arising or resulting from consensual subordination) over other general creditors of the association. If its bylaws so provide, an association may require advance notice of as much as sixty (60) days before paying withdrawal applications. An association which, having required advance notice of withdrawal, fails to make full payment of any withdrawal application at the end of the notice period shall be deemed to be subject to receivership proceedings under Section 8.16 of this Act.

Enlargement of Powers

Sec. 6.20. Notwithstanding any provision of this Act to the contrary, an association may raise capital in the manner and form and issue any certificate in the form and pay dividends, earnings or interest thereon in the manner which the association could if it were a Federal Association as defined in Section 1.03(9) of this Act.

CHAPTER SEVEN. COMPUTATION OF EARNINGS, TRANSFERS TO LOSS RESERVES, DIVIDENDS, SURPLUS

Computation of Net Income

Sec. 7.01. Each association shall close its books on the last business day of June and December of each year, and at such other times as its bylaws may provide, for the purpose of determining the gross income of the association for the period since the date of the last such closing of its books and from which shall be deducted the expenses of operating the association for such period, the balance remaining being the net income for the period.

Transfers to Loss Reserves

Sec. 7.02. If, at the date of any closing of its books, the loss reserves of an association equal an aggregate amount of less than five per cent (5%) of its savings liability, then an

amount equal to at least five per cent (5%) of its net income, or so much thereof as may be necessary to increase its loss reserves to the above required amount, shall be transferred from the net income of the association to its loss reserves. In the event that any credit to the loss reserves of an association is made following the effective date of this Act in excess of the minimum five per cent (5%) requirement the dollar amount of such excess may be carried over as a credit toward the minimum requirement for any subsequent accounting period.

Dividends on Savings Accounts

Sec. 7.03. After providing for payment of the expenses of operation of the association and for the required minimum transfer to its loss reserves, the board of directors of the association may declare dividends on savings accounts. Dividends, when declared, shall be computed and paid in accordance with such terms and conditions as may from time to time be authorized by rules and regulations promulgated by the Commissioner and the Building and Loan Section of the Finance Commission of Texas. An association shall not be required to pay or credit a dividend of less than One Dollar (\$1) on any account or any dividend on short-term accounts where the savings contract provides for closing the account within one (1) year and waives dividend participation.

Dividends on Permanent Reserve Fund Stock

Sec. 7.04. The balance of net income of the association, if any, may be credited to a surplus account, from which the board of directors of any association whose bylaws provide for the issuance of Permanent Reserve Fund Stock, and which has such stock outstanding, may, at their discretion, and at such times as they may determine, declare and pay dividends in cash or additional stock to the holders of record of such stock outstanding at the date such dividends are declared.

Use of Surplus Accounts and Expense Fund Contributions

Sec. 7.05. Any association at any closing date may use all or any part of any surplus accounts, whether earned or paid-in, or any expense fund contributions on its books at such time to meet all or any part of the expenses of operating the association for the period just closed, required transfers to loss reserves, or the payment or credit of dividends declared on savings accounts.

Contracts with Members to Pay Interest

Sec. 7.06. An association may contract with its savings members to pay interest on savings accounts provided that the association's bylaws contain provisions substantially similar to those authorized by Section 6.19 of this Act. Any interest so paid shall be considered a cost of savings money to the association.

CHAPTER EIGHT. SUPERVISION AND REGULATION, BOOKS AND RECORDS, ACCOUNTING PRACTICES, STATEMENTS, REPORTS, AUDITS, EXAMINATIONS, VIOLATIONS, RECEIVERSHIP

Supervision and Regulation

Sec. 8.01. All associations subject to this Act shall be supervised and regulated and the provisions of this Act shall be enforced by the Savings and Loan Department of Texas and the Savings and Loan Commissioner, acting pursuant to the authority hereby delegated and the authority delegated by House Bill No. 91, Chapter 198, Acts of the Regular Session of the Fifty-seventh Legislature, 1961.¹

¹ Article 342-205.

Books and Records

Sec. 8.02. Every association shall keep at its home office correct and complete books of account and minutes of the meetings of members and directors. Complete records of all business transacted at the home office shall be maintained at the home office. Records of business transacted at any branch or agency office may be kept at such branch or agency office; provided, that control records of all business transacted at any branch or agency office shall be kept at the home office.

Accounting Practices

Sec. 8.03. Every association shall use such forms and observe such accounting principles and practices as the Commissioner may require from time to time.

Misdescription of Assets

Sec. 8.04. No association by any system of account or any device of bookkeeping shall, either directly or indirectly, knowingly enter any of its assets upon its books in the name of any other person, partnership, association or corporation or under any title or designation that is not truly descriptive of such assets.

Charging Off or Setting Up Reserves Against Bad Assets

Sec. 8.05. The Commissioner, after a determination of value, may order that assets in the aggregate, to the extent that such assets have depreciated in value, be charged off, or that a special reserve or reserves equal to such depreciation in value be set up by transfers from surplus.

Maintenance of Membership Records

Sec. 8.06. Every association shall maintain membership records which shall show the name and address of the member, the status of the member as a savings account holder, a stockholder or an obligor, and the date of membership thereof.

Reproduction and Destruction of Records

Sec. 8.07. Any association may cause any or all records kept by such association to be copied or reproduced by any photostatic, photographic, or microfilming process which correctly and permanently copies, reproduces or forms

a medium for copying or reproducing the original record on a film or other durable material, and such association may thereafter dispose of the original record. Any such copy or reproduction shall be deemed to be an original record for all purposes and shall be treated as an original record in all courts or administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy shall, for all purposes, be deemed a facsimile, exemplification or certified copy of the original record.

Financial Statement

Sec. 8.08. Every association shall prepare and publish annually in the month of January of each year in a newspaper of general circulation in the county in which the home office of such association is located, a statement of its financial condition in the form prescribed or approved by the Commissioner as of the last business day of December of the preceding year.

Annual Reports, Other Reports

Sec. 8.09. On or before the last day of March in each year, every association shall make an annual written report to the Commissioner, upon a form to be prescribed and furnished by the Commissioner, of its affairs and operations, which shall include a complete statement of its financial condition, including a statement of income and expense since its last previous similar report, for the twelve (12) months ending on the last business day of December of the previous year. Every such report shall be signed by the president, vice president or secretary. Every association shall also make such other reports as the Commissioner may from time to time require, which reports shall be in such form and filed on such dates as he may prescribe and shall, if required by him, be signed in the same manner as the annual report.

Annual Audit and Examination

Sec. 8.10. The Commissioner shall at frequent intervals examine or cause an examination to be made into the affairs of every association subject to this Act. If an association is not audited in a manner satisfactory to the Commissioner, the examination of such association shall include an audit. Upon completion of an audit, one (1) copy of same, signed and certified by the auditor making such audit, shall be promptly filed with the Commissioner. The Commissioner, any deputy commissioner, or his examiners or auditors shall have free access to all books and records of an association which relate to its business and books and records kept by any officer, agent or employee relating to or upon which any record of its business is kept; and may summon witnesses and administer oaths or affirmations in examination of the directors, officers, agents, or employees of any such association, or any other person in relation to its affairs, transactions and condition, and may require and compel the

production of records, books, papers, contracts or other documents by court order, if not voluntarily produced.

Joint Examinations

Sec. 8.11. The Commissioner may examine or cause to be examined any association in conjunction with an examination by the Federal Home Loan Bank Board, a Federal Home Loan Bank or the Federal Savings and Loan Insurance Corporation, and shall accept any audit made by or accepted by any of said agencies during the course of any examination of an association.

Extra or Additional Examinations

Sec. 8.12. Whenever, in the judgment of the Commissioner, the condition of any association renders it necessary or expedient to make an extra or additional examination or audit or to devote any extraordinary attention to its affairs, the Commissioner shall cause such work to be done, and such association shall be charged with the cost of same. A full and complete copy of the report of all examinations and audits shall be promptly furnished to the association examined or audited. Every report of examination or audit shall be presented to the board of directors at their next regular meeting, or at a special meeting called for such purpose, and noted in the minutes thereof.

Commissioner Shall Order Discontinuance of Violations

Sec. 8.13. If the Commissioner, as a result of any examination or from any report made to him shall find that any association or any director, officer or employee of any association is violating the provisions of the charter or by-laws of the association, or the laws of this State, or the laws of the United States, or any lawful rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission, he shall deliver a formal written order to the board of directors of the association in which the facts known to the Commissioner are set forth, demanding the discontinuance of such violation and conformance with all requirements of law. The association affected by such order may within ten (10) days after the same has been delivered to the association request a public hearing before the Commissioner in regard to such order, at which hearing any pertinent evidence relating to said order or the facts stated therein may be presented. After such hearing the Commissioner, on the basis of the evidence presented and any matters of record in his office, shall either continue such order in effect, modify the same or set it aside.

Commissioner May Remove Directors, Officers and Employees Participating in Violations

Sec. 8.14. The Commissioner may require that any director, officer or employee of an association, who has participated in a violation as described in Section 8.13, be removed from the association if the action of the person or persons concerned was knowingly and willfully

taken. Prior to entering an order of removal, the Commissioner shall deliver a full statement of the acts and conduct to which he objects to the board of directors of the association and the person or persons concerned and of his intention to enter a removal order. If a hearing on the matter is requested within ten (10) days after such delivery, the Commissioner shall hold a public hearing at which any pertinent evidence relating to the matters set forth in such statement may be presented. After such hearing the Commissioner, on the basis of the evidence presented at such hearing, may proceed to enter an order for the immediate removal of the director, officer or employee affected, a reprimand of the individuals and association concerned or a dismissal of the entire matter. If no hearing is requested within the time specified, the Commissioner may proceed to enter an order of removal on the basis of the facts set forth in his original statement.

When Order May Be Reviewed

Sec. 8.15. If a hearing has been held in regard to an order made under Sections 8.13 or 8.14 hereof and such order is continued either in its original form or a modified form, the same shall be final and reviewable when the Commissioner makes and enters in the record his decision after such hearing. If no hearing is requested on such an order the order shall be final and reviewable after the expiration of twenty (20) days from the date such order is entered by the Commissioner.

Receivership

Sec. 8.16. If, in the judgment of the Commissioner, the public interest requires it, he may apply to a district court of the county in which the home office of any association is located for the appointment of a receiver for such association. Such court shall appoint a receiver as applied for if it finds either

(i) that such association's assets in the aggregate do not have a fair value equal to the total liabilities of the association to its creditors and to all holders of savings accounts or

(ii) that the association is in violation of any final and binding order of the Commissioner and that such alleged violations cannot be otherwise corrected.

All proceedings in regard to such applications shall be governed by the laws of this State applicable to receiverships generally. The Commissioner, or his deputy or a Savings and Loan Examiner may be appointed by the court as a receiver. The receiver, upon appointment by the court, shall immediately take charge of the affairs of the association, subject to the direction of the court, and proceed to conduct the business of the association or to take such steps as may be necessary to conserve the assets and protect the rights of the creditors of the association and its members as may be ordered by the court. The official who

is appointed receiver shall receive no additional compensation for such service. If the association is an institution insured by the Federal Savings and Loan Insurance Corporation, said corporation shall be tendered appointment as receiver or co-receiver. If it accepts such appointment, it may, nevertheless, make loans on the security of or purchase at public or private sale any part or all of the assets of the association of which it is receiver or co-receiver, provided such loan or purchase is approved by such court. The directors, officers and attorneys of an association in office at the time of the initiation of any proceeding under this Section are expressly authorized to contest any such proceedings and shall be reimbursed for reasonable expenses and attorneys' fees by the association or from its assets, the amount of which shall be fixed by the court.

Communications from Commissioner

Sec. 8.17. Every approval or rejection by the Commissioner given pursuant to the provisions of this Act and every communication having the effect of an order or instruction to any association shall be sent by certified mail to the association affected thereby, addressed to the president thereof at the home office of the association, and shall be presented to the board of directors of such association at its next regular meeting or at a special meeting called for such purpose and noted in the minutes of such meeting.

CHAPTER NINE. FOREIGN ASSOCIATIONS

Limitation on Right to do Business as a Savings and Loan Association

Sec. 9.01. From and after the effective date of this Act no person, firm, company, association, fiduciary, partnership or corporation by whatever name called shall do business as a savings and loan association within this State or maintain any office in this State for the purpose of doing such business except:

(1) associations organized under the laws of this State and subject to this Act;

(2) Federal associations as herein defined;

(3) savings and loan associations organized under the laws of another state of the United States which have held on the effective date of this Act certificates of authority issued pursuant to Section 61 of Senate Bill No. 111, Acts, 1929, Forty-first Legislature, Second Called Session, page 100, Chapter 61,¹ for not less than ten (10) consecutive years and have actually done business in this State continuously for such period; and

(4) to the extent any activity does not constitute transacting business in this State under Article 8.01B of the Texas Business Corporation Act.

¹ Article 881a-60 (repealed).

Renewal of Outstanding Certificates

Sec. 9.02. Any savings and loan association organized under the laws of another state of the United States holding a certificate of authority to do business in this State on the effective date of this Act may renew such certificate from year to year thereafter by the payment of an annual renewal fee of Five Hundred Dollars (\$500) or Twenty Dollars (\$20) for each million dollars or major fraction thereof of the total assets of such association, whichever is the greater, and by fulfilling all the prerequisites required by law at the time it secured its last renewal certificate prior to the effective date of this Act. Such association shall pay the same annual fees in lieu of examination charges paid by domestic associations under Section 11.06 of this Act, together with all traveling expenses of such examination; provided that if such examination fee is inadequate to defray all expenses of such examination, then such association shall pay the additional cost thereof. Examinations shall not be made more than once each year.

Contracts Deemed Made in this State

Sec. 9.03. Any contract made by any foreign association with any citizen of this State shall be deemed and considered a Texas contract and shall be construed by all the courts of this State according to the laws of this State.

Rights, Privileges and Obligations of Foreign Associations with Certificates of Authority

Sec. 9.04. Any foreign association operating under a certificate of authority as herein provided, during the time such certificate is in force, shall have all of the rights and privileges of associations created under this Act and its savings accounts shall be eligible for investment to the same extent as that of a domestic association; likewise, all provisions of this Act and all rules and regulations made pursuant thereto shall be applicable to such foreign associations.

Power of Commissioner to Revoke Certificate

Sec. 9.05. The Commissioner may issue discontinuance orders against a foreign association in the same manner as against domestic associations as set forth in Section 8.13 hereof, and upon the failure or refusal of a foreign association to comply with a final order of the Commissioner he shall revoke the certificate of authority held by such association and it will be unlawful thereafter for any agent of such association to transact any business in this State, except to receive payments to apply on loan contracts then in effect, and to pay withdrawal requests.

Federal Savings and Loan Associations

Sec. 9.06. Federal associations are not foreign corporations or associations. Unless Federal laws or regulations provide otherwise, Federal associations and the members thereof shall possess all of the rights, powers, privi-

leges, benefits, immunities and exemptions that are herein provided or that may hereafter be provided by the laws of this State for associations subject to this Act or the members thereof. This provision is additional and supplemental to any provision which, by specific reference, is applicable to Federal associations and the members thereof.

CHAPTER TEN. CONVERSION, REORGANIZATION, MERGER AND CONSOLIDATION, VOLUNTARY LIQUIDATION

Conversion Into Federal Associations

Sec. 10.01. Any association subject to this Act may convert itself into a Federal association in accordance with the provisions of Section 5 of the Home Owners' Loan Act of 1933, as now or hereafter amended,¹ upon a majority vote of the members at any annual meeting or any special meeting called to consider such action. A copy of the minutes of the proceedings of such meeting of the members, verified by affidavit of the secretary or an assistant secretary shall be filed in the office of the Commissioner within ten (10) days after the date of such meeting. A sworn copy of the proceedings of such meeting, when so filed, shall be presumptive evidence of the holding and action of such meeting. Within three (3) months after the date of such meeting, the association shall take such action in the manner prescribed and authorized by the laws of the United States as shall make it a Federal association. There shall be filed with the Commissioner a copy of the charter issued to such Federal association by the Federal Home Loan Bank Board or a certificate showing the organization of such association as a Federal association, certified by the secretary or assistant secretary of the Federal Home Loan Bank Board. No failure to file any such instruments with the Commissioner shall affect the validity of such conversion. Upon the grant of any association of a charter by the Federal Home Loan Bank Board, the association receiving such charter shall cease to be an association incorporated under this Act and shall no longer be subject to the supervision and control of the Commissioner. Upon the conversion of any association into a Federal association, the corporate existence of such association shall not terminate, but such Federal association shall be deemed to be a continuation of the entity of the association so converted and all property of the converted association, including its rights, titles, and interests in and to all property of whatever kind, whether real, personal, or mixed, and things in action, and every right, privilege, interest, and asset of any conceivable value or benefit then existing, or pertaining to it, or which would inure to it, shall immediately by operation of law and without any conveyance or transfer and without any further act or deed remain and be vested in and continue and be the property of such Federal association into which the state association has converted itself, and such Federal association

shall have, hold and enjoy the same in its own right as fully and to the same extent as the same was possessed, held, and enjoyed by the converting association, and such Federal association as of the time of the taking effect of such conversion shall continue to have and succeed to all the rights, obligations, and relations of the converting association. All pending actions and other judicial proceedings to which the converting state association is a party shall not be deemed to have abated or to have discontinued by reason of such conversion, but may be prosecuted to final judgment, order, or decree in the same manner as if such conversion into Federal association had not been made and such Federal association resulting from such conversion may continue such action in its corporate name as a Federal association, and any judgment, order, or decree may be rendered for or against it which might have been rendered for or against the converting state association theretofore involved in such judicial proceedings. Any association or corporation, which has heretofore converted itself into a Federal association under the provisions of the Home Owners' Loan Act of 1933 and has received a charter from the Federal Home Loan Bank Board, shall hereafter be recognized as a Federal association, and its Federal charter shall be given full credence by the courts of this State to the same extent as if such conversion had taken place under the provisions of this Section; provided, however, that there shall have been compliance with the foregoing requirements with respect to the filing with the Commissioner of a copy of the Federal charter or a certificate showing the organization of such association as a Federal association. All such conversions are hereby ratified and confirmed, and all the obligations of such an association which has so converted shall continue as valid and subsisting obligations of such Federal association, and the title to all of the property of such an association shall be deemed to have continued and vested, as of the date of issuance of such Federal charter, in such Federal association as fully and completely as if such conversion had taken place since the enactment of this Act pursuant to this Section.

¹ 12 U.S.C.A. § 1464.

Conversion Into State Chartered Association

Sec. 10.02. Any Federal association may convert itself into an association under this Act upon a majority vote of the members of such Federal association cast at an annual meeting or any special meeting called to consider such action. Copies of the minutes of the proceedings of such meeting of members, verified by affidavit of the secretary or an assistant secretary, shall be filed in the office of the Commissioner and mailed to the Federal Home Loan Bank Board, Washington, D.C., within ten (10) days after such meeting. Such verified copies of the proceedings of the meeting when so filed shall be presumptive evidence of the holding and action of such meet-

ing. At the meeting at which conversion is voted upon, the members shall also vote upon the directors who shall be the directors of the state-chartered association after conversion takes effect. Such directors then shall execute two (2) copies of the application for certificate of incorporation provided in this Act. The Commissioner shall, upon receipt of such application, cause the association to be examined and if he finds that it is in sound condition, approve the conversion and insert in the certificate of incorporation, at the end of the paragraph preceding the testimonium clause, the following: "This association is incorporated by conversion from a Federal savings and loan association." Each of the directors chosen for the association shall sign and acknowledge the application for certificate of incorporation as subscribers thereto and the proposed bylaws as incorporators of the association. The provisions of this Act shall, so far as applicable, apply to such conversion. The state-chartered association shall be a continuation of the corporate entity of the converting Federal association and continue to have all of its property and rights.

Reorganization, Merger and Consolidation

Sec. 10.03. Pursuant to a plan adopted by the board of directors and approved by the Commissioner as equitable to the members of the association and as not impairing the usefulness and success of other properly conducted associations in the same vicinity, an association shall have power to reorganize or to merge or consolidate with another association or Federal association within its vicinity; provided, that the plan of such reorganization, merger or consolidation shall be approved by a majority of the total vote the members are entitled to cast. Approval may be voted at either an annual meeting or at a special meeting called to consider such action. In all cases the corporate continuity of the resulting corporation shall possess the same incidents as that of an association which has converted in accordance with this Act. The foregoing geographical limitation shall not apply where one of the associations involved in a proposed merger or consolidation would be subject to action by the Commissioner under Section 8.16 of this Act in the absence of such merger or consolidation.

• Voluntary Liquidation

Sec. 10.04. At any annual meeting or any special meeting called for such purpose, any association may by majority vote of its members resolve to liquidate and dissolve the association; provided, that before such resolution shall take effect, a copy thereof certified to by the president and the secretary of the association, together with an itemized statement of its assets and liabilities sworn to by a majority of its board of directors, shall be filed with and approved by the Commissioner. When the Commissioner shall have approved such resolution it shall thereafter be unlawful for such association to accept any additional savings ac-

counts or additions to savings accounts or to make any additional loans, but all its income and receipts in excess of actual expenses of liquidation of the association shall be applied to the discharge of its liabilities. The board of directors of the association, under the supervision of the Commissioner and in accordance with a plan of liquidation approved by him, shall thereupon proceed to liquidate the affairs of the association and reduce the assets thereof to cash for the purpose of paying, satisfying and discharging all existing liabilities and obligations of the association, including the withdrawal value of all savings accounts, the balance remaining, if any there be, to be distributed pro-rata among the savings account members of record on the date of adoption by the association of the resolution to liquidate; provided, however, that if the association be one whose bylaws provide for the issuance of Permanent Reserve Fund Stock and such association has issued and has outstanding such stock, then any such balance remaining after all liabilities and obligations have been fully paid and satisfied, including the withdrawal value of all savings accounts, shall be distributed among the holders of such stock in proportion to their stockholding. All expenses incurred by the Commissioner or any of his representatives during the course of any such liquidation shall be paid from the assets of the association. Upon completion of liquidation, the board of directors shall file with the Commissioner a final report and accounting of such liquidation. The approval of such report by the Commissioner shall operate as a complete and final discharge of the board of directors and each member in connection with the liquidation of such association.

CHAPTER ELEVEN. MISCELLANEOUS

Exemption from Securities Laws

Sec. 11.01. Savings associations, the officers, employees or agents, savings accounts and the permanent reserve stock thereof, and the sale, issuance or offering of savings accounts and permanent reserve fund stock of any association or Federal savings and loan association are hereby exempted from all provisions of law of this State, other than this Act, which provide for supervision, registration or regulation in connection with the sale, issuance or offering of securities, and the sale, issuance or offering of any such accounts or stock shall be legal without any action or approval whatsoever on the part of any official, other than the Commissioner, authorized to license, regulate, or supervise the sale, issuance or offering of securities.

Acknowledgments by Members and Employees

Sec. 11.02. No public officer qualified to take acknowledgments or proofs of written instruments shall be disqualified from taking the acknowledgments or proofs of any instrument in writing in which an association or Federal association is interested by reason of his mem-

bership in or stockholding in or employment by such an institution so interested, and any such acknowledgments or proofs heretofore taken are hereby validated.

Closing Places of Business

Sec. 11.03. All associations and Federal savings and loan associations operating in this State are hereby authorized and permitted to close their respective places of business at any time the board of directors of such institution shall so determine.

Right to Act to Avoid Loss

Sec. 11.04. Nothing in this Act or the statute law of this State shall be construed as denying to an association the right to invest its funds, operate a business, manage or deal in property, or take any other action over whatever period of time may reasonably be necessary to avoid loss on a loan or investment theretofore made or an obligation created in good faith.

Fees

Sec. 11.05. The amount of the fees to be charged by the Commissioner for supervision and examination of associations, filing of applications and other documents and for other services performed by the Commissioner and his office and the time and manner of payment thereof shall be fixed by rule and regulation adopted by the Commissioner and the Building and Loan Section of the Finance Commission, acting pursuant to the rule-making power delegated by House Bill No. 91, Chapter 198, Acts of the Fifty-seventh Legislature, Regular Session, 1961.¹ All fees collected by the Commissioner shall be retained by him and expended only for the expenses of the Savings and Loan Department.

¹ Article 342-205.

All Associations Authorized to Conduct a Savings and Loan Business shall Conform to this Act

Sec. 11.06. Any association or corporation authorized to conduct a building and loan association, savings and loan association, building society or other similar business under prior law by whatever name known which has substantially the same purpose as a savings and loan association as defined by this Act shall, at the time this Act becomes effective, be subject to the provisions of this Act and shall thereafter be deemed to exist by virtue of this Act. The name, rights, powers, privileges, and immunities of each such association or corporation shall be governed, controlled, construed, extended, limited and determined by the provisions of this Act to the same extent and effect as if such corporation had been incorporated pursuant hereto, and the Articles of association, certificate of incorporation, or charter, however entitled, bylaws and constitutions, or other rules of every such corporation heretofore made or existing are hereby modified, altered and amended to conform to the provisions of this Act, with or without the issuance

or approval by the Commissioner of conformed copies of such documents, and the same are declared void to the extent that the same are inconsistent with the provisions of this Act; except that

(i) the obligations of any such existing corporation, whether between such corporation and its members, or any of them, or any other person or persons, or any valid contract between the members of such corporation, or between such corporation and any other person or persons, existing at the time this Act takes effect shall not be in any way impaired by the provisions of this Act and

(ii) no association shall be required to change its name, and, with such exceptions, every such corporation shall possess the rights, powers, privileges and immunities and shall be subject to the duties, liabilities, disabilities and restrictions conferred and imposed by this Act, notwithstanding anything to the contrary in its certificate of incorporation, bylaws, constitution, or rules.

All obligations of any such corporation heretofore contracted shall be enforceable by it and in its name, and demands, claims, and rights of action against any such corporation may be enforced against it as fully and completely as they might have been enforced heretofore.

Outstanding Shares, Stock, Share Accounts and Investment Certificates (Except Permanent Reserve Fund Stock) to be Considered as Savings Accounts

Sec. 11.07. From and after the effective date of this Act any shares, stock, share accounts and investment certificates (except Permanent Reserve Fund Stock) which an association subject to this Act has issued and which is then outstanding shall be considered as savings accounts as defined in this Act and the holders thereof shall have all of the rights and privileges appertaining to the holder of savings accounts under this Act as well as any valid contractual or other legal rights in respect thereto preserved by Section 11.06 of this Act; except that any such outstanding shares or share accounts which are not entitled to dividends shall not by virtue of any provision of this Act become so entitled.

Associations Prohibited from Issuing any Stock or Shares not Authorized by this Act

Sec. 11.08. No association subject to this Act shall, after the effective date of this Act, issue any form of stock, share, account or investment certificate except as permitted by this Act for associations formed under its terms.

Ad Valorem Taxation of the Property of an Association

Sec. 11.09. Each association subject to this Act and all Federal associations domiciled in this State shall render for ad valorem taxation all of its real estate as other real estate is rendered. The personal property of each such association shall be valued as other personal

property is valued for assessment in this State, and shall be rendered by such association to the appropriate assessing unit or units in the following manner:

(1) its furniture, fixtures, equipment and automobiles shall be rendered where such property is located in the same manner as other similar property;

(2) the remainder of the personal property of such association shall be rendered as a whole in the city and county where its principal office is located at the value remaining after deducting from the total value of such association's entire assets the following:

(a) all debts of every kind and character owed by such association;

(b) all tax free securities owned by such association;

(c) the loss reserves and surplus of the association;

(d) the savings liability of the association;

(e) the assessed value of its furniture, fixtures and real estate.

Initiation of Rule-Making by Associations

Sec. 11.10. When as many as twenty per cent (20%) of the associations subject to this Act petition the Commissioner in writing requesting the promulgation, amendment or repeal of a rule or regulation the Commissioner shall initiate rule-making proceedings under Section (e) of Article 5, Sub-Chapter II, Chapter 97, Acts of the Forty-eighth Legislature, as amended by House Bill No. 91, Acts 1961, Fifty-seventh Legislature, Chapter 198.¹

¹ Article 342-205.

Hearing Procedure

Sec. 11.11. (1) Notice of any hearing held pursuant to orders issued under Sections 8.13 and 8.14 shall be given to all parties affected by such orders. Notice of all other hearings held under any provision of this Act shall be given to all associations and Federal associations in the county where the subject matter of the hearing is or will be situated.

(2) Opportunity shall be afforded any interested party to respond and present evidence and argument on all issues involved in any hearing held under any provision of this Act.

(3) Upon the written request of any interested party the Commissioner shall keep a formal record of the proceedings of any hearing held under any provision of this Act.

(4) A decision or order adverse to a party who has appeared and participated in a hearing shall be in writing and shall include findings of fact and conclusions of law, separately stated, on all issues material to the decision reached. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

(5) A decision or order entered after hearing shall be final and appealable fifteen (15) days after the day the same is entered unless a motion for rehearing is filed by a party within such time and if the motion for rehearing is overruled such decision or order shall be final and appealable from and after the date the order overruling such motion is entered.

(6) Parties to a hearing shall be promptly notified either personally or by mail of any decision, order or other action taken in respect to the subject matter of the hearing.

Judicial Review

Sec. 11.12. Any party with an interest in the subject matter thereof who is dissatisfied with any act, order, ruling or decision of the Commissioner taken or made, or with any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission in connection with the administration of this Act, may secure judicial review thereof in the following manner:

(1) Venue. (a) Proceedings for review of a removal order entered pursuant to Section 8.14 of this Act, may be instituted by filing a petition as in civil actions generally against the Commissioner, as defendant, either in a district court of Travis County, or in the district court of the county in which any person affected by such order resides or of the county in which the principal office of the association affected by such order is located.

(b) Proceedings for review of other acts, orders, rulings or decisions of the Commissioner or of any rule or regulation promulgated by the Commissioner and the Building and Loan Section of the Finance Commission may be instituted by filing a petition as in a civil action generally against the Commissioner, as defendant, in a district court of Travis County and not elsewhere.

(2) Time for Filing. Any petition for judicial review must be filed within thirty (30) days after the action, order, ruling or decision of the Commissioner is final or the rule or regulation complained of is promulgated.

(3) Stay of Enforcement. The filing of a petition for review shall not itself stay the effect of the act, order, ruling, decision or rule or regulation complained of, but the Commissioner or the reviewing court may order a stay upon appropriate terms and if a stay is so granted no super-seedeas bond shall be required.

(4) Service of Process. The petition for review shall be served on the Commissioner and upon all parties of record in any hearing before the Commissioner in respect to the matter for which review is sought or upon the Commissioner alone if the matter for which review is sought is a rule or regulation promulgated in connection with the administration of this Act.

After service of such petition upon the Commissioner and within the time permitted for filing an answer, the Commissioner shall certify to the District Court in which such petition is filed the record of the proceedings to which the petition refers. The cost of preparing and certifying such record shall be paid to the Commissioner by the petitioner and taxed as part of the cost in the case, to be paid as directed by the court upon final determination of said cause.

(5) Trial. (a) The review of an order issued under Section 8.14 of this Act shall be tried in the same manner as civil actions generally and the complaining party shall be entitled to a jury. The trial shall be governed by the rules of civil procedure and all fact issues material to the validity of such order shall be determined de novo on the preponderance of the evidence and the substantial evidence rule shall not apply. Any relevant and competent evidence shall be admissible for or against the order.

(b) The review of any other act, order, ruling or decision of the Commissioner or of any rule or regulation shall be tried by the court without a jury in the same manner as civil actions generally and all fact issues material to the validity of the Act, order, ruling, decision or rule or regulation complained of shall be redetermined in such trial on the preponderance of the competent evidence, but no evidence shall be admissible which was not adduced at the hearing on the matter before the Commissioner or officially noticed in the record of such hearing.

(6) Burden of Proof and Judgment. The burden of proof shall be on the plaintiff. The reviewing court may affirm the action complained of or remand the matter to the Commissioner for further proceedings.

(7) Appeals. Appeals from any final judgment may be taken by either party in the manner provided for in civil actions generally, but no appeal bond shall be required of the Commissioner.

Slander

Sec. 11.13. Any person who shall knowingly make, utter, circulate or transmit to another, or others, any statement untrue in fact, derogatory to the financial condition of any association subject to this Act or any Federal association in this State, with intent to injure any such financial institution, or who shall counsel, aid, procure or induce another to originate, make, utter, transmit or circulate any such statement or rumor, with like intent, shall be guilty of an offense and upon conviction shall be punished by a fine of not more than Two Thousand, Five Hundred Dollars (\$2,500) or by imprisonment in the State penitentiary for a period not exceeding two (2) years or both by such fine and imprisonment.

Penalty for Embezzlement, Etc.

Sec. 11.14. Every officer, director, member of any committee, clerk or agent of any association subject to this Act or any Federal association in this State who embezzles, abstracts or misapplies any of the moneys, funds or credits of such association, who issues or puts into circulation any warrant or other orders without proper authority, who issues, assigns, transfers, cancels or delivers up any note, bond, draft, mortgage, judgment, decree or any other written instrument belonging to such association, who certifies to or makes a false entry in any book, report or statement of or to such association, with intent in either case to deceive, injure or defraud such association, or any member thereof, or for the purpose of inducing any person to become a member thereof, or to deceive anyone appointed to examine the affairs of such association shall be deemed guilty of a felony and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years. Whoever, with intent to deceive, injure or defraud aids or abets any officer, member of any committee or other person in committing any of the prohibited acts enumerated herein shall be deemed guilty of a felony, and on conviction thereof shall be imprisoned in the State penitentiary for a period of not less than one (1) year nor more than ten (10) years.

Penalty for Declaring Greater Dividends than Earned

Sec. 11.15. Any member of the board of directors of an association subject to this Act who knowingly votes to declare or, being secretary or manager thereof, who wilfully declares or advises the board of directors thereof to declare a greater dividend than has actually been earned, or has been previously accumulated as surplus by such association, shall personally refund same and be liable to the corporation therefor jointly and severally.

Penalty for Failing to Comply with Law

Sec. 11.16. Any association violating the provisions of this law or failing to comply with the provisions of this law or any valid rules or regulations made thereunder may be required by the Commissioner to pay from Five Dollars (\$5) per day to Twenty-five Dollars (\$25) per day to the Commissioner for each day it so fails after lawful notice of the delinquency by the Commissioner. The Attorney General is authorized to file suit for the collection of such penalty upon certification by the Commissioner of the failure or refusal of such association to remit the penalty assessed by him.

Penalty for Suppressing Evidence

Sec. 11.17. Every officer, director, employee or agent of any association subject to this Act who, for the purpose of concealing any fact or suppressing any evidence against himself or against any other person, abstracts, removes, mutilates, destroys or secretes any paper, book or record of any association or of the

Commissioner, shall be deemed guilty of a felony and upon conviction therefor, shall be punished by confinement in the State penitentiary for a period of not less than one (1) year nor more than five (5) years.

Disclosure of Examiners—Penalty

Sec. 11.18. The Commissioner and any examiner, inspector, deputy, assistant or clerk, appointed or acting under the provisions of this Act, failing to keep secret any facts or information regarding an association obtained in the course of an examination or by reason of his official position, except when the public duty of such officer required him to report upon or take official action regarding the affairs of the association so examined, or who wilfully makes a false official report as to the condition of such association, shall be removed from his position or office and shall be fined not more than Five Hundred Dollars (\$500), or imprisoned in the county jail for not more than one (1) year, or both. Reports of examinations made to the Commissioner shall be regarded as confidential and not for public record or inspection, except that for good reason same may be made public by the Commissioner, but copies thereof may, upon request of the association, be furnished to the Federal Home Loan Bank Board and/or to the Federal Home Loan Bank for the purpose of meeting the requirements of the Federal Home Loan Bank Act.¹ Nothing herein shall prevent the proper exchange of information relating to associations and the business thereof with the representatives of savings and loan departments of other states, but in no case shall the private business or affairs of any individual association be disclosed. Any official violating any provision of this Section, in addition to the penalties herein provided, shall be liable, with his bondsmen, to the person or corporation injured by the disclosure of such secrets. The foregoing provisions shall not apply to any facts or information or to any reports of investigations obtained or made by the Commissioner or his staff in connection with any applications for a charter under this Act or in connection with any hearing held by the Commissioner under this Act and any such facts, information or reports may be included in the record of the appropriate hearing.

[Acts 1963, 58th Leg., p. 269, ch. 113, § 1; Acts 1965, 59th Leg., p. 492, ch. 254, §§ 1, 2, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1678, ch. 539, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 2363, ch. 800, §§ 1, 2, 3, eff. June 14, 1969; Acts 1971, 62nd Leg., p. 2811, ch. 913, §§ 1, 2, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2812, ch. 913, § 3, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1615, ch. 580, §§ 1 to 4, eff. Aug. 27, 1973.]

¹ 12 U.S.C.A. § 1421 et seq.

Arts. 852 to 881. Repealed by Acts 1963, 58th Leg., p. 269, ch. 113, § 2

Arts. 881a-1 to 881a-69. Repealed by Acts 1963, 58th Leg., p. 269, ch. 113, § 2

Art. 881b. Repealed by Acts 1963, 58th Leg., p. 269, ch. 113, § 2

TITLE 25

CARRIERS

1. DUTIES AND LIABILITIES

Article

- 882. At Common Law.
- 883. Liability Fixed; Exceptions for Rates Based on Value; Evidence; Notice of Claim May be Required.
- 883(a). Declaration of Value; Rates Based on Value; Evidence.
- 883b. Declaration of Value as Evidence.
- 884. Must Carry Goods.
- 885. Must Give Bill of Lading.
- 886. Liability as a Warehouseman, etc.
- 887. Diligence in Delivery.
- 888. Shall Ship in Order.
- 889. Care of Animals.
- 889a. Repealed.

2. BILLS OF LADING

- 890 to 899. Repealed.

3. DISPOSITION OF UNCLAIMED GOODS

- 900. Unclaimed Freight.
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1. DUTIES AND LIABILITIES

Art. 882. At Common Law

The duties and liabilities of carriers in this State and the remedies against them, shall be the same as are prescribed by the common law except where otherwise provided by this title. [Acts 1925, S.B. 84.]

Art. 883. Liability Fixed; Exceptions for Rates Based on Value; Evidence; Notice of Claim May be Required

Railroad companies, and other carriers of passengers, goods, wares, and merchandise for hire, within this state, on land, or in boats or vessels on the waters entirely within this state, shall not limit or restrict their liability as it exists at common law, by any general or special notice, or by inserting exceptions in the bill of lading or memorandum given upon the receipt of the goods for transportation or in any other manner whatsoever; provided, however, that the provisions hereof respecting liabilities of carriers as it exists at common law for loss, damage, or injury to baggage and personal effects of passengers transported incident to the carriage of persons, goods, wares, and merchandise shall not apply to property received for transportation concerning which the carriers shall have been or shall hereafter be expressly authorized or required by order of the Railroad Commission of Texas to establish and maintain rates dependent upon the value declared in writing by the shipper of the property or agreed upon in writing as the released value of the property, in which case, such declaration or agreement shall have no effect other than to limit liability and recovery to an amount not exceeding the value so declared or released, and so far as relates to values, shall be valid and is not hereby prohibited. The Railroad Commission of Texas is hereby authorized to fix and establish just and reasonable rates for transportation of goods, wares, and merchandise described by commodities or articles or by generic grouping of commodities or articles, and the baggage and personal effects of passengers, dependent upon the value thereof declared in writing, or agreed upon in writing by the shipper or passenger as the agreed value, under the circumstances and conditions surrounding such transportation. Provided further, that a requirement of a notice or claim consistent with the provisions of Article 5546 of the Revised Civil Statutes of Texas, 1925, as heretofore amended, as a condition precedent to the enforcement of any claim or loss, damage and delay or either, or any of them, whether inserted in a bill of lading or other contract or arrangement for carriage, or otherwise provided, shall be valid and is not hereby prohibited.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 805, ch. 500, § 1; Acts 1965, 59th Leg., p. 581, ch. 295, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 618, ch. 213, § 1, eff. Sept. 1, 1969.]

Section 2 of the amendatory Act of 1941 declared an emergency and provided that the Act should take effect from and after its passage.

Section 2 of the amendatory Act of 1965 provided: "All other laws or parts of laws in conflict herewith are to the extent of such conflict hereby repealed, provided, however, that nothing herein shall affect the provisions of Acts 1931, 42nd Legislature, page 480, Chapter 277, Section 6aa, [art. 911b, § 6aa], requiring that minimum rates, fares and charges of contract carriers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Acts 1947, 50th Legislature, page 563, Chapter 327 [arts. 883(a), 833b] relating to declaration of value, rates based on value and evidence, with respect to transportation of household goods, personal effects or used office furniture and equipment by specialized motor carriers and other carriers for hire."

Section 2 of the amendatory act of 1969 provided: "All other laws or parts of laws in conflict herewith or to the extent of such conflict are hereby repealed, provided, however, that nothing herein shall affect the provisions of Section 6aa, Chapter 314, General Laws, Acts of the 41st Legislature, Regular Session, 1929, as added by Section 6, Chapter 277, General Laws, Acts of the 42nd Legislature, Regular Session, 1931 (Section 6aa, Article 911a [should read "911b"]), Vernon's Texas Civil Statutes), requiring that minimum rates, fares, and charges of contract carriers shall not be less than the rates prescribed for common carriers for substantially the same service, or the provisions of Article 883(a), Revised Civil Statutes of Texas, 1925, as added by Section 1, Chapter 327, Acts of the 50th Legislature, Regular Session, 1947, relating to declaration of value, rates based on value, and evidence, with respect to transportation of household goods, personal effects, or used office furniture and equipment by specialized motor carriers and other carriers for hire."

Art. 883(a). Declaration of Value; Rates Based on Value; Evidence

No specialized motor carrier or other carrier for hire, including the carriers referred to in said Article 883, shall be required to accept for transportation household goods, personal effects or used office furniture and equipment, unless the shipper or owner thereof or his agent shall first declare in writing the reasonable value thereof. The carrier shall not be liable in damages for an amount in excess of such declared value for the loss, destruction or damage of such property. The Railroad Commission shall establish adequate rates consistent with such declared values to be assessed and collected by such carriers. If the Railroad Commission fails to establish such rates, then in that event such carriers are authorized to collect reasonable transportation charges consistent with the declared value of such property.

[Acts 1947, 50th Leg., p. 563, ch. 327, § 1.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1 and Acts 1969, 61st Leg., p. 618, ch. 213, § 1, which amended article 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of this article. See notes under article 883.

Art. 883b. Declaration of Value as Evidence

The declaration of value by the shipper shall not be admissible as evidence in any court action unless the carrier at the time of acceptance of such shipment had or provided and maintained in force insurance in a solvent company authorized to do business in Texas, or bonds, in an amount equal to such declared value to protect the owner of such shipment against loss or damage thereto; provided, however, this requirement as to insurance or bonds shall not apply to steam or electrical railways.

[Acts 1947, 50th Leg., p. 563, ch. 327, § 2.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1, which amended article 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of this article. See note under article 883.

Art. 884. Must Carry Goods

Upon the tender of the legal or customary rates of freight on goods offered for transportation, to a common carrier other than a railroad, such carrier shall receive and transport such goods, provided his vehicle or vessel has capacity safely to carry the goods so offered on the trip or voyage then pending, and such goods are of the kind usually carried upon such vehicle or vessel, and are offered at a reasonable time. Any common carrier refusing to transport goods as above provided or to take the same in the order presented, shall be liable in damages to the party injured, by reason of such refusal, and shall also be liable to a penalty of not less than five nor more than five hundred dollars, to be recovered in each case by the owner of the goods in the county where the wrong is done or where the common carrier resides.

[Acts 1925, S.B. 84.]

Art. 885. Must Give Bill of Lading

Common carriers, when they receive goods for transportation, shall give to the shipper, when it is demanded, a bill of lading, or written receipt stating the quantity, character, order and condition of the goods; and such goods shall be delivered in like order and condition to the consignee, the unavoidable wear and tear¹ and deterioration in due course of transportation only, excepted. Any such common carrier failing to deliver goods as herein required shall be liable to the party injured for his damages, as at common law; and on refusal to execute and deliver a bill of lading or written receipt shall be liable to a penalty of not less than five nor more than five hundred dollars, to be recovered as in the preceding article.

[Acts 1925, S.B. 84.]

¹ R.S.1925 read "tare."

Art. 886. Liability as a Warehouseman, etc.

Railroad companies and other common carriers having depots and warehouses for storing goods shall be liable as warehousemen are at common law for goods and the care of the same stored at such depots or warehouses before the commencement of the trip or voyage on which said goods are to be transported. They shall be liable as common carriers from the commencement of the trip or voyage until the goods are delivered to the consignee at the point of destination. The trip or voyage shall be considered as having commenced from the time of the signing of the bill of lading, and the liability of the common carrier shall attach, as at common law, from and after such signing.

[Acts 1925, S.B. 84.]

Art. 887. Diligence in Delivery

If the carrier at the point of destination shall use due diligence to notify the consignee, and the goods are not taken by the consignee, and have in consequence to be stored in the depots or warehouses of the common carriers, they shall thereafter only be liable as warehousemen.

[Acts 1925, S.B. 84.]

Art. 888. Shall Ship in Order

Where common carriers receive goods for transportation into their warehouses or depots, they shall forward them in the order in which they are received, the first received to be first forwarded, without giving the preference to one over another. For failure to do so, they shall be liable for all losses occurring while the goods remain, and for all damages occasioned or in any wise resulting from the delay.

[Acts 1925, S.B. 84.]

Art. 889. Care of Animals

A common carrier who conveys live stock of any kind shall feed and water the same during the time of conveyance and until the same is delivered to the consignee or disposed of as provided in this title, unless otherwise provided by special contract. Any carrier who shall fail to so feed and water said live stock sufficiently shall be liable to the party injured for his damages, and shall be liable also to a penalty of not less than five nor more than five hundred dollars, to be recovered by the owner of such live stock in any county where the wrong is done or where the common carrier resides.

[Acts 1925, S.B. 84.]

Art. 889a. Repealed by Acts 1969, 61st Leg., p. 1374, ch. 416, § 9, eff. Sept. 1, 1969

See, now, art. 4419e.

2. BILLS OF LADING**Arts. 890 to 898. Repealed by Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, § 10-102, eff. June 30, 1966**

Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, enacting the Uniform Commercial Code, repealed articles 890 to 898 effective June 30, 1966. Acts 1965, 59th Leg., vol. 2, p. 1, ch. 721, was itself repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code effective September 1, 1967. However, the latter Act specifically provided that the repeal did not affect the prior operation of the 1965 Act or any prior action taken under it.

See, now, Business and Commerce Code, § 7.301 et seq.

Art. 899. Repealed by Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, § 4, eff. Sept. 1, 1967

Acts 1967, 60th Leg., vol. 2, p. 2343, ch. 785, adopting the Business & Commerce Code, repealed article 899 effective September 1, 1967.

See, now, Business and Commerce Code, § 35.15.

3. DISPOSITION OF UNCLAIMED GOODS**Art. 900. Unclaimed Freight**

When any freight or baggage has been conveyed by a common carrier to any point in this State, and shall remain unclaimed for the space of three months at the office or depot nearest or most convenient to destination, and the owner, whether known or not, fails within that time to claim such freight or baggage, or to pay the proper charges if there be any against it, it shall be lawful for such common carrier to sell such freight or baggage at public auction, offering each article separately as consigned or checked.

[Acts 1925, S.B. 84.]

Art. 901. Sale

Thirty days' notice of the time and place of sale, and a descriptive list of the packages to be sold, with names and numbers or marks found thereon, shall be posted in three public places in the county where the sale is to be made and on the door of the depot or warehouse if any, where the goods are, and notice shall also be given in at least one newspaper in the county, if any be published therein, for thirty days before sale. Out of the proceeds of such sale, the carrier shall deduct the proper charges on such freight or baggage, including costs of storing and costs of sale, and hold the overplus, if any, to the order of the owner any time within five years, on proof of ownership made by the claimant or his duly authorized agent or attorney.

[Acts 1925, S.B. 84.]

Art. 902. Sale of Live Stock

If any live stock remains unclaimed for the space of forty-eight hours after its arrival at the place of its destination, the carrier may sell the same at public auction after giving five days' notice of the time and place of such sale, as prescribed in the preceding article and apply the proceeds as prescribed in said article, after deducting reasonable expenses for keeping, feeding and watering said live stock from the time of its arrival at the place of its destination until disposed of as herein provided.

[Acts 1925, S.B. 84.]

Art. 903. Perishable Property

If any perishable property remains unclaimed after arrival of¹ its place of destination until in danger of depreciation the carrier shall sell the same at public auction, after giving five days' notice of the time and place of sale, as prescribed in the second preceding article and apply the proceeds as prescribed in said article.

[Acts 1925, S.B. 84.]

¹So in enrolled bill. Probably should read "at".

Art. 904. Data Kept

In each sale under the three preceding articles the carrier shall keep an account of such sale and the expense thereof proportioned to

each article sold, a copy of the notice and a copy of the sale bill.

[Acts 1925, S.B. 84.]

4. CONNECTING LINES OF COMMON CARRIERS

Art. 905. "Connecting Lines"

All common carriers in this State over whose transportation lines, or parts thereof, is transported any freight, baggage or other property received by either of such carriers for shipment or transportation between points in this State, on a contract for carriage recognized, acquiesced in, or acted upon by such carriers shall, with respect to the undertaking and matter of such transportation be considered and construed to be connecting lines. Such lines shall be deemed and held to be agents of each other, each the agent of the others, and all the others the agents of each, and shall be deemed and held to be under a contract with each other and with the shipper, owner and consignee of such property for the safe and speedy transportation of such property from point of shipment to destination; and such contract as to the shipper, owner and consignee of such property shall be deemed and held to be the contract of each of such common carriers. The provisions of this law shall apply whether the route of such freight, baggage or other property be chosen by the owner or his agents, or by the initial carrier to whom such property is delivered. In any suit brought hereunder, the rights, duties and liabilities of the parties shall be determined by the initial contract executed by and between the owner, shipper or his or her duly authorized agents and the initial carrier, unless it be proved that a subsequent contract supported by a valuable consideration moving to the owner or shipper, in addition to that of the initial contract, was executed by such owner, shipper or his or their duly authorized agents with a subsequent connecting carrier handling the shipment, and the transportation of a caretaker shall not be deemed to be such valuable consideration. In any court of this State, any bill of lading, waybill, receipt, check or other instrument issued by either of such carriers, or other proof showing that either of them has received such freight, baggage or other property for shipment or transportation, shall constitute prima facie evidence of the subsistence of the relations, duties and liabilities of such carrier as herein provided, notwithstanding any stipulation or attempted stipulation to the contrary by such carrier, or either of them, and any stipulation contained in any contract contrary to any provision of this law shall be void.

[Acts 1925, S.B. 84.]

Art. 906. Recovery by Shipper

For any damage or injury to, or loss or delay of, any freight, baggage or other property, sustained anywhere during the transportation over connecting lines or either of them, as contemplated and defined in the preceding article,

either or all of such connecting carriers, as the person or persons sustaining such damage may elect to sue therefor in this State, shall be held liable to such person or persons. The provisions of law allowing an apportionment of damage shall not be applicable to suits brought by such person or persons under the provisions of this subdivision except upon the plaintiff's request. Any carrier or carriers held liable under the provisions hereof shall be entitled in a subsequent action to recover the amount of any loss, damage or injury it has been required to pay hereunder, from the carrier or carriers through whose negligence the loss, damage or injury was sustained, together with all costs of suit; and for the purpose of such recovery, it shall only be necessary that the carrier against whom judgment was had, show which carrier or carriers caused the loss or damage and produce satisfactory evidence that the judgment rendered against it has been paid, and in such action between the carriers, the provisions of law allowing an apportionment of damage shall be applicable.

[Acts 1925, S.B. 84.]

5. PROTECTING MOVEMENT OF COMMERCE

Art. 907. Protecting Commerce

If at any time the movement of commerce by common carriers of this State or any of them is interfered with in violation of any of the provisions of Chapter 42 of the Penal Code,¹ and the Governor, after investigation, becomes convinced that the local authorities were failing to enforce the law, either because they were unable or unwilling to do so, the Governor shall, in order to prevent such interference, forthwith issue his proclamations declaring such conditions to exist and describing the areas thus affected.

[Acts 1925, S.B. 84; Acts 1973, 63rd Leg., p. 988, ch. 399, § 2(G), eff. Jan. 1, 1974.]

¹ Penal Code, § 42.01 et seq.

Art. 908. Governor's Jurisdiction

Upon the issuance of the proclamation provided for in the preceding article, the Governor shall exercise full and complete police jurisdiction of the area described in the proclamation whether the same be all within or partly within, or partly without the limits of any incorporated city or county; the exercise of said police jurisdiction by the Governor as above set out, shall supersede all police authority by any and all local authority, provided that the Governor shall not disturb the local authorities in the exercise of police jurisdiction, at any place outside the district described in his proclamation.

[Acts 1925, S.B. 84.]

Art. 909. Arrests

No peace officer of this State shall be permitted to make arrests after the Governor's proclamation has become effective, in the territory embraced by such proclamation, except of-

ficers acting under the authority of the Governor under the provisions of this law. Persons arrested within the district shall be delivered forthwith to the proper authorities for trial. [Acts 1925, S.B. 84.]

Art. 910. Rangers Used

The provisions of this law shall be effective without a declaration of martial law. The State Rangers may be used in the enforcement of the provisions of this law. If a sufficient number of Rangers are not available, the Governor is authorized to employ any number of men to be designated as special Rangers and such men shall have all the power and authority of the regular Rangers, and shall be paid the same salary as the Rangers are paid, and such salaries shall be paid out of the appropriation made to the executive office for the payment of rewards and the enforcement of the law.

[Acts 1925, S.B. 84.]

Art. 911. Scope of Law

Nothing in this law shall be construed as limiting the power and authority of the Governor to declare martial law and to call forth the militia for the purpose of executing the law, when in the judgment of the chief executive it is deemed necessary so to do. This law shall be construed as cumulative of the existing laws of this State, and shall not be held to repeal any of the same except where in direct conflict herewith.

[Acts 1925, S.B. 84.]

6. REGULATION OF MOTOR CARRIERS

Art. 911a. Motor Bus Transportation and Regulation by Railroad Commission

Definitions

Sec. 1. (a) That the term "Corporation" when used in this Act means a corporation, company, association, or joint stock association.

(b) The term "Person" when used in this Act means an individual, firm or co-partnership.

(c) The term "Motor Bus Company" when used in this Act means every corporation or persons as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating or managing any motor propelled passenger vehicle not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, whether operating over fixed routes or fixed schedules, or otherwise; provided further, that the term "Motor Bus Company" as used in this Act shall not include corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly

within the limits of any incorporated town or city, and the suburbs thereof, whether separately incorporated or otherwise.

(d) The term "Public Highway" when used in this Act means every street, road, or highway in this State.

(e) The term "Highway Commission" when used in this Act means the Board of Highway Commissioners of the State of Texas.

(f) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

Common Carriers

Sec. 2. All motor-bus companies, as defined herein, are hereby declared to be "common carriers" and subject to regulation by the State of Texas, and shall not operate any motor propelled passenger vehicle for the regular transportation of persons as passengers for compensation or hire over any public highway in this State except in accordance with the provision of this Act, provided, however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit, or deprive cities and towns from exercising any of the powers granted them by Chapter 147, pages 307 to 318 inclusive, of the General Laws of the State of Texas, passed by the Thirty-third Legislature, or any amendments thereto.

Certificates of Convenience and Necessity

Sec. 3. It is hereby declared that when existing transportation facilities on any highway in this State do not provide passenger service which the Commission shall deem adequate to provide for public convenience on such highway, then such inadequacy of service shall be considered as creating a condition wherein the public convenience and necessity require the designation of, and provision for, additional service on such highway, and it shall be the duty of the Commission to issue certificate or certificates as herein provided, if in the opinion of said Commission the issuance of such certificate will promote the public welfare.

Regulations by Commission

Sec. 4. (a) The Commission is hereby vested with power and authority, and it is hereby made its duty to supervise and regulate the public service rendered by every motor bus company operating over the highways in this State, to fix or approve the maximum, or minimum, or maximum and minimum, fares, rates or charges of, and to prescribe all rules and regulations necessary for the government of, each motor bus company; to prescribe the routes, schedules, service, and safety of operations of each such motor bus company; to acquire the filing of such annual or other reports and of such other data by such motor bus company as the Commission may deem necessary.

(b) The Commission is hereby vested with authority to supervise, control and regulate all terminals of motor bus companies, including

the location of facilities and charges to be made motor bus companies for the use of such terminal, or termini; provided, that the Commission shall have no authority to interfere in any way with valid contracts existing between motor bus companies and the owner or owners of motor bus terminals at the time of the passage of this Act.

(c) Repealed by Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

(d) The Commission is further authorized and empowered to supervise and regulate motor bus companies in all other matters affecting the relationship between such motor bus companies and the traveling public that may be necessary to the efficient operation of this law.

(e) It shall be unlawful for any motor bus company to sell any tickets for the transportation of passengers within this State over any motor bus line at any rates other than the rates authorized and approved by the Commission under the terms of this law; and it shall be unlawful for any booking agency or brokerage concern, directly or indirectly, to sell tickets for the transportation of passengers over any motor bus line, and no motor bus company shall honor any ticket, or transport any passenger on any ticket so sold by any booking agency or brokerage concern.

(f) The Commission in prescribing and adopting routes and dealing with all other matters affecting the physical operation and control of motor bus companies over the public highways, under the power and authority of this Act, shall give due and proper consideration in forming its conclusions, and prescribing its orders and regulations to the general highway laws of this State, and to the orders, regulations, ordinances, or recommendations of the Highway Commission of Texas, or the Commissioners' Courts of any county or counties, or the local government of any municipality, through or between which the routes for such motor bus companies are prescribed and adopted.

Application for Certificate or Permit; Temporary Permits

Sec. 5. No motor-bus company shall hereafter regularly operate for the transportation of persons as passengers for compensation or hire over the public highways of this State without first having obtained from the Commission under the provisions of this Act a certificate or permit declaring that the public convenience and necessity require such operation; provided, however, that when it appears to the satisfaction of the Commission that any motor-bus company making application for a certificate or permit is operating and has been continuously operating a motor-propelled passenger vehicle service in good faith, over the particular highways designated in said application for certificate or permit, for a period commencing January 11th, 1927, or prior thereto, said motor-bus company, shall upon application be granted a temporary permit to operate just

as said company shall have been operating during said period and no more; said temporary certificate or permit shall become permanent without notice and hearing before the Commission unless a protest shall be filed with the Commission as provided herein; and in the event protest is filed to the application of such motor-bus company then said temporary certificate or permit shall continue in effect until said application and protest is heard and decided upon by the Commission, and said hearing and decision shall be had and rendered by the Commission as speedily as possible.

At any time within thirty days after the day this Act shall take effect anyone affected by the granting of said certificate or permit may file with the Commission, a protest against said certificate or permit becoming or being made permanent, but such protest to be considered by the Commission must be filed within the specified thirty days and shall be in writing, and the author or authors of said protest shall supply the applying motor-bus company with a copy of same, setting forth in reasonable detail the reasons for said protest. In the event of protest to any application of any existing motor-bus company, hearing upon such application and protest shall be had and decision rendered as provided for all other applications.

In all other matters the holders of temporary or permanent certificates or permits obtained in this manner shall be subject to all of the provisions of this Act.

Any right, privilege, permit, or certificate held, owned or obtained by any motor-bus company under the provisions of this Act may be sold, assigned, leased or transferred, or inherited; provided, however, that any proposed sale, assignment, lease or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not made in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred, in such manner as to render the service demanded by the public necessity and convenience on and along the designated route.

Provided, however, that any right, privilege, permit or certificate held, owned or obtained by any Motor Bus Company under the provisions of this Act or owned or obtained by any assignee or transferee of any such Motor Bus Company shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the Streets and Highways of this State to any owner or holder of such right, privilege, permit or certificate.

Commission to Determine Necessity for Service

Sec. 6. The Commission is hereby vested with power and authority, and it is hereby

made its duty upon the filing of an application for a certificate of public convenience and necessity, to ascertain and determine under such rules and regulations as it may promulgate, after considering existing transportation facilities on such highway, the service rendered and capable of being rendered thereby, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application, as a common carrier for hire.

Interference with General Use of Highways; Refusal Because of Existing Railroad Transportation

Sec. 7. The Commission shall also ascertain and determine if a particular highway or highways designated in said application are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highway or highways by the general public for highway purposes. And if the Commission shall determine, after hearing that the service rendered or capable of being rendered by existing transportation facilities or agencies on such highways is reasonably adequate, or that public convenience on such highways would not be promoted by granting of said application and the operation of motor vehicles on the public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highway or highways by the general public for highway purposes, then in either or any of such event said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it may thereafter prescribe.

The Railroad Commission shall have no power in any event to refuse an application for a certificate of convenience and necessity on the ground that there are existing railroad or interurban railroad transportation facilities sufficient to serve the transportation needs of the territory involved.

In determining whether or not a certificate should be issued, the Commission shall give weight and due regard to (1) probable permanence and quality of the service offered by the applicant, (2) the financial ability and responsibility of the applicant and its organization and personnel (3) the character of vehicles and the character and location of depots or termini proposed to be used, and (4) the experience of the applicant in the transportation of passengers and the character of the bond or insurance proposed to be given to insure the protection of its passengers and the public.

The Commission shall have the power and authority to grant temporary certificates to meet emergencies and shall have the power to make special rules and regulations to meet special conditions in different localities and for such time as in its judgment may be deemed expedient and best for the public welfare.

Contents of Application

Sec. 8. No application for certificate shall be considered by said Commission except that it shall be reduced to writing and set forth the following facts:

(a) It shall contain the name and address of the applicant, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(b) The complete route or routes over which the applicant desires to operate, together with a brief description of each vehicle which the applicant intends to use, including the seating capacity thereof.

(c) A proposed time schedule and a schedule of rates showing the passenger fares to be charged between the several points or localities to be served.

(d) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or map shall be delineated the line or lines of any existing transportation company or companies over the highways serving such territory, with the names and addresses of the owner or owners thereof, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(e) Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes, and such fees shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(f) Every application filed with the Commission for an order approving the lease, sale, or transfer of any certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes, and shall be retained by the Commission whether the lease, sale, or transfer of the certificate of convenience and necessity, or stock of any corporation owning or controlling a "motor bus company" is approved or not, such fee to be paid by the purchaser.

(g) No stock of any corporation owning and operating any "motor bus company" shall be sold or transferred without first securing the approval of the Commission as provided for certificates of convenience and necessity, in Section 5 of House Bill No. 50, the same being Chapter 270 of the Acts of the Regular Session of the 40th Legislature of the State of Texas, 1927,¹ and this paragraph shall be cumulative of that section, provided that the provisions of this subsection shall apply only to those cases where the proposed sale will change the controlling interest in such motor bus company.

¹ Section 5 of this Article.

Hearing on Application at Austin; Notice

Sec. 9. Upon the filing of said application the Commission shall fix a time and place for hearing, and the place of hearing shall be the city of Austin, Texas, unless otherwise ordered by said Commission. Notice of the filing of said application, and the time and place of hearing shall be given by mail not less than ten days exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing transportation facilities over the highways, serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the County Judge or Judges of the Counties and to the Mayor of any incorporated city or town, through which such motor carriers seek to operate.

Appearance by Parties Including Highway Commission; Suspension or Revocation of Certificate

Sec. 10. The hearing shall be conducted under such rules and regulations as the Commission may prescribe, and all parties interested, including the Highway Commission of this State, may appear either in person or by counsel, and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of said application. It shall be the duty of the Highway Commission of this State, upon the request of the Commission to furnish any and all information that it has at its command relating to the highway or highways designated in such application as well as such other information as said Commission may deem pertinent to the granting or refusal of such application. After such hearing, and such investigation as the Commission may make of its own motion, it shall be the duty of said Commission to either refuse said application and certificate, or to grant said application and issue said certificate, in whole or in part, upon such terms and conditions as it may impose, and subject to such rules and regulations as it may thereafter prescribe.

The Commission, at any time by its order duly entered after hearing had upon notice to the holder of any certificate granted under this Act¹ and an opportunity given such holder to be heard, at which hearing it shall be prov-

en to the satisfaction of the Commission that such certificate holder has discontinued operation or has violated or refused or neglected to observe any of its proper orders, rates, fares, rules, or regulations, may suspend, revoke, alter or amend any certificate issued under the provisions of this Act, provided that the holder of such certificate shall have the right of appeal as provided herein.

Liability and Property Damage Insurance; Protection of Employees

Sec. 11. The Commission shall, in the granting of any certificate to any motor bus company for regularly transporting persons as passengers for compensation or hire, require the owner or operator to first procure liability and property damage insurance from a company licensed to make and issue such insurance policy in the State of Texas covering each and every motor propelled vehicle while actually being operated by such applicant. The amount of such policy or policies of insurance shall be fixed by the Commission by general order or otherwise, and the terms and conditions of said policy or policies covering said motor vehicle are to be such as to indemnify the applicant against loss by reason of any personal injury to any person or loss or damage to the property of any person other than the assured and his employees. Such policy or policies shall furthermore provide that the insurer will pay all judgments which may be recovered against the insured motor bus company based on claims for loss or damage from personal injury or loss of or injury to property occurring during the term of the said policy or policies and arising out of the actual operation of such motor bus or busses, and such policy or policies shall also provide for successive recoveries to the complete exhaustion of the face amount thereof, and that such judgment will be paid by the insurer irrespective of the solvency or insolvency of the insured. Such liability and property damage insurance as required by the Commission shall be continuously maintained in force on each and every motor propelled vehicle while being operated in common carrier service. In addition to the insurance hereinabove set forth, the owner or operator shall also protect his employees by taking out workmen's compensation insurance either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company approved by the Railroad Commission of the State of Texas. The taking out of such indemnity policy or policies shall be a condition precedent to any operation and such policy or policies as required under this Act, shall be approved and filed with the Commission and failure to file and keep such policy or policies in force and effect as provided herein shall be cause for the revocation of the certificate and shall subject the motor bus company so failing to the penalties prescribed herein.

Identification Plates On Busses

Sec. 11-A. It shall be unlawful for any motor bus company, as hereinbefore defined, to

operate any motor bus within this State unless there shall be displayed and firmly fixed upon the front of such bus an identification metal plate to be furnished by the Commission. Each of such plates shall be so designed as to identify the vehicle on which same is attached as being a motor bus authorized to operate under the terms of this law, and the rules and regulations of the Commission, and said plate shall bear the number given to said vehicle by the Commission, and such other marks of identification as may be necessary. The identification plates provided for herein shall be in addition to the regular license plates required by law. It shall be the duty of the Commission to provide such plates and each motor bus operating in this State shall display one of said plates within sixty days after this Act takes effect, and such plates shall be issued annually thereafter and attached to each motor bus not later than September first of each year. The Commission is authorized to collect from the applicant a fee of One (\$1.00) Dollar for each plate so issued and said fee shall be deposited in the State Treasury to the credit of the "Motor Transportation Fund."

**Commission to Hear Applications and Complaints
Presented; Attendance of Witnesses**

Sec. 12. The Commission shall have the power and authority under this Act to hear and determine all applications of motor-bus companies; to determine complaints presented to it by motor-bus companies, by any public official or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to automobile passenger transportation for compensation or hire upon its own motion. The Commission or any member thereof, or authorized representative of the Commission, shall have the power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission a majority of the Commission may upon the record render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

Per Diem and Mileage of Witnesses

Sec. 13. Each witness who shall be summoned to appear before the Commission or a Commissioner or authorized representative outside the county of his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance on district courts of this State in criminal cases; such fees and mileage shall be ordered paid upon proper voucher, sworn to by such witness and approved by the Commission or the Chair-

man thereof, out of the monies and funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motorbus or other transportation company involved in or concerning which the investigation or hearing on account of which he is called shall relate, and no witness furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas and any sheriff or constable of any county in this State shall promptly execute any subpoena or other document directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the district courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the Chairman thereof out of the fund provided in this Act.

Penalty for Violation of Act

Sec. 14. (a) Any officer, agent, servant, or employee of any corporation and every other person who violates or fails to comply with, or who procures, aids, or abets in the violation of any provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine not to exceed Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment; and the violations occurring on each day shall each constitute a separate offense.

(b) Any officer, agent, servant, or employee of any motor bus company as heretofore defined, and any motor bus company, as heretofore defined and/or the owner or operator, officer, servant, agent or employee, or any such owner or operator of any bus terminal who violates or fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement of the Commission shall be subject to and shall pay a penalty not exceeding Five Hundred (\$500.00) Dollars, for each and every day of such violation. Such Penalty to be recovered in any court of competent jurisdiction in Travis County, Texas, or in the County in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the county or district attorney of the county in which the violation occurs, in the name of the State of Texas, and by direction of the Railroad Commission of Texas.

(c) Upon the violation of any provisions of this Chapter, or upon the violation of any rule, regulation, order or decree of the Commission, promulgated under the terms of this Act, any district court of Travis County, Texas, or any district court of any county where such violation occurs, shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions

of this Act, or from violating the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, or upon the application of any person authorized by it to act, or upon the application of any "motor bus company" holding a certificate of convenience and necessity over the route affected, and against any "motor bus company" violating the provisions of this Act and not holding a certificate over such route and attempting to operate or operating over said route. Such relief may be granted in suits for penalties as provided in sub-division (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this Section.

(d) Any authorized inspector for the Commission shall have the power and authority to make arrests for the violation of this Act, coming under his observation, but such authority to make arrests shall be confined solely to the violations of this Act, provided, further that it shall be the duty of all law enforcement officers of this State to enforce the provisions of this Act.

Minimum Bus Fees; Payment to State Treasurer

Sec. 15. For the purpose of defraying the expense of administering this Act, every motor bus company now operating, or which shall hereafter operate in this State, shall, in addition to other fees and charges provided for by law, at the time of the issuance of a certificate of convenience and necessity, as provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special minimum fee of Ten Dollars (\$10) for each motor-propelled vehicle, and a further fee, computed on the basis of One Dollar (\$1) per passenger set for the rated passenger capacity of the vehicle, or vehicles used.

If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fees paid shall be proportionate to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of emergencies or unusual temporary demands for transportation, the fee for additional motor-propelled vehicles for less periods shall be fixed by the Commission in such reasonable amount as may be prescribed by general rule or temporary order.

All fees accruing hereunder and all fines and penalties collected under the provisions of this Act shall be payable to the State Treasurer at Austin, Texas, and shall, by the State Treasurer, be deposited in the State Treasury at Austin and credited to the General Revenue Fund.

Sec. 16. Repealed by Acts 1961, 57th Leg., p. 498, ch. 240, § 2.

Review of Decisions of Commission by District Court, Travis County

Sec. 17. If any such auto transportation company, association, corporation, or other

party at interest be dissatisfied with any decision, rate, charge, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act, or regulation, or to either or all of them in the district court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in a said court; either party to said action may appeal to the appellate court having jurisdiction of said cause and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days notice. In all trials under this section the burden of proof shall rest upon the plaintiff who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Ten Days as Reasonable Notice

Sec. 18. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days notice.

Office Provided by Board of Control

Sec. 19. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

[Acts 1927, 40th Leg., p. 399, ch. 270; Acts 1929, 41st Leg., 1 C.S., p. 196, ch. 78, §§ 1 to 6; Acts 1961, 57th Leg., p. 498, ch. 240, §§ 1, 2.]

Art. 911b. Motor Carriers and Regulation by Railroad Commission

Definitions

Sec. 1. When used in this Act unless expressly stated otherwise:

(a) The term "person" means and includes an individual, a firm, co-partnership, corporation, company, an association or a joint stock association.

(b) The term "Commission" means the Railroad Commission of the State of Texas.

(c) The term "Highway Commission" means the Board of Highway Commissioners of the State of Texas.

(d) The term "public highway" means every street, road or highway in this State.

(e) The term "certificate" means certificate of public convenience and necessity issued under this Act.

(f) The term "permit" means the permit issued to contract carriers under the terms of this Act.

(g) The term "motor carrier" means any person, firm, corporation, company, copartnership, association or joint stock association, and their lessees, receivers, or trustees appointed by any court whatsoever owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting property for compensation or hire over any public highway in this state, where in the course of such transportation a highway between two or more incorporated cities, towns or villages is traversed.

Provided, that the term "motor carrier" as used in this Act shall not include, and this Act shall not apply to motor vehicles engaged in the transportation of property for compensation or hire between points:

(1) Wholly within any one incorporated city, town or village;

(2) Wholly within an incorporated city, town or village and all areas, incorporated or unincorporated, wholly surrounded by such city, town or village;

(3) So situated that the transportation is performed wholly within an incorporated and immediately adjacent unincorporated area without operating within or through the corporate limits of more than a single incorporated city, town or village, except to the extent provided in (2) above; or

(4) Wholly within the limits of a base incorporated municipality and any number of incorporated cities, towns and villages which are immediately contiguous to said base municipality.

Provided further, that motor carriers authorized to serve any incorporated city, town or village within the areas described in (2), (3), and (4) above, except carriers of commodities in bulk in tank trucks and all specialized motor carriers, may perform service for compensation or hire between all points within the areas described in (2), (3), and (4) above, on the one hand, and, on the other, authorized points beyond such areas without a certificate or permit authorizing service at all points within such areas when such transportation is incident to, or a part of, otherwise regulated

transportation performed under a through bill of lading.

Provided further, that after notice and public hearing the Railroad Commission of Texas is hereby authorized, except as to operations of carriers of commodities in bulk in tank vehicles and all specialized motor carriers, from time to time and where necessary, to define and prescribe, and where necessary shall prescribe, commercial zones adjacent to and commercially a part of any specified incorporated municipality and within which operations as a motor carrier may be performed without a certificate or permit authorizing same and within which strictly local service wholly within such commercial zone may be performed at rates and charges other than those prescribed by the Commission. The Commission in so determining and prescribing the limits of any commercial zone shall take into consideration its powers and duties otherwise to administer and enforce the Motor Carrier Act considered in the light of the economic facts and conditions involved in each commercial zone or proposed commercial zone, particularly the effect that unregulated transportation for compensation or hire within such zone or proposed zone has had or may have upon fully regulated motor carriers operating in regulated intrastate commerce to, from and within such commercial zone. The Railroad Commission is empowered to prescribe such rules and regulations for operation of such transportation as the Commission deems in the public interest.

(h) The term "contract carrier" means any motor carrier as hereinabove defined transporting property for compensation or hire over any highway in this State other than as a common carrier.

(i) "Specialized motor carrier" means any person owning, controlling, managing, operating, or causing to be operated any motor-propelled vehicle used in transporting, over any public highway in this state, over irregular routes on irregular schedules, for compensation and for the general public with specialized equipment, property requiring specialized equipment in the transportation and handling thereof; provided, that the term "specialized motor carrier" as used in this Act shall not apply to motor vehicles operated exclusively within the incorporated limits of cities or towns; and, provided further, the term "specialized motor carrier" as used herein shall include those carriers who engage or desire to engage exclusively in the transportation of livestock, livestock feedstuff, agricultural products in their natural state, broom corn, grain, farm machinery, timber in its natural state, milk, wool, mohair, or property requiring specialized equipment as that term is hereinafter de-

fined, or any one, or more, of the foregoing named commodities.

For the purpose of this Act, the term "specialized equipment" includes, but is not limited to block and tackle, hoists, cranes, windlasses, gin poles, winches, special motor vehicles, and such other devices as are necessary for the safe and proper loading or unloading of property requiring specialized equipment for the transportation and handling thereof.

For the purpose of this Act, the term "property requiring specialized equipment" is limited to

(1) oil field equipment, (2) household goods and used office furniture and equipment, (3) pipe used in the construction and maintenance of water lines and pipelines, and (4) commodities which by reason of length, width, weight, height, size, or other physical characteristics require the use of special devices, facilities, or equipment for their loading, unloading, and transportation.

For the purpose of this Act, the term "oil field equipment" means and includes machinery, materials, and equipment incidental to or used in the construction, operation, and maintenance of facilities which are used for the discovery, production, and processing of natural gas and petroleum, and such machinery, materials, and equipment when used in the construction and maintenance of pipelines.

(j) The term "transporting property for compensation or hire" shall include the furnishing during the same period of time of equipment and drivers to persons, firms, co-partnerships, associations or joint stock associations other than common carriers, contract carriers, specialized motor carriers for use in their carrier operations whether the equipment and drivers are furnished by the same or separate person, firm, co-partnership, association or joint stock association, and their lessees, receivers or trustees appointed by any court whatsoever owning, controlling, managing, operating or causing to be operated any motor-propelled vehicle, provided, when the owner of a motor-propelled vehicle furnishes, by lease, the motor-propelled vehicle and is employed to operate such motor-propelled vehicle by the person to whom the equipment is furnished, and when such motor-propelled vehicle and the operator thereof are to be engaged exclusively in the transportation of sand, gravel, dirt, caliche, shell, asphalt rock, crushed stone, hot-mix asphaltic concrete (not liquid asphalt), and aggregate, in bulk, when such substances have been processed by the person to whom the equipment is furnished, and when such substances are being transported by the

lessee to or from the job site of any construction project, being performed by the lessee for or on behalf of the Federal Government, the State of Texas, or any political subdivision thereof, or to or from the construction site of any national defense project, airport and roadways leading thereto, or to or from the construction site of any road, highway and expressway, the owner of the motor-propelled vehicle so furnished and so used shall not be considered engaging in transportation for compensation or hire as that term is defined.

Exceptions to Definition of Terms "Motor Carrier" and "Contract Carrier"

Sec. 1a. (1) Provided, however, that the term "Motor Carrier" and the term "Contract Carrier" as defined in the preceding Section shall not be held to include:

(a) Any person having a regular, separate, fixed, and established place of business, other than a transportation business, where goods, wares, and merchandise are kept in stock and are primarily and regularly bought from the public or sold to the public or manufactured or processed by such person in the ordinary course of the mercantile, manufacturing, or processing business, and who, merely incidental to the operation of such business, transports over the highways of this state such goods of which such person is the bona fide owner by means of a motor vehicle of which such person is the bona fide owner; nor

(b) Any person transporting farm implements, livestock, livestock feedstuffs, dairy products, horticultural products, floral products, agricultural products, timber in its natural state, or wool and mohair of which such person is the bona fide owner on a vehicle of which he is the bona fide owner to and from the area of production and to and from the market or place of storage thereof; provided, however, if such person (other than a transportation company) has in his possession under a bona fide consignment contract livestock, wool, mohair, milk and cream, fresh fruits and vegetables, or timber in its natural state under contract, as an incident to a separate, fixed, and established business conducted by him the said possession shall be deemed ownership under this Act;

(c) Where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of employees, petroleum products, and incidental supplies used or sold in connection with the wholesale or retail sale of such petroleum products from the refinery or place of production or place of storage to the place of storage or place of sale and distribution to the ultimate consumer, in a motor vehicle owned and used exclusively by the marketer or refiner, or owned in whole or in part and

used exclusively by the bona fide consignee or agent of such single marketer or refiner; as well as where merely incidental to a regular, separate, fixed, and established business, other than a transportation business, the transportation of petroleum, employees, material, supplies, and equipment for use in the departments of the petroleum business by the bona fide owner thereof in a vehicle of which he is the bona fide owner; bona fide consignee or agent as used herein being hereby defined and construed, for the purpose of this Act, to mean a person under contract with a single principal to distribute petroleum products in a limited territory and only for such single principal; nor

(d) Any utility company using its own equipment transporting its own property over the highways;

(e) Any person transporting fresh iced fish or shellfish from a coastal production-landing point to an initial packing or freezing plant located not more than seventy-five miles inland from the coast of Texas, regardless of the distance of such initial packing or freezing plant from the coastal production-landing point, and regardless of whether or not such person owns said fish or shellfish; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulation;

(f) Any person transporting fresh vegetables, fresh fruits, or flax straw from the place where produced agriculturally and harvested to a point where the fresh fruits, vegetables, or flax straw are first processed, including but not limited to packing plants, canning plants, freezing plants and fiber or straw processing plants and regardless of whether or not such person owns said fresh fruits, fresh vegetables, or flax straw, provided such transportation does not exceed a total of seventy-five (75) miles in distance, except such transportation between points in the counties of Kinney, Uvalde, Maverick, Zavala, Dimmit, Webb, Zapata, Starr, Hidalgo, Cameron and Willacy, Texas; provided, however, that such person shall have first filed with the Railroad Commission of Texas certificates of insurance covering each motor vehicle to be used in such transportation with public liability and property damage insurance in the amounts required by the Commission for motor vehicles subject to its regulations.

(2) The term "person" as used in this Act shall include persons, firms, corporations, companies, copartnerships, or associations or joint stock associations (and their receivers or trustees appointed by any Court whatsoever).

Private Motor Vehicle Owners

Sec. 1b. Any person who transports goods, wares, or merchandise under the circumstances set forth in the foregoing Section 1a so as to be excluded by the terms of said Section from the definition of "motor carrier" or "contract carrier" shall be deemed to be a private motor vehicle owner; and such use of the highways by such private motor vehicle owners, as herein defined, shall be construed as use of the highways for the general public and not the use of such highways for the carrying on the business of transporting property for compensation or hire.

Hire Transportation of Oil Field Equipment

Sec. 1c. The terms "Motor Carrier" and "Specialized Motor Carrier," as used in Section 1 of this Act, shall apply to and include all for hire transportation of oil field equipment, as defined in subdivision (i) of Section 1 of this Act, over the public highways of this State outside the corporate limits of cities or towns, irrespective of whether in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

The provisions of this Section 1c shall not apply to or include vehicles used exclusively in the stringing of pipe for pipelines, nor shall this Section 1c apply to or include the transportation of water, drilling mud, petroleum and petroleum products in bulk, in tank trucks, when such substances are used in connection with the servicing of oil and gas wells, unless in the course of such transportation a highway between two (2) or more incorporated cities, towns or villages is traversed.

Nothing in this Section 1c shall in anywise repeal, alter, amend or affect any of the provisions of Chapter 290, Acts, Regular Session, Forty-seventh Legislature (being Sections 1a and 1b of this Act and now codified as Sections 1a and 1b of Article 911b, Vernon's Texas Civil Statutes).

Wrecker Type Vehicles

Sec. 1 $\frac{1}{4}$. The term "Specialized Motor Carrier" and "Specialized Equipment" shall not include wrecker type vehicles used incidental to or as an adjunct to the carrying on of the primary business of buying, selling, exchanging, repairing, storing, servicing or wrecking motor vehicles.

Compliance with Act by Motor Carriers

Sec. 2. No motor carrier, as defined in the preceding section, shall operate any motor-propelled vehicle for the purpose of transportation or carriage of property for compensation or hire over any public highway in the State except in accordance with the provisions of this Act; provided, however, that nothing in this Act or any provision thereof shall be construed or held to in any manner affect, limit or deprive cities and towns from exercising any of the powers granted them by Chapter 147, Pages 307 to 318, inclusive of the General Laws of the State of Texas, passed by the 33rd Legislature, or any amendments thereto.

Certificate of Convenience and Necessity

Sec. 3. No motor carrier shall, after this Act goes into effect, operate as a common carrier without first having obtained from the Commission, under the provisions of this Act, a certificate of public convenience and necessity pursuant to a finding to the effect that the public convenience and necessity require such operation. No motor carrier shall, after this Act goes into effect, operate as a contract carrier without first having obtained from the Commission a permit so to do, which permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act.

Supervision and Regulation by Commission

Sec. 4. (a) The Commission is hereby vested with power and authority and it is hereby made its duty to supervise and regulate the transportation of property for compensation or hire by motor vehicle on any public highway in this State, to fix, prescribe or approve the maximum or minimum or maximum and minimum rates, fares and charges of each motor carrier in accordance with the specific provisions herein contained, to prescribe all rules and regulations necessary for the government of motor carriers, to prescribe rules and regulations for the safety of operations of each of such motor carriers, to require the filing of such monthly, annual or other reports and other data of motor carriers as the Commission may deem necessary, to prescribe the schedules and services of motor carriers operating as common carriers, and to supervise and regulate motor carriers in all matters affecting the relationship between such carriers and the shipping public whether herein specifically mentioned or not.

(b) Repealed by Acts 1941, 47th Leg., p. 245, ch. 173, § 2.

(c) The Commission is further authorized and empowered, and it shall be its duty, to supervise and regulate motor carriers in all matters affecting the relationship between such motor carriers and the shipping public that may be necessary in the interest of the public.

(d) The Commission is further authorized and empowered, and it shall be its duty, to supervise and regulate motor carriers in all matters whether specifically mentioned herein or not so as to carefully preserve, foster and regulate transportation and to relieve the existing and all future undue burdens on the highways arising by reason of the use of the highways by motor carriers, adjusting and administering its regulations in the interests of the public.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the Highway Commission's opinion on the condition of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances

or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

Commission to Issue Certificates of Convenience and Necessity; Assignment or Sale of Certificate

Sec. 5. No motor carrier shall hereafter operate as a common carrier for the transportation of property for compensation or hire over the public highways of this State without first having obtained from the Commission, under the provisions of this Act, a certificate declaring that the public convenience and necessity requires such operation; provided, however, the Commission shall, without application or hearing when this Act goes into effect, issue all motor carriers then operating lawfully under permanent certificates of public convenience and necessity heretofore issued to them, certificates in lieu of the certificates issued under the terms of the former law covering the same routes that said common carrier shall have been operating over, and no more.

Any certificate held, owned or obtained by any motor carrier operating as a common carrier under the provisions of this Act may be sold, assigned, leased, transferred or inherited; provided, however, that any proposed sale, lease, assignment or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease or transfer is not in good faith or that the proposed purchaser, assignee, lessee or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased or transferred in such manner as to render the services demanded by the public necessity and convenience on and along the designated route, or that said proposed sale, assignment, lease or transfer is not best for the public interest; the Commission, in approving or disapproving any sale, assignment, lease or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary qualifications of any proposed purchaser, assignee, lessee or transferee; provided, however, that in case a certificate is transferred that the transferee shall pay to the Commission a sum of money equal to ten per cent (10%) of the amount paid as a consideration for the transfer of the certificate, which sum of ten per cent (10%) shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier

or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25.00), which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

Certificates of Convenience and Necessity; Issuance to Specialized Motor Carrier; Application; Filing Fee

Sec. 5a. (a) The Commission is hereby given authority to issue upon application and hearing as provided in this Act, to those persons who desire to engage in the business of a "specialized motor carrier," certificates of convenience and necessity in the manner and under the terms and conditions as provided in this Act.

Any certificate held, owned, or obtained by any motor carrier operating as a "specialized motor carrier" under the provisions of this Act, may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval, and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not able or capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such manner as to render the services demanded by the public necessity and convenience in the territory covered by the certificate, or that said proposed sale, assignment, lease, or transfer is not best for the public interest; the Commission, in approving or disapproving the sale, assignment, lease, or transfer of any certificate, may take into consideration all of the requirements and qualifications of a regular applicant required in this Act and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided however, that in case a certificate is transferred that the transferee shall pay the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the certificate, which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided further, that any certificate obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the rights of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such certificate. Every application filed with the Commis-

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

(b) No motor carrier shall transport oil field equipment, household goods, used office furniture and equipment, livestock, milk, livestock feedstuff, grain, farm machinery, timber in its natural state, wool or mohair, on any highway in this State unless there is in force with respect to such carrier and such carrier is the owner or lessee of a certificate of convenience and necessity issued pursuant to a finding and containing a declaration that a necessity requires such operation or a contract carrier permit issued by the Commission, authorizing the transportation of such commodity or commodities; providing that nothing herein shall modify, restrict, or add to, the authority of the common carrier motor carriers operating under certificates of convenience and necessity issued by the Commission, nor shall any person who now holds or who may hereafter hold a certificate of convenience and necessity to operate as a common carrier be granted any certificate of convenience and necessity to operate as a Specialized Motor Carrier; provided further that any person to whom a "Special Commodity" permit for the transportation of any or all of said commodities had been issued under the provisions of Section 6, paragraph (d), Article 911b, Title 25, Revised Civil Statutes of the State of Texas, 1925, as amended, if such "Special Commodity" permit shall have been in force and effect on January 1, 1941, and if such person or predecessor in interest may desire to continue in the business of a motor carrier of such commodity or commodities shall file an application for a certificate of convenience and necessity under the terms of this Act within sixty (60) days after the effective date hereof, it shall be the duty of the Commission to issue without further proof a certificate authorizing the operation as a "Specialized Motor Carrier" for the transportation of such commodity or commodities covered by the "Special Commodity" permit held by the applicant, which "Specialized Motor Carrier" certificate shall be issued to the applicant and include all the rights and privileges granted under said "Special Commodity" permit.

(c) The Commission shall have no jurisdiction to consider, set for hearing, hear, or determine any application for a certificate of convenience and necessity authorizing the operation as a "specialized motor carrier" or any other common carrier except as provided in the preceding paragraph unless the application shall be in writing and set forth in detail the following facts:

1. It shall contain the name and address of the applicant, who shall be the

real party at interest, and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

2. The commodity or commodities or class or classes of commodities which the applicant proposes to transport and the specific territory or points to, or from, or between which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

3. It shall be accompanied by a map, showing the territory within which, or the points to or from or between which, the applicant desires to operate, and shall contain a list of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

(d) Before any such application shall be granted, the Commission shall hear, consider and determine said application in accordance with Sections 8, 9, 11, 12, 13, 13a, 14, and 15 of Chapter 277, Acts of the Forty-first Legislature, Regular Session, as amended (Article 911b, Revised Civil Statutes of the State of Texas, 1925, as amended), and if the Commission shall find any such applicant entitled thereto, it shall issue certificate hereunder on such terms and conditions as is justified by the facts; otherwise said application shall be denied. The Commission shall have no authority to grant any application for a certificate of convenience and necessity authorizing operation as a "Specialized Motor Carrier" or any other common carrier unless it is established by substantial evidence (1) that the services and facilities of the existing carriers serving the territory or any part thereof are inadequate; (2) that there exists a public necessity for such service, and (3) the public convenience will be promoted by granting said application. The order of the Commission granting said application and the certificate issued thereunder shall be void unless the Commission shall set forth in its order full and complete findings of fact pointing out in detail the inadequacies of the services and facilities of the existing carriers, and the public need for the proposed service. Likewise, the Commission shall have no authority to grant any contract carrier application for the transportation of any commodities in any territory or between any points where the existing carriers are rendering, or are capable of rendering, a reasonably adequate service in the transportation of such commodities.

(e) Except where otherwise provided, applications for and holders of certificates of public convenience and necessity, as provided for in

this Section, shall be subject to all of the provisions of the Act relating to common carriers by motor vehicle.

(f) Every application for a certificate of public convenience and necessity under this Section shall be accompanied by a filing fee in the sum of Twenty-five Dollars (\$25), which fee shall be in addition to other fees and taxes, and shall be retained by the Commission whether certificate of convenience and necessity is granted or not.

(g) For the purpose of defraying the expense of administering this Act, every motor carrier operating as a "specialized motor carrier" in this State shall at the time of the issuance of a certificate of convenience and necessity to him, and annually thereafter on or between September 1st and September 15th of each calendar year, pay a special fee of Ten Dollars (\$10) for each motor-propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year, the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth the annual fee. In case of emergency or unusual temporary demands for transportation the fee for additional motor-propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order.

(h) It shall be unlawful for any "specialized motor carrier" as hereinbefore defined, to operate any motor vehicle within this State unless there shall be displayed and firmly fixed upon the front and rear of such vehicle an identification plate to be furnished by the Commission. Each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this Act; said plate shall bear the number given to the vehicle by the Commission and such other marks of identification as may be necessary. The plates for vehicles operated by "specialized motor carriers" shall be different in design to the plates for common carrier vehicles and the plates for contract carrier vehicles. The identification plates provided for herein shall be in addition to the regular license plates provided by law. It shall be the duty of the Commission to provide these plates and each motor vehicle operating in this State shall display such plates as soon as the same are received, and such plates shall be issued annually thereafter and attached to each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of One Dollar (\$1) for each pair of plates so issued, and all fees for such plates shall be deposited in the State Treasury to the credit of the Motor Carrier Fund.

Application for Permits; Special Permits; Specialized Motor Carrier Certificates; Transfer or Sale of Permits

Sec. 6. (a) No motor carrier now operating as a contract carrier or that may hereafter desire to engage in the business of a contract carrier shall so operate until it shall have received a permit from the Commission to engage in such business and such permit shall not be issued until the applicant shall have in all things complied with the requirements of this Act; nor shall such permit be issued unless the character of business being done or to be done by the applicant strictly conforms with the definition of a contract carrier. The Commission shall have the power to suspend for ten (10) days any existing permit after notice and hearing and to revoke any existing permit when it appears that such permit holder has disobeyed or violated any provision of this Act or of General Laws regulating motor vehicles or violated any rule or regulation of the Commission authorized by this Act.

(b) No application for a permit shall be considered by the Commission unless it be reduced to writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The application shall set forth the nature of the transportation in which the applicant wishes to engage stating substantially the territory to be covered by the operation and including the condition and character of the roads over which the transportation is to be performed.

(3) It shall give a description of each vehicle which the applicant intends to use, including weight and size of vehicle and its carrying capacity.

(c) No application for permit shall be granted by the Commission until after a hearing nor shall any such permit be granted if the Commission shall be of the opinion that the proposed operation of any such contract carrier will impair the efficient public service of any authorized common carrier or common carriers then adequately serving the same territory; provided, however, any person now lawfully operating as a Class "B" operator in this State who may desire to continue in the business of a motor carrier shall file an application for a permit or certificate under the terms of this Act within thirty (30) days after the effective date hereof and it shall be the duty of the Commission to determine such applications forthwith and such applicants may, subject to the provisions of this Act and to the orders, rules, rates and regulations of the Commission continue to operate as motor carriers pending the determination by the Commission of such application.

(d) The Railroad Commission is hereby given authority to issue upon application to those

persons who desire to engage in the business of transporting for hire over the highways of this State livestock, mohair, wool, milk, livestock feedstuff, household goods, used office furniture and equipment, oil field equipment, timber in its natural state, farm machinery and grain, "Specialized Motor Carrier" certificates when it is shown by substantial evidence that there exists (1) a public necessity for such service, and that (2) public convenience will be promoted by the granting of said application.

Such certificates shall be granted upon such terms, conditions and restrictions as the Railroad Commission may deem proper, and said Railroad Commission is authorized to make rules and regulations governing such operations, keeping in mind the protection of the highways and the safety of the traveling public.

Provided that the order of the Commission granting said application, and the certificate issued thereunder shall set forth in its order findings of fact pointing out the inadequacies of the service of the existing carriers and the public need for such proposed service.

(e) Any permit held, owned, or obtained by any motor carrier operating under the provisions of Subsection (d) of this Section may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such a manner as to render the services demanded in the best interest of the public; the Commission in approving or disapproving any sale, assignment, lease, or transfer of any permit may take into consideration all of the requirements and qualifications of a regular applicant required in this Section, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided, however, that in case a permit is transferred that the transferee shall pay to the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the permit which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, further, that any permit obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such permit. Every application filed with the Commission for an order approving the lease, sale, or transfer of any permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10) which fee shall be in addi-

tion to other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the permit is approved or not.

(f) Any contract carrier permit held, owned, or obtained by any motor carrier operating under the provisions of Section 6 may be sold, assigned, leased, transferred, or inherited; provided, however, that any proposed sale, lease, assignment, or transfer shall be first presented in writing to the Commission for its approval or disapproval and the Commission may disapprove such proposed sale, assignment, lease, or transfer if it be found and determined by the Commission that such proposed sale, assignment, lease, or transfer is not in good faith or that the proposed purchaser, assignee, lessee, or transferee is not capable of continuing the operation of the equipment proposed to be sold, assigned, leased, or transferred in such a manner as to render the services demanded in the best interest of the public; the Commission in approving or disapproving any sale, assignment, lease, or transfer of any permit may take into consideration all of the requirements and qualifications of a regular applicant required in this Section, and apply same as necessary qualifications of any proposed purchaser, assignee, lessee, or transferee; provided, however, that in case a permit is transferred that the transferee shall pay to the Commission a sum of money equal to ten (10) per cent of the amount paid as a consideration for the transfer of the permit which sum of ten (10) per cent shall be deposited in the State Treasury to the credit of the Highway Fund of the State; provided, however, that any permit obtained by any motor carrier or by any assignee or transferee shall be taken and held subject to the right of the State at any time to limit, restrict, or forbid the use of the streets and highways of this State to any holder or owner of such permit. Every application filed with the Commission for an order approving the lease, sale, or transfer of any permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the lease, sale, or transfer of the permit is approved or not.

Rules and Regulations for Contract Carriers

Sec. 6-aa. The Commission is hereby vested with power and authority and it is hereby made its duty to prescribe rules and regulations covering the operation of contract carriers in competition with common carriers over the highways of this State and the Commission shall prescribe minimum rates, fares and charges to be collected by such contract carriers which shall not be less than the rates prescribed for common carriers for substantially the same service.

Permits Not Granted as Contract Carrier to Person Operating as Common Carrier

Sec. 6-bb. No application for permit to operate as a contract carrier shall be granted by

the Commission to any person operating as a common carrier and holding a certificate of convenience and necessity, nor shall any application for certificate of convenience and necessity be granted by the Commission to any person operating as a contract carrier nor shall any vehicle be operated by any motor carrier with both a permit and a certificate.

Hours of Labor

Sec. 6-cc. No motor carrier operating in whole or in part in this State under a certificate or permit issued by the Railroad Commission of Texas, or any officer or agent of such motor carrier, shall require or knowingly permit any truck driver or his helper to drive or operate a truck for a period longer than ten (10) consecutive hours; and whenever such driver or helper shall have been continuously on such duty for ten (10) hours, he shall be relieved and shall not be required or knowingly permitted to again go on duty until he has had at least eight (8) consecutive hours off duty; and no such driver or helper who has been on such duty ten (10) hours in the aggregate in any twenty-four hour period, shall be required or knowingly permitted to continue or again go on duty without having had at least eight (8) consecutive hours off duty; and venue for prosecution under this Section shall lie in any county where said offense or any part of same is committed; provided that in cases of emergency caused by the Act of God, or any other emergency over which the operator has no control, the foregoing restrictions as to hours shall not apply.

Fee for Each Motor Vehicle Operated

Sec. 7. For the purpose of defraying the expenses of administering this Act every motor carrier operating as a contract carrier shall, at the time of the issuance of a permit to him and annually thereafter on or between September 1st and September 15th of each calendar year pay a special fee of Ten Dollars (\$10.00) for each motor vehicle operated or to be operated by such motor carrier. If the permit herein referred to is issued after the month of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. Provided, that no person now authorized by law to operate as a Class "A" or Class "B" motor carrier, and who has paid annual vehicle fees required by law of the holders of certificates or permits for the year ending September 1, 1931, shall be required to pay any additional vehicle fees or additional fees incident to the issuance of certificates or permits required in this Act, for the year ending September 1, 1931, in lieu of those now required by law. Every application for a permit shall be accompanied by a filing fee in the sum of Ten Dollars (\$10.00) which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the permit be granted or not.

Commission to Determine if Necessity Exists
for Service

Sec. 8. The Commission is hereby vested with power and authority, and it is hereby made its duty upon the filing of an application for a certificate of public convenience and necessity to ascertain and determine under such rules and regulations as it may promulgate, after considering existing transportation facilities, and the demand for, or need of additional service, if there exists a public necessity for such service, and if public convenience will be promoted by granting said application and permitting the operating of motor vehicles on the highways designated in such application as a common carrier for hire.

Interference with General Use of Highways

Sec. 9. The Commission shall ascertain and determine if a particular highway or highways designated in an application for a certificate of public convenience and necessity are of such type of construction or in such state of repair, or subject to such use as to permit of the use sought to be made by the applicant, without unreasonable interference with the use of such highways by the general public for highway purposes. And if the Commission shall determine, after hearing, that the service rendered by existing transportation facilities or agencies is reasonably adequate, or that public convenience would not be promoted by granting of said application, and the operation of motor vehicles on the public highways therein designated, or that such highway or highways are not in such state of repair, or are already subject to such use as would not permit of the use sought to be made by the applicant without unreasonable interference with the use of such highways by the general public for highway purposes then in either or any of such events said application may be denied and said certificate refused, otherwise the application shall be granted and the certificate issued upon such terms and conditions as said Commission may impose and subject to such rules and regulations as it has or may thereafter prescribe.

In determining whether or not a certificate should be issued to a motor carrier, the Commission shall give weight and due regard to:

- (1) Probable permanence and the quality of service offered by the applicant.
- (2) The financial ability and responsibility of the applicant and its organization and personnel.
- (3) The character of vehicles and the character and location of depots or termini proposed to be used.
- (4) The experience of the applicant in the transportation of property and the character of the bond or insurance proposed to be given to insure the protection of the public.

Contents of Written Application

Sec. 10. No application for a certificate of public convenience and necessity shall be con-

sidered by said Commission unless it be in writing and set forth the following facts:

(1) It shall contain the name and address of the applicant and the names and addresses of its officers, if any, and shall give full information concerning the financial condition and physical properties of the applicant.

(2) The complete route or routes over which the applicant desires to operate, together with the description of each vehicle which the applicant intends to use.

(3) A proposed schedule of service and a schedule of rates to be charged between the several points or localities to be served.

(4) It shall be accompanied by a plat or map showing the route or routes over which the applicant desires to operate, on which plat or maps shall be delineated the line or lines of any existing transportation company or companies serving such territory, and shall point out the inadequacy of existing transportation facilities or service, and shall specify wherein additional facilities or service are required and would be secured by the granting of said application.

The Commission, in prescribing and adopting rules and regulations and in forming its conclusions and in prescribing its orders, shall invite the Highway Commission's opinion on the conditions of the public highways involved and the ability of said highways to carry the existing and proposed additional traffic, and the Commission shall give due and proper consideration to the orders, regulations, ordinances or recommendations of the Highway Commission of Texas; provided, however, nothing herein contained shall be deemed to restrict the powers of the Highway Commission under existing laws. The Commission shall also give due and proper consideration to the recommendations of the Commissioners' Courts of the several Counties and to the recommendations of the local government of any municipality through or between which motor carriers operate.

Hearing at Austin; Notice to Existing Owners and to
Highway Commission

Sec. 11. Upon the filing of said application for a certificate or permit, the Commission shall fix a time and place for hearing, and the place of hearing shall be in the City of Austin, Texas, unless otherwise ordered by the Commission. Notice of the filing of said application, and the time and place of hearing, shall be given by mail not less than ten (10) days, exclusive of the day of mailing before such hearing, addressed to the owner or owners of existing transportation facilities serving such territory as applicant seeks to serve, as well as to the Highway Commission of the State of Texas, the County Judge or Judges of the counties and to the mayor of any incorporated city

or town through which such carrier seeks to operate.

Rules for Hearing; Appearance by Interested Persons and Highway Commission; Revocation of Permit

Sec. 12. (a) The hearing on an application for certificate or permit shall be conducted under such rules and regulations as the Commission may prescribe, and the parties interested, including the Highway Commission of this State, may appear either in person or by counsel and present such evidence and argument as they may desire and as the Commission may deem pertinent, in favor of or against the granting of such application. It shall be the duty of the Highway Commission, upon request of the Commission, to furnish information relating to the highway or highways designated in such application, as well as such other information as the Commission may deem pertinent to the hearing. After hearing and such investigation as the Commission may make, it shall be the duty of the Commission to grant or refuse the application, and, in any contested hearing, the Commission shall, along with its order, file a concise written opinion setting forth the facts and grounds for its action, and such opinion shall be admissible as evidence on any appeal taken therefrom; upon request of any party at interest in a contested hearing of any nature, the proceedings shall be taken down and reported by a reporter under the direction of the Commission.

(b) The Commission at any time after hearing, had, upon notice to the holder of any certificate or permit and after opportunity given such holder to be heard, may by its order revoke, suspend or amend any certificate or permit issued under the provisions of this Act, where in such hearing the Commission shall find that such certificate or permit holder has discontinued operation or has violated, refused or neglected to observe the Commission's lawful orders, rules, rates or regulations or has violated the terms of said certificate or permit; provided, that the holder of such certificate or permit shall have the right of appeal as provided in this Act.

Bonds or Insurance to Cover Loss or Damages; Protection to Employees

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

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

Each motor carrier shall also protect his employees by taking out workmen's compensation insurance, either as provided by the Workmen's Compensation Laws of the State of Texas, or in a reliable insurance company authorized to write workmen's compensation insurance approved by the Commission.

Commission to Approve Equipment

Sec. 13a. The Commission is vested with power and authority, and it is hereby made its duty, to approve or disapprove the nature and character of the equipment to be used under any permit or certificate and the amount and character of tonnage which may be hauled

thereunder on any motor vehicle, trailer or semi-trailer used under such permit or certificate and in approving the amount and character of tonnage to be hauled on any such vehicles, trailers or semi-trailers under any permit or certificate, it may fix the number and size of boxes, packages, barrels or bales of any particular commodity to be transported on any such vehicles, trailers or semi-trailers under such permit or certificate, and the method of loading such boxes, packages, barrels or bales of such commodity on the motor vehicle, trailers and semi-trailers to be used under such permit or certificate; provided, however, said Commission shall not authorize the use of any equipment of greater dimensions than otherwise permitted by law, nor any tonnage of greater weight than otherwise permitted by law.

Provided, that if this section is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed this Act, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that this section be declared unconstitutional; provided further, that if this Act or any section, subsection, sentence, clause or phrase thereof is held to be unconstitutional and invalid by reason of the inclusion of this section, the Legislature hereby declares that it would have passed this Act and any such section, subsection, sentence, clause or phrase thereof without this section.

Approval of Deposits of United States Government Bonds or Cash in Lieu of Bonds and/or Insurance

Sec. 13aa. The Commission is hereby vested with power and authority to approve the deposit by a motor carrier of United States Government bonds or cash, in lieu of bonds and/or insurance required in Section 13, in an amount to be fixed by the Commission under such rules and regulations as it may prescribe; and provided further that upon a full and proper showing of financial fitness and responsibility under and in compliance with rules and regulations prescribed and administered by the Commission such motor carrier may become self-insured in lieu of any coverage required other than the Workmen's Compensation Insurance which each motor carrier shall take out either as provided by the Workmen's Compensation Laws of the State of Texas or in a reliable insurance company authorized to write Workmen's Compensation Insurance approved by the Commission.

Accounts to be Kept; Reports to Commission

Sec. 13b. The Commission is hereby vested with power and authority and it is hereby made its duty to require all motor carriers to keep a set of accounts strictly in accordance with such classification of accounts and rules in respect thereto as may be established by the Commission and to file reports and such other

data as the Commission may deem necessary, and which said accounts shall be open to the inspection of the Commission or its representatives or agents at all times; provided, however, that the Commission may, in its discretion, direct that the inspection or audit of the above described accounts and records of motor carriers, whose principal offices are located outside the State of Texas, be made at said principal office located outside the State of Texas.

Commission to Hear Applications, Complaints, and Compel Attendance of Witnesses; Examiner to Hear Applications Assigned by Commission and Report Thereon

Sec. 14. (a) The Commission shall have the power and authority under this Act to hear and determine all applications of motor carriers; to determine complaints presented to it by such carrier, by any public official, or by any citizen having an interest in the subject matter of the complaint, or it may institute and investigate any matter pertaining to motor carriers upon its own motion. The Commission, or any member thereof, or authorized representative or Examiner of the Commission, shall have power to compel the attendance of witnesses, swear witnesses, take their testimony under oath, make record thereof, and if such record is made under the direction of a Commissioner, or authorized representative or Examiner of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, whether herein specifically mentioned or not, and to that end may hold hearings at any place in Texas which it may designate.

(b) To expedite the hearing and disposition of applications, the Examiner or authorized representative of the Commission shall have authority under orders of the Commission to hear applications which may be assigned to him by the Commission; after the hearing of an application has been concluded by such representative or Examiner, it shall be his duty promptly to make a written report to the Commission recommending disposition of said application. Such report and recommendation shall be accompanied by a brief narrative statement of the evidence, and shall contain such other information as such representative or Examiner may think advisable, or as may be required by the Commission. Unless required by the Commission, it shall not be necessary for the reporter to transcribe said evidence in full, but it shall be sufficient to make a brief narrative statement giving the correct summary of such evidence; provided, however, the Commission shall have the authority to require said evidence, or any part thereof, to be transcribed in full if deemed advisable or necessary.

Per Diem and Mileage of Witnesses; Process to Sheriff

Sec. 15. Every witness who shall be summoned to appear before the Commission, or a Commissioner or authorized representative outside the county of his residence shall receive for his attendance the same per diem and fees as now provided for witnesses in attendance in District Courts of this State in criminal cases; such fees and mileage shall be order¹ paid upon proper voucher, sworn to by such witness and approved by the Commission or the chairman thereof out of the monies or funds arising under this Act; provided that no witness shall be entitled to any witness fees or mileage who is directly or indirectly interested in any motor carrier involved or concerning which the investigation or hearing on account of which he is called, shall relate, and no witnesses furnished with free transportation shall receive pay for the distance he may have traveled on such free transportation. All process issued by the Commission for summoning witnesses or other purposes shall be directed to the sheriff or any constable of any county in the State of Texas, and any sheriff or constable of any county in this State shall promptly execute any subpoenas or other documents directed to him by the Commission and shall receive such fees for this service as is now paid for like services in the District Courts of this State, such payment to be made on accounts properly verified and approved by the Commission or the chairman thereof out of the fund provided in this Act.

¹So in enrolled bill. Probably should read "ordered."

Motor Carrier May Submit Names of Witnesses

Sec. 15a. Provided that any motor carrier at interest in any hearing may submit to the Commission the names and addresses of witnesses which he or it desires to use in such hearing, and it shall be the duty of the Commission to summon such witnesses.

Penalty for Violation of Act

Sec. 16. (a) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand, or requirement of the Commission shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than Twenty-five Dollars (\$25.00), nor more than Two Hundred Dollars (\$200.00), and the violations occurring on each day shall each constitute a separate offense.

(b) Every officer, agent, servant or employee of any corporation and every other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of this Act or who violates or fails to obey, observe or comply with any lawful order, decision, rule or regulation, direction, demand or requirement of the Commission shall in addition be subject to and shall pay a penalty not

exceeding One Hundred Dollars (\$100.00), for each and every day of such violation. Such penalty shall be recovered in any Court of competent jurisdiction in the county in which the violation occurs. Suit for such penalty or penalties shall be instituted and conducted by the Attorney General of the State of Texas, or by the County or District Attorney in the county in which the violation occurs, in the name of the State of Texas.

(c) Upon the violation of any provision of this Act, or upon the violation of any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, any District Court of any county where such violation occurs shall have the power to restrain and enjoin the person, firm or corporation so offending from further violating the provisions of this Act or from further violating any of the rules, regulations, orders and decrees of the Commission. Such injunctive relief may be granted upon the application of the Commission, the Attorney General or any District or County Attorney. No bond shall be required when such injunctive relief is sought upon the application of the Commission, Attorney General or any District or County Attorney. Such relief may be granted in suits for penalties as provided in subdivision (b) of this Section, but a suit for penalty shall not be a condition precedent to the injunctive relief provided by this subdivision.

(d) Any License and Weight Inspector or other peace officer of the Department of Public Safety, shall have the power and authority to make arrests without warrant for any violation of this Act except rate violations. Any authorized Rate Inspector of the Commission shall have power and authority to make arrests for any rate violation occurring under this Act, it being the intent herein to vest in the Department of Public Safety and its License and Weight Division the duty and responsibility for enforcement of the Act for all violations except rate violations, and vest in the Commission the duty and responsibility of enforcement of only rate violations. It shall be the duty of all judges and prosecuting attorneys of this State to assist in the enforcement of this Act.

(e) The Commission shall prescribe an identification card which must be displayed within the cab of each motor vehicle, setting out the certificate or permit number and the route or territory over which the vehicle is authorized to operate, giving the name and address of the owner of said certificate or permit. It shall be unlawful for the owner of said certificate or permit, his agent, servant or employee, or any other person to use or display said identification card after said certificate or permit has been cancelled or disposed of. The identification card provided for herein may be in such form and contain such information as required by the Railroad Commission.

(f) It shall be unlawful for any owner of a certificate or permit, his agent, servant or employee to display upon any motor vehicle the

certificate or permit number, or other insignia of authority from the Railroad Commission after said certificate or permit has expired, or has been cancelled.

(g) It shall be unlawful for any motor carrier (common or contract), or the owner of a certificate or permit, or his agent, servant or employee, directly or indirectly, to offer, permit or give to any person, directly or indirectly, any commission or other consideration to induce such person to deliver to such motor carrier or certificate or permit owner, property to be transported; and it likewise shall be unlawful for any shipper or consignee or his agent, servant or employee, to receive from such motor carrier, directly or indirectly, any such commission or consideration as an inducement to secure the transportation of any such property. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

(h) Any common carrier, motor carrier, his agent, servant or employee who directly or indirectly gives to any shipper any rebate, or any shipper, his agent, servant or employee who directly or indirectly receives any rebate, shall be guilty of a misdemeanor and shall be punished by a fine not to exceed Two Hundred (\$200.00) Dollars for each offense, in any court of competent jurisdiction in this State. It being the intention of this Act that such motor carriers shall in every instance collect and receive, and the shipper shall pay, only the rate or fee prescribed or approved by the Commission.

(i) If any motor carrier, or any officer, agent, clerk, servant, or employee, or receiver, or his agents, servants, or employee, of any motor carrier operating as a contract carrier in this State, shall, directly or indirectly, or by any special rate, rebate, draw-back, or other device, for or on behalf of such contract carrier, knowingly charge, demand, or contract for, collect or receive from any person, firm or corporation a less compensation for any service rendered or to be rendered by any such contract carrier than is prescribed for said service by said Commission, such contract carrier or any officer, clerk, servant, or employee, or receiver, his agents, servants, or employee, of such contract carrier shall be guilty of a misdemeanor and, upon conviction shall be fined in a sum not to exceed Two Hundred Dollars (\$200.00) for each offense; and every person who violates or fails to comply with, or procures, aids, or abets any contract carrier in the violation of the provisions hereof shall likewise be guilty of a misdemeanor and, upon conviction, shall be punished by a fine of not more than Two Hundred Dollars (\$200.00) for each offense.

(j) It shall be unlawful for any officer, agent, servant or employee of any corporation, and every other person, to issue, display or use,

or to enter into a conspiracy or agreement with any other person, officer, agent, servant and employee of any corporation, to issue, display or use a false or fictitious bill of sale, bill of lading, or manifest on the commodities being transported over the highways of this State. Every bill of lading or manifest shall show the true name and address of the consignor or shipper, the consignee or receiver, the origin, the destination, and an exact description of the commodities, goods, wares, or property transported or being transported for hire or compensation over the highways of this State. Every such bill of lading, manifest, or bill of sale or load of commodities being transported for hire over the highways of this State shall be made available for inspection at any time and place upon the request of any officer or agent authorized to enforce the provisions of this Act under Section (d) hereof. Any officer or agent authorized under Section (d) hereof, upon the failure of any person to permit inspection of the commodities being transported over the highways of this State under a bill of sale, bill of lading or manifest, shall be empowered to impound the load or commodities being transported and hold same until properly released without any liability whatever against such officer or agent of state or county. And every person who violates any of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

No provision of this Act will apply to any person who is engaged in the bona fide business of buying, selling and transporting any product or commodity when such person has in good faith purchased such product or commodity and at the time of and during the transportation thereof such person has and owns title to such product or commodity.

(k) Every corporation, association, partnership, firm or individual shall permit any officer, inspector or agent authorized under Section (d) of this Act, upon written authority of the Attorney General or any District Judge of a District Court properly having venue under the laws of this State, to inspect and examine any of its books, records, accounts, letters, memoranda, documents, checks, vouchers, or telegrams and make such copies thereof as may be necessary to show or tend to show that said corporation, its officers, agents or employees, association or partnership or individual has violated any provision of this Act. Every person who fails or refuses to permit such inspection by any duly authorized officer or agent under this Act shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed Two Hundred (\$200.00) Dollars, and each such transaction shall constitute a separate offense.

Filing Fee Accompanying Application

Sec. 17. (a) For the purpose of defraying the expense of administering this Act, every

common carrier motor carrier now regularly operating, or which shall hereafter regularly operate in this state, shall at the time of the issuance of a certificate of convenience and necessity, unless otherwise provided herein, and annually thereafter, on or between September 1st and September 15th of each calendar year, pay a special fee of ten dollars (\$10), for each motor propelled vehicle operated or to be operated by such motor carrier in the carriage of property. If the certificate of convenience and necessity herein referred to is issued after the month of September of any year the fee paid shall be prorated to the remaining portion of the year ending August 31st following, but in no case less than one-fourth ($\frac{1}{4}$) the annual fee. In case of an emergency or unusual temporary demands for transportation the fee for additional motor propelled vehicles for less period shall be fixed by the Commission in such reasonable amounts as may be prescribed by general rule or temporary order. Every application for a certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to other fees and taxes and shall be retained by the Commission whether the certificate of convenience and necessity be granted or not.

(b) Every application filed with the Commission for an order approving the lease, sale or transfer of any certificate of convenience and necessity shall be accompanied by a filing fee in the sum of Twenty-five (\$25.00) Dollars, which fee shall be in addition to the other fees and taxes and shall be retained by the Commission whether the lease, sale or transfer of the certificate of convenience and necessity is approved or not.

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

Identification Plates on Motor Vehicles

Sec. 18. It shall be unlawful for any motor carrier as hereinbefore defined to operate any motor vehicle within this State unless there shall be displayed and firmly fixed upon the front and rear of such vehicle an identification plate to be furnished by the Commission. Each of such plates shall be designed so as to identify the vehicle on which the same is attached as being a vehicle authorized to operate under the terms of this law; said plate shall bear the number given to the vehicle by the Commission and such other marks of identification as may be necessary. The plates for common carrier vehicles and the plates for contract carrier vehicles shall be different in design. The identification plates provided for herein shall be in

addition to the regular license plates required by law. It shall be the duty of the Commission to provide these plates and each motor vehicle operating in this State shall display such plates as soon as the same are received and such plates shall be issued annually thereafter and attached to each motor vehicle not later than September 1st of each year, or as soon thereafter as possible. The Commission shall be authorized to collect from the applicant a fee of one dollar (\$1) for each pair of plates so issued, and all fees for such plates shall be deposited in the State Treasury to the credit of the "Motor Carrier Fund."

Reciprocity

Sec. 18a. Motor carriers of property for hire residing or domiciled outside of the State of Texas, who have authority from the Interstate Commerce Commission to transport property for hire to, from or between points in Texas, and whose operations in this State are limited to the transportation of property for hire in interstate or foreign commerce only under such authority, shall not be required to pay the special fees provided for in Sections 7, 17(a), 18 and subparagraphs (g) and (h) of Section 5a(a) of this Act; provided, however, this exemption from the payment of said fees shall not apply unless the States in which such foreign motor carriers reside or are domiciled shall likewise extend to motor carriers residing or domiciled in Texas exemption from the payment of the same or similar fees or expenses in their respective States; such exemptions from the payment of such fees in Texas shall be effective when the governmental agency or the authorized representative thereof of such foreign States having jurisdiction over the operations of motor carriers for hire shall certify in writing to the Railroad Commission of Texas that the exemption from the payment of such fees and expenses by such Texas carriers has been granted, and is in full force and effect. Provided, further, however, that this exemption shall not apply to the payment of filing fees for applications for certificates or permits to operate in this State.

Nonresident motor carriers coming within the exemptions herein provided for shall not be required to display upon the vehicles operated in this State under the provisions of such exemption, identification plates issued by the Railroad Commission of Texas, and the Commission shall not be required to furnish such carriers with such plates.

Commission May Employ Experts, Assistants, Etc.; Payment of Expenses

Sec. 19. (a) The Commission shall have power to employ and appoint from time to time such experts, assistants, and other help, in addition to its present force, as may be deemed necessary to enable it at all times to properly administer and enforce this Act. Such persons and employees of the Commission shall be paid for the service rendered such sums as may be fixed and prescribed by the Commission in

monthly installments, and no employee of the Commission shall ask or receive any fee from any person for the taking of acknowledgments or any other service except as herein provided, and such salaries, wages and all fees that may be paid to witnesses and officers shall be paid out of the Railroad Commission Operating Fund by the State Treasurer on warrants of the Comptroller of Public Accounts on order or voucher approved by the Commission or the Chairman thereof. All actual and necessary traveling expenses of the members of the Commission and employees shall also be paid out of said Fund in the same manner as recurring operating expenses (including travel expense) when such accounts shall have been itemized and sworn to by the Commission or employee incurring the expenses and approved by the Commission or the Chairman thereof; provided, however, that when audits or inspections of records and accounts are made at out-of-state locations pursuant to the provisions of Section 13b of this Act, the Commission may, in its discretion, direct that all actual and necessary traveling expenses of the members of the Commission, its agents or representatives shall be paid by the inspected carrier. These traveling expenses shall be itemized and sworn to by the Commission or employee, representative or agent of the Commission incurring the expenses and approved by the Commission or the Chairman thereof. The amount of the necessary expenses shall be paid to the Railroad Commission of Texas and shall be deposited with the State Treasurer to the account of the Railroad Commission Operating Fund. These incurred expenses after deposit are hereby reappropriated to the Railroad Commission for continued use for the same purpose.

(b) If the amount of total fees collected under the provisions of this Act shall not be sufficient during any annual period to pay such salaries, costs, charges, fees, and expenses, then the deficit shall be paid by the State Treasurer out of any fund not otherwise appropriated. Until sufficient funds have accrued to said Motor Carrier Fund for the payment of expenses, fees, etc., as provided herein, said expenses shall be paid by the State Treasurer out of any funds not otherwise appropriated, such sum to be paid out of the General Revenue not to exceed the sum of Five Thousand Dollars (\$5000.00), and said sum is hereby appropriated. Any surplus remaining in the Motor Carrier Fund at the end of any fiscal year, after paying such salaries, accounts, fees and charges and after deducting such amounts as may be contracted to be paid and incurred and such sums as may be reasonably estimated by the Commission for its use pending further collection of fees, shall be paid over to the General Revenue Fund.

Review of Decisions of Commission by District Court
of Travis County; Appeals

Sec. 20. If any motor carrier or other party at interest be dissatisfied with any decision, rate, charge, rule, order, act, or regulation

adopted by the Commission, such dissatisfied person, association, corporation, or party after failing to get relief from the Commission may file a petition setting forth the particular objection to such decision, rate, charge, rule, order, act or regulations, or to either or all of them in the District Court in Travis County, Texas, against said Commission as defendant. Said action shall have precedence over all other causes on the docket of a different nature and shall be tried and determined as other civil causes in said court. Either party to said action may appeal to the Appellate Court having jurisdiction of said cause and said appeal shall be at once returnable to said Appellate Court having jurisdiction of said cause and said action so appealed shall have precedence in said Appellate Court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues the suit may be filed during such term and stand ready for trial after ten days' notice. In all trials under this section the burden of proof shall rest upon plaintiff, who must show by the preponderance of evidence that the decisions, rates, regulations, rules, orders, classifications, acts, or charges complained of are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder and no injunction shall be granted against any order of the Commission without hearing unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Ten Days as Reasonable Notice

Sec. 21. Whenever notice is required in this Act to be given ten days exclusive of the day of service and return shall be considered as reasonable notice; provided, that in case of emergency the Commission may hear any cause or complaint on less than ten days' notice.

Board of Control to Provide Office Space

Sec. 22. The State Board of Control is hereby authorized and directed to set aside such additional office space in the Capitol at Austin as may be deemed necessary by the Commission for the proper performance of its added duties as herein defined.

Cancellation of Certificate

Sec. 22a. Any certificate of public convenience and necessity shall be cancelled by the Commission if the owner or owners thereof shall in any manner avoid, fail or refuse to pay any gasoline or other tax imposed by law on such business.

General Policy

Sec. 22b. Declaration of Policy. The business of operating as a motor carrier of property for hire along the highways of this State is declared to be a business affected with the public interest. The rapid increase of motor carrier traffic, and the fact that under existing law many motor trucks are not effectively regulated, have increased the dangers and hazards

on public highways and make it imperative that more stringent regulation should be employed, to the end that the highways may be rendered safer for the use of the general public; that the wear of such highways may be reduced; that discrimination in rates charged may be eliminated; that congestion of traffic on the highways may be minimized; that the use of the highways for the transportation of property for hire may be restricted to the extent required by the necessity of the general public, and that the various transportation agencies of the State may be adjusted and correlated so that public highways may serve the best interest of the general public.

Repeal of Conflicting Laws; Construction

Sec. 23. All laws and parts of laws in conflict herewith are hereby expressly repealed. Provided, however, that nothing in this act shall be construed as giving legislative sanction to any act that would violate the provisions of the Anti-Trust Laws of Texas.

[Acts 1929, 41st Leg., p. 698, ch. 314; Acts 1929, 41st Leg., 2nd C.S., p. 38, ch. 24; Acts 1931, 42nd Leg., p. 480, ch. 277, §§ 1 to 22; Acts 1933, 43rd Leg., p. 135, ch. 65; Acts 1937, 45th Leg., p. 505, ch. 255, § 1; Acts 1937, 45th Leg., p. 645, ch. 316, § 1; Acts 1937, 45th Leg., p. 651, ch. 321, § 1; Acts 1939, 46th Leg., p. 89, § 1; Acts 1941, 47th Leg., p. 86, ch. 71, § 6; Acts 1941, 47th Leg., p. 245, ch. 173, § 2; Acts 1941, 47th Leg., p. 463, ch. 290, § 1; Acts 1941, 47th Leg., p. 713, ch. 442, §§ 2-4; Acts 1945, 49th Leg., p. 637, ch. 360, § 1; Acts 1947, 50th Leg., p. 455, ch. 257, § 1; Acts 1955, 54th Leg., p. 51, ch. 37, § 1; Acts 1955, 54th Leg., p. 1042, ch. 396, §§ 1 to 3; Acts 1957, 55th Leg., p. 263, ch. 123; Acts 1961, 57th Leg., p. 629, ch. 295; Acts 1963, 58th Leg., p. 28, ch. 21, § 1; Acts 1963, 58th Leg., p. 929, ch. 359, § 1; Acts 1963, 58th Leg., p. 1316, ch. 502, § 1; Acts 1965, 59th Leg., p. 116, ch. 44, § 1, eff. March 25, 1965; Acts 1965, 59th Leg., p. 432, ch. 219, § 1, eff. Aug. 30, 1969; Acts 1965, 59th Leg., p. 572, ch. 290, § 1, eff. May 31, 1965; Acts 1965, 59th Leg., p. 1252, ch. 573, § 1; Acts 1973, 63rd Leg., p. 1233, ch. 445, §§ 1, 2, eff. June 14, 1973.]

Saving Clause

Acts 1965, 59th Leg., p. 581, ch. 295, § 1 and Acts 1969, 61st Leg., p. 618, ch. 213, § 1, which amended article 883, in § 2 thereof repealed conflicting laws but provided that nothing therein should affect the provisions of § 6aa of this article. See notes under article 883.

Art. 911c. Unconstitutional

This article, derived from Acts 1935, 44th Leg., p. 746, ch. 325, §§ 1 to 9, regulating and licensing transportation agents, was held unconstitutional by the Court of Criminal Appeals in *Ex parte Talkington*, 132 Cr.R. 361, 104 S.W.2d 495, as arbitrary, unreasonable abridgment of citizens' rights and privileges and invasion of their liberty to engage in lawful business, because of unreasonable requirements, impossible to perform, not fairly applicable, and prohibitive.

Art. 911d. Regulation of Motor Bus Ticket Brokers

Definitions

Sec. 1. (a) That the term "corporation" when used in this Act means a corporation, company, association or joint stock association.

(b) The term "person" when used in this Act means an individual, firm, or co-partnership.

(c) The term "motor bus company" when used in this Act means every corporation or person as herein defined, their lessees, trustees, receivers, or trustees appointed by any court whatsoever, owning, controlling, operating, or managing any motor propelled passenger vehicle, not usually operated on or over rails, and engaged in the business of transporting persons for compensation or hire over the public highways within the State of Texas, under certificates of public convenience and necessity issued by the Railroad Commission of Texas, whether operating over fixed routes or fixed schedules or otherwise; provided further, that the term "motor bus company" as used in this Act shall not include corporations or persons, their lessees, trustees, or receivers, or trustees appointed by any court whatsoever, insofar as they own, control, operate, or manage motor propelled passenger vehicles operated wholly within the limits of any incorporated municipal corporation, town or city and the suburbs thereof, whether separately incorporated or otherwise.

(d) The term "Commission" when used in this Act means the Railroad Commission of the State of Texas.

(e) The term "broker" as used in this Act shall mean any person, firm, corporation or association of persons whatsoever, who or which, as principal or agent, shall for compensation, sell or offer for sale, transportation for passengers of any character, or who or which make any contract, agreement, or arrangement to provide, furnish, or arrange for such transportation, directly or indirectly, whether by selling of tickets or of information, or the introduction of parties where a consideration is received or otherwise, or who or which shall hold himself or itself out by advertisement, solicitation or otherwise as one who sells, provides, procures, contracts, or arranges for such transportation, information or introduction; provided, however, the term "broker" shall not apply to or include any such person, firm, corporation or association of persons whatsoever unless and until the Railroad Commission of Texas, after notice and hearing, shall have determined, from credible and competent evidence introduced before it or before some person authorized by present laws to conduct hearings for it, that such person, firm, corporation or association of persons has so conducted himself or itself in the course of the acts, transactions and things mentioned in this Sub-section (e) as to bring about a reasonably continuous or customary competition with one or more "motor bus companies," holding one or more certificates of convenience and necessity, duly and properly issued by the Railroad Commission of Texas under Chapter 270, General Laws Fortieth Legislature, 1927, as amended at the First Called Session of the Forty-first Legislature and any and all present and future amendments thereto;¹ provided however, a carrier of passengers by rail shall never be considered a broker.

(e¹/₂) The Railroad Commission of Texas shall have and it is hereby given the power and authority, either upon motion of any interested person or upon its own motion to investigate through a public hearing any person, firm, corporation or association of persons thought to be or charged with being a "broker" as that term is defined herein and to make a determination of the fact question as to whether said status of "broker" actually exists.

The person, firm, corporation, or association of persons sought to be so investigated shall be given at least ten (10) days notice by mail of such hearing and all motor bus companies probably or possibly affected by the asserted competition of such person, firm, corporation or association of persons shall likewise be given the same character of notice by mail and shall be given an opportunity to be heard; and, in addition, the owner or owners of all other existing passenger transportation facilities serving all or a portion of the territory thought to be or charged with being served by the person, firm, corporation, or association of persons under investigation shall be given the same character of written notice and, they along with any other interested party, shall be given an opportunity to be heard. The notice mentioned shall be not less than ten (10) days exclusive of the day of mailing.

Before the Commission determines that a person, firm, corporation or association of persons is a "broker" as that term is defined herein, it shall make findings, based on competent and credible testimony that the said person, firm, corporation or association of persons has customarily or with reasonable continuity brought about competition in the transportation of persons for hire between one or more motor bus companies, which have theretofore been duly and properly issued one or more certificates of public convenience and necessity, on the one hand, and other motor vehicles, not so certificated, on the other hand.

(f) The term "license" as used herein means a license issued to a broker.

¹ Article 911a.

Certain Sales Prohibited

Sec. 2. It shall be unlawful for any broker or anyone else to sell any ticket or tickets for the transportation of passengers within this State over any motor bus company's line at any rates other than the rates legally authorized and approved by the Commission.

Broker's License Required

Sec. 3. No broker shall for compensation sell or offer for sale, transportation for passengers of any character, nor make any contract, agreement, or arrangement to provide, procure, furnish, or arrange for such transportation, directly or indirectly, whether by the selling of tickets, or of information, or the introduction of parties where a consideration is received or otherwise, nor shall hold himself or itself out by advertisement, solicitation, or otherwise

as one who sells, provides, procures, contracts or arranges for such transportation or information unless such broker holds a broker's license issued by the Railroad Commission of Texas authorizing such activities; provided further that the provisions hereof shall not apply to transportation of passengers on steamship lines operating between ports of this State and ports of the United States and ports of any foreign company, and transportation of passengers of any authorized carrier or carriers operating in either interstate or intrastate transportation; and provided further that nothing herein contained shall in any manner affect the rights of private individuals as a mere incident to travel who are not brokers to enter into agreements or arrangements for transportation on a share-expense plan where in such negotiations or arrangements the services of an unlicensed broker, as herein defined, do not intervene or are not used.

License, To Whom Issued, Etc.

Sec. 4. A broker's license may be issued to any qualified applicant therefor upon application to the Commission in such form as the Commission shall prescribe, authorizing the whole or any part of the operation covered by the application, if it is found that the applicant is fit, willing, and able properly to perform the services proposed and to conform to the requirements, rules and regulations of the Commission promulgated hereunder, and within the limits hereof, and that the proposed service to the extent authorized by the license, is, or will be consistent with the public interest; otherwise, such application shall be denied. Any broker in bona fide operation when this Act takes effect shall have a period of thirty (30) days thereafter within which to apply for a broker's license, and if such application be filed such broker, if in bona fide operation when this Act takes effect may continue such operation under such rules and regulations, as the Commission may prescribe within the limits of this Act, until such application be by the Commission determined.

Nature and Effect of License

Sec. 5. The license herein provided for shall be personal in nature and shall not be sold, transferred, nor assigned. No broker shall be authorized to have more than one place of business, the location of which shall be designated in the license as issued by the Commission and no broker shall be authorized to change the location of his business without the approval of the Commission. If a broker dies, discontinues business for a period of thirty (30) days, or removes from the county where such license was issued, the license shall immediately become void and shall be by the Commission cancelled.

Tariff Rates Applicable to Brokers

Sec. 6. All brokers in transporting or causing to be transported passengers on the highways of Texas shall be bound by the tariffs,

fares and rates approved of by the Railroad Commission of Texas covering the transportation for hire of persons over the highways of Texas; and shall not, directly or indirectly, transport or cause to be transported over State Highways any person at a greater or lesser fare or rate than that approved of by the Commission save and except that any broker shall be allowed a reasonable brokerage for his services but said brokerage and all details and particulars in connection therewith, including who shall pay such brokerage, shall be first approved of by the Commission.

Rules and Regulations

Sec. 7. The Commission shall have power, after proper notice and hearing, in a manner hereinafter more particularly set forth, to make, adopt and enforce any reasonable rules and regulations, and to enforce the same, which may be necessary in assisting it to determine just who are and who are not brokers and in enforcing observance of its duly authorized and approved rates, tariffs and fares and in inspecting and approving brokerage charges to be charged by brokers for their services as such and in seeing to it that passengers are not transported in vehicles and under circumstances wherein and whereunder they are unprotected against injury and damage to person and property during such transportation or as a proximate result thereof and in assisting it in otherwise exercising the powers expressly given it or necessarily implied from and by this Act.

Broker's Bond

Sec. 8. Each broker, prior to the issuance of any license to him, shall file a bond or other security with the Commission and shall procure its approval of the same conditioned in such fashion that the State of Texas, through its Attorney General or any District or County Attorney, may proceed against said bond or other security and the principals and sureties thereon for a recovery of all money representing the difference between the money actually paid by any and all persons for such transportation arranged for by the broker, on the one hand, and the money which should have been paid under the applicable tariffs, rates and fares theretofore approved of by the Commission, on the other hand, plus a penalty of Twenty-five (\$25.00) Dollars for each person so transported at the instigation of the broker at a lesser or greater charge or fare than the Commission's duly and properly approved tariff, rate or fare; and further conditioned in such fashion that the Attorney General or any District or County Attorney may similarly proceed for a recovery of all money representing the difference between the money actually collected by said broker as for his brokerage, on the one hand, and the money which should have been collected by him as for brokerage under the Commission's duly approved rate of brokerage, on the other hand, plus a penalty of

Twenty-five (\$25.00) Dollars on each passenger connected with the broker, but with respect to whom the broker failed, refused or neglected to collect the proper brokerage previously fixed or approved of by the Commission. All money recovered, either as differences between money actually collected and that which should have been collected as penalties under this Section 8, shall become the property of, and be owned by, the State of Texas, as a penalty and not as a forfeiture.

Vehicles to be Bonded for Damages Due to Injuries

Sec. 9. No broker shall have any part in transporting, or causing to be transported, any person, for hire, over the highways of Texas, except in a vehicle and under circumstances wherein and whereunder such passenger and his heirs, his estate and his beneficiaries are fully protected by security, bond or insurance, to be approved by the Commission, against damage, loss and injury resulting from loss of or damage to property possessed by such passenger during such transportation, or as a proximate result thereof; and, as well, against damage, loss and injury resulting from such passenger's personal injury or death during such transportation; or as a proximate result thereof; and, if any such passenger, his heirs, his estate or his beneficiaries, be damaged or injured in his person or rights or property as a result of such passenger's being transported in such unprotected manner, then those entitled to a recovery by reason of such unprotected transportation, in the event they cannot make themselves whole by proceeding against the actual hauler or carrier, shall be entitled to proceed against the broker, insurer, bond or other security and the principal and sureties thereon to the extent necessary to make them and each of them whole; and each broker's bond, insurance or other security shall be so conditioned; and each broker shall be required to furnish or renew such insurance, bond or other security as may be, and to the extent necessary from time to time, and as may be ordered by the Commission to effectuate all of the protection for the State and for such other persons as are mentioned in this Section; and such insurance, bond or other security shall be further conditioned in such fashion that, if and when any passenger, through no fault of his own, has not been carried over the route called for by the agreement with the broker, or has not been carried all of the way to the destination agreed upon with the broker, then the party or parties injured or damaged by such deviation from route or by such failure to carry the passenger through to his destination, in the event they cannot make themselves whole by proceeding against the actual hauler or carrier, shall be fully protected by, and shall be allowed to proceed against, the broker, insurance, bond or other security and the insurer, principal or sureties thereon to the extent necessary to make the injured or damaged party or parties whole.

Powers of Commission Concerning Rules, Etc.

Sec. 10. The Railroad Commission of Texas shall have and it is hereby given power and authority to adopt, approve, promulgate and enforce rules and regulations to the extent necessary, and only to the extent necessary, to aid and assist it in carrying out the express and necessarily implied powers granted it by this Act; but before adopting, approving, promulgating or enforcing any such rules and regulations, a copy thereof shall be sent by mail to each person, firm, corporation and association of persons known or thought by the Commission to have an interest in the subject matter of such rules and regulations; and in addition such proposed rules and regulations shall be published on three successive days in a daily newspaper of general circulation in each of the Cities of San Antonio, Houston, Dallas, Fort Worth, El Paso, Texarkana, Amarillo and Brownsville, Texas, and in each such notice and publication the Commission shall give all interested persons, firms, corporations and associations of persons express notice that it intends to adopt, approve, promulgate, and enforce such proposed rules and regulations and that a public hearing will be held thereon in Austin, Texas, at a given hour and date, for the purpose of hearing any and all objections thereto and any and all evidence and statements and arguments in regard thereto and for the purpose of making any and all necessary changes, eliminations and amendments in and to such published and proposed rules and regulations; and in such notices and publications all interested parties shall be given notice to be and appear at the given time and place for the purpose of such a hearing. At any and all such hearings the Commission shall give all interested parties an opportunity to present evidence, statements and arguments for and against the adoption of the proposed rules and regulations. And the Commission shall adopt or reject such rules and regulations, in whole or in part, as it shall deem proper; but its action shall be reasonable, and shall be based upon the substantial effect of the record made at such hearing, or upon the substantial effect of its other records of which it may take notice under present laws. The hearing contemplated shall be held at least ten (10) days from the mailing of the notices exclusive of the day of mailing, and at least ten (10) days from the appearance of the last notice in said newspapers or either of them.

Broker's Records

Sec. 11. Each and every broker shall keep an accurate record of each and every contract, agreement, or arrangement for transportation which he or it may make with every person traveling, or desiring to travel, with whom the broker may contract or arrange transportation, on such form and containing such information as the Commission may prescribe and require. Such record shall be open to inspection to any sheriff, constable, County or District Attorney, and to any officer, agent, inspector, or other

employee of the Railroad Commission at all times. Such records shall not be destroyed until after the expiration of three (3) years, and then only after an order of the Commission authorizing the destruction thereof.

Hearing and Fee for License

Sec. 12. No application for a broker's license shall be granted until after hearing thereof, notice of which shall be given to all motor bus companies serving the territory proposed to be served by applicant, and to the County Judge and District and County Attorney of the county in which applicant resides, at least ten (10) days prior to the date of such hearing, at which hearing any interested party may appear and be heard. Each application for a broker's license shall be accompanied by a filing fee of Twenty-five (\$25.00) Dollars, which shall be payable to the State Treasurer at Austin, and shall be by the State Treasurer deposited in the State Treasury and credited to the fund known and designated as the "Motor Transportation Fund," and be used in administering this Act. Each person, firm, corporation, or association of persons holding a broker's license under the terms of this Act, shall on the first day of January of each and every year that such license is in effect, pay to the State Treasurer a fee of Twenty-five (\$25.00) Dollars, which shall be deposited in and become a part of the General Revenues of the State; and such brokers shall not be authorized to transact any business in any calendar year until such fee is paid, and if not paid on or before the first day of March of any year, such license shall be automatically cancelled.

Powers of Commission, In General

Sec. 13. The Commission shall have the power and authority under this Act to hear and determine all applications of brokers for a license; to determine complaints presented to it by brokers, by any public official or by any citizen having an interest in the subject matter of the complaints; or it may institute an investigation in any matter pertaining to brokers upon its own motion. The Commission, or any member thereof, or authorized representative of the Commission, shall have the power to compel the attendance of witnesses, swear witnesses, take their testimony under oath and make a record thereof, and if such record is made under the direction of a Commissioner, or authorized representative of the Commission, a majority of the Commission may, upon the record, render judgment as if the case had been heard before a majority of the members of the Commission. The Commission shall have the power and authority under this Act to do and perform all necessary things to carry out the purpose, intent, and provisions of this Act, and to that end may hold hearings at any place in Texas which it may designate.

Review of Commission's Orders or Decisions

Sec. 14. The applicant for a broker's license, any motor bus company, or any other in-

interested person, if he or it be dissatisfied with any decision, rule, order, act, or regulation adopted by the Commission, such dissatisfied person, association, corporation, or party may file a petition setting forth the particular objection to such decision, rule, order, act or regulation, or to either or all of them in the district court of the plaintiff's residence or principal place of business, against said Commission as defendant. Said action shall have precedence over all other causes on the docket, of a different nature, and shall be tried and determined as other civil causes in said court; either party to said action may appeal to the appellate court having jurisdiction of said cause, and said appeal shall be at once returnable to said appellate court having jurisdiction of said cause, and said action so appealed shall have precedence in said appellate court over all causes of a different character therein pending; provided, that if the court be in session at the time such right of action accrues, the suit may be filed during such term and stand ready for trial after ten days notice. In all trials under this Section, the burden of proof shall rest upon the plaintiff, who must show by the preponderance of the evidence that the decisions, regulations, rules, orders, and acts are unreasonable and unjust to it or them. The Commission shall not be required to give any appeal bond in any cause arising hereunder, and no injunction shall be granted against any order of the Commission without hearing, unless it shall clearly appear that irreparable injury will be done the complaining party if the injunction is not granted.

Violation of Act; Penalty

Sec. 15. Any person, corporation, or any officer, agent, servant, or employee of any such corporation, and every other person who violates or fails to comply with, or who procures, aids or abets in the violation of this Act, or any rule, regulation, order or decree of the Commission promulgated under the terms of this Act, shall be guilty of a misdemeanor; and upon conviction thereof, shall be punished by a fine of not less than One Hundred (\$100) Dollars and not to exceed Two Hundred (\$200) Dollars, and the violations occurring on each day shall each constitute a separate offense. Any authorized inspector for the Railroad Commission, and all law enforcement officers of the State, shall have power and authority, and it shall be their duty, to make arrests for the violation of any of the provisions of this Act.

Cancellation of License

Sec. 16. The Railroad Commission may in its discretion, after ten days notice and a hearing, cancel any license issued under the provisions of this Act for the violation of this or any other statute of this State, the violation of any lawful order, rule or regulation promulgated by the Commission under authority hereof, or for any failure of any broker to discharge

any and all claims or demands of any member of the public for which such broker may be legally liable, by reason of any act of such broker in selling, providing, procuring, contracting, or arranging for such transportation, information, or introduction under the terms of this Act.

Repeal of Conflicting Laws

Sec. 17. All laws and parts of laws in conflict herewith are expressly repealed.

Severability

Sec. 18. If any Section, sub-section, clause, sentence, or phrase of this Act is for any reason held to be unconstitutional and invalid, such decision shall not affect the validity of the remaining portions of the Act. The Legislature hereby declares that it would have passed this Act and each Section, sub-section, clause, sentence, or phrase thereof, irrespective of the fact that any one or more of the Sections, sub-sections, sentences, clauses, or phrases be declared unconstitutional.

Declaration of Policy

Sec. 19. The Legislature finds that there has grown up in this State a type of business in which transportation is sold or arranged for in various forms, consisting of the selling or giving of information with respect to travel and transportation, the introduction of parties, and various other methods and practices, which interferes with and obstructs the functions of the Railroad Commission of Texas in connection with its control of motor bus companies holding certificates of public convenience and necessity issued by said Commission, and which is hazardous and dangerous to the public health, morals and general welfare, and that passengers are often stranded by drivers of cars to whom they had paid money for transportation, and other fees or commissions, for being brought into contact with the drivers of such cars, and that this often occurs when such passengers are far from home and friends and left to complete their journey any way they can; that passengers after beginning a journey are often required to pay additional money or buy supplies in order to complete their journey; that passengers are often carried over long and circuitous routes contrary to representations made to them; that there has developed a class of irresponsible persons who operate automobiles from place to place with no destination and no motive except to transport persons as passengers for hire, who have no insurance to protect a passenger for personal injury or loss or damage to property, and who are unable to respond in damages; that passengers are subjected to indignities and insults; that irregularities and abuses require the regulations and policing of broker's operations, and that such regulation is necessary in the interest of the health, moral and general welfare of the people of this State.

[Acts 1939, 46th Leg., p. 672.]

Art. 911e. Unconstitutional

This article, derived from Acts 1941, 47th Leg., p. 606, ch. 375, was held unconstitutional by the Court of Criminal Appeals in *Ex parte Garland*, Cr.App., 154 S.W.2d 834.

Art. 911f. Motor Transportation Brokers of Fresh Citrus Fruits and Vegetables**Legislative Declaration; Regulation and Control of Intermediaries**

Sec. 1. The Legislature declares that the public welfare requires the regulation and control of those persons, whether acting individually or as officers, commission agents, or employees of any person, firm, or corporation, who hold themselves out to act as intermediaries between the public and those motor carriers of fresh citrus fruits (as that term is defined by Acts 1963, 58th Legislature, page 312, Chapter 117)¹ and fresh vegetables (as that term is defined by Acts 1963, 58th Legislature, page 598, Chapter 218)² operating over the public highways of the state, for compensation. Until the Congress of the United States acts, the public welfare requires the regulation and control of such intermediaries between the public and interstate motor carriers as well as between the public and intrastate carriers.

¹ Article 118b.

² Article 1287-3.

Definitions

Sec. 2. In this Act the following words shall mean:

(1) "Motor transportation broker"—any person who, acting either individually or as an officer, commission agent, or employee of a corporation, or as a member of a copartnership, or as a commission agent or employee of another person, sells or offers for sale, or negotiates for or holds himself out as one who sells, furnishes, or provides, transportation of fresh citrus fruits and fresh vegetables over the public highways of this state, when such transportation is furnished, or offered or proposed to be furnished, by a motor carrier.

(2) "Motor carrier"—any person, firm, or corporation, their lessees, trustees, receivers or trustees appointed by any court whatsoever, transporting or offering or proposing to transport fresh citrus fruits and fresh vegetables for compensation over any portion of the public highways of the state.

(3) "Commission"—the Railroad Commission of Texas.

Application of Act

Sec. 3. This Act shall not apply to the officers, agents, or employees of any carrier operating for compensation over the public highways of this state who is under the jurisdiction of the commission, or to a person, firm, or corporation engaged in transporting express when such transportation is incidental to the transportation of passengers.

The provisions of this Chapter shall apply whether the transportation sold, or offered to be sold, is interstate or intrastate.

License; Necessity; Power to Regulate Issuance of License

Sec. 4. It is unlawful for any person, firm, or corporation to engage in the business, or act in the capacity, of a motor transportation broker without first obtaining a license therefor. The commission may administer this Act, with full power to regulate and control the issuance and revocation of motor transportation broker licenses, and may perform all other acts and duties provided in this Act and necessary for its enforcement.

Copartnerships and Corporations; Agents or Employees; Joinder in Application

Sec. 5. The commission shall not issue a motor transportation broker license to any copartnership or corporation, it being the intent of this Act to require each person acting as a motor transportation broker to be individually licensed. If an applicant is an officer or commission agent or employee of a corporation, or a member of any copartnership, he shall so state in his application. The corporation, copartnership, or person of which the applicant is an officer, member, or employee, as the case may be, shall join in the applicant's application and shall set forth therein the relationship between the applicant and the person, copartnership, or corporation so joining.

Form of Application; Contents

Sec. 6. An application for a license as a motor transportation broker shall be made in writing to the commission. The application shall be verified and shall be in such form and contain such information as the commission from time to time requires.

Issuance of License; Refusal of License; Hearing

Sec. 7. The commission, without a hearing, may issue the license as prayed for. The commission, with a hearing, may refuse to issue the license or may issue it for the partial exercise of the privilege sought. The commission shall not issue a license when it determines that (a) the applicant is not a fit and proper person to receive the license, or (b) the motor carriers for whom the applicant proposes to sell transportation have not complied, or are not complying, or do not propose to comply, with state or federal laws, or all general orders of the commission, applicable to the operations of the motor carrier.

Bond

Sec. 8. No license shall be issued unless the applicant therefor provides a good and sufficient bond in the sum of Ten Thousand Dollars (\$10,000) executed by a solvent bonding company authorized to do business in the State of Texas, payable to the State of Texas or to any person to whom the applicant furnishes transportation, and be conditioned:

(a) Upon the faithful performance, by the motor carrier or motor carriers for

whom the applicant is licensed to act, of the contract or agreement of transportation negotiated by the licensee; and

(b) Upon the honest and faithful performance by the applicant of any undertaking as a licensed motor carrier transportation agent under this Act.

Limitation on Liability; Actions on Bond

Sec. 9. Nothing in this Act shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished by any prior recovery.

No suit or action against the surety on any such bond given in compliance with this Act shall be brought later than one (1) year from the accrual of the cause of action thereon. The surety may terminate its liability under the bond by giving thirty (30) days written notice thereof, served either personally or by registered mail, to the principal and to the commission. Upon giving the notice the surety is discharged from all liability under the bond for any act or omission of the principal occurring after the expiration of thirty (30) days from the date of the service of the notice. Unless on or before the expiration of such period the principal files a new bond in like amount and conditioned as the original in substitution of the bond so terminated, the license of the principal shall likewise terminate upon the expiration of the period.

Transfer or Assignment of License

Sec. 10. No license issued pursuant to this Act gives authority to do any act for which the license is issued, to any person, other than the licensee. The license is not transferable or assignable. No such license authorizes the licensee to do business except in the location stipulated in the license.

Fees

Sec. 11. The fees for licenses, and each renewal thereof, are Five Dollars (\$5) a year, or fraction thereof. All applications for licenses shall be accompanied by the fee, and all licenses, subject to the provisions for renewal, which the commission prescribes, shall expire on September 30th of each year.

All fees charged and collected under this Act shall be deposited at least once a month in the State Treasury to the credit of the commission and in augmentation of the current appropriation for the support of the commission, and may be expended by the commission for the administration of this Act.

Insuring Property

Sec. 12. Each broker licensee provided for in this Act shall insure any property for which he has sold transportation with a solvent insurer authorized to do business in the State of Texas, for the protection of both the shipper and receiver of such property.

Powers of Commission; Proceedings

Sec. 13. All powers vested in the commission relating to hearing and determining matters presented to it, are made applicable to the proceedings under the provisions of this Act.

Suspension or Revocation of License

Sec. 14. The commission may suspend or revoke any license if it determines that the licensee is not a fit and proper person to hold the license, or if the commission determines that the licensee, in acting as motor transportation broker, has engaged in false advertising and false representation in violation of the laws of this state, or any political subdivision thereof, or has sold, offered for sale, or negotiated for sale, transportation by any carrier that under the laws of this state is conducted in a manner contrary to the public interest, or without proper authority, or in violation of the provisions of this Act or the general orders or rules of the commission pertaining thereto.

Complaints for Violations; Prosecutions

Sec. 15. The commission may prefer a complaint for violation of this Act before any court of competent jurisdiction and the commission and its counsel, or other official representatives, may assist in presenting facts at the trial. It is the duty of the district attorney of each county in this state to prosecute all violations of the provisions of this Act in their respective counties in which the violations occur, either with or without the request of the commission.

Records; Inspection

Sec. 16. All motor transportation brokers shall maintain and keep for a period of two (2) years an exact and permanent record of all transactions had by them as such brokers, including the amount paid to the broker for all property transported, the point of destination, and the name of the person, firm or corporation acting as motor carrier. The records shall at all reasonable times be open to inspection by any officer or agent of the state or of any county within the state.

Acting as Motor Transportation Broker

Sec. 17. Any person, firm, or corporation, shall be understood to be acting as a motor transportation broker who:

(a) Orally or by card, circular, pamphlet, newspaper, radio, sign, billboard, or any other way, advertises himself, or itself, as one who sells, furnishes, negotiates for, or provides transportation over the public highways of this state when the transportation is furnished or offered, or proposed to be furnished, by motor carriers.

(b) Manages or conducts as a manager, conductor, agent, proprietor, lessor, lessee, or otherwise, a place where transportation is, or is offered, or proposed to be, sold, furnished, negotiated for, or provided by a motor carrier.

(c) Aids and abets, or without being present advises and encourages any person, firm, or corporation in acting as, or to act as, a motor transportation broker.

One act of the nature set forth in this Section shall constitute a person, firm, or corporation doing or committing the act, a motor transportation broker.

Acting Without License; Punishment

Sec. 18. Any person, firm, or corporation, acting as a motor transportation broker without a license is, upon conviction of a first offense thereof, if a person, punishable by a fine of not to exceed Five Hundred Dollars (\$500), or by imprisonment in the county jail for a term not to exceed six (6) months, or both, or if a corporation, punishable by a fine of not to exceed Two Thousand Five Hundred Dollars (\$2,500); and for a second and subsequent offense is, upon conviction, if a person, punishable by a fine of not to exceed One Thousand Dollars (\$1,000), or by imprisonment in the county jail or state prison for a term not to exceed one (1) year, or both, or, if a corporation, is punishable by a fine of not to exceed Five Thousand Dollars (\$5,000).

Violation of Act; Punishment

Sec. 19. Any person, licensed as a motor transportation broker, who violates any of the provisions of this Act, is, upon conviction, punishable by a fine not to exceed Five Hundred Dollars (\$500), or by imprisonment in a county jail not to exceed six (6) months, or both; and in addition thereto, the license as motor transportation broker shall be revoked by the commission.

Right of Action by State or Commission; Cumulative Penalties

Sec. 20. This Act shall not have the effect to release or waive any right of action by the state, the commission, or any person or corporation, for any fine, penalty, or forfeits which may have arisen or accrued, or may hereafter arise or accrue, under any laws of this state. All penalties accruing under this Act are cumulative.

[Acts 1965, 59th Leg., p. 1153, ch. 544.]

Art. 911g. Motor Transportation of Migrant Agricultural Workers

Definitions

Sec. 1. As used in this Act, unless the context otherwise requires:

(a) "Migrant agricultural worker" means any person performing or seeking to perform farm labor and who is a seasonal worker and who occupies living quarters other than his own permanent home during the period of employment. For this purpose, the term "farm labor" includes that necessary to the processing of agricultural food products.

(b) "Carrier of migrant agricultural workers by motor vehicle" means any per-

son, including any "contract by motor vehicle," but not including any "common carrier by motor vehicle," who or which transports within this state at any one time five or more migrant agricultural workers to or from their employment by any motor vehicle other than a passenger automobile or station wagon, except a migrant agricultural worker transporting himself or his immediate family.

(c) "Motor carrier" means any carrier of migrant agricultural workers by motor vehicle as defined in Paragraph (b) above.

(d) "Motor vehicle" means any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof, but does not include a passenger automobile or station wagon, any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passengers transportation in street-railway service.

(e) "Bus" means any motor vehicle designed, constructed, and used for the transportation of passengers, except passenger automobiles or station wagons other than taxicabs.

(f) "Truck" means any self-propelled motor vehicle except a truck tractor, designed and constructed primarily for the transportation of property.

(g) "Truck tractor" means a self-propelled motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

(h) "Semitrailer" means any motor vehicle other than a "pole trailer" with or without motive power, designed to be drawn by another motor vehicle and so constructed that some part of its weight rests upon the towing vehicle.

(i) "Driver or operator" means any person who drives a motor vehicle.

(j) "Highway" means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic.

Application of Act

Sec. 2. The regulations prescribed in this Act shall be applicable to motor carriers of migrant agricultural workers only in the case of transportation of any migrant worker for a total distance of more than 50 miles.

Drivers; Requirements

Sec. 3. Every motor carrier of migrant agricultural workers and its officers, agents, representatives and employees who drive motor

vehicles or are responsible for the hiring, supervision, training, assignment or dispatching of drivers shall comply with and be conversant with the requirements listed herein.

(a) Minimum physical requirements. No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless he possesses the following minimum qualifications:

(1) No loss of foot, leg, hand, or arm.

(2) No mental, nervous, organic, or functional disease, likely to interfere with safe driving.

(3) No loss of fingers, impairment of use of foot, leg, fingers, hand or arm, or other structural defect or limitation likely to interfere with safe driving.

(4) Eyesight: Visual acuity of at least 20/40 (Snellen) in each eye either without glasses or by correction with glasses; form field of vision in the horizontal median shall not be less than a total of 140 degrees; ability to distinguish colors, red, green and yellow; drivers requiring correction by glasses shall wear properly prescribed glasses at all times when driving.

(5) Hearing: Hearing shall not be less than 10/20 in the better ear, for conversational tones, without a hearing aid.

(6) Liquor, narcotics and drugs: Shall not be addicted to the use of narcotics or habit forming drugs, or the excessive use of alcoholic beverages or liquors.

(7) Initial and periodic physical examination of drivers: No person shall drive nor shall any motor carrier require or permit any person to drive any motor vehicle unless within the immediately preceding 36-month period such person shall have been physically examined and shall have been certified in accordance with the provisions of Subparagraph (8) hereof by a licensed doctor of medicine or osteopathy as meeting the requirements of this subsection.

(8) Certificate of physical examination: Every motor carrier shall have in its files at its principal place of business for every driver employed or used by it a legible certificate of a licensed doctor of medicine or osteopathy based on a physical examination as required by Subparagraph (7) hereof or a legible photographically reproduced copy thereof, and every driver shall have in his possession while driving, such a certificate or a photographically reproduced copy thereof covering himself.

(9) Doctor's certificate: The doctor's certificate shall certify as follows:

"Doctor's Certificate

(Driver of Migrant Agricultural Workers)

This is to certify that I have this day examined _____ in accordance with the Texas law governing physical qualifications of drivers of migrant agricultural workers and that I find him

Qualified under said law

Qualified only when wearing glasses I have kept on file in my office a completed examination.

(Date)

(Place)

(Signature of Examining Doctor)

(Address of Doctor)

Signature of Driver _____

Address of Driver _____"

(b) Minimum age and experience requirements. No person shall drive, nor shall any motor carrier require or permit any person to drive, any motor vehicle unless such person possesses the following minimum qualifications:

(1) Age: Minimum age shall be 21 years.¹

(2) Driving skill: Experience in driving some type of motor vehicle (including private automobiles) for not less than one year, including experience throughout the four seasons.

(3) Knowledge of regulations: Familiarity with the rules and regulations prescribed in the law pertaining to the driving of motor vehicles.

(4) Driver's permit: Possession of a valid permit qualifying the driver to operate the type of vehicle driven by him in the jurisdiction by which the permit is issued.

¹ Arts 1973, 63rd Leg., p. 1722, ch. 626, classified as art. 5923b, changed the age of majority to eighteen.

Safety Regulations

Sec. 4. Every motor carrier shall comply with the requirements of this section, shall instruct its officers, agents, representatives and drivers with respect thereto, and shall take such measures as are necessary to insure compliance therewith by such persons. All officers, agents, representatives, drivers and employees of motor carriers directly concerned with the management, maintenance, operation, or driving of motor vehicles, shall comply with and be conversant with the requirements of this section.

(a) Driving rules to be obeyed. Every motor vehicle shall be driven in accordance with the laws, ordinances, and regu-

lations of the jurisdiction in which it is being operated, unless such laws, ordinances and regulations are at variance with specific regulations in this law which impose a greater affirmative obligation or restraint.

(b) Driving while ill or fatigued. No driver shall drive or be required or permitted to drive a motor vehicle while his ability or alertness is so impaired through fatigue, illness, or any other cause as to make it unsafe for him to begin or continue to drive, except in case of grave emergency where the hazard to passengers would be increased by observance of this section and then only to the nearest point at which the safety of the passengers is assured.

(c) Schedules to conform with speed limits. No motor carrier shall permit nor require the operation of any motor vehicle between points in such a period of time as would necessitate the vehicle being operated at speeds greater than those prescribed by the jurisdictions in or through which the vehicle is being operated.

(d) Equipment and emergency devices. No motor vehicle shall be driven unless the driver thereof shall have satisfied himself that the following parts, accessories, and emergency devices are in good working order; nor shall any driver fail to use or make use of such parts, accessories, and devices when and as needed:

Service brakes, including trailer brake connections.

Parking (hand) brake.

Steering mechanism.

Lighting devices and reflectors.

Tires.

Horn.

Windshield wiper or wipers.

Rear-vision mirror or mirrors.

Coupling devices.

Fire extinguisher, at least one properly mounted.

Road warning devices, at least one red burning fusee and at least three red flares (oil burning pot torches), red electric lanterns, or red emergency reflectors.

(e) Safe loading. (1) Distribution and securing of load: No motor vehicle shall be driven nor shall any motor carrier permit or require any motor vehicle to be driven if it is so loaded, or if the load thereon is so improperly distributed or so inadequately secured, as to prevent its safe operation.

(2) Doors, tarpaulins, tailgates and other equipment: No motor vehicle shall be driven unless the tailgate, tailboard, tarpaulins, doors, all equipment and rigging used in the operation of said vehicle, and

all means of fastening the load, are securely in place.

(3) Interference with driver: No motor vehicle shall be driven when any object obscures his view ahead, or to the right or left sides, or to the rear, or interferes with the free movement of his arms or legs, or prevents his free and ready access to the accessories required for emergencies, or prevents the free and ready exit of any person from the cab or driver's compartment.

(4) Property on motor vehicles: No vehicle transporting persons and property shall be driven unless such property is stowed in a manner that will assure:

(i) unrestricted freedom of motion to the driver for proper operation of the vehicle;

(ii) Unobstructed passage to all exits by any person; and

(iii) adequate protection to passengers and others from injury as a result of the displacement or falling of such articles.

(5) Maximum passengers on motor vehicle: If the trip is for a total of 50 miles or more, no motor vehicle shall be driven if the total number of passengers exceeds the seating capacity which will be permitted on seats prescribed in Section 5 when that section is effective. All passengers carried on such vehicle shall remain seated while the motor vehicle is in motion.

(f) Rest and meal stops. Every carrier shall provide for reasonable rest stops at least once between meal stops. Meal stops shall be made at intervals not to exceed six hours and shall be for a period of not less than 30 minutes duration.

(g) Kinds of motor vehicles in which agricultural workers may be transported. Workers may be transported in or on only the following types of motor vehicles: a bus, a truck with no trailer attached, or a semitrailer attached to a truck tractor provided that no other trailer is attached to the semitrailer. Closed vans without windows or means to assure ventilation shall not be used.

(h) Limitation on distance of travel in trucks. Any truck when used for the transportation of migrant workers, if such workers are being transported in excess of 500 miles, shall be stopped for a period of not less than eight consecutive hours either before or upon completion of 500 miles of travel, and either before or upon completion of any subsequent 500 miles of travel to provide rest for drivers and passengers.

(i) Lighting devices and reflectors. No motor vehicles shall be driven when any of the required lamps or reflectors are obscured by the tailboard, by any part of the load, by dirt, or otherwise, and all lighting

devices required by law shall be lighted during darkness or at any other time when there is not sufficient light to render vehicles and persons visible upon the highway at a distance of 500 feet.

(j) Ignition of fuel; prevention. No driver or any employee of a motor carrier shall: (1) fuel a motor vehicle with the engine running, except when it is necessary to run the engine to fuel the vehicle; (2) smoke or expose any open flame in the vicinity of a vehicle being fueled; (3) fuel a motor vehicle unless the nozzle of the fuel hose is continuously in contact with the intake pipe of the fuel tank; (4) permit any other person to engage in such activities as would be likely to result in fire or explosion.

(k) Reserve fuel. No supply of fuel for the propulsion of any motor vehicle or for the operation of any accessory thereof shall be carried on the motor vehicle except in a properly mounted fuel tank or tanks.

(l) Driving by unauthorized person. Except in case of emergency, no driver shall permit a motor vehicle to which he is assigned to be driven by any person not authorized to drive such vehicle by the motor carrier in control thereof.

(m) Protection of passengers from weather. No motor vehicle shall be driven while transporting passengers unless the passengers therein are protected from inclement weather conditions such as rain, snow, or sleet, by use of the top or protective devices required in Section 5 hereof.

(n) Unattended vehicles; precautions. No motor vehicle shall be left unattended by the driver until the parking brake has been securely set, the wheels chocked, and all reasonable precautions have been taken to prevent the movement of such vehicle.

(o) Railroad grade crossings; stopping required; sign on rear of vehicle. Every motor vehicle carrying migrant agricultural workers as defined in this Act, shall, upon approaching any railroad grade crossing, make a full stop not more than 50 feet, nor less than 15 feet from the nearest rail of such railroad grade crossing, and shall not proceed until due caution has been taken to ascertain that the course is clear; except that a full stop need not be made at:

(1) A streetcar crossing within a business or residence district of a municipality.

(2) A railroad grade crossing where a police officer or a traffic-control signal (not a railroad flashing signal) directs traffic to proceed.

(3) An abandoned or exempted grade crossing which is clearly marked as such by or with the consent of the proper state authority, when

such marking can be read from the driver's position.

All such motor vehicles shall display a sign on the rear reading, "This Vehicle Stops at Railroad Crossings."

Vehicles; Equipment

Sec. 5. Every motor carrier engaged in transporting migrant workers, its officers, agents, drivers, representatives, and employees directly concerned with the installation and maintenance of equipment and accessories, shall comply and be conversant with the requirements and specifications of this section, and no motor carrier engaged in transporting migrant workers shall operate any motor vehicle, or cause or permit it to be operated, unless it is equipped in accordance with said requirements and specifications.

(a) Lighting devices. Every motor vehicle shall be equipped with the lighting devices and reflectors required by law in this state.

(b) Brakes. Every motor vehicle shall be equipped with brakes as required by the laws of this state.

(c) Coupling devices; fifth wheel mounting and locking. The lower half of every fifth wheel mounted on any truck tractor or dolly shall be securely affixed to the frame thereof by U-bolts of adequate size, securely tightened, or by other means providing at least equivalent security. Such U-bolts shall not be of welded construction. The installation shall be such as not to cause cracking, warping, or deformation of the frame. Adequate means shall be provided positively to prevent the shifting of the lower half of the fifth wheel on the frame to which it is attached. The upper half of every fifth wheel shall be fastened to the motor vehicle with at least the security required for the securing of the lower half to the truck tractor or dolly. Locking means shall be provided in every fifth wheel mechanism including adapters when used, so that the upper and lower halves may not be separated without the operation of a positive manual release. A release mechanism operated by the driver from the cab shall be deemed to meet this requirement. On fifth wheels designed and constructed as to be readily separable, the fifth wheel locking devices shall apply automatically on coupling for any motor vehicle the date of manufacture of which is subsequent to December 31, 1952.

(d) Tires. Every motor vehicle shall be equipped with tires of adequate capacity to support its gross weight. No motor vehicle shall be operated on tires which have been worn so smooth as to expose any tread fabric or which have any other defect likely to cause failure. No vehicle shall be operated while transporting passengers while using any tire which does

not have tread configurations on that part of the tire which is in contact with the road surface. No vehicle transporting passengers shall be operated with regrooved, recapped, or retreaded tires on front wheels.

(e) Passenger compartment. Every motor vehicle transporting passengers, other than a bus, shall have a passenger compartment meeting the following requirements:

(1) Floors: A substantially smooth floor, without protruding obstructions more than two inches high, except as are necessary for the securing of seats or other devices to the floor, and without cracks or holes.

(2) Sides: Side walls and ends above the floor at least 60 inches high, by attachment of sideboards to the permanent body construction if necessary. Stake body construction shall be construed to comply with this requirement only if all six-inch or larger spaces between stakes are suitably closed to prevent passengers from falling off the vehicle.

(3) Nails, screws, splinters: The floor and the interior of the sides and ends of the passenger-carrying space shall be free of inwardly protruding nails, screws, splinters, or other projecting objects, likely to be injurious to passengers or their apparel.

(4) Seats: On and after November 1, 1969, a seat shall be provided for each worker transported if the total trip is for 100 miles or more. The seats shall be: securely attached to the vehicle during the course of transportation; not less than 16 inches nor more than 19 inches above the floor; at least 13 inches deep; equipped with backrests extending to a height of at least 36 inches above the floor, with at least 24 inches of space between the backrests or between the edges of the opposite seats when face to face; designed to provide at least 18 inches of seat for each passenger; without cracks more than one-fourth inch wide, and the backrests, if slatted, without cracks more than two inches wide, and the exposed surfaces, if made of wood, planed or sanded smooth and free of splinters.

(5) Protection from weather: Whenever necessary to protect the passengers from inclement weather conditions, be equipped with a top at least 80 inches high above the floor and facilities for closing the sides and ends of the passenger-carrying compartment. Tarpaulins or other such removable devices for protection from the weather shall be secured in place.

(6) Exit: Adequate means of ingress and egress to and from the passenger space shall be provided on the rear or at the right side. Such means of ingress and egress shall be at least 18 inches wide. The top and the clear opening shall be at least 60 inches high, or as high as the side wall of the passenger space if less than 60 inches. The bottom shall be at the floor of the passenger space.

(7) Gates and doors: Gates or doors shall be provided to close the means of ingress and egress and each such gate or door shall be equipped with at least one latch or other fastening device of such construction as to keep the gate or door securely closed during the course of transportation; and readily operative without the use of tools.

(8) Ladders or steps: Ladders or steps for the purpose of ingress and egress shall be used when necessary. The maximum vertical spacing of footholds shall not exceed 12 inches, except that the lowest step may be not more than 18 inches above the ground when the vehicle is empty.

(9) Handholds: Handholds or devices for similar purpose shall be provided to permit ingress and egress without hazard to passengers.

(10) Emergency exit: Vehicles with permanently affixed roofs shall be equipped with at least one emergency exit having a gate or door, latch and hold as prescribed in this section and located on a side or rear not equipped with the exit described in Subparagraph (6) of this subsection.

(11) Communication with driver: Means shall be provided to enable the passengers to communicate with the driver. Such means may include telephone, speaker tubes, buzzers, pull cords, or other mechanical or electrical means.

(f) Protection from cold. Every motor vehicle shall be provided with a safe means of protecting passengers from cold or undue exposure, but in no event shall heaters of the following types be used:

(1) Exhaust heaters: Any type of exhaust heater in which the engine exhaust gases are conducted into or through any space occupied by persons or any heater which conducts engine compartment air into any such space.

(2) Unenclosed flame heaters: Any type of heater employing a flame which is not fully enclosed.

(3) Heaters permitting fuel leakage: Any type of heater from the burner of which there could be spil-

lage or leakage of fuel upon the tilting or overturning of the vehicle in which it is mounted.

(4) Heaters permitting air contamination: Any heater taking air, heated or to be heated, from the engine compartment or from direct contact with any portion of the exhaust system; or any heater taking air in ducts from the outside atmosphere to be conveyed through the engine compartment, unless said ducts are so constructed and installed as to prevent contamination of the air so conveyed by exhaust or engine compartment gases.

(5) Any heater not securely fastened to the vehicle.

Hours of Service of Drivers; Maximum Driving Time

Sec. 6. No person shall drive nor shall any motor carrier permit or require a driver employed or used by it to drive or operate for more than 10 hours in the aggregate (excluding rest stops and stops for meals) in any period of 24 consecutive hours, unless such driver be afforded eight consecutive hours rest immediately following the 10 hours aggregate driving. The term "24 consecutive hours" as used in this section means any period starting at the time the driver reports for duty.

Inspection and Maintenance of Motor Vehicles

Sec. 7. Every motor carrier shall systematically inspect and maintain or cause to be systematically maintained, all motor vehicles and their accessories subject to its control, to insure that such motor vehicles and their accessories are in safe and proper operating condition.

Enforcement; Penalty

Sec. 8. Any peace officer in this state is authorized to enforce the provisions of this Act, and any carrier of migrant agricultural workers who fails to comply with the provisions of this Act shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50.

ICC Certificate of Compliance; Effect

Sec. 9. Any carrier of migrant agricultural workers who possesses a certificate of compliance with the Interstate Commerce Commission regulations governing the transportation of migrant workers in interstate commerce issued to said person by the Interstate Commerce Commission and valid during the period of inspection by any peace officer in this state shall be deemed to have complied with the provisions of this Act.

Cumulative Effect

Sec. 10. The provisions of this Act are cumulative of existing laws and shall not be construed as repealing or replacing any of the provisions of the Uniform Act Regulating Traffic on Highways or any other existing law.

[Acts 1969, 61st Leg., p. 1382, ch. 421, eff. June 2, 1969.]

Art. 911h. Agreement Requiring Carrier to Pay Charge Contingent Upon Use of Another Mode of Transportation

Sec. 1. Any part of any agreement, arrangement or other device entered into shall be unlawful and void which as a condition to the transportation of property requires or permits a regulated for hire carrier of property, freight forwarder, private carrier or other carrier or shipper or association or group of shippers to pay a levied charge, allowance, assessment or compensation to any person or organization if such levied charge, allowance, assessment or compensation is dependent or contingent upon the use of another mode of transportation in addition to motor transportation for movement of such property.

Sec. 2. Should any person, firm, partnership, organization, or association of persons violate any of the provisions of this Act, they shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than One Hundred Dollars (\$100) nor more than Five Hundred Dollars (\$500), or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or by both such fine and imprisonment. Each day of the violation of any of the provisions of this Act shall constitute a separate offense.

[Acts 1961, 57th Leg., 1st C.S., p. 47, ch. 19, eff. Aug. 11, 1961.]

Art. 911i. Transporting by Motor Vehicle for Hire Without Permit

Any person, firm, corporation, organization, officer, agent, servant, or employee required by statute to have a permit or certificate from the Railroad Commission of Texas authorizing transportation by motor vehicle for compensation or hire who engages in transportation by motor vehicle for compensation or hire without first having obtained such certificate or permit from the Railroad Commission of Texas, or who aids or abets any such operation, shall be guilty of a misdemeanor, and, upon conviction therefor, shall be punished by a fine of not less than \$100 nor more than \$200, and each violation shall constitute a separate offense.

[Acts 1967, 60th Leg., p. 168, ch. 88, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 72, ch. 30, § 1, eff. Sept. 1, 1969.]

Art. 911j. Transportation of Persons for Hire; Agencies for Obtaining Co-Travelers to Share Expenses; License; Penalty

Sec. 1. It shall be unlawful for any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms or corporations to engage in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State, whether as a common carrier, contract or charter carrier, or as a transportation agency, or as a travel bureau or as a broker for hire to obtain a co-traveler or co-travelers to

share the expense of the trip proportionately or otherwise, as to distance covered or as to money expended or in any other manner, or to act as an intermediary in connection therewith or as a broker for hire, agent or otherwise, whereby the expense of a trip or trips is to be shared with a co-traveler or co-travelers, unless the person, operator, driver or chauffeur in charge of the motor vehicle to be used on or in connection with said trip shall first have obtained a chauffeur's, operator's or driver's license in accordance with the existing laws of the State of Texas, and unless the motor vehicle used in connection therewith is properly equipped with a license plate issued by the Railroad Commission of the State of Texas, under the laws of the State of Texas, and unless the owner of said vehicle has complied in all respects with the law of the State of Texas in connection with the transportation of passengers over the public roads, highways and bridges of this State.

Sec. 2. This Act shall not apply to the owner, lessee or operator of vehicles operated exclusively within the boundaries of any incorporated city or town, and within a radius of five (5) miles from such city or town; and shall also not apply to the owner, lessee or operator of any vehicle who is not engaged in the business of transporting persons for hire or compensation over the public roads, highways and bridges of this State.

Sec. 3. That it shall be the duty of any person, firm, corporation, company, partnership,

association or joint stock association, or organization or association of persons, firms, or corporations before entering into any contract with the owner, lessee, driver, or chauffeur of any motor vehicle whereby the expenses of the trip or trips are to be shared by the co-traveler or co-travelers to first make an examination of the public records of the State of Texas in order to ascertain whether or not the owner, lessee, chauffeur or operator of the motor vehicle to be used in the transportation of persons for hire has properly complied with the laws of the State of Texas as to chauffeurs', drivers' or operators' licenses, and to ascertain whether or not such owner, chauffeur or operator has complied with the laws of the State of Texas regulating the operation of motor vehicles for hire.

Sec. 4. Should any person, firm, corporation, company, partnership, association or joint stock association, or organization or association of persons, firms or corporations violate any of the provisions of this act, the same shall be a misdemeanor and shall be punishable by fine of not less than One Hundred Dollars (\$100.00) nor more than Five Hundred Dollars (\$500.00) for each offense or by imprisonment for not less than thirty (30) days nor more than ninety (90) days, or both, at the discretion of the court. Each day of the violation of any of the provisions of this Act shall constitute a separate offense and may be punishable as such.

[Acts 1933, 43rd Leg., 1st C.S., p. 316, ch. 114.]

TITLE 26

CEMETERIES

Article

912. Repealed.
- 912a-1. Definitions.
- 912a-2. Operation of Cemeteries Unlawful Unless Provisions Complied With.
- 912a-3. Receipt and Disbursement of Filing Fees, Examination Fees, Penalties and Revenues.
- 912a-4. Powers and Duties of Enforcement Officers.
- 912a-5. Authority to Corporations.
- 912a-6. Rights of Lot Owners in Cemeteries Operated by Nonprofit Corporations.
- 912a-7. Meeting to Organize Nonprofit Cemetery Corporations.
- 912a-8. No Crematory Without Provision for Completion of Permanent Disposition.
- 912a-9. Acquisition of Property.
- 912a-10. Dedication.
- 912a-11. Dedication Supreme Until Removed by Court.
- 912a-12. Sale of Property for Interment Purposes and Property Rights.
- 912a-13. Rights in Plot of an Individual Owner; Conveyance of Exclusive Right of Sepulture Therein; Conveyances Subject to the Rules and Regulations of the Cemetery Association; Filing and Recording of Conveyances in the Office of the Cemetery Association; Designation of Representative by Co-owners in a Plot.
- 912a-14. Rules and Regulations.
- 912a-15. Establishment and Maintenance of Perpetual Care.
- 912a-16. Requirements of Perpetual Care Cemeteries.
- 912a-17. Investment of Perpetual Care Funds.
- 912a-18. Special Care.
- 912a-19. Cemeteries Placed in Receivership.
- 912a-20. Duty of Interring and Right to Control Disposition of Remains.
- 912a-21. Records of Interments.
- 912a-22. Removals.
- 912a-23. May Contract Pecuniary Indebtedness but All Liens Subordinate to Dedication.
- 912a-24. Location of Cemetery.
- 912a-25. Abatement of Nuisances.
- 912a-26. Police Power to Sexton.
- 912a-26a. Perpetual Care.
- 912a-27. Constitutionality.
- 912a-28. Articles of Incorporation; Requisites and Contents.
- 912a-29. Perpetual Care and Maintenance Guarantee Fund; Minimum; Necessity and Requisites.
- 912a-30. Cancellation of Charter for Failure to Operate Thereunder; Recision of Cancellation.
- 912a-31. Examinations of Cemetery Associations' Perpetual Care Trust Funds and Records; Fees and Expenses.
- 912a-32. Compliance Required; Books, Records, and Funds to Be Maintained Within State; Examination.
- 912a-33. Annual Report; Liability for Failure to Make.
- 912a-34. Interment; Discrimination.
- 913 to 930a. Repealed.
- 930a-1. Feed Pens or Slaughter Pens Near Cemetery in Certain Counties a Nuisance; Injunction; Old Abandoned or Neglected Cemeteries; Abatement of Nuisances.
- 930b to 931b. Repealed.
- 931b-1. Depth of Burial Graves; Exceptions; Penalty.

Art. 912. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 912a-1. Definitions

Words used in this Act in the present tense include the future as well as the present; words used in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular; "writing" includes "printing" and "typewriting"; "oath" includes "affirmation." When used in this Act, the following terms shall, unless the context otherwise indicates, have the following respective meanings:

The term "cemetery", within the meaning of this title, is hereby defined as a place dedicated to and used and intended to be used for the permanent interment of the human dead. It may be either a burial park, for earth interments; a mausoleum for vault or crypt interments, a crematory, or crematory and columbarium for cinerary interments, or a combination of one or more thereof.

The term "perpetual care cemetery" shall mean a cemetery for the benefit of which a perpetual care fund shall have been established in accordance with the provisions of this Act.

The term "nonperpetual care cemetery" shall mean a cemetery for the benefit of which no perpetual care fund has been established in accordance with the provisions of this Act.

The term "perpetual care" shall mean to keep the sod in repair, to keep all places where interments have been made in proper order, and to care for trees and shrubs, providing for the administration of perpetual care funds in instances wherein those administering such funds fail or refuse to act.

"Burial Park" means a tract of land which has been dedicated to the purposes of and used, and intended to be used, for the interment of the human dead in graves.

"Grave" means a space of ground in a burial park intended to be used for the permanent interment in the ground of the remains of a deceased person.

"Mausoleum" means a structure or building of most durable and lasting fire-proof construction used, or intended to be used, for the permanent interment in crypts and vaults therein of the remains of deceased persons.

"Crypt" or "Vault" as herein used means the chamber in a mausoleum of sufficient size to inter the uncremated remains of a deceased person.

"Columbarium" means a structure or room or other space in a building or struc-

ture of most durable and lasting fireproof construction or a plot of earth, containing niches, used, or intended to be used, to contain cremated human remains.

"Crematory" means a building or structure containing one or more furnaces used, or intended to be used, for the reduction of bodies of deceased persons for cremated remains.

"Crematory and columbarium" means a building or structure of most durable and lasting fireproof construction containing both a crematory and columbarium, used, or intended to be used, for the permanent interment therein by inurnment of the remains of deceased persons.

"Niche" is a recess in a columbarium, used, or intended to be used, for the permanent interment of the cremated remains of one or more deceased persons.

"Lot" or "plot" or "burial space" means space in a cemetery owned by one or more individuals, an association, or fraternal or other organization and used, or intended to be used, for the permanent interment therein of the remains of one or more deceased persons. Such terms include and shall apply with like effect to one, or more than one, adjoining grave; one, or more than one, adjoining crypts or vaults; or one, or more than one, adjoining niches.

"Temporary receiving vault" as herein used means a vault in a structure of most durable and lasting construction used and intended to be used for the temporary deposit therein for a reasonable time only of the remains of a deceased person.

"Interment" means the permanent disposition of the remains of a deceased person by cremation; inurnment, entombment or burial.

"Cremation" as herein used means the interment of a body of a deceased person by reduction to cremated remains in a crematory and the deposit of the cremated remains in a grave, vault, crypt, or niche.

"Inurnment" means placing the cremated remains in an urn and permanently depositing the same in a niche.

"Entombment" means the permanent interment of the remains of a deceased person in a crypt or vault.

"Remains" means the body of a deceased person.

"Cremated remains" means remains of a deceased person after incineration in a crematory.

"Cemetery business," "cemetery businesses" and "cemetery purposes" are herein used interchangeably and shall mean any and all business and purposes requisite or necessary for or incident to establishing, maintaining, managing, operating, improving, and conducting a cemetery and the interring of the human dead, and the

care, preservation and embellishment of cemetery property.

The terms "cemetery association" and "association" are herein used interchangeably and shall mean any corporation now or hereafter organized, or any association not operated for a profit, which is or shall be authorized by its articles to conduct any one or more or all of the businesses of a cemetery.

"Directors" as herein used, means the board of directors, board of trustees, or other governing body of the cemetery association.

The term "plot owner," "owner," or "lot proprietor" as used herein means any person in whose name a burial plot stands, as owner of the exclusive right of sepulture therein, in the office of the association, or who holds from such association a conveyance of the exclusive right of sepulture, or a certificate of ownership of the exclusive right of sepulture, in a particular lot, plot, or space.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 1.]

Art. 912a-2. Operation of Cemeteries Unlawful Unless Provisions Complied With

The operation of any perpetual care cemetery within this State shall hereafter be unlawful unless such cemetery shall comply with all applicable provisions of this Act. The operation of any cemetery as a perpetual care, permanent maintenance, or free care cemetery shall hereafter be unlawful unless such cemetery shall have created and shall maintain a perpetual care fund in accordance with the provisions of this Act.

Each perpetual care cemetery as defined in this Act shall file in its office, and as well in the office of the Banking Commission of Texas, a statement in duplicate which shall contain the following information:

(1) Amount of principal of the perpetual care funds.

(2) Total amount invested in bonds and other securities, the total amount of cash on hand not invested, and such other items which shall actually show the financial condition of the trust.

(3) Number of square feet of grave space, and number of crypts, and number of niches disposed of under perpetual care, prior to and subsequent to March 15, 1934, each separately set forth.

(4) Number of square feet of grave space, and number of crypts, and number of niches sold or disposed of subsequent to March 15, 1934, for which the minimum amounts of perpetual care as provided by this Act have not been paid into the perpetual care fund.

All of the information appearing on said statements shall be verified by the President and Secretary, or two (2) principal officers of the cemetery corporation. All the information

appearing on said statements shall be revised and so posted and filed annually on or before March first of each year.

Within thirty (30) days after the filing of the aforesaid statement in the office of the Banking Commissioner a true copy thereof shall be published in at least one (1) newspaper of general circulation in the county in which said cemetery is located.

Upon the failure of any perpetual care cemetery to file with the Banking Commissioner on or before March first of each year the statements of its perpetual care funds as required hereby, or to pay the filing fee required by this Act, its corporate charter shall be subject to forfeiture, and such failure to report shall be prima-facie evidence that the cemetery's perpetual care fund does not conform to the requirements of law; the Banking Commissioner of Texas shall notify the Attorney General of Texas, who shall proceed to institute suit as required by the provisions of this Act.

It is provided, however, that the provisions of this Article shall not apply to any family, fraternal or community cemetery, or any association of cemetery lot owners not operated for profit, or any religious corporation, church, religious society or denomination, or corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 2; Acts 1947, 50th Leg., p. 372, ch. 210, § 1; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-3. Receipt and Disbursement of Filing Fees, Examination Fees, Penalties and Revenues

At the time of the filing of the statement of its perpetual care fund each cemetery filing same which serves a city the population of which is twenty-five thousand (25,000) inhabitants or less according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of Twenty-Five Dollars (\$25.00), and each cemetery filing same which serves a city the population of which is greater than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census shall pay to the Banking Commissioner of Texas each year a filing fee of Fifty Dollars (\$50.00). Filing fees, examination fees, penalties and other revenues collected under this Act shall be received and disbursed by the Banking Department of Texas as provided by and in accordance with Article 12 of Chapter I, the Texas Banking Code of 1943, as amended,¹ in the administration and enforcement of the laws relating to the operation of perpetual care cemeteries and to the creation, investment, and expenditure of cemetery perpetual care funds and for investigations either on its own initiative or on complaints made by others with reference to the operation of perpetual care cemeteries and the creation, investment, and expenditure of cemetery perpetual care funds; provided, that a reasonable part of the amount

transferred each year of the biennium by the Banking Department to the General Revenue Fund, to cover the cost of governmental service rendered by other departments, may be made up from fees, penalties and other revenues collected under the provision of this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 3; Acts 1951, 52nd Leg., p. 233, ch. 139, § 6; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1; Acts 1955, 54th Leg., p. 574, ch. 190, § 1; Acts 1963, 58th Leg., p. 1298, ch. 595, § 1.]

¹ Article 342-112.

Art. 912a-4. Powers and Duties of Enforcement Officers

The Banking Commissioner of Texas shall have authority to require as often as he deems necessary that the custodian of any cemetery perpetual care fund make under oath a detailed report of the condition of said fund, setting forth a detailed description of the assets of said fund, a description of the securities held by said fund, a description of any property upon which any such security constitutes a lien, the cost of acquisition of any such security, the market value of any security at the time of its acquisition, the current market value thereof, the status thereof with reference to default, that the same are not in any way encumbered by debt, that none of the assets of said cemetery perpetual care fund constitute loans to the cemetery for which the funds were established, or to any officer or director thereof and any other information he deems pertinent. When the Banking Commissioner of Texas finds that a cemetery perpetual care fund does not conform to the requirements of law, or when the custodian of said fund fails to make within thirty (30) days after request a report to the Banking Commissioner of Texas of the condition of said fund, the Banking Commissioner of Texas shall notify the custodian of the cemetery perpetual care fund, the cemetery for the benefit of which said fund is established, and the Attorney General of Texas thereof, and it shall be the duty of the Attorney General of Texas to institute within ninety (90) days after the receipt of such notice, unless he shall prior to that time be notified by the Banking Commissioner of Texas that such failure to conform to the requirements of the law or to report has been corrected, suit or quo warranto proceedings in the District Court of any county of this State in which such cemetery is operated, for the forfeiture of the charter of the cemetery corporation if such cemetery has failed to meet the requirements of this Act, and for the dissolution of its corporate existence. If the custodian of such trust fund shall fail to meet the requirements of this Act, then it shall be the duty of the Attorney General of Texas to apply to the District Court of the county, in which such cemetery is operating and for which it has created a permanent trust fund, for proper legal writs to require a report of the perpetual care fund of said cemetery, and if the same has been misappropriated by such custodian, and not being handled as required by law, to have a Receiver appointed by the Court to take custody of said trust

funds for the benefit of the cestui que trust; said Receiver is hereby vested with full power to file such suits against such defaulting trustee as may be necessary to require a full accounting and restoration of such endowment funds and turn the residue over to such trustee as the cemetery corporation shall select, in conformity with this Act as the new custodian of its endowment funds; and for such purposes venue is hereby conferred upon the District Courts of this State.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 4; Acts 1947, 50th Leg., p. 372, ch. 210, § 2; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-5. Authority to Corporations

Corporations may hereafter be formed only under this Act for the purpose of establishing, managing, maintaining, improving, and/or operating public or private cemeteries and conducting any one or more or all of the businesses of a public or private cemetery, including the selling of lots or parts of lots for burial purposes. Such corporations shall be formed either as non-profit corporations organized by cemetery lot owners, or in the manner as now provided under Section A or Section B, Article 1396-3.01, Texas Non-Profit Corporations Act, or as private corporations to be operated for profit, but not as both. The charter of each such corporation hereafter formed shall specifically state whether such corporation is to be a non-profit corporation, or whether such corporation is to be a private corporation to be operated for profit. The charter of each such corporation shall also specifically state whether the same is to operate a perpetual care or a non-perpetual care cemetery. Corporations heretofore formed to maintain and operate cemeteries under statutory authority other than this Act shall hereafter be governed by and shall be under the provisions of this Act, except where and only to the extent the charter or articles of incorporation of such associations or corporations conflict with this Act. It shall hereafter be unlawful for any corporation, copartnership, firm, trust, association, or individual to engage in or transact any of the businesses of a cemetery within this state except by means of a corporation duly organized for such purposes; provided, however, that the provisions of this Section shall not apply to any corporation heretofore chartered by the State of Texas to operate a cemetery, which under its charter, bylaws, or its dedication has heretofore provided for the creation of a perpetual care fund, and is maintaining the same in accordance with its trust agreement and the provision of this Act, and any such corporation may continue to operate a perpetual care cemetery in the same manner as if it had been incorporated under this Section without the necessity of amending its corporate charter, and provided further that the provisions of this Act shall not apply to any family, fraternal, or community cemetery not exceeding ten (10) acres in area, or any association of cemetery lot owners not operated for profit, or any reli-

gious corporation, church, religious society, denomination, corporation solely administering the temporalities of any religious denomination, society or church, now existing or hereafter organized, or any public cemetery belonging to the state, or any county, city or town within the state.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 5; Acts 1947, 50th Leg., p. 372, ch. 210, § 3; Acts 1963, 58th Leg., p. 1298, ch. 495, § 2.]

Art. 912a-6. Rights of Lot Owners in Cemeteries Operated by Nonprofit Corporations

All owners of lots purchased of any nonprofit cemetery corporation shall become members thereof and be entitled to vote in the election of its officers and upon any other matters to the same extent as stockholders in other corporations. Each owner of a lot or lots embraced in any cemetery operated by a nonprofit cemetery corporation shall be a shareholder in any corporation to which the land may belong and shall be entitled to all rights and privileges of a shareholder, whether the title to the lot or lots was acquired from the corporation or was owned before its organization. Nonprofit cemetery corporations organized by cemetery lot owners shall have the power to divide the land of the cemetery into lots and subdivisions for cemetery purposes and to tax the property for the purpose of its general improvement and upkeep.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 6.]

Art. 912a-7. Meeting to Organize Nonprofit Cemetery Corporations

When it is desired to create a nonprofit corporation organized by cemetery lot owners to receive title to lands theretofore dedicated to cemetery purposes, notice of the time and place of meeting shall be published in a newspaper in the county, if there be one, for thirty (30) days prior thereto; and written notices shall be posted at and upon such cemetery for thirty (30) days prior to the time fixed for said meeting. When the lot owners uniting in the formation of said nonprofit corporation shall assemble, the majority of those present and voting shall decide on the question of incorporation, and the conveyance of the land to such nonprofit corporation. Such meeting shall select the board of directors to be named in the charter, which must consist of cemetery lot owners alone.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 7.]

Art. 912a-8. No Crematory Without Provision for Completion of Permanent Disposition

No crematory shall be constructed, established, or maintained except within a burial park, nor unless there be in connection therewith in the same fireproof building or structure or in a separate fireproof building within the same cemetery or burial park within which the same is situated or in said cemetery, either a columbarium amply equipped for the permanent deposit therein of cremated remains of the bodies cremated thereat, or plot of ground

or a mausoleum wherein the cremated remains may be placed in completion of the permanent interment thereof, and all cremated remains not removed for permanent deposit elsewhere shall be permanently interred in either a grave, crypt, or niche within thirty (30) days after the date of such cremation.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 8.]

Art. 912a-9. Acquisition of Property

Cemetery associations, whether incorporated or unincorporated, may take by purchase, donation or devise, property, consisting of lands, mausoleums, crematories and columbariums, and/or other property within which the permanent interment of the dead shall be authorized by law. Such cemetery association may execute a declaration acknowledged by the president and secretary or other authorized officer or officers, so as to entitle it to be recorded, describing said property and declaring its intention to use said property or any part thereof for interment purposes, which declaration it may file for record in the office of the County Clerk of the county wherein the property is situated, and from the date of such filing the same shall be constructive notice of the use for which such property is intended. Such property may also be acquired by condemnation proceedings and the acquisition of such property is hereby declared to be for a public purpose.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 9.]

Art. 912a-10. Dedication

Every cemetery association, from time to time as its property may be acquired for interment purposes, shall:

(a) In case of land, survey and subdivide such land into sections, blocks, lots, avenues, walks and/or other subdivisions; make a good and substantial map or plat thereof showing said sections, lots, avenues, walks and/or other subdivisions, with descriptive names or numbers; and/or

(b) In case of a mausoleum and/or crematory and columbarium, make a good and substantial map or plat thereof on which shall be delineated the sections, hall, rooms, corridors, elevators and/or other divisions thereof with their descriptive names and numbers; and shall file such map or plat in the office of the County Clerk of the county in which such property or some part thereof is situated, and shall also file for record in such County Clerk's office a written certificate or declaration of dedication of the property delineated, on said plat or map, dedicating the same exclusively to cemetery purposes. Such certificate or declaration shall be in such form as the directors or officers may prescribe, and shall be subscribed by the president or vice president and the secretary of the association, or such other person or persons as the board of directors may au-

thorize, and acknowledge so as to entitle it to be recorded; and upon the filing of said plat and the filing of said certificate for record, the dedication of said property shall be complete for all the purposes of this Act, and thereafter such property shall be held, occupied and used exclusively for a cemetery and for cemetery purposes. Provided, however, that when reservation is made therefor in the certificate or declaration of dedication, any part or subdivision of the property so mapped and platted may, by order of the directors, be resurveyed and altered in shape and size and an amended map or plat thereof filed, so long as such change does not disturb the remains of any deceased person interred therein. Such filed map and recorded declaration shall constitute and be constructive notice to all persons of the dedication of such property to interment purposes.

It shall be the duty of the County Clerk of the county in which such map or plat is filed to number and file such map or plat and to index the same in the general map index, giving reference to date of filing and number so that the same may be easily found, for which service the recorder shall receive a fee of One Dollar (\$1).

It shall also be the duty of the County Clerk of the county in which such declaration of dedication is filed to record the same in the deed records of said county and index the same in the general index for which service the recorder shall receive a fee of One Dollar (\$1).

[Acts 1945, 49th Leg., p. 559, ch. 340, § 10.]

Repeals

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

Repeal of fees provided for county clerks in laws, or parts of laws, conflicting with the provisions of article 3930, see note under article 3930.

Art. 912a-11. Dedication Supreme Until Removed by Court

(a) After such property is so dedicated to cemetery purposes, neither the dedication nor the title to the exclusive right of sepulture of a plot owner, shall ever be affected by the dissolution of the association, or by nonuser on its part, or by alienations of the property, or by any encumbrances thereon, or by forced sale under execution or otherwise, and such dedication shall not be deemed or held invalid as violating any existing laws against perpetuities or the suspension of the power of alienation of title to or use of property, but such dedication is hereby expressly permitted and shall be deemed to be in respect for the dead, a provi-

sion for the disposition of the bodies of deceased persons, and a duty to, and for the benefit of, the general public; and said property shall be held and used exclusively for cemetery purposes, unless and until the dedication shall be removed by an order and decree of the district Court of the county in which the same is situated, in a proceeding brought therefor by the governing body of the city, if said cemetery is within, or within five (5) miles from, the city limits of any city of more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal census, or by the district attorney, if said cemetery is not within, or within five (5) miles of, the city limits of a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal census, or by the owner of property so situated that its value is affected by said cemetery, upon notice and proof satisfactory to the Court that all bodies have been removed therefrom, or that no interments were made therein, and that the same is no longer used or required for interment purposes; or until the maintenance of said cemetery is enjoined or abated as a nuisance as hereinafter provided for. After such dedication and so long as said property shall remain dedicated to cemetery purposes, no railroad, street, road, alley, pipe line, telephone, telegraph, or electric line, or other public utility or thoroughfare whatsoever shall ever be laid out through, over, or across any part thereof, without the consent of the directors of the cemetery association owning or operating the same, or of not less than two-thirds of the owners of burial plots therein, and all of such property, including road, alleys, and walks therein, shall be exempt from public improvements assessments, and all public taxation, and shall not be liable to be sold on execution or applied in payment of debts due from individual owners and burial plots therein.

(b) In the event the United States of America, or the State of Texas, or a county in Texas, or a municipality or any other duly constituted governmental subdivision has made definite determination that a new highway, thoroughfare, road, or street shall be constructed along a definite proposed route, or that an existing highway, thoroughfare, road, or street shall be widened, and such determination is a matter of public record, and if after such determination any property lying within the confines of such proposed route is dedicated for cemetery purposes, such dedication for cemetery purposes shall be presumed to have been made in fraud of the rights of the public and as being made for the sole purpose of enhancing the value of property to be condemned, and the district court of the county in which such land or any part of such land so dedicated lies may, in a suit filed by such governmental subdivision to remove such dedication, remove such dedication for cemetery purposes insofar as such dedication covers land lying within the confines of such proposed highway, thoroughfare, road, or street.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 11; Acts 1973, 63rd Leg., p. 572, ch. 245, § 1, eff. Aug. 27, 1973.]

Art. 912a-12. Sale of Property for Interment Purposes and Property Rights

After filing the map or plat and recording the certificate or declaration of dedication, but not prior thereto, and subject to its rules and regulations and/or to such limitations, conditions, and restrictions, as may be inserted in or by reference made a part of the instrument of conveyance, the cemetery association may sell and convey the exclusive right to sepulture in the burial plots to purchasers. No license of any kind or character shall be required of any person, firm or corporation on account of or to authorize the sale of lots, graves or interment space in any dedicated cemetery. All lots, sections, or parts thereof, the use of which has been so conveyed by certificate of ownership as a separate plot, shall be indivisible except with the consent of the cemetery association, or as shall be provided by law. All conveyances of such exclusive right of sepulture made by the cemetery association shall be signed by the president or the vice president and secretary or other officers authorized by the cemetery association. All lots, plots, and burial space in which the exclusive right of sepulture has been conveyed shall be presumed to be the sole and separate property of the person or persons named as grantee in the instrument of conveyance; provided, however, that the wife or husband shall have a vested right of interment of his or her body in any burial plot in which the exclusive right of sepulture has been conveyed to the other, which right shall continue as long as he or she shall remain the wife or husband of the plot owner or shall be his or her wife or husband at the time of such plot owner's demise. No conveyance or other action without the joinder therein or by written consent attached thereto shall divest such husband or wife of such vested right of interment; provided, however, that a final decree of divorce between them shall terminate such vested right of interment unless it shall be otherwise provided by such decree of divorce.

A vested right of interment as in this section provided may be waived and shall be terminated upon the interment elsewhere of the remains of a person entitled thereto under this section.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 12.]

Art. 912a-13. Rights in Plot of an Individual Owner; Conveyance of Exclusive Right of Sepulture Therein; Conveyances Subject to the Rules and Regulations of the Cemetery Association; Filing and Recording of Conveyances in the Office of the Cemetery Association; Designation of Representative by Co-owners in a Plot

If the exclusive right of sepulture in a plot has been conveyed to an individual owner who is interred therein, then, unless such owner has made specific disposition of such plot either by will having express reference thereto,

or by written declaration duly filed and recorded in the office of the cemetery association, then one grave, niche or crypt shall be reserved for the surviving spouse, if any, of such owner, and in those spaces remaining, if any, the children of such deceased owner in the order of need, may be interred without the consent of any person claiming any interest therein. Any surviving spouse of such owner, and any child of such deceased owner, may waive his or her right to interment in said plot in favor of any other relative of such deceased owner, or the owner's spouse, and upon such waiver, the person in whose favor the waiver is made may be interred therein. The exclusive right of sepulture in any unused grave, niche or crypt in the plot may be conveyed only by a conveyance executed by the surviving spouse, if any, of such deceased owner and the children of the deceased owner, or if there is no surviving child of such deceased owner, by the surviving spouse, if any, and the heirs-at-law of such deceased owner.

If the exclusive right of sepulture in a plot has been conveyed to an individual owner who is not interred therein, then, unless such owner has made specific disposition of such plot either by will having express reference thereto, or by written declaration duly filed and recorded in the office of the cemetery association, the exclusive right of sepulture in the whole of said plot, except the one grave, niche, or crypt which is reserved to the surviving spouse, if any, shall upon the death of such owner, vest in the heirs-at-law of such deceased owner. Such exclusive right of sepulture to any unused grave, niche or crypt in the plot may be conveyed, subject to the right of the surviving spouse, if any, to a right of interment in one space, by such heirs-at-law of the deceased owner.

All conveyances of the exclusive right of sepulture shall be subject to the rules and regulations of the cemetery association, and shall be duly filed and recorded in the office of the cemetery association.

When there are two (2) or more owners of a plot, then such owners may designate one or more persons to represent said plot and file written notice of such designation with the cemetery association; in the absence of such notice, the cemetery association is duly authorized to inter or permit an interment therein upon the request or direction of any registered co-owner of such plot.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 13; Acts 1971, 62nd Leg., p. 1857, ch. 545, § 1, eff. June 1, 1971.]

Art. 912a-14. Rules and Regulations

The cemetery association may make, adopt and enforce rules and regulations for the use, care, control, management, restriction, and protection of its cemetery, and of all parts and subdivisions thereof; for restricting and limiting the use of all property within its cemetery; for regulating the uniformity, class, and kind of all markers, monuments, and other struc-

tures within said cemetery and subdivisions thereof, and/or prohibiting the erection of monuments, markers and/or other structures in or upon any and/or all portions of such property; for regulating and/or preventing monuments, effigies and structures within any and/or all portions of the cemetery grounds and for the removal thereof; for regulating or preventing the introduction and/or care of plants or shrubs within such grounds; for the prevention of interment in any part thereof of a body not entitled to interment therein; for preventing the use of burial plots for purposes violative of its restrictions; for regulating the conduct of persons and preventing improper assemblages therein; and for all other purposes deemed necessary by the board of directors for the proper conduct of the business of the association and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery was organized; and from time to time may amend, add to, revise, change and/or modify such rules and regulations. Such rules and regulations shall be plainly printed or typewritten and maintained subject to inspection in the office of the association or in such place or places within the cemetery as the directors may prescribe. The directors may prescribe penalties for the violation of any rule or regulation which penalties may be recoverable by the association in a civil action.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 14.]

Art. 912a-15. Establishment and Maintenance of Perpetual Care

Every cemetery association which has established and is now maintaining, operating or conducting a perpetual care cemetery and every association which shall hereafter establish, maintain, operate or conduct a perpetual care cemetery within this state, pursuant to this Act, shall establish with a trust company or a bank with trust powers, no two (2) of the directors of which shall be directors of the cemetery association for the benefit of which such fund is established, an endowment fund of which the income only can be used for the general perpetual care of its cemetery and to place its cemetery under perpetual care; provided, however, that if there is no such trust company or bank with trust powers, qualified and willing to accept such trust funds at the regular fees established by the Texas Trust Act,¹ located within the county within which such cemetery association is located, then and only then, such endowment fund may be established with a Board of Trustees composed of three (3) or more persons, no two (2) of the trustees of which shall be directors of such cemetery association. The principal of such fund for perpetual care shall never be voluntarily reduced, but shall remain inviolable and shall forever be maintained separate and distinct by the trustee or trustees from all other funds. Any such trustee or trustees and the perpetual care trust operated by them shall in all respects be governed by the provisions of the Texas Trust Act.

The principal of such fund shall be invested, from time to time reinvested, and kept invested as required by law for the investment of such funds, and the net income arising therefrom shall be used solely for the general care and maintenance of the property entitled to perpetual care in the cemetery for which the fund is established, and shall be applied in such manner as the Board of Directors may from time to time determine to be for the best interest of the cemetery for which such fund is established, but shall never be used for improvement or embellishment of unsold property to be offered for sale. In the event the Board of Directors shall fail to generally care for and maintain that portion of the cemetery entitled to perpetual care, as hereinbefore provided, any five (5) or more lot owners in said cemetery whose lots are entitled to perpetual care shall have the right by suit for mandatory injunction or for a Receiver to take charge of and expend said net income, filed in the District Court of the county in which the cemetery is located, to compel the expenditure either by the Board of Directors or by such Receiver of the net income from the perpetual care fund for the purpose hereinabove set forth.

If a cemetery association is operating a cemetery without provision for perpetual care, and if it is authorized by law and wishes to operate said cemetery as a perpetual care cemetery, it shall so notify the Banking Commission of the State of Texas and shall, in accordance with the foregoing provisions hereof, establish a perpetual care fund equal to the amount which would have theretofore have been paid into such a fund, in accordance with provisions of this Act, if such cemetery had been operated as a perpetual care cemetery from and after the date of the first sale of burial space therein, or the minimum amount provided in Section 29 of this Act,² whichever is the greater. If the amount of the perpetual care fund so established is the minimum amount provided in Section 29 of this Act, such cemetery association or corporation shall be entitled to a credit against amounts hereafter required by the provisions of this Act to be paid by it unto such perpetual care fund equal to the excess of the amount of such perpetual care fund, as originally established by it, over what would have been the amount thereof if its amount had been determined without regard to Section 29 of this Act.

In establishing its perpetual care trust fund the association may from time to time adopt plans for the general care, maintenance and embellishment of its cemetery.

A cemetery association which has established a perpetual care fund may also take, receive, and hold therefor and as a part thereof or as an incident thereto any property, real, personal or mixed, bequeathed, devised, granted, given or otherwise contributed to it therefor.

The perpetual care trust fund authorized by this Section and all sums paid therein or contributed thereto are, and each thereof is hereby, expressly permitted and shall be and be

deemed to be for charitable and eleemosynary purposes. Such perpetual care shall be deemed to be a provision for the discharge of a duty due from the person or persons contributing thereto to the persons interred and to be interred in the cemetery and likewise a provision for the benefit and protection of the public by preserving and keeping cemeteries from becoming places of disorder, reproach, and desolation in the communities in which they are situated. No payment, gift, grant, bequest, or other contribution for such general perpetual care shall be or be deemed to be invalid by reason of any indefiniteness or uncertainty of the persons designated as beneficiaries in the instruments creating said trust, nor shall said fund or any contribution thereto be or be deemed to be invalid as violating any law against perpetuities or the suspension of the power of alienation of title to property.

Each perpetual care cemetery shall deposit in its perpetual care trust fund an amount equivalent to such amount as may have been stipulated in any contract under which perpetual care property was sold prior to March 15, 1934, plus a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until such fund reaches a minimum of One Hundred Thousand Dollars (\$100,000.00), after which each such cemetery shall deposit an amount equivalent to a minimum of ten cents (10¢) per square foot of ground area sold or disposed of as perpetual care property after March 15, 1934, until September 3, 1945. Each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of twenty cents (20¢) per square foot of ground area sold or disposed of as perpetual care property after September 3, 1945, until July 1, 1963. A minimum of Fifteen Dollars (\$15.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property and a minimum of Five Dollars (\$5.00) per each niche interment right for columbarium interment sold or disposed of as perpetual care property between March 15, 1934, and July 1, 1963, shall also be placed in such perpetual care trust fund. From and after July 1, 1963, each such cemetery shall deposit in its perpetual care trust fund an amount equivalent to a minimum of fifty cents (50¢) per square foot of ground area sold or disposed of as perpetual care property after said date. A minimum of Forty Dollars (\$40.00) per each crypt interment right for mausoleum interment sold or disposed of as perpetual care property, except that on crypts accessible only through another crypt the minimum requirement shall be Twenty Dollars (\$20.00) per each such crypt, and a minimum of Ten Dollars (\$10.00) per each niche interment right for columbarium interment sold or disposed of subsequent to July 1, 1963, shall also be placed in such perpetual care trust fund. Such minimum requirements shall apply to all property in which the exclusive right of sepulture has

been sold and paid for, whether used for interment purposes or not.

After July 1, 1963, each agreement for the sale of burial space in a perpetual care cemetery shall set out separately the part of the aggregate amount agreed to be paid by the purchaser which is to be deposited in the perpetual care trust fund. If the aggregate amount agreed to be paid by the purchaser is payable in installments, all amounts paid thereon shall be applied, first, to the part thereof not required to be deposited in the perpetual care trust fund, to the extent thereof, and the remainder shall, when received by the seller, be deposited in the perpetual care trust fund. Any funds required to be deposited in its perpetual care trust fund by a seller of burial space shall be so deposited not later than ten (10) days after the end of the calendar month during which they are received. If the seller shall fail to so deposit such funds within the time required hereunder, it shall be liable for and the Banking Commissioner shall collect as a penalty the sum of Ten Dollars (\$10.00) per day for the period of such failure, and, upon the relation of the Banking Commissioner of the refusal of the seller to pay to the Banking Commissioner such penalty, the Attorney General shall institute a suit to recover said penalty and for costs and such other relief by the state as in the judgment of the Attorney General is proper and necessary. No cemetery shall hereafter operate as a perpetual care, permanent maintenance, or free care cemetery until the provisions hereof are complied with.

The amount to be deposited in the perpetual care trust fund shall be separately shown on the original purchase agreement and a copy thereof shall be delivered to the purchaser. In the sale of burial space, no commission shall be paid a broker or salesman on the amount to be deposited in the fund.

Notwithstanding any other provision of the laws of the State of Texas or any provision in a trust agreement executed for the purpose of providing perpetual care for a cemetery, such trust agreement may, by agreement entered into between the cemetery association and the trustee or trustees acting under such trust agreement, be amended so as to include any provision which is not inconsistent with any provision in this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 15; Acts 1947, 50th Leg., p. 372, ch. 210, § 4; Acts 1963, 58th Leg., p. 1298, ch. 495, § 3.]

¹ Article 7425b-1 et seq.

² Article 912a-29.

Art. 912a-16. Requirements of Perpetual Care Cemeteries

Each perpetual care cemetery as defined in this title shall post in a conspicuous place in the office and/or offices where sales are conducted or if there be no office, in a conspicuous place at or near the entrance of the cemetery or administration building, and readily accessible to the public, a sign which shall con-

tain the following information in the order and manner set forth below:

(a) "Perpetual Care Cemetery"—which shall appear in a minimum of forty-eight (48) point black type.

(b) Names of officers and directors of the cemetery and the name of the bank or trust company entrusted with care of perpetual care funds.

Each perpetual care cemetery shall include in each conveyance of the exclusive right of sepulture, certificate of ownership, or sales contract executed by it, the following statement: "This cemetery is operated as a perpetual care cemetery, which means that a perpetual care fund for its maintenance has been established in conformity with the laws of the State of Texas. Perpetual care means to keep the sod in repair and all places where interments have been made in order and to care for trees and shrubs planted by the cemetery."

[Acts 1945, 49th Leg., p. 559, ch. 340, § 16.]

Art. 912a-17. Investment of Perpetual Care Funds

Perpetual care funds shall not be used for any other purpose than to provide through the income only therefrom the perpetual care stipulated in the resolution, bylaw, or other action or instrument by which the fund was created or established, and it shall be the duty of the duly appointed trustee to invest, reinvest and keep such funds invested in such securities or assets as are or shall hereafter comply with the provisions of the Texas Trust Act¹ in so far as the same may govern the investment of trust funds by the trustees thereof. No such investment shall be made without the written approval of either an active officer of the cemetery association or of a majority of its directors, and no such investment shall be made except at the prevailing market value of the securities at the time of the acquisition thereof.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 17.]

¹ Article 7425b-1 et seq.

Art. 912a-18. Special Care

The trustee of any cemetery perpetual care fund may also take and hold any property bequeathed, granted, or given to it in trust to apply the principal, or proceeds, or income therefrom to either or all of the following purposes: To the improvement or embellishment of such cemetery, or any part thereof, or any lot therein, to the erection, renewal, repair or preservation of any monuments, fence, building or other structure in such cemetery; to the planting, cultivation of trees, shrubs, or plants in or around such cemetery, or any part thereof; for the special care or ornamenting of any burial plot, lot, section or building or any portion thereof in said cemetery or to any other purpose or use not inconsistent with the purpose for which such cemetery was established or is being maintained. Not exceeding seventy-five (75) per cent of the proceeds or income therefrom shall be devoted to keeping up and beau-

tifying the private blocks, lots or structures for the upkeep of which the bequest, grant, or gift is made. At least twenty-five (25) per cent of such proceeds or income shall be devoted to the general upkeep and beautifying of the cemetery in which such lots, blocks, or structures are located.

Persons desiring to provide a fund for maintaining and keeping up and beautifying private blocks, lots, or structures in any nonperpetual care cemetery in this State, may do so by setting aside for such purposes a reasonable sum of money or property and by providing by written instrument which shall recite the terms of the trust for a trustee (which shall be a trust company or a bank with trust powers, operating within this State) to handle and invest said sum or property and spend the proceeds or income therefrom as follows: Not exceeding seventy-five (75) per cent of the net income or proceeds therefrom shall be devoted to keeping up and beautifying the private blocks, lots, or structures, designated in the instrument, the portion of such income or proceeds not expended annually as set out above, the amount to be not less than twenty-five (25) per cent of such income or proceeds as are spent annually, shall be devoted to the general upkeep and beautification of the cemetery in which blocks, lots, or structures are located. Such trust and the administration thereof shall not be regarded and held to be a perpetuity, but as a provision for the discharge of a duty due from the person founding such trust to the persons interred upon such blocks or lots and to the public.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 18.]

Art. 912a-19. Cemeteries Placed in Receivership

Whenever any perpetual care cemetery within this State shall be placed in receivership the receiver shall, from and out of the proceeds of the liquidation thereof, make such deposits in the perpetual care fund established for said cemetery as shall be necessary to meet the minimum requirements for perpetual care funds provided by law, and any deficit in said perpetual care fund below said minimum requirements shall be a preferred claim against any assets in the possession of the receiver, and shall take precedence over all claims other than vendor's liens on the cemetery property.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 19.]

Art. 912a-20. Duty of Interring and Right to Control Disposition of Remains

The right to control the disposition of the body of a deceased person, unless other directions shall have been made therefor by the deceased, shall be vested in, and the duty of interment (and the liability for the reasonable cost of the interment) of such deceased person shall devolve upon, his or her surviving wife or husband, or if there be no surviving wife or husband they shall vest in and devolve upon the surviving child or children of deceased, or if there be no surviving husband or wife or

child of deceased, they shall vest in and devolve upon the surviving parent or parents of such deceased, or if there be no surviving husband, or wife or child or parent of such deceased, they shall vest in and devolve upon the person or persons respectively in the next degrees of kindred in the order named by the laws of Texas as entitled to succeed to the estate of said deceased.

In all other cases, the disposition of the body and the duty of interment shall devolve upon the coroner conducting the inquest upon the body of the deceased, if any such inquest is held, and if there be no inquest they shall devolve upon the county in which the death occurs; provided, further, that any person representing himself as knowing the facts who shall sign any order or statement, other than a death certificate, for the purpose of procuring the interment of any remains shall be deemed to warrant the identity of the person whose remains are sought to be interred or cremated, and shall be personally and individually liable for all damage occasioned thereby or resulting directly or indirectly therefrom.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 20.]

Art. 912a-21. Records of Interments

A record shall be kept of every interment in a cemetery showing the date the body was received, the date of interment, the name and age of the person interred, when these particulars can be conveniently obtained, and the plot and the grave, the niche, crypt, or vault therein, in which such interment was made. No remains, either cremated or uncremated, of any deceased person shall be removed from any cemetery, except upon written order of the health department having jurisdiction, or of the county court of any county in which such cemetery is situated. A duplicate copy of which order shall be maintained as a part of the records of such cemetery. It shall be the duty of any person and/or persons, removing any remains from any cemetery, to keep and maintain a true and correct record showing the date such remains were removed, the name and age of the person removed, when these particulars can be conveniently obtained, and the place to which the same were removed, and the cemetery and the plot therein in which such remains were buried; if there be disposition of such remains other than interment, a record shall be made and kept of such disposition. Such person or persons shall deliver to the cemetery association operating the cemetery from which such remains were removed, a true, full, and complete copy of such record.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 21.]

Art. 912a-22. Removals

The remains of a deceased person interred in a plot in a cemetery may be removed therefrom with the consent of the cemetery association and the written consent of the surviving wife or husband, or if there is no surviving husband or wife, then of the children; or if there is no surviving husband or wife nor children, then

of the parents of the deceased, or should there be no surviving husband or wife nor children nor parent, then of the brothers and/or sisters of the deceased. If the consent of any such person or of the association cannot be obtained, permission by the county court of the county where the cemetery is situated shall be sufficient. Notice of application to the Court for such permission must be given, at least ten (10) days prior thereto, personally, or at least fifteen (15) days prior thereto if by mail, to the cemetery association, and to the persons not consenting and to every other person or association on whom service of notice may be required by the Court. This provision shall not apply to or prohibit the removal of any remains from one plot to another in the same cemetery or the removal of remains by the cemetery association from a plot for which the purchase price is past due and unpaid, to some other suitable place. Neither shall this provision apply to the disinterment of remains upon order of Court or coroner.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 22.]

Art. 912a-23. May Contract Pecuniary Indebtedness but All Liens Subordinate to Dedication

Cemetery associations shall in the conduct of their business have the right to contract such pecuniary obligations as may be required, and may secure the same by mortgage, deed of trust or otherwise upon their property. Provided, that all mortgages, deeds of trust and other liens of whatsoever nature, hereafter contracted, placed or incurred upon property which has been and was at the time of the creation or placing of such lien, dedicated as a cemetery as in this Act authorized and provided, or upon property which shall afterwards, with the consent of the owner of any such mortgage, trust deed or lien, be dedicated to cemetery purposes as authorized by this title, shall in nowise or at all affect or defeat the dedication thereof, but such mortgage, deed of trust, or other lien shall be subject and subordinate to such dedication and any and all sales made upon foreclosure thereof shall be subject and subordinate to the dedication of such property to cemetery purposes.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 23.]

Art. 912a-24. Location of Cemetery

(a) It shall be unlawful for any person, company, corporation, or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum and/or cemetery except in a cemetery heretofore established and operating, located within, or within less than one (1) mile from, the incorporated line of any city of not less than five thousand (5,000) nor more than twenty-five thousand (25,000) inhabitants according to the last preceding Federal Census, or within, or within less than two (2) miles from, the incorporated line of any city of not less than twenty-five thousand (25,000) nor more than fifty thousand (50,000) inhabitants according to the last

preceding Federal Census, or within, or within less than three (3) miles from, the incorporated line of any city of not less than fifty thousand (50,000) nor more than one hundred thousand (100,000) inhabitants according to the last preceding Federal Census, or within, or within less than four (4) miles from, the incorporated line of any city of not less than one hundred thousand (100,000) nor more than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census, or within, or within less than five (5) miles from, the incorporated line of any city of not less than two hundred thousand (200,000) inhabitants, according to the last preceding Federal Census; provided that where cemeteries have heretofore been used and maintained within the limits hereinabove set forth, and additional lands are required for cemetery purposes, land adjacent to said cemetery may be acquired by the cemetery association operating such cemetery, to be used as an addition to such cemetery, and the use of said additional land for such purposes shall be exempt from the provisions of this Section; and further provided that the establishment or use of a columbarium by any organized religious society or sect as a part of or attached to the principal church building owned by such religious society or sect, and within the limits hereinabove set forth, shall not be unlawful, and shall be exempt from the provisions of this Section.

(b) Notwithstanding the provisions of subsection (a) of this Section, it shall be lawful for any person, company, corporation or association to establish or use for burial purposes any graveyard or cemetery, or any mausoleum within one (1) mile of the incorporated line of any city located in any county having a population of not less than 16,790 nor more than 16,850 inhabitants, according to the last preceding Federal Census; provided that such graveyard, cemetery or mausoleum is established within two years from the effective date of this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 24; Acts 1955, 54th Leg., p. 41, ch. 30, § 1; Acts 1967, 60th Leg., p. 2065, ch. 767, § 1, eff. Aug. 28, 1967.]

Art. 912a-25. Abatement of Nuisances

The maintenance or location and use of any graveyard or cemetery in violation of the provisions of this title are declared to be a nuisance, and the governing body of the city, if said cemetery is within, or within less than five (5) miles from, a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census, or the district attorney, if said cemetery is not within, or within five (5) miles of, a city of more than twenty-five thousand (25,000) inhabitants, according to the last preceding Federal Census; or any person owning a residence in or near the town or city in which, or in such proximity as specified in Section 24¹ hereof to which, such graveyard or cemetery is located, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance,

and if it appears that said nuisance exists or is threatened in violation of this Act, a perpetual injunction shall be granted against parties guilty of such nuisance. Whenever any old cemetery for which a perpetual care and endowment fund has not been regularly and legally established, is so neglected as to be offensive to the inhabitants of the section surrounding same, it may likewise be abated and its continuance enjoined. If such cemetery be located within the city limits of an incorporated city or town, the governing body thereof may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetual care cemetery as defined in this Act.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 25.]

¹ Article 912a-24.

Art. 912a-26. Police Power to Sexton

The sexton, superintendent or other person in charge of a cemetery shall have, and is hereby granted, all and equal powers, functions, duties and authority granted by law to a police officer within the city in which such cemetery is located, or if such cemetery be located outside of a city, to a constable and/or sheriff of the county or counties wherein the same is situated, for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the State and the ordinances of such city, and he shall be charged with the enforcement thereof within the cemetery over which he has charge, and within such radius of the same as shall be necessary to protect the cemetery property.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 26.]

Art. 912a-26a. Perpetual Care

It shall be unlawful for any person, firm, association, corporation, or municipality, or any officer, agent, or employee thereof, to sell, offer for sale, or advertise any cemetery plot or the exclusive right of sepulture therein under the representation that such plot is under perpetual care, before a perpetual care fund as provided for by law has been established for the cemetery in which such property so sold, offered for sale, or advertised is situated; or to engage in or transact any of the businesses of a cemetery within this State other than by means of a corporation organized for such purpose, except as otherwise provided by law; or to fail or refuse to comply with the requirements of the law as to the filing of a statement concerning the perpetual care fund with the Banking Commissioner of Texas or to fail or refuse to publish said statement as provided by law, or to fail or refuse to post the notice with reference to perpetual care required by law, or to invest perpetual care funds otherwise than as provided by law; or to fail or refuse to keep the records of interment required by law; or to sell or offer for sale or advertise for sale cemetery lots or the exclusive right of sepulture therein for purposes of speculation or investment; or to represent through advertising or printed matter that a retail department will later be established for the resale of cemetery

lot purchasers that specific improvements will be made in the cemetery or that specific merchandise or service will be furnished the lot owner, unless adequate funds or reserves have been created by the operator of the cemetery for each such purpose; or for any officer, agent, or employee of any cemetery or cemetery association, to pay or offer to pay any commission, rebate, or gratuity to any funeral director or employee thereof, or for any cemetery association or any officer or employee thereof to offer a free lot or lots either in a drawing or lottery or in any other way except for actual immediate burial of indigent persons. Any person, firm or corporation violating any of the provisions of this Section shall be guilty of misdemeanor and on conviction thereof shall be fined not more than Five Hundred Dollars (\$500) or, if a person, imprisoned not exceeding six (6) months in a county jail, or punished by both such fine and imprisonment. Any corporation organized for cemetery purposes which shall violate the provisions of this Act shall unless such violation is corrected within ninety (90) days after notice of such violation served upon it by the Attorney General of this State, thereby forfeit its charter and right to do business in this State; and when such violation shall be brought to the attention of the Attorney General of this State it shall be his duty to serve such notice, and, after the expiration of ninety (90) days without correction of such violation, to institute suit or quo warranto proceedings in any county in this State where such violation might occur, in the District Court of such county, for the forfeiture of the charter of such offending corporation and the dissolution of its corporate existence; and for such purposes venue is hereby conferred upon the District Courts in this State.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 27; Acts 1951, 52nd Leg., p. 415, ch. 260, § 1.]

Art. 912a-27. Constitutionality

If any section, subsection, sentence, clause, word or phrase of this Act is for any reason held to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, which are hereby declared distinct and severable. The Legislature hereby expressly declares that it would have passed this Act and each section, subsection, sentence, clause, word and phrase irrespective of the fact that any one or more section, subsection, sentence, word, or phrase be declared unconstitutional.

[Acts 1945, 49th Leg., p. 559, ch. 340, § 28.]

Art. 912a-28. Articles of Incorporation; Requirements and Contents

No perpetual care cemetery shall ever be organized without its Articles of Incorporation filed with the Secretary of State showing the subscriptions and payment in cash of its full Capital Stock, the designation of the location of its cemetery property, and a certificate showing the deposit of its Perpetual Care and

Maintenance Guarantee Fund as provided in Section 29 of this Act.¹ The minimum amount of such Capital shall be in accordance with the following schedule: Those serving a town or city having a population of less than fifteen thousand (15,000), Seven Thousand, Five Hundred Dollars (\$7,500); those serving a city having a population of fifteen thousand (15,000) but not more than twenty-five thousand (25,000) inhabitants, Fifteen Thousand Dollars (\$15,000); those serving a city of twenty-five thousand (25,000) or more inhabitants, Twenty-five Thousand Dollars (\$25,000).

Nothing contained in this Section 28 shall apply to cemetery corporations chartered prior to the effective date of this Act, provided, however, that any corporation which amends its charter shall be required to comply with the minimum requirements set forth in this Section 28.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

¹ Article 912a-29.

Art. 912a-29. Perpetual Care and Maintenance Guarantee Fund; Minimum; Necessity and Requisites

Any Corporation chartered under this Act desiring to operate a Perpetual Care Cemetery, before being chartered must establish a minimum Perpetual Care and Maintenance Guarantee Fund, according to the following schedule:

Cemeteries with a Capital Stock of Seven Thousand, Five Hundred Dollars (\$7,500) must deposit with the trustee, as provided by law, a Perpetual Care and Maintenance Guarantee Fund of Seven Thousand, Five Hundred Dollars (\$7,500) in cash.

Those with a Capital Stock of Fifteen Thousand Dollars (\$15,000), a Perpetual Care and Maintenance Guarantee Fund of Fifteen Thousand Dollars (\$15,000) in cash; and,

Those with a Capital Stock of Twenty-five Thousand Dollars (\$25,000), or more, a Perpetual Care and Maintenance Guarantee Fund of Twenty-five Thousand Dollars (\$25,000) in cash.

The Perpetual Care and Maintenance Guarantee Fund shall be permanently set aside and deposited in trust with the Trustee, as is provided in Section 15 of the Perpetual Care Cemetery Code.¹ Upon all sales made of lots, spaces, crypts, mausoleum space and columbariums, the deposits as required by law, to be placed in trust for the Perpetual Care and Maintenance of the Cemetery, shall be allowed as a credit against the original Perpetual Care and Maintenance Guarantee Fund to the full amount of the original deposit. The Corporation thereafter shall continue to deposit in the Perpetual Care Fund, the minimum amount required by law, and such additional amount as may be required by the Rules and Regulations and/or the Trust Agreement or contract of said Cemetery Corporation or Association, for the Perpetual Care and Maintenance of the Cemetery.

Nothing contained in this Section 29 shall apply to cemetery corporations chartered prior to the effective date of this Act, provided, however, that any corporation which amends its charter shall be required to comply with the minimum requirements set forth in this Section 29.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

¹ Article 912a-15.

Art. 912a-30. Cancellation of Charter for Failure to Operate Thereunder; Recision of Cancellation

If any such incorporated association shall fail to begin actual operations thereunder after the granting and delivery of its charter for six (6) months, the Banking Commissioner shall thereupon cancel such charter and serve notice upon the association by registered letter duly addressed to the association's address. The Banking Commissioner may at his discretion rescind such order of cancellation upon the application of the Board of Directors upon the payment to him of a penalty or fee to be fixed by the Commissioner not to exceed Five Hundred Dollars (\$500) and the execution of and delivery to him of an agreement to begin actual operations within one (1) month, and a proper showing by the Trustee of the Perpetual Care and Maintenance Guarantee Fund that it is on deposit.

If such association should fail to begin such active operations within such latter period, the Commissioner shall make an order setting aside his order of recision of the cancellation of such charter, and such cancellation shall thereupon be final, and the Commissioner shall make full relation of such matters to the Attorney General of the State for liquidation, if necessary. A certified copy of such cancellation shall be sufficient to authorize the Trustee of the Perpetual Care and Maintenance Guarantee Fund to refund the same to the incorporators signing the Articles of Incorporation, if no sales have been made of the dedicated property.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

Art. 912a-31. Examinations of Cemetery Associations' Perpetual Care Trust Funds and Records; Fees and Expenses

It shall be the duty of the Banking Commissioner to examine, or cause to be examined, each of such perpetual care cemetery associations annually or as often as necessary, for which the examined association shall pay to the Commissioner a fee not to exceed Fifty Dollars (\$50.00) per day or fraction thereof, for each examiner, the total fee not to exceed One Hundred Fifty Dollars (\$150.00) for any one regular examination.

If in any case the conditions existing in any such association are found to be such as to necessitate an additional examination or a prolonged audit to ascertain the true status of its affairs, the whole expense of such additional

examination or such prolonged audit shall be defrayed by such association.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1; Acts 1963, 58th Leg., p. 1298, ch. 495, § 4.]

Art. 912a-32. Compliance Required; Books, Records, and Funds to Be Maintained Within State; Examination

Any Perpetual Care Cemetery doing business in Texas shall comply with all of the provisions of this Act and shall maintain all books, accounting records, and funds within the State of Texas. Such funds and records must be available at all times to the Banking Department for examination.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

Art. 912a-33. Annual Report; Liability for Failure to Make

If an Association embraced within this Act shall fail to make its annual report and file the publication with the Banking Commissioner, as provided in Section 2¹ hereof, it shall be liable for and the Banking Commissioner shall collect as a fee or penalty the sum of Five Dollars (\$5) per day for the period of such failure, and upon the relation of the Banking Commissioner of such default in payment, the Attorney General shall institute a suit to recover said fees or penalties and for such other relief by the State as in the judgment of the Attorney General is proper and necessary.

[Acts 1955, 54th Leg., p. 574, ch. 190, § 1.]

¹ Article 912a-2.

Art. 912a-34. Interment; Discrimination

Cemetery associations shall not make, adopt, or enforce any rule or regulation which prohibits the interment of the remains of any deceased person in a cemetery because of the race, color, or national origin of such deceased person. Provisions in any contract entered into by a cemetery association; or in any deed or certificate of ownership granted or issued by a cemetery association with respect to the interment of the remains of deceased persons, which prohibit the interment of the remains of deceased persons in a cemetery because of race, color or national origin, are hereby declared to be against public policy, void, and unenforceable.

[Acts 1969, 61st Leg., p. 847, ch. 281, § 1, eff. May 22, 1969.]

Arts. 913 to 930a. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 930a-1. Feed Pens or Slaughter Pens Near Cemetery in Certain Counties a Nuisance; Injunction; Old Abandoned or Neglected Cemeteries; Abatement of Nuisances

Sec. 1. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, the maintenance or location of feed pens for hogs, cattle, and horses, or slaughter pens, or of slaughter houses within five hundred (500) feet of any established cemetery is declared to be a nuisance,

and the owner of said cemetery, or any of the lot owners therein, may maintain an action in the Courts to abate such nuisance and to enjoin its continuance, and if it appears that such nuisance exists or is threatened in violation of this Act, a perpetual injunction shall be granted against the parties guilty of such nuisance.

Sec. 2. In all counties in this State with a population of five hundred and twenty-five thousand (525,000) or more, when an old, abandoned and neglected cemetery for which no perpetual care and endowment fund has been regularly and legally established, is abated as a nuisance, either the Court abating same and enjoining its continuance or the city council of the city in which said cemetery is located, may authorize the removal of all bodies, monuments, tombs, etc., therein to a perpetually endowed cemetery as defined under the laws of the State of Texas; provided however, that if there exists within said county no perpetual care cemetery which under its rules and regulations will permit the interment of the bodies of the persons which are to be removed, the said bodies, monuments, tombs, etc., may be removed to a nonperpetual care cemetery which has provided for assessments for the future care of said cemetery.

[Acts 1941, 47th Leg., p. 424, ch. 253.]

Arts. 930b to 931b. Repealed by Acts 1945, 49th Leg., p. 559, ch. 340, § 29

Art. 931b-1. Depth of Burial Graves; Exceptions; Penalty

Sec. 1. No dead human body shall be buried in such manner that the top of the outside container within which such dead human body is placed is less than two feet below the surface of the ground, except that, if such container is made of steel, bronze, concrete or other impermeable material, the top of such container shall be not less than one and one-half feet below the surface.

The above depths shall be considered maximum limits required for such burials in this state, and if any duly constituted governing body of a political subdivision of this state declares by ordinance, rule or regulation that lesser limits are required because of sub-surface soil conditions or other relevant considerations, then such burials within that political subdivision can be at the lesser limits prescribed by such ordinance, rule or regulation.

Any person who violates the provisions of this section is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$100 nor more than \$200. The violation of the provisions in any ordinance, rule or regulation which establishes lesser limits than herein provided shall constitute a violation of this Act and is punishable under this Act.

Sec. 2. The provisions of this Act do not apply to burials in sealed surface reinforced concrete burial vaults.

[Acts 1969, 61st Leg., p. 1525, ch. 460, eff. Sept. 1, 1969.]

TITLE 27

CERTIORARI

1. CERTIORARI TO THE COUNTY COURT

Article

932 to 940. Repealed.

2. CERTIORARI TO JUSTICES' COURTS

941. Certiorari to Justices' Court.

942 to 959. Repealed.

960. Appeals and Writs of Error.

1. CERTIORARI TO THE COUNTY COURT

Art. 932. Repealed by Acts 1955, 54th Leg., p. 88, ch. 55, § 434

Arts. 933 to 940. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

2. CERTIORARI TO JUSTICES' COURTS

Art. 941. Certiorari to Justices' Court

After final judgment in a justice court in any cause except in cases of forcible entry and

detainer, the cause may be removed to the county court by writ of certiorari (or if the civil jurisdiction has been transferred from the county to the district court, then to the district court,) in the manner hereinafter directed.

[Acts 1925, S.B. 84.]

Arts. 942 to 959. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 960. Appeals and Writs of Error

Appeals and writs of error from the judgments of the county or district court, in cases of certiorari from justice courts, shall be allowed, subject to such rules and limitations as apply in cases appealed from justices' courts.

[Acts 1925, S.B. 84.]

TITLE 28

CITIES, TOWNS AND VILLAGES

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CHAPTER ONE. CITIES AND TOWNS

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Art. 961. May Adopt This Title

Any incorporated city, town or village in this State containing six hundred inhabitants or over, however legally incorporated, and any incorporated city, town or village of whatever population containing one or more manufacturing establishments within the corporate limits, may accept the provisions of this title relating to cities and towns, in lieu of any existing charter, by a two-thirds vote of the council of such city, town or village, had at a regular meeting thereof, and entered upon the journal of their proceedings, and a copy of the same signed by the mayor and attested by the clerk or secretary under the corporate seal, filed and recorded in the office of the county clerk in which such city, town or village is situated, and the provisions of this title shall be in force, and all acts theretofore passed incorporating said city, town or village which may be in force by virtue of any existing charter, shall be repealed from and after the filing of said copy of their proceedings, as aforesaid. When such city, town or village is so incorporated as herein provided, the same shall be known as a city or town, subject to the provisions of this title relating to cities and towns, and vested with all the rights, powers, privileges and immunities and franchises therein conferred. The provisions of this title shall not apply to any city, town or village until such provisions have been accepted by the council in accordance with this article.

[Acts 1925, S.B. 84.]

Art. 961a. Validation of Adoption of Provisions of Title

In every instance wherein an incorporated city, town, or village has attempted to accept the provisions of Title 28 of the Revised Civil Statutes of Texas of 1925, as provided in Article 961 of the Revised Civil Statutes of Texas of 1925, and has included in the ordinance or resolution accepting the benefits of said Title, a declaration or finding to the effect that such city, town, or village contains one or more manufacturing establishments within its corporate limits, and has filed a copy of such resolution or ordinance for record in the office of the County Clerk of the county within which such city, town, or village is situated, the action of such city, town, or village is hereby authorized, ratified, confirmed, and validated, and each such city, town, or village is declared to have all of the powers of cities and towns, as provided in said Title, and all corporate actions taken by such cities, towns, and villages after such attempted compliance with said Article, and which could have been lawfully performed by a city or town having the powers under said Title, are hereby authorized, ratified, and confirmed; provided however, that the provisions of this Act shall not be con-

strued as applicable to cities, towns, or villages, wherein any such attempted adoption of such powers is in litigation at the time this Act becomes effective.

[Acts 1935, 44th Leg., 2nd C.S., p. 1713, ch. 444, § 1.]

Art. 961b. Validation of Adoption of Provisions of Title

In every instance wherein an incorporated city, town, or village in all counties having a population of more than forty-six thousand, one hundred (46,100) and less than forty-six thousand, two hundred (46,200), according to the last preceding Federal Census, has attempted to accept the provisions and benefits of Title 28 of the Revised Civil Statutes of Texas of 1925, and has filed a copy of the resolution or ordinance accepting such Title for record in the office of the County Clerk of the county within which such city, town, or village is situated, the action of such city, town, or village is hereby authorized, ratified, confirmed, and validated; and each such city, town, or village is declared to have all the powers of cities and towns as provided in said Title; and all corporate actions taken by such cities, towns, and villages after the passage of such ordinances or resolution accepting the benefits of said Title, and which could have been lawfully performed by a city or town having the powers under said Title, are hereby authorized, ratified, confirmed, and validated; and all proceedings heretofore had by the governing bodies of all such cities, towns, and villages in the issuance and sale of bonds, to aid in financing any project and/or projects for which a loan or grant has been made or applied for to the United States through the Federal Emergency Administrator of Public Works or any agency, department, or division of the Government of the United States of America, are herein in all things fully validated, confirmed, approved, and legalized; and all such bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities and towns; and all such bonds which have been heretofore authorized but not yet issued or sold shall, when delivered and paid for, constitute valid and binding obligations of such cities and towns. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds are hereby in all things validated, confirmed, approved and legalized.

[Acts 1939, 46th Leg., Spec.L., p. 1001, § 1.]

Art. 961b-1. Town or Village Under Commission Form of Government Having \$500,000 Taxable Property May Adopt This Title

Sec. 1. Any town or village heretofore incorporated under the provisions of Chapter 12 of Title 28 of the Revised Civil Statutes of Texas, 1925, and amendments thereto, and having an assessed valuation for taxable purposes of Five Hundred Thousand (\$500,000.00) Dollars or more, according to its latest approved tax rolls, notwithstanding any limitation contained in Article 1163 of the Revised Civil Statutes of

Texas, 1925, and amendments thereto, is hereby authorized to adopt the powers of cities and towns in the manner specified in Article 961 of the Revised Civil Statutes of Texas, 1925, and amendments thereto, notwithstanding any limitation contained in said Article as to minimum population or as to the inclusion of manufacturing establishments; and, after having adopted such powers, any such municipality shall be known as a city or town, and shall be vested with all of the rights, powers, privileges, immunities and franchises conferred or imposed on cities or towns by the laws contained in Title 28 of the Revised Civil Statutes of Texas, 1925, and amendments thereto.

Sec. 2. This Act shall be cumulative of all other laws, but, in the event any of its provisions shall conflict with the provisions of any other law, the provisions hereof shall prevail to the extent of such conflict.

[Acts 1939, 46th Leg., p. 91.]

Art. 962. General Powers

All the inhabitants of each city, town or village so accepting the provisions of this title shall continue to be a body corporate, with perpetual succession, by the name and style by which such city, town or village was known before such acceptance, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by the same at the time of said acceptance, and those hereinafter granted and conferred, and shall be subject to all the duties and obligations pertaining to or incumbent on the same as a corporation at the time of said acceptance, and may ordain and establish such acts, laws, regulations and ordinances, not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic and under the same name shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require, within or without the limits thereof; and may make, have and use a corporate seal and change and renew the same at pleasure.

[Acts 1925, S.B. 84.]

Art. 963. Not Affected by This Title

All property, real, personal or mixed, belonging to any city accepting the provisions of this title, is hereby vested in the corporation created by this title, and the officers of said corporation, in office at the date of its acceptance, shall continue in the same, until superseded in conformity with the provisions of this title. All rights, actions, fines, penalties and forfeitures in suits or otherwise, which have accrued under the laws heretofore in force, shall be

vested in and prosecuted by the corporation hereby created. No suit pending shall be affected by the passage and acceptance of this title, but the same shall be prosecuted or defended as the case may be, by the corporation hereby created.

[Acts 1925, S.B. 84.]

Art. 964. Cemetery Lots Exempt

The cemetery lots which have, and may hereafter be laid out and sold for said city for private places of burial shall, with their appurtenances, be forever exempt from taxes, executions, attachments or forced sales.

[Acts 1925, S.B. 84.]

Art. 965. City Limits

The bounds and limits of said municipality shall be and remain the same as fixed and defined by the provisions of the act of incorporation, substituted by the provisions of this Title; provided, that said limits of said corporation may be hereafter extended by adding additional territory to the same, whenever the majority of the qualified electors of said territory shall indicate a desire to be included within the limits of said corporation in the manner provided in Article 974 of this Title; or by ordinance of the governing body of said municipality, duly passed and spread upon the minutes thereof, describing by metes and bounds such additional territory added thereto, provided that this provision shall apply only to those cities where the additional territory so added is owned by such municipalities.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 237, ch. 96, § 1.]

Art. 966. May Incorporate

Any city or town containing six hundred inhabitants or over may be incorporated as such, with all the powers, rights, immunities and privileges mentioned and described in the provisions of this title relating to cities and towns, in the manner described in Chapter 11 of this title¹ for incorporating towns and villages, except that the application to become incorporated shall be signed by at least fifty electors, residents of such city or town, and except that when an election is held according to the provisions of such chapter the words "towns and villages" shall be construed to mean "cities and towns." When the entry by the county judge, provided in article 1139 is made with reference to a city or town of six hundred inhabitants and over, such city or town shall be vested with all the rights and privileges of such cities conferred by this title.

[Acts 1925, S.B. 84.]

¹ Article 1133 et seq.

Art. 966a. Validation of Incorporation of Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less heretofore incorporated and/or attempted in good faith to be incorporated under the General Laws of

Texas, whether under the aldermanic form of government or under the commission form of government, and which have in good faith functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or on account of the incorporation election having been ordered and/or the returns thereof canvassed and result declared by a person exercising the functions and/or performing the duties of County Judge without lawful authority so to do, or on account of other irregularities in the incorporation proceedings.

Sec. 1-a. Provided however, that this Act shall have no effect upon any suit or suits pending at this time in the Courts of this State which involve such cities and towns, nor upon any suit involving such cities and towns which may be filed within ninety (90) days from the effective date of this Act.

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

[Acts 1941, 47th Leg., p. 33, ch. 19.]

Art. 966b. Validation of Incorporation; Incorrect Description; Excessive Area

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings or the order of the county judge declaring such territory to be incorporated, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof and finding and declaring the names of the mayor, aldermen and city secretary of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any City, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and

the mayor, aldermen and city secretary named in such order shall constitute the mayor, aldermen and city secretary of such city until their successors are duly elected or appointed and qualified.

[Acts 1951, 52nd Leg., p. 372, ch. 236.]

Art. 966c. Validation of Incorporation, Proceedings and Acts; Cities and Towns of 5,000 or Less; Limits of Territory

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation or attempted incorporation, and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town, or because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, prior to the effective date of this Act, are hereby in all things validated.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town involved in litigation at the time of the effective date of this Act (Chapter 177, Regular Session, Acts of the 53rd Legislature) questioning the legality of the incorporation or extension of boundaries.

Sec. 5. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

[Acts 1953, 53rd Leg., p. 492, ch. 177; Acts 1954, 53rd Leg., 1st C.S., p. 13, ch. 4, § 1.]

Art. 966d. Validation of Incorporation; Incorrect Description; Excessive Area; Elections

Sec. 1. In each instance where an election has been held for the purpose of incorporating

a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings or the order of the county judge declaring such territory to be incorporated, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof and finding and declaring the names of the mayor, aldermen and city secretary of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the mayor, aldermen and city secretary named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. This Act shall not apply to any municipality which is now involved, or which within sixty (60) days from the effective date of this Act becomes involved, in litigation in any district court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided, further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status.

[Acts 1955, 54th Leg., p. 808, ch. 298.]

Art. 966d-1. Validation of Incorporation; Incorrect Description; Excessive Area; Elections

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws

of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2.. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. This Act shall not apply to any municipality which is now involved in litigation in any district court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status.

[Acts 1962, 57th Leg., 3rd C.S., p. 151, ch. 51, §§ 1 to 3.]

Art. 966e. Validation of Incorporation, Area and Boundaries; Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act are in all things validated and the incorporation of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the in-

clusion in the corporate area of territory other than that which is intended to be used for strictly town purposes, or by reason of the shape, form or outline of the area or territory included within the boundaries of such city or town.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1957, 55th Leg., p. 1328, ch. 450.]

Art. 966f. Validation of Incorporation of Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns, in this state, of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town in a county having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census which city or town is involved in litigation on the effective date of this Act as originally enacted or on the effective date of this Section as amended by Senate Bill No. 448, Acts of the 56th Legislature, Regular Session, questioning the legality of the incorporation, annexations and/or extensions of boundaries by any such cities and towns.

[Acts 1959, 56th Leg., p. 79, ch. 38; Acts 1959, 56th Leg., p. 842, ch. 380, § 1.]

Art. 966g. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, wheth-

er under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of the County in which such city or town is situated, all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 3. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 4. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1959, 56th Leg., 3rd C.S., p. 430, ch. 19.]

Art. 966h. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities and Towns of 4,500 or Less

Sec. 1. All cities and towns in Texas of four thousand, five hundred (4,500) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of such city or town.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4. If any word, phrase, clause, sentence, paragraph or provision of this Act is declared unconstitutional, it is the intention of the Legislature that the remaining provisions thereof shall be effective, and that such remaining portions shall remain in full force and effect.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1961, 57th Leg., p. 583, ch. 275.]

Art. 967. Cities of the Republic

Any city, town or village, within this State, incorporated under any law, general or special, of the Republic of Texas, regardless of the extent of the boundaries thereof, or the number of its population, may accept the provisions of

Chapters 1 to 10, both inclusive, of this title, in lieu of any existing charter created by any such law of the Republic of Texas, by a two-thirds vote of the council of such city, town or village; which action by the council shall be held at a regular meeting thereof and entered upon the journal of their proceedings, and a copy of the same signed by the mayor and attested by the clerk or secretary under the corporate seal, filed and recorded in the office of the clerk of the county court of the county in which such city, town or village is situated, and the provisions of said Chapters 1 to 10, both inclusive, of this title shall be in force, and all acts theretofore passed incorporating said city, town or village, which may be in force by virtue of any existing charter shall be repealed from and after the filing of said copy of their proceedings as aforesaid, when such city, town or village is so incorporated as herein provided, the same shall be known as a city or town, subject to the provisions of this title, vested with all the rights, powers, privileges, immunities and franchises therein conferred.

[Acts 1925, S.B. 84.]

Art. 968. Effect of Acceptance

All the inhabitants of each city, town or village so accepting the provisions of chapters 1 to 10 of this title, shall continue to be a body corporate, with perpetual succession, by the name and style by which such city, town or village was known before the acceptance of the provisions of such law, and as such they and their successors by that name shall have, exercise and enjoy all the rights, immunities, powers, privileges and franchises possessed and enjoyed by the same at the time of the acceptance of the provisions of such title and those herein granted and conferred, and shall be subject to all the duties and obligations pertaining to or incumbent on the same as a corporation at the time of the acceptance of the provisions of such title, and may ordain and establish such acts, laws, regulations and ordinances not inconsistent with the Constitution and laws of this State, as shall be needful for the government, interest, welfare and good order of said body politic, and, under the same name, shall be known in law, and be capable of contracting and being contracted with, suing and being sued, impleading and being impleaded, answering and being answered unto, in all courts and places, and in all matters whatever, may take, hold and purchase, lease, grant and convey such real and personal or mixed property or estate as the purposes of the corporation may require, within or without the limits thereof; and may make, have and use a corporate seal and change and renew the same at pleasure.

[Acts 1925, S.B. 84.]

Art. 969. Property Rights

All property, real, personal or mixed, belonging to any such city, town, or village so incorporated under and by virtue of any law of the Republic of Texas, general or special, accepting said title, is hereby vested in the corporation

thus created, and the council of such city, town or village is hereby authorized and empowered to sell and alienate such property and to appropriate the proceeds of such sale to the acquisition or construction, maintenance or operation of a water, sewer, gas and electric light and power system, or any one or more of such systems, within or without the limits of such city or town, or for any other public improvement within said city or town, as the council thereof may determine.

[Acts 1925, S.B. 84.]

Art. 969a. Lease of Islands or Submerged Lands by Certain Cities

Sec. 1. Any city of more than forty-three thousand (43,000) inhabitants according to the last preceding United States Census located in a county in this State of less than one hundred thousand (100,000) inhabitants according to such Census to which city the Republic of Texas, or the State of Texas has heretofore granted any island, flats or other submerged lands be, and is hereby granted power and authority to execute leases for periods of time not to exceed ninety-nine (99) years for portions of such island, flats or other submerged lands as may from time to time be determined by the governing body of such city.

Sec. 2. Every such lease shall specify the purposes for which the same is made and provide a maximum period of five (5) years within which the lessee shall exercise the rights and privileges granted.

[Acts 1929, 41st Leg., p. 197, ch. 82; Acts 1941, 47th Leg., p. 1353, ch. 616, § 1.]

Art. 969a-1. Lease, Sale, Option or Conveyance of Islands, Flats or Other Submerged Lands

Sec. 1. Any city to which the State of Texas or the Republic of Texas has heretofore relinquished its right, title and interest in or to any island, flats or other submerged lands be, and is hereby granted power and authority to lease, sell, option and convey all or any portion of such island, flats or other submerged lands, and to enter upon development plans and contracts for any or all of these purposes with any person, firm or corporation, public or private. The foregoing powers may be exercised at such time and upon such considerations and terms and for such periods of years as the governing body of such city shall determine to be proper and in the public interest. In any city which has by charter provision for a referendum, a contract for the development of such island, flats and other submerged land and for the lease, sale or option of all or any part thereof, as authorized in this Act, may be entered upon by the governing board of the city without advertisement or receiving bids thereon, but shall be subject to the provisions for referendum and such contract shall not become finally effective until the period within which the petition for referendum must be presented has expired or, if a proper petition for referendum is

presented, until the contract has been approved at an election ordered for that purpose.

Sec. 2. All laws or parts of laws and provisions of the charter of any city which may be in conflict with the provisions of this Act are hereby amended or repealed to the extent of such conflict. As to the content of all other laws or parts of laws this Act shall be cumulative.

Sec. 3. This Act shall not be construed to grant or convey to any city the title to any oil, gas or other minerals which was not already owned by such city at the enactment hereof.

Sec. 4. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by any court of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of this Act.

[Acts 1953, 53rd Leg., p. 126, ch. 80.]

Art. 969b. Acquisition of Property for Certain Purposes; Exercise of Eminent Domain or Police Powers, etc.; Procedure; Relocation Expenses

Authorization; Modes and Purposes of Acquisition; Procedure; Relocation Expenses

Sec. 1. Any incorporated city or town in this State incorporated under general or special law or authorized to have or having a Charter under the provisions of the Constitution of Texas or the Statutes shall have and is hereby granted the power separately or jointly with any other city, town, cities or towns, or jointly with any other city, town, cities or towns and other governmental entity, to receive and acquire through gift or dedication and to acquire by purchase without condemnation or by condemnation, if within the county where said governmental entity, city, town, cities or towns are located, any property in this State located inside or outside of the corporate limits of such city or town, for the following purposes, which are declared to be public purposes: parks, hospitals, the extension, improvement and enlargement of its water system, including riparian rights, water supply reservoirs, standpipes, watersheds, dams, the laying, building, maintenance and construction of water mains and the laying, erection, establishment or maintenance of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water; for sewage plants and systems; rights of way for water and sewer lines; play grounds, airports, and landing fields, incinerators, garbage disposal plants, streets, boulevards and alleys or other public ways, and any right of way needed in connection with any property used for any purpose hereinabove named, and to exercise Police Power within the territory so acquired.

The procedure to be followed in condemnation proceeding hereunder and authorized herein shall be in accordance with the provisions of the State law with reference to eminent do-

main. The provisions of Title 52 of the Revised Civil Statutes of Texas, 1925,¹ shall apply to such proceedings, or such proceedings may be under any other State law now in existence or that hereafter may be passed governing and relating to the condemnation of land for public purposes by a city.

In the exercise of any authority granted by this Act to cities, towns and other governmental entities, in the event it becomes necessary in the exercise of the powers of eminent domain or Police Power, or any other power to relocate, raise, lower, reroute or change the grade or alter the construction of any railroad, electric transmission, telegraph or telephone line, conduit, pole, property or facility, or pipeline, outside of the corporate limits of any incorporated city or town, all such relocation, raising, lowering, rerouting, or change in grade or alteration of construction shall be accomplished at the sole expense of the city, town, cities, or towns, or other governmental entity; provided, that nothing contained herein shall affect the existing lawful rights of any city or town to control the streets, alleys, public ways and other public grounds within its corporate limits. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction, in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

¹ Article 3264 et seq.

Maintenance, Improvement and Operation of Property

Sec. 2. Such city or town and such city, town, cities, towns and counties are hereby empowered to maintain, improve and operate the property so acquired and all improvements thereon and to sell or lease all or any part of the property and improvements so acquired and shall have full and ample power to jointly manage, control and operate such property so owned by two or more such political subdivisions, by entering into any contracts with each other on terms mutually agreeable.

Negotiable Warrants and Bonds of City or County; Taxes

Sec. 3. For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable warrants and bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such warrants and bonds so issued, the authority hereby given for the issuance of such warrants and bonds and levy and collection of such taxes to be exercised in accordance with the provisions of the Revised Civil Statutes of Texas of 1925 with the amendments thereto.

Improvement and Maintenance

Sec. 4. The political subdivision or subdivisions acquiring property under this Act is and are hereby expressly authorized and empowered to improve, maintain and conduct the same for the purposes hereby authorized and to make and provide thereon all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as the governing body or bodies or governing bodies of the city, town, cities or towns acquiring property or making improvements under the provisions of this Act shall determine by mutual agreement and are granted ample Police Power to make and enforce rules and regulations governing the use thereof as the interested governing bodies shall determine by ordinance.

Special Tax

Sec. 5. In addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act, the governing body of any such city or town and the Commissioners Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax for the purpose of improving, operating, maintaining and conducting any property which such city or county may acquire under the provisions of this Act, and to provide all suitable structures, and facilities therein. Provided that nothing in this Act shall be construed as authorizing any city or county to exceed the limits of indebtedness placed upon it under the Constitution.

Contracts; Expenditure of Public Funds

Sec. 6. Any city or town acquiring any property under the authority of the foregoing section shall also be authorized to make any contract and to expend its public funds in the joint or several operation and maintenance of any of the municipal functions authorized by this Act.

Act as Cumulative

Sec. 7. This Act shall be deemed to be cumulative of all other laws and Charter Provisions relating to the same subject.

Partial Invalidity

Sec. 8. In case any section, clause, sentence, paragraph, provision or part of this Act shall for any reason be adjudged by any Court of competent or final jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of this Act but shall be confined in its operation to the section, clause, sentence, paragraph or part thereof directly involved in the controversy in which such judgment shall have been rendered.

[Acts 1943, 48th Leg., p. 564, ch. 335; Acts 1969, 61st Leg., p. 1604, ch. 496, § 1, eff. June 10, 1969.]

Art. 969c. Cemeteries**City or Town as Trustee**

Sec. 1. Any incorporated or chartered city or town within the State of Texas, owning, op-

erating, or having control of any cemetery or cemetery property, shall have the power and authority to act as a permanent trustee for the perpetual care and upkeep of the lots and graves in such burial grounds. Any city or town desiring to act as such trustee may do so by the passage of an ordinance or resolution, signifying its willingness and intention to act as such trustee, by the majority of its governing board, council, or aldermen; and upon the passage of said ordinance or resolution and the acceptance of such trust, as herein provided for, the same shall become perpetual.

Rules and Regulations; Deposit of Funds Required; Certificate

Sec. 2. Said cities and towns shall have the right, power, and authority to make reasonable rules and regulations as such trustee, to receive gifts, grants, and donations from any source, and to also fix the amounts necessary for the permanent care and upkeep of individual graves or family lots. Any person desiring to have a city or town, now acting or which may hereafter desire to act as such trustee for the permanent care and upkeep of such graves and burial lots, to act as trustee for him or those deceased persons in whom he has an interest or to whom he may feel attached, shall have the right to deposit such amount or funds as may be required by the said city or town for this purpose; and the acceptance by the said city or town of the funds required for such purpose shall constitute a permanent and perpetual trust fund for the burial lot or grave or graves so designated. Upon the acceptance by said city or town of such trust, its Secretary, Clerk or Mayor shall issue a certificate to the person or persons advancing such funds or money, which said certificate shall recite the purpose, the amount advanced and by whom, and the location, as nearly as possible, of the lot, grave or burial place, and such further information and designation as said city or town may deem proper.

Record Book

Sec. 3. Any city or town acting as such trustee shall keep a permanent and well-bound record book in which shall be kept in alphabetical order the names of all persons advancing funds, the amount advanced, the purpose for which such advancement was made, names and locations, in so far as possible, of lots and graves, the condition and status of the trust imposed, and such further information as said city or town may deem proper.

Investment of Funds

Sec. 4. Said cities and towns shall have the right, power, and authority to invest and reinvest all funds advanced to it for the purposes herein set forth in interest-bearing bonds or securities of a municipality, state, or the federal government. At all times the interest, revenue, or other accrual or increase of the funds advanced for specific lots, graves, or burial places, shall be first used for the maintenance, care, and upkeep, in a first class condition, of

the particular lot, graves, or burial place for which the advancement and donation was originally made. However, in the event of the accrual of a reasonable excess of revenue from such specific fund and the accumulation of a greater amount than is necessary for the faithful accomplishment of the trust and purpose herein provided for, such excess may, in the discretion of such trustee, be used to beautify the whole cemetery or burial grounds generally; but at no time shall any part of the original or principal amount first advanced and donated for the care, upkeep, and maintenance of specific lots, graves, and burial places, ever be used by such trustee. This original amount or fund shall forever remain and be kept intact as a principal trust fund.

Certificates

Sec. 5. All certificates issued by such city or town shall be issued in the name of the said city or town to the trustee or person who makes the advancement of funds or money as herein provided for; and such certificate holder shall have the right, upon the payment of the proper cost or recording fee, to have such certificate recorded in the Deed Records of the county in which such cemetery is located; and it shall be the duty of all county clerks in the State of Texas to file, index, and record such certificates in the deed records of the county in which such cemetery is situated.

Care for Graves by Individuals

Sec. 6. None of the rights, powers, and duties herein provided for shall deprive any person having an interest in a grave or burial lot, or kinship within the third degree by affinity or consanguinity to those there interred, from beautifying or caring for the same individually or at his own expense, under such reasonable rules and regulations as said city or town may provide.

Successor on Failure of Trustee to Act

Sec. 7. In the event that any city or town should, after having engaged upon and accepted the trust herein provided for, renounce such trust, or fail to refuse to act further as such trustee, as herein provided for, then the district judge or highest trial judge of the county in which such cemetery is located shall appoint a suitable successor or trustees, whenever the occasion demands or a vacancy occurs, to act in lieu of said city or town and to carry out and faithfully execute the trust herein provided for.

Budget; Tax

Sec. 7a. Such city or town may include in its annual budget such sum as may be deemed necessary for maintenance and upkeep of such cemetery and shall have power or authority to assess and collect an ad valorem tax upon all the property within such city or town not to exceed Five (5) Cents on the One Hundred Dollars (\$100) valuation of all the property so assessed for maintenance and upkeep of such

cemetery, regardless whether such cemetery is located within or without the boundary of corporate limits of such city or town.

Act as Cumulative; Partial Invalidity

Sec. 8. This Act shall be cumulative of all existing laws; but its intention is that the trust herein provided for shall not fail for any reason and, if any section or part hereof is invalid, then the remainder shall not in any way be affected or held to be invalid.

[Acts 1945, 49th Leg., p. 194, ch. 148.]

Art. 969c-1. Termination of Perpetual Trust Funds for Cemeteries of Municipalities in Counties of 110,000 to 124,000

Sec. 1. This Act shall apply to all municipalities whether created by general law, special act, or under the home rule charter, in counties having a population of not less than 110,000 and not more than 124,000, according to the last preceding federal census.

Sec. 2. The governing body of said municipalities may abolish and terminate perpetual trust funds for their cemeteries and to use all moneys therein, both principal and interest, on permanent improvements for their cemeteries.

[Acts 1967, 60th Leg., p. 1824, ch. 703, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1822, ch. 542, § 25, eff. Sept. 1, 1971.]

Art. 969d. Cities With Less Than 10,000 Population; Purchase of Real Estate from United States Government

Sec. 1. The governing bodies of cities, towns and villages, including Home Rule Cities, with a population of less than ten thousand (10,000), are hereby authorized to purchase real property and improvements thereon for municipal purposes from the Federal Government when offered for sale to such cities, towns and villages.

Sec. 2. All actions and negotiations of governing bodies of cities, towns and villages prior to the effective date of this Act relating to the purchase or acquisition of real property for municipal purposes from the Federal Government are hereby in all things validated.

Sec. 3. Governing bodies of cities, towns and villages are hereby authorized to sell and convey any such property so acquired for the highest price obtainable when the same is no longer needed for the purpose or purposes for which acquired or when the purpose or purposes for which acquired no longer exist.

Sec. 4. If any portion of this Act is held unconstitutional by a court of competent jurisdiction the remaining portions shall nevertheless be valid the same as if the invalid portion had not been a part hereof.

[Acts 1953, 53rd Leg., p. 755, ch. 303.]

Art. 969e. State-line Border Cities; Joint Governmental Facilities and Services; Agreements

Sec. 1. It is the purpose of this Act to permit any city in this state which borders on the

state line and which is separated from a city in the adjoining state only by the state line, to cooperate with such adjoining city in another state in furnishing governmental services and facilities to the inhabitants of such adjoining cities to the end that such governmental services and facilities may be adequately provided in the most efficient manner.

Sec. 2. Any city in this state which borders on a state line and which is separated from a city in an adjoining state only by the state line may enter into an agreement or agreements with such adjoining city whereby either of such cities agrees to furnish certain services or facilities for the other or whereby such cities agree to jointly or cooperatively furnish any governmental service or facility or to exercise or enjoy any power or authority which the Texas city involved may furnish, exercise, or enjoy under the laws of this state, to the extent that the laws of the state in which the adjoining city is located permits such joint or cooperative activity.

Sec. 3. Every agreement or contract entered into by a city of this state as authorized in Section 2 of this Act shall specify:

- (1) its duration;
- (2) the precise organization, composition, and nature of any separate legal or administrative entity created thereby, together with the powers delegated thereto, provided such entity may be legally created;
- (3) its purpose or purposes;
- (4) the manner of financing the joint or cooperative undertaking and of establishing and maintaining a budget therefor, or in the case of an agreement whereby one city agrees to furnish specified services or facilities to the other city, the financial arrangement therefor;
- (5) the permissible method or methods to be employed in accomplishing the partial or complete termination of the agreement and for disposing of property upon such partial or complete termination; and
- (6) any other necessary and proper matters, including appropriate provisions for enforcement.

Sec. 4. If such agreement does not establish a separate legal entity to conduct the joint or cooperative undertaking, the agreement shall, in addition to the requirements of Section 3 of this Act, contain the following:

- (1) provision for an administrator or a joint board responsible for administering the joint or cooperative undertaking. In the case of a joint board, cities party to the agreement shall be represented.
- (2) the manner of acquiring, holding, and disposing of real and personal property used in the joint or cooperative undertaking.

Sec. 5. No agreement made pursuant to this Act shall relieve any public agency of any

obligation or responsibility imposed upon it by law, except that to the extent of actual and timely performance thereof by an adjoining city pursuant to an agreement entered into hereunder or by a joint board or other legal or administrative entity created by an agreement made hereunder, said performance may be offered in satisfaction of the obligation or responsibility.

Sec. 6. No agreement entered into pursuant to this Act shall be effective until a copy thereof has been filed in the office of the county clerk of the county in which the affected Texas city is located.

[Acts 1969, 61st Leg., p. 1404, ch. 425, eff. June 2, 1965.]

Art. 970. To Adjust Boundaries

Whenever there shall exist within the boundaries of any such city, town or village accepting said provisions, territory to the extent of at least ten acres contiguous, uninhabited [uninhabited] and adjoining the lines of such city or town, the mayor and council of such city or town shall, within one year from the filing in the office of the county clerk of the action of the council accepting the provisions of this law, or as soon thereafter as practicable, and before they shall levy any taxes for said city or town by ordinance duly passed, discontinue said territory as a part of said city or town and shall redefine the bounds and limits of such city or town so that they shall conform as nearly as practicable to the requirements of article 971, and when said ordinance has been duly passed, the clerk shall enter an order to that effect on the minutes or records of the city or town council; and from and after the entry of such order, said territory shall cease to be a part of said city or town; provided that should there be situated within the said territory, so discontinued, any property of any description belonging to said city or town, the title to said property, so situated, shall remain in such city or town and may be sold, alienated and disposed of by such city or town, the same as if it were situated within the bounds and limits of such city or town.

[Acts 1925, S.B. 84.]

Art. 970a. Municipal Annexation Act

Short Title

Sec. 1. This Act is known and may be cited as the "Municipal Annexation Act."

Definitions

Sec. 2. For the purposes of this Article, the following words shall have the meanings ascribed to them:

A. "City" or "Cities" means any incorporated city, town or village in the State of Texas.

B. "Voters" means those persons qualified to vote under the laws of the State of Texas.

C. "Written consent" means consent expressed by an ordinance or resolution.

Establishing Extraterritorial Jurisdiction

Sec. 3. A. In order to promote and protect the general health, safety, and welfare of persons residing within and adjacent to the cities of this State, the Legislature of the State of Texas declares it to be the policy of the State of Texas that the unincorporated area, not a part of any other city, which is contiguous to the corporate limits of any city, to the extent described herein, shall comprise and be known as the extraterritorial jurisdiction of the various population classes of cities in the State and shall be as follows:

(1) The extraterritorial jurisdiction of any city having a population of less than five thousand (5,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one half ($\frac{1}{2}$) mile of the corporate limits of such city.

(2) The extraterritorial jurisdiction of any city having a population of five thousand (5,000) or more inhabitants, but less than twenty-five thousand (25,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within one (1) mile of the corporate limits of such city.

(3) The extraterritorial jurisdiction of any city having a population of twenty-five thousand (25,000) or more inhabitants, but less than fifty thousand (50,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within two (2) miles of the corporate limits of such city.

(4) The extraterritorial jurisdiction of any city having a population of fifty thousand (50,000) or more inhabitants, but less than one hundred thousand (100,000) inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within three and one half ($3\frac{1}{2}$) miles of the corporate limits of such city.

(5) The extraterritorial jurisdiction of any city having a population of one hundred thousand (100,000) or more inhabitants shall consist of all the contiguous unincorporated area, not a part of any other city, within five (5) miles of the corporate limits of such city.

B. In the event that on the effective date of this Act the area under the extraterritorial jurisdiction of a city overlaps an area under the extraterritorial jurisdiction of one or more other cities, such overlapped area may be apportioned by mutual agreement of the governing bodies of the cities concerned. Such agreement shall be in writing and shall be approved by an ordinance or resolution adopted by such governing bodies.

At any time after one hundred and eighty (180) days from the effective date of this Act, any city having an extraterritorial claim to

such overlapping area shall have authority to file a plaintiff's petition in the district court of a judicial district, within which is located the largest city having an extraterritorial claim to such overlapped area, naming as parties defendant all cities having a claim to such overlapped area and praying that such overlapped area, to which it has mutual claim, be apportioned among the cities concerned. In effecting such apportionment, the district court shall consider the population densities and patterns of growth, transportation, topography, and land utilization in the cities concerned and in the overlapped area. The territory so apportioned to a city shall be contiguous to the extraterritorial jurisdiction of such city. In the event the extraterritorial jurisdiction of a city is totally overlapped, the territory so apportioned to such city shall be contiguous to the corporate boundaries of such city. Such territory so apportioned shall be in a substantially compact shape. Such overlapped area shall be apportioned among such cities in the same ratio (to one decimal) as the respective populations of the cities concerned bear to one another, but in such apportionment no city shall receive less than one-tenth ($\frac{1}{10}$) of such overlapping area. Provided, however, that any apportionment made under the provisions of this Subsection shall give consideration to existing property lines, and no tract of land or adjoining tracts of land, under one ownership upon the effective date of this Act and not exceeding one hundred and sixty (160) acres in size shall be apportioned so as to be within the extraterritorial jurisdiction of more than one city unless the landowner consents in writing to such apportionment.

C. When a city annexes additional territory, the extraterritorial jurisdiction of such city shall expand in conformity with such annexation and shall comprise an area around the new corporate limits of the city consistent with Subsection A of this Section. In addition, the extraterritorial jurisdiction of the city may be extended beyond the distance limitations imposed by Subsection A of this Section to include therein any territory contiguous to the otherwise existing extraterritorial jurisdiction of such city, provided the owner or owners of such contiguous territory request such expansion. However, in no event shall the expansion of the extraterritorial jurisdiction of a city, through annexation, or upon request, or because of increase in population of the city, conflict with the existing extraterritorial jurisdiction of another city. The extraterritorial jurisdiction of a city shall not be reduced without the written consent of the governing body of such city, except in cases of judicial apportionment of overlapping extraterritorial jurisdictions.

D. No city shall impose any tax in the area under the extraterritorial jurisdiction of such city, by reason of including such area within such extraterritorial jurisdiction.

Extension of Subdivision Ordinance Within the
Extraterritorial Jurisdiction

Sec. 4. The governing body of any city may extend by ordinance to all of the area under its extraterritorial jurisdiction the application of such city's ordinance establishing rules and regulations governing plats and the subdivision of land; provided, that any violation of any provision of any such ordinance outside the corporate limits of the city, but within such city's extraterritorial jurisdiction, shall not constitute a misdemeanor under such ordinance nor shall any fine provided for in such ordinance be applicable to a violation within such extraterritorial jurisdiction. However, any city which extends the application of its ordinance establishing rules and regulations governing plats and the subdivision of land to the area under its extraterritorial jurisdiction shall have the right to institute an action in the district court to enjoin the violation of any provision of such ordinance in such extraterritorial jurisdiction, and the district court shall have the power to grant any or all types of injunctive relief in such cases.

Industrial Districts

Sec. 5. The governing body of any city shall have the right, power, and authority to designate any part of the area located in its extraterritorial jurisdiction as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the extraterritorial status of such district, and its immunity from annexation by the city for a period of time not to exceed seven (7) years, and upon such other terms and considerations as the parties might deem appropriate. Such contracts or agreements shall be evidenced in writing and may be renewed or extended for successive periods not to exceed seven (7) years each by such governing body and the owner or owners of land in such industrial district. Existing contracts or agreements of such nature, recognized in or evidenced by an ordinance or resolution of the governing body of the contracting town or city, are hereby in all respects validated as of the date they were made, for the extent of their term or for seven (7) years from the date made, whichever is shorter.

Notice and Hearing—Annexation Proceedings

Sec. 6. Before any city may institute annexation proceedings, the governing body of such city shall provide an opportunity for all interested persons to be heard at a public hearing to be held not more than twenty (20) days nor less than ten (10) days prior to institution of such proceedings. Notice of such hearing shall be published in a newspaper having general circulation in the city and in the territory proposed to be annexed. The notice shall be

published at least once in such newspaper not more than twenty (20) days nor less than ten (10) days prior to the hearing. Additional notice by certified mail should be given to railroad companies then serving the city and on the city's tax roll where the right-of-way thereof is included in the territory to be annexed. Annexation of territory by a city shall be brought to completion within ninety (90) days of the date on which the governing body of such city institutes annexation proceedings or be null and void. Provided, however, any period of time during which a city is restrained or enjoined from annexing any such territory by a court of competent jurisdiction shall not be computed in such 90-day limitation period.

Limitation on Annexations

Sec. 7. A. A city may annex territory only within the confines of its extraterritorial jurisdiction; provided, however, that such limitation shall not apply to the annexation of property owned by the city annexing the same.

B. A city may annex in any one calendar year only territory equivalent in size to ten per cent (10%) of the total corporate area of such city as of the first day of that calendar year. In computing the total amount of territory which may be annexed in any one (1) calendar year, there shall be excluded from such ten per cent (10%) the following: (1) territory caused to be annexed by a request of a majority of the qualified resident voters in the territory and the owners of fifty per cent (50%) or more of the land in the territory, (2) territory annexed which is owned by the city, the county, the State, or the Federal Government which is used for a public purpose, (3) territory annexed at the request of a majority of the voters residing in such territory, and (4) territory annexed at the request of the owner or owners thereof.

B-1. (a) No home rule or general law city may annex any area, whether publicly or privately owned, unless the width of such area at its narrowest point is at least 500 feet.

(b) Land on an island bordering on the Gulf of Mexico which is not accessible by public road or common carrier ferry facility may not be annexed by a city, town or village, including a home rule city, without the consent of the owner or owners of such land and notwithstanding the provisions of the Municipal Annexation Act (Article 970(a), Vernon's Texas Civil Statutes), the extraterritorial jurisdiction of a city, town or village, including a home rule city, shall not extend to or cover any such land on any such island without the consent of the owner or owners thereof. A city, town or village, including a home rule city, is also prohibited from taking property on any such island by exercising its power of condemnation or eminent domain.

(c) All annexation proceedings initiated for the purpose of including the site of a state institution or facility within a city are hereby

and in all respects validated as of the date of such proceedings.

C. In the event a city fails in any calendar year or years to annex the total amount of territory which it is authorized to annex in such calendar year or years, such unused allocation may be carried over and used in subsequent calendar years. A city, utilizing the power granted under this Subsection, may not annex in any one calendar year an amount of territory in excess of thirty per cent (30%) of its total area as of the first day of the calendar year.

D. All annexation proceedings by cities which are pending on or instituted after March 15, 1963, shall be subject to the limitations as to size and extent of area imposed by this Act and shall be brought to completion within ninety (90) days after the effective date of this Act or be null and void. Provided, however, any period of time during which a city is enjoined or restrained from completing such annexation proceedings by a court of competent jurisdiction shall not be computed in such ninety (90) day limitation period.

E. No annexation shall change or have any effect on switching limits of railroads or any rates thereof.

Limitations on Creation of Political Subdivisions Within the Extraterritorial Jurisdiction

Sec. 8. A. No city may be incorporated within the area of the extraterritorial jurisdiction of any city without the written consent of the governing body of such city. Should such governing body refuse to grant permission for the incorporation of such proposed city, a majority of the resident voters, if any, in the territory of such proposed city and the owners of fifty per cent (50%) or more of the land in such proposed city may petition the governing body of such city and request annexation by such city. Should the governing body of such city fail or refuse to annex the area of such proposed city within six (6) months from the date of receipt of such petition, proof of such failure or refusal shall constitute authorization for the incorporation of such proposed city insofar as the purposes of this Subsection are concerned. Written consent or authorization for the incorporation of a proposed city, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate incorporation proceedings for such proposed city as otherwise provided by law. The provisions of this Subsection shall apply only to the area of a proposed city which lies within the extraterritorial jurisdiction of such city.

B. No political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services may be created within the area of the extraterritorial jurisdiction of any city without the written consent of such city. Should the governing body of such city fail or refuse to grant permission for the crea-

tion of such proposed political subdivision within sixty (60) days after receipt of a written request for same, a majority of the qualified resident voters in the territory of such proposed political subdivision and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision may petition the governing body of such city and request such city to make available to such territory the water or sanitary sewer service contemplated by the proposed political subdivision. Should the governing body of the city and a majority of the qualified resident voters and the owner or owners of fifty per cent (50%) or more of the land in such proposed political subdivision fail to execute a mutually agreeable contract providing for the water or sanitary sewer service requested within six (6) months after receipt of such petition, such failure shall constitute authorization for the creation of the proposed political subdivision insofar as the provisions of this Subsection are concerned. Authorization for the creation of the proposed political subdivision, insofar as the provisions of this Subsection are concerned, shall mean only authorization to initiate proceedings to create such political subdivision as otherwise provided by law. The provisions of this Subsection shall apply only to the area of such proposed political subdivision which lies within the extraterritorial jurisdiction of such city.

This Subsection shall not apply to any such proposed political subdivision where a valid petition seeking its creation has been filed with the county clerk or other legally designated authority prior to the effective date of this Act.

C. If authorization to initiate incorporation proceedings for a proposed city is obtained under the provisions of Subsection A of this Section, such incorporation must be initiated within six (6) months of the date of such authorization and such incorporation must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such incorporation proceedings or to finally complete the incorporation of such proposed city within such allotted periods of time shall terminate such authorization. If authorization to initiate proceedings to create a proposed political subdivision having as one of its purposes the supplying of fresh water for domestic or commercial purposes or the furnishing of sanitary sewer services is obtained under the provisions of Subsection B of this Section, such proceedings seeking the creation of such a political subdivision must be initiated within six (6) months of the date of such authorization and such proposed political subdivision must be finally completed within eighteen (18) months of the date of such authorization. Failure either to initiate such proceedings seeking the creation of such political subdivision or to finally complete the creation of such proposed political subdivision within such allotted periods of time shall terminate such authorization.

Petition for Annexation or Services

Sec. 9. The petition for annexation provided for in Subsection A of Section 8 of this Article and the petition requesting the availability of services provided for in Subsection B of Section 8 of this Article shall be made by the voters and landowners signing and presenting to the city secretary or clerk a written petition requesting annexation or requesting such services. The signatures to the petition need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt, exemption certificate, or such other voter registration certificate that may be provided for by law. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the territory. The petition shall describe the territory to be annexed or the territory to which such services are requested to be made available and have attached to it a plat of the territory. Prior to circulating the petition for annexation or such services among the voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the territory and by publishing it for one (1) issue in a newspaper of general circulation serving the territory at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary or clerk:

(1) the sworn affidavit of any voter who signed the petition, stating the places where and the dates when the petition was posted; and

(2) the sworn affidavit of the publisher of the newspaper setting forth the name of the newspaper and the issue and date when the notice was published;

(3) in addition, there shall be attached to the petition the sworn affidavit of three

(3) or more voters signing the petition, if there be that many, stating the total number of voters residing in the territory and the approximate total acreage within the territory.

Disannexation

Sec. 10. A. From and after the effective date of this Act, any city annexing a particular area shall within three (3) years of the effective date of such annexation provide or cause to be provided such area with governmental and proprietary services, the standard and scope of which are substantially equivalent to the standard and scope of governmental and proprietary services furnished by such city in

other areas of such city which have characteristics of topography, patterns of land utilization, and population density similar to that of the particular area annexed. In the event a city fails or refuses to provide or cause to be provided such services within the time specified herein, a majority of the qualified voters residing within such particular annexed area and the owners of fifty per cent (50%) or more of the land in such particular annexed area, which area must adjoin the outer boundaries of the city, may petition the governing body of such city to disannex such particular annexed area. Should the governing body of such city fail or refuse to disannex such particular annexed area within ninety (90) days after receipt of a valid petition, any one or more of the signers of such petition may, within sixty (60) days of the date of such failure or refusal, file in a district court of the district in which such city is located an action requesting that the particular annexed area be disannexed. Upon the filing of an answer in such cause by the governing body of such city, and upon application of either party, the case shall be advanced and heard without further delay, all in accordance with the Texas Rules of Civil Procedure. Upon hearing of the case, if the district court finds that a valid petition was filed with the city, that the particular annexed area is otherwise eligible for disannexation under the provisions of this Section, and that the standard and scope of governmental and proprietary services provided or caused to be provided to such particular annexed area are not substantially equivalent to the standard and scope of governmental and proprietary services provided or caused to be provided other areas of such city having characteristics of topography, patterns of land utilization and population density similar to that of the particular annexed area, it shall enter an order disannexing such particular annexed area. Provided, however, that the right of disannexation provided for in this Section shall not be available to any particular annexed area which was lawfully within the city limits of a city at the time of the approval or sale of any general obligation bonds of the city if proceeds therefrom have been expended for capital improvements to serve such particular annexed area, so long as any such bonds are outstanding.

B. When any such area is disannexed under the provisions of this Section, it shall not again be annexed within one (1) year of such disannexation, and, if it is again annexed within three (3) years of disannexation, the period for affording such services as are required by this Section shall be one (1) year from reannexation rather than three (3) years as in other cases.

C. The request and petition for disannexation provided for in Subsection A of this Section of this Act shall be made by the qualified voters and landowners signing and presenting to the city secretary a written petition requesting disannexation. The signatures to the peti-

tion need not be appended to one paper, but each signer shall sign his or her name in ink or indelible pencil, and each signer signing the petition as a qualified voter shall sign his or her name as it appears on the official copy of the current poll list or an official copy of the current list of exempt voters and each qualified voter shall note on such petition his or her residence address and the precinct number and serial number that appear on his or her poll tax receipt, exemption certificate, or such other voter registration certificate that may be provided for by law. Each landowner signing the petition shall note thereon opposite his or her name the approximate total acreage he or she owns within the particular annexed area. The petition shall describe the particular annexed area to be disannexed and have attached to it a plat of the particular annexed area. Prior to circulating the petition for disannexation among the qualified voters and landowners, notice of the petition shall be given by means of posting for ten (10) days a copy of the petition in three (3) public places in the particular annexed area and by publishing it for one (1) issue in a newspaper or newspapers of general circulation serving the particular annexed area at least fifteen (15) days prior to the circulation of the petition. Proof of posting and publication of the notice shall be made by attaching to the petition presented to the city secretary:

(1) the sworn affidavit of any qualified voter who signed the petition stating the places where and the dates when the petition was posted, and

(2) the sworn affidavit of the publisher of the newspaper or newspapers setting forth the name of the newspaper or newspapers and the issue and date in which the notice was published. In addition, there shall be attached to the petition the sworn affidavit of three (3) or more qualified voters signing the petition, if there be that many, stating the total number of qualified voters residing in the particular annexed area and the approximate total acreage within such particular annexed area.

[Acts 1963, 58th Leg., p. 447, ch. 160, art. I; Acts 1965, 59th Leg., p. 345, ch. 163, § 1, eff. May 17, 1965.]

Art. 971. Territorial Boundaries

No city or town in this State shall be hereafter incorporated under the provisions of the general charter for cities and towns contained in this title with a superficial area of more than two square miles, when such town or city has less than two thousand inhabitants, nor more than four square miles when such city or town has more than two thousand and less than five thousand inhabitants, nor more than nine square miles, when such city or town has more than five and less than ten thousand inhabitants. The mayor and board of aldermen, immediately after they qualify as such officers,

shall pass an ordinance causing an actual survey of the boundaries of such town to be made according to the boundaries designated in the petition for incorporation and the field notes thereof recorded in the minute book of such town or city, and also in the record books of deeds in the county in which such city or town is situated.

[Acts 1925, S.B. 84.]

Art. 971a. Map of Boundaries

Each city, town or village incorporated under the General or Special Laws, or under the Home Rule provisions of the Constitution, shall keep in the office of the city secretary or town clerk, and in the office of the city engineer, if such city, town or village has a city engineer, a map showing the boundaries of the municipal corporation. In the event any territory is thereafter annexed to such city, town or village, then the map of the city shall be corrected immediately so as to add thereto the additional territory, indicating on the map the date of annexation, the number of the ordinance, if any, and a reference to the minutes or the ordinance records of the city where such instrument is recorded in full.

[Acts 1949, 51st Leg., p. 722, ch. 385, § 1.]

Art. 972. Territory Relinquished

The mayor and the board of aldermen of any town or city in this State heretofore incorporated under Title 18 of the Revised Civil Statutes of 1895 of this State, and whose boundaries have been established so as to include more territory than is specified in the preceding article, shall immediately cause a resurvey of the boundaries of such city or town to be made, so as not to include more territory than is provided for in the preceding article; such resurvey to be made and the field notes thereof to be recorded as provided in said article.

[Acts 1925, S.B. 84.]

Art. 973. Discontinuing Territory

Whenever there exists within the corporate limits of any city or town organized under the general laws within this State territory to the extent of at least ten (10) acres, contiguous and adjoining the lines of any such city or town, which is uninhabited or on which there are fewer than one (1) occupied residence or business structure for every two (2) acres of such territory and fewer than three (3) occupied residences or business structures on any one (1) acre of such territory, the mayor and city or town council may by ordinance duly passed discontinue said territory as a part of said city or town; and when said ordinance has been duly passed, the mayor shall enter an order to that effect on the minutes or records of the city or town council; and from and after the entry of such order said territory shall cease to be a part of said city or town.

[Acts 1925, S.B. 84; Acts 1953, 53rd Leg., p. 887, ch. 366, § 1.]

Art. 973a. Validation of Discontinuance of Territory, Boundaries and Annexation of Discontinued Territory; Cities of 2,000 or Less

Sec. 1. This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of two thousand (2,000) inhabitants or less at the time of the passage of any ordinance by the City Council of any such city or town discontinuing or attempting to discontinue any territory as a part of said city or town, and to any incorporated city or town contiguous thereto.

Sec. 2. All petitions praying for an ordinance and all ordinances discontinuing or attempting to discontinue any territory from within the corporate limits of any incorporated city or town having a population of two thousand (2,000) inhabitants or less at the time of the discontinuance or attempted discontinuance of any territory forming a part of said city, and the boundaries and areas of any such city or town after the discontinuance or attempted discontinuance of any territory forming a part of said city or town, although said city or town, as a result of said discontinuance or attempted discontinuance consists of two or more separate areas, after the discontinuance or attempted discontinuance of any such territory, shall be, and the same are, hereby in all things validated and confirmed, and all cities and towns, having a population of two thousand (2,000) or less at the time of incorporation, whose charters and incorporations may be void by reason of having included in such limits more territory than authorized by Article 971, Revised Civil Statutes of 1925, are hereby declared to be valid, the same as if at first authorized.

Sec. 3. In every instance wherein a city or town, coming under the provisions of the Act, has attempted to discontinue territory as a part of said city or town under statutes providing for the discontinuing of territory adjoining the boundary lines of any such city or town, and all actions, resolutions, petitions, ordinances, proceedings, and contracts held, made, or passed in reference thereto, or pursuant thereto, and the boundaries of any such city or town and all cities and towns coming within and under the provisions of this Act after the discontinuance or attempted discontinuance of any such territory, are hereby ratified, validated, and confirmed, although said city, after the discontinuance or attempted discontinuance of such territory as a part of said city, is separated into two or more parcels or areas, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4. The areas and boundaries of all cities and towns affected by this Act as the same have been reduced or attempted to be reduced by discontinuance or attempted discontinuance of territory, or any other action, are hereby in all things ratified, validated and confirmed.

Sec. 5. The Act of the governing body of any contiguous, incorporated city in subsequently annexing the territory thus discontinued, or attempted to be discontinued, is hereby in all things validated, ratified and confirmed.

Sec. 5a. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed this Act and each section, subsection, sentence, clause, and phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared unconstitutional or invalid for any reason.

[Acts 1949, 51st Leg., p. 59, ch. 31.]

Art. 973b. Validation of Disannexation or Discontinuance of Territory; Cities of 5,000 or Less

Sec. 1. This Act shall apply to all cities and towns incorporated under the General Laws of this state having a population of five thousand (5,000) inhabitants or less at the time of the passage of any ordinance by the city council, aldermen or other governing officials of any such city or town, whether incorporated under the aldermanic form of government or the commission form of government, disannexing or discontinuing or attempting to disannex or discontinue any territory, revoking previous ordinances or previous attempts to annex territory, or discontinuing or attempting to discontinue any territory as a part of any such city or town.

Sec. 2. Ordinances wherein or whereby a city or town coming under the provisions of this Act has attempted to revoke or cancel an ordinance previously adopted annexing territory as a part of said city or town, or to discontinue territory as a part of said city or town, and all actions, resolutions, petitions, ordinances, proceedings, contracts, held, made, or passed in reference thereto, or pursuant thereto and the boundaries of any such city or town coming within the provisions of this Act after the discontinuance or attempted discontinuance of any such territory are hereby ratified, validated and confirmed, although said city or town after the discontinuance or attempted discontinuance [of] such territory or part of said city or town is separated into two or more parcels or areas, as full and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 3. Areas and boundaries of all such cities and towns affected by this Act as the same have been reduced or attempted to be reduced by discontinuance or attempted discontinuance of territory or any other action, are hereby in all things ratified, validated and confirmed.

Sec. 4. All ordinances, resolutions and other municipal and governmental proceedings adopted by or performed by the governing bod-

ies of such cities and towns and all officers thereof disannexing, discontinuing or attempting to disannex or discontinue any such territory are hereby in all respects validated as of the respective date of such ordinances, resolutions, proceedings and acts.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of any disannexation, attempted disannexation, or attempted discontinuance of any territory as a part of such city or town.

[Acts 1959, 56th Leg., 2nd C.S., p. 89, ch. 6.]

Art. 974. Adjoining Inhabitants

When a majority of the inhabitants qualified to vote for members of the State legislature of any territory adjoining the limits of any city incorporated under, or accepting the provisions of, this title, to the extent of one-half mile in width, shall vote in favor of becoming a part of said city, any three of them may make affidavit to the fact to be filed before the mayor, who shall certify the same to the city council of said city. The said city council may, by ordinance, receive them as part of said city; from thenceforth the territory so received shall be a part of said city; and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances made in conformity thereto and passed in pursuance of this title.

[Acts 1925, S.B. 84.]

Art. 974a. Platting and Recording Subdivisions or Additions

Plats Required

Sec. 1. Hereafter every owner of any tract of land situated within the corporate limits, or within five miles of the corporate limits of any city in the State of Texas, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to any town or city, or for laying out suburban lots or building lots, or any lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots fronting thereon or adjacent thereto, shall cause a plat to be made thereof which shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part, giving the dimensions thereof of said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto; provided, however, that no plat of any subdivision of any tract of land or any addition to any town or city shall be recorded unless the same shall accurately describe all of said subdivision or addition by metes and bounds and locate the same with respect to an original corner of the original survey of which it is a part giving the dimensions thereof of

said subdivision or addition, and dimensions of all streets, alleys, squares, parks or other portions of same intended to be dedicated to public use, or for the use of purchasers or owners of lots fronting thereon or adjacent thereto.

Acknowledgment of Plats

Sec. 2. That every such plat shall be duly acknowledged by owners or proprietors of the land, or by some duly authorized agent of said owners or proprietors, in the manner required for the acknowledgment of deeds; and the said plat, subject to the provisions contained in this Act, shall be filed for record and be recorded in the office of the County Clerk of the County in which the land lies.

Approval of Plat or Plan by Planning Commission or Governing Body; Record

Sec. 3. That it shall be unlawful for the County Clerk of any county in which such land lies to receive or record any such plan, plat or replat, unless and until the same shall have been approved by the City Planning Commission of any city affected by this Act, if said city has a City Planning Commission and if it has no City Planning Commission, unless and until the said plan, plat, or replat shall have been approved by the governing body of such city. If such land lies outside of and within five (5) miles of more than one (1) city affected by this Act, then the requisite approval shall be by the City Planning Commission or governing body, as the case may be, of such of said cities having the largest population; provided, however, that the governing body of any city having the largest population may enter into an agreement with any other city or cities affected, or the governing body of the largest city may enter into an agreement with any other city within five (5) miles conferring the power of approval within stated portions of the area upon such other city; but any such agreement shall be revocable by either city at the end of twenty (20) years after the date of the agreement or at the end of such shorter period of time as may be agreed upon. A copy of any such agreement shall be filed with the County Clerk, and during the time the agreement continues in force he shall not receive or record any such plan, plat or replat unless it has been approved by the City Planning Commission or the governing body, as the case may be, of the city or cities upon which the power of approval is conferred by the agreement. Any person desiring to have a plan, plat or replat approved as herein provided, shall apply therefor to and file a copy with the Commission or governing body herein authorized to approve same, which shall act upon same within thirty (30) days from the filing date. If said plat be not disapproved within thirty (30) days from said filing date, it shall be deemed to have been approved and a certificate showing said filing date and the failure to take action thereon within thirty (30) days from said filing date, shall on demand be issued by the City Planning Commission or Governing Body, as the case may be, of such city, and said certificate shall be suffi-

cient in lieu of the written endorsement or other evidence of approval herein required. If the plan, plat, or replat is approved, such Commission or governing body shall indicate such finding by certificate endorsed thereon, signed by the Chairman or presiding officer of said Commission or governing body and attested by its Secretary, or signed by a majority of the members of said Commission or Governing Body. Such Commission or governing body shall keep a record of such applications and the action taken thereupon, and upon demand of the owners of any land affected, shall certify its reasons for the action taken in the matter.

Indorsement of Approval of Plat by Planning Commission or Governing Body

Sec. 4. If such plan or plat, or replat shall conform to the general plan of said city and its streets, alleys, parks, playgrounds and public utility facilities, including those which have been or may be laid out, and to the general plan for the extension of such city and of its roads, streets and public highways within said city and within five miles of the corporate limits thereof, regard being had for access to and extension of sewer and water mains and the instrumentalities of public utilities, and if same shall conform to such general rules and regulations, if any, governing plats and subdivisions of land falling within its jurisdiction as the governing body of such city may adopt and promulgate to promote the health, safety, morals or general welfare of the community, and the safe, orderly and healthful development of said community (which general rules and regulations for said purposes such cities are hereby authorized to adopt and promulgate after public hearing held thereon), then it shall be the duty of said City Planning Commission or of the governing body of such city, as the case may be, to endorse approval upon the plan, plat or replat submitted to it.

Vacation of Plat or Plan; Procedure

Sec. 5. That any such plan, plat or replat may be vacated by the proprietors of the land covered thereby at any time before the sale of any lot therein by a written instrument declaring the same to be vacated, duly executed, acknowledged and recorded in the same office as the plat to be vacated, provided the approval of the City Planning Commission or governing body of such city, as the case may be, shall have been obtained as above provided, and the execution and recordation of such shall operate to destroy the force and effect of the recording of the plan, plat or replat so vacated. In cases where lots have been sold, the plan, plat or replat, or any part thereof, may be vacated upon the application of all the owners of lots in said plat and with the approval, as above provided, of the City Planning Commission or governing body of said city, as the case may be. The County Clerk of the county in whose office the plan or plat thus vacated has been recorded shall write in plain, legible letters across the

plan or plat so vacated the word "Vacated," and also make a reference on the same to the volume and page in which said instrument of vacation is recorded.

Improvement to Effect Dedication

Sec. 6. The approval of any such plan, plat, or replat shall not be deemed an acceptance of the proposed dedication and shall not impose any duty upon such city concerning the maintenance or improvement of any such dedicated parts until the proper authorities of said city shall have made actual appropriation of the same by entry, use or improvement.

County Clerk's Failure of Duty

Sec. 7. When any such map, plat, or replat is tendered for filing in the office of the County Clerk of any county in which any city of the above class may be situated, it shall be the duty of such Clerk to ascertain that the proposed plan, plat or replat is or is not subject to the provisions of this Act, and if it is subject to its provisions, then to examine said map, plat or replat to ascertain whether the endorsements required by this Act appear thereon. If such endorsements do appear thereon, he shall accept same for registration. If such endorsements do not appear thereon, he shall refuse to accept same for registration. When same does not disclose whether the land covered by said map, plat or replat, or any part thereof, is or is not within five miles of the corporate limits of a city of the class above mentioned, the County Clerk may require one offering said map, plat or replat for registration to file with him an affidavit setting forth such information. The filing or recording of any plan, plat or replat contrary to the provisions of this Act shall constitute a misdemeanor punishable by fine of not less than Fifty Dollars (\$50.00) nor more than Two Hundred Dollars (\$200.00), and both the County Clerk and any Deputy filing or recording the same shall be guilty.

Approval Prior to Connection of Public Utilities

Sec. 8. Unless and until any such plan, plat or replat shall have been first approved in the manner and by the authorities provided for in this Act, it shall be unlawful within the area covered by said plan, plat or replat for any city affected by this Act, or any officials of such city, to serve or connect said land, or any part thereof, or for the use of the owners or purchasers of said land, or any part thereof, with any public utilities such as water, sewers, light, gas, etc., which may be owned, controlled or distributed by such city.

Disapproval

Sec. 9. If any such plan, plat or replat is disapproved by the City Planning Commission or governing body of such city, as the case may be, such disapproval shall be deemed a refusal by the city of the offered dedication shown thereon.

Adoption in Cities of Less Than 25,000

Sec. 10. Repealed by Acts 1949, 51st Leg., p. 321, ch. 154, § 1(2).

[Acts 1927, 40th Leg., p. 342, ch. 231; Acts 1949, 51st Leg., p. 321, ch. 154, § 1(1); Acts 1955, 54th Leg., p. 851, ch. 317, § 1.]

Saved From Repeal

Acts 1963, 58th Leg., p. 447, ch. 160, enacting the Municipal Annexation Act (Article 970a) provides in Article III of the Act that it shall not repeal Acts 1927, 40th Leg., ch. 231, as amended, (this article) unless expressly inconsistent with the Act and then only to the extent of such inconsistency.

Art. 974a-1. Enforcement of Land Use Restrictions Contained in Plats; Certain Cities, Towns and Villages

Application

Sec. 1. This Act applies to incorporated cities, towns, or villages if the incorporated city, town, or village does not have zoning ordinances and provided the city, town, or village passes an ordinance that requires uniform application and enforcement of this statute to all property and citizens.

May Sue to Enforce Restrictions.

Sec. 2. (a) An incorporated city, town, or village may sue in any court of competent jurisdiction to enjoin or abate violation of a restriction contained or incorporated by reference in a duly recorded plan, plat, replat, or other instrument affecting a subdivision inside its boundaries.

(b) As used in this Act, "restriction" means a limitation which affects the use to which real property may be put, fixes the distance buildings or structures must be set back from property lines, street lines, or lot lines, or affects the size of a lot or the size, type, and number of buildings or structures which may be built on the property.

Previously Recorded Plan, Plat, Replat, or Other Instrument

Sec. 3. Restrictions contained in a plan, plat, replat, or other instrument duly recorded before the effective date of this Act may be enforced as provided in Section 2 but a violation of a restriction occurring before the effective date of this Act may not be enjoined or abated by the said city, town, or village as long as the nature of the violation remains unchanged. An incorporated city, town, or village may not enforce a restriction that violates the Constitution of the United States or of this State.

[Acts 1965, 59th Leg., p. 180, ch. 72, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 1384, ch. 370, § 1, eff. May 26, 1971.]

Art. 974a-2. Commercial Building Permits in Cities of 900,000 or More

Application of Act

Sec. 1. This Act applies to cities having a population of more than 900,000 according to the last preceding Federal Census.

Definitions

Sec. 2. In this Act, unless the context requires a different meaning:

(1) "department" means the agency of a city which has the authority and responsibility for issuing commercial building permits;

(2) "subdivider" means a person who divides a tract of real property under circumstances to which Chapter 231, Acts of the 40th Legislature, Regular Session, 1927, as amended (codified as Article 974a, Vernon's Texas Civil Statutes and Article 427b, Vernon's Texas Penal Code), is applicable;

(3) "person" includes a firm, partnership, corporation, or other private entity;

(4) "commercial building" means any building other than a single family residence.

Instrument Containing Restriction on Use or Construction on Property; Filing; Issuance of Permit

Sec. 3. (a) A person who desires a commercial building permit shall file with his application a certified copy of any instrument which contains a restriction on the use of or construction on the property described in the application, together with a certified copy of any amendment, judgment, or other document affecting the use of the property.

(b) When an applicant has complied with this Act and local ordinances relating to commercial building permits, the department shall issue a permit for construction or repair which conforms with all restrictions relating to the use of the property described in the application.

Plat and Restrictions; Filing by Subdivider

Sec. 4. (a) A subdivider shall, at the time he files the subdivision for recordation, file with the department two copies of the plat and any restrictions pertaining to the property included in the plat.

(b) The department shall keep one copy in a safe place as a permanent file.

(c) A person who desires a commercial building permit for property which is included in any plat or restrictions on file with the department is not required to file a copy of the plat and restrictions with his application.

Injunction

Sec. 5. (a) A person who attempts to construct or repair any structure for which a commercial building permit is required without having obtained a permit may be enjoined from any further construction activity until he has complied with this Act.

(b) The city may join with an interested property owner in a suit to enjoin further construction activity by one who does not have a permit issued in compliance with this Act, if the structure or proposed structure is in violation of a restriction contained in the deed or other instrument.

(c) Any commercial permit obtained without full compliance with this Act is void.

Repair of Commercial Building; Conversion of Family Residence into Commercial Building

Sec. 6. Any person, partnership, or corporation in cities having a population of more than 900,000 according to the last preceding Federal Census electing to substantially repair or to remodel a commercial building within a subdivision or proposing to convert a single family residence into a commercial building as defined in Section 2(4) of this Act shall obtain a commercial building permit from the city department issuing building permits. Provided however, that the provisions of this Section shall not apply to violations of restrictive covenants occurring prior to the date of enactment of this Act as long as they retain their existing status. Provided further, that these cities may join with any interested property owner in a suit to enjoin the maintenance of a commercial building by one who does not have a permit in compliance with any Section of this Act.

Refusal to Issue Permit; Review by Court

Sec. 7. An administrative refusal to issue a commercial permit on the grounds of violation of restrictions contained in a deed or other instrument shall be reviewable by a court of appropriate jurisdiction provided notice of filing of such suit is given the city department responsible for issuing commercial building permits within ninety (90) days. In the event of changed conditions within a subdivision or any other legally sufficient reason that restrictions should be modified a person refused a commercial building permit can petition a court of appropriate jurisdiction to alter the restrictions to better conform with present conditions.

[Acts 1965, 59th Leg., p. 777, ch. 369, eff. June 9, 1965.]

Art. 974b. Validating Elections in Cities of 3,000 to 6,000 for Extension of Corporate Limits

Cities Affected

Sec. 1. This Act shall affect all incorporated cities in the State of Texas having a population of not less than three thousand (3,000) and not more than six thousand (6,000) inhabitants according to the last preceding Federal Census.

Elections Validated

Sec. 2. All elections, election orders, election proceedings and city ordinances annexing adjacent territory to, or extending and prescribing the corporate limits of, any incorporated city having a population of not less than three thousand (3,000) and not more than six thousand (6,000) inhabitants, as shown by the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Ordinances Validated

Sec. 3. The city ordinances of all cities in the class described in the foregoing section fix-

ing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Extension of Limits Validated

Sec. 4. In every instance wherein a city coming under the provision of this Act has attempted to extend its corporate limits under statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, and in like manner as if said annexation had been done under legislative authority previously given.

[Acts 1934, 43rd Leg., 2nd C.S., p. 73, ch. 25.]

Art. 974c. Validating Annexation of Adjacent Territory

That all elections, election orders, election proceedings, affidavits and city ordinances heretofore had, subsequent to August 24, 1935, annexing adjacent territory or extending and prescribing the corporate limits of any incorporated city, incorporated and functioning under the General Laws of the State of Texas under the Commission Form of Government are hereby in all things fully validated, confirmed, approved, and legalized irrespective of any irregularities or omissions in such ordinances or in any petitions, elections, affidavits, or other proceedings purporting to authorize the passage of such ordinances.

[Acts 1935, 44th Leg., 2nd C.S., p. 1708, ch. 440, § 1.]

Art. 974c-1. Cities and Towns of 5,000 or Less; Validation of Annexation of Territory

Sec. 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has attempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and con-

tracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified.

[Acts 1943, 48th Leg., p. 700, ch. 389.]

Art. 974c-2. Cities of More Than 5,000 Population; Validation of Annexation, Incorporation, and Other Matters

Sec. 1. (a) All cities in the State of Texas having a population greater than five thousand (5,000) inhabitants, according to the last preceding Federal Census, and operating under the General Laws of Texas, including those operating under the Mayor and Alderman form of government, as well as those operating under the Commissioner form of government, as in such cases provided by law, and heretofore laid out and established by incorporation under the General Laws of Texas, in the manner prescribed by the laws of this State, are hereby validated in all respects as though they had been duly and legally established and so incorporated under the General Laws of Texas in the first instance. All acts of the Mayor and Board of Aldermen, or the Mayor and Board of Commissioners, or other governing body of said cities, ordering election, or elections, declaring results of such elections for the purpose of annexing additional territory to said cities; and otherwise by ordinance annexing additional territories to said cities under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, levying, attempting or purporting to levy taxes for and on behalf of such cities, and all bonds issued and now outstanding, and all bonds heretofore voted, but not issued, and all bond assumption tax elections, following annexation elections or annexation proceedings under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, under the terms of which by ordinances of said cities, adjoining territory has purportedly been annexed to said cities, are hereby in all things validated.

(b) The fact that by inadvertence or oversight any act of the officers or governing body of any city or municipality, or of the Commissioners Court of the counties in which said cities are situated, in the creation of any such city, or in the annexation thereto of adjoining territory, was omitted, shall in nowise invalidate the incorporation of such city under the General Laws of Texas, nor the annexation of adjoining territory thereto according to the terms of the ordinances so enacted; and the fact that by inadvertence or oversight any act was omitted by the Mayor and Board of Aldermen, the Mayor and Board of Commissioners, or other governing body of any such city, or gov-

erning body of any municipality, in ordering an election, or elections, or in declaring the results thereof, or by ordinance annexing adjoining territory thereto under the provisions of Article 974, Revised Civil Statutes of Texas, 1925, or in levying taxes for such city, or in the issuance of bonds of any such city, shall in nowise invalidate any such proceedings or any bonds so issued by such city or municipality.

(c) All acts of the Mayor and Board of Aldermen, by the Mayor and Board of Commissioners, or other governing body of any and all cities and municipalities operating under the General Laws of this State with a population of five thousand (5,000) or more, according to the last preceding Federal Census, in rearranging, changing, annexing additional or adjoining territory, changing the boundaries of, or subdividing such cities or municipalities, or increasing or decreasing areas thereof in any such city or municipality, or in declaring by general election or by ordinance following the provisions of Article 974, Revised Civil Statutes of Texas, 1925, annexing additional territory to such cities or municipalities, and all acts of the governing bodies of any such cities or municipalities in annexing territories thereto, are hereby in all things validated.

Sec. 2. All cities or municipalities mentioned in this Act are hereby authorized and empowered to levy, assess and collect the same rate of tax as heretofore authorized, or attempted to be authorized under the General Laws of this State, or by any act of the governing body of such city or municipality, or by any election of taxpaying voters of such city or municipality, or by any act of the Legislature of this State, whether General or Special, or as is now being levied, assessed and collected therein and heretofore authorized or attempted to be authorized by any act or acts of said cities or municipalities, or by any act of the Legislature of this State, whether General or Special.

Sec. 3. This law shall not apply to any city or municipality governed by the terms of this Act which is now involved in litigation, or the validity of the organization or creation of which, or annexation of territory in or to such city or municipality is attacked in any suit or litigation filed within forty-five (45) days after the effective date of this Act; provided, further, that this Act shall not apply to any city or municipality which may have been incorporated under the General Laws and which was later returned to its original status; nor shall this Act apply to the annexation of additional territory to any such city or municipality which may have been declared void heretofore by the Courts of this State, or otherwise voided by the governing body themselves of such city or municipality.

Sec. 4. If any word, phrase, clause, sentence, paragraph, section or part of this Act shall be held by any Court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall

not affect any other word, phrase, clause, sentence, paragraph, section or part of this Act. [Acts 1949, 51st Leg., p. 495, ch. 270.]

Art. 974c-3. Cities and Towns of 5,000 or Less; Validation of Annexation and Related Matters

Sec. 1. This Act shall affect and apply to all cities and towns incorporated under the General Laws of this State and having a population of five thousand (5,000) inhabitants or less, according to the last preceding Federal Census.

Sec. 2. All elections, election orders, election proceedings, petitions and ordinances annexing territory to or extending and prescribing the corporate limits of any incorporated city or town having a population of five thousand (5,000) inhabitants or less according to the last preceding Federal Census, shall be and the same are hereby validated and confirmed.

Sec. 3. The ordinances of all cities and towns in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated and confirmed.

Sec. 4. In every instance wherein a city or town coming under the provisions of this Act has attempted to extend its corporate limits under Statutes providing for the annexation of adjoining territory, all actions, resolutions, elections, ordinances, proceedings and contracts held, made or passed, in reference thereto, or pursuant thereto, are hereby confirmed, ratified and validated, irrespective of any irregularities, as fully and completely as if said actions had been taken and happened under legislative authority previously given.

Sec. 4a. This law shall not apply to any city or town which on the effective date of this Act is involved in litigation which questions the annexation of territory or corporate limits thereof.

Sec. 5. The areas and boundaries of all cities and towns affected by this Act as the same have been extended or attempted to be extended by annexation or any other action are hereby in all things ratified.

Sec. 6. This Act shall not affect the validity of the annexation to or extension of the boundaries of any city or town wherein such annexation to, or extension of the boundaries of, are now, or within one hundred days after this bill becomes a law, involved in litigation.

[Acts 1949, 51st Leg., p. 698, ch. 365.]

Art. 974c-4. Annexation or Definition of Boundaries; Validation

Sec. 1. All city charters, city charter amendments, ordinances and proceedings of the governing bodies of all incorporated cities, including home rule cities, defining the boundaries of such incorporated cities or annexing thereto territory adjoining any such city with the consent of a majority of the inhabitants of

such annexed territory, are hereby ratified and confirmed.

Sec. 2. After the expiration of two (2) years from the date of any ordinance defining boundaries of or annexing territory to any incorporated city, consent to the annexation and inclusion of such territory in such city shall be conclusively presumed if no action has then been commenced to annul or review such act.

Sec. 2A. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any pending litigation at the time of passage of this Act.

[Acts 1949, 51st Leg., p. 934, ch. 508.]

Art. 974c-5. Cities and Towns of 800 Inhabitants or Less; Validation of Annexation and Extension of Boundaries

Sec. 1. The actions and proceedings of all cities and towns in Texas of eight hundred (800) inhabitants or less, according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town pursuant to a petition of owners of lands in such annexed area, and a part of which land was, prior to such annexation included in an ordinance of annexation by a neighboring city but was either discontinued as a part of such city or was deleted from the ordinance of annexation before final passage by such neighboring city, and have passed an ordinance or ordinances describing the territory annexed and have caused a certified copy of such ordinance or ordinances to be recorded in the Deed Records of the county in which such city or town is situated, are hereby in all respects validated as of the date of such annexation or attempted annexation.

Sec. 2. The areas and boundary lines of all such cities and towns covered by the provision of this Act, including both the boundary lines covered by the original incorporation and by any subsequent extension of the area and corporate limits by ordinance adopted pursuant to petition of owners of land included in such extension and annexation are hereby in all things validated, and such annexations and extension of corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized by Article 971 of the Revised Statutes of the State of Texas of 1925, as amended, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town or city purposes.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated

if such litigation is ultimately determined against the legality thereof.

[Acts 1961, 57th Leg., p. 116, ch. 63.]

Art. 974c-6. Cities and Towns of 500 or Less; Validation of Annexation of Territory

Sec. 1. All cities and towns in Texas of five hundred (500) inhabitants or less, heretofore incorporated, or attempted to be incorporated, under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are located partially within two different counties, the larger of which had a population of five hundred thirty-eight thousand, four hundred ninety-five (538,495) at the last Federal Census and the smaller of which had a population of forty-seven thousand, four hundred thirty-two (47,432), which have attempted to extend the corporate limits of such cities or towns, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of either of the counties in which such city or town is situated, and all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 2. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original corporation proceedings and by any subsequent extension thereof, are in all things validated.

Sec. 3. The provisions of this Act shall not apply to any territory of any city where the annexation of such territory is the subject of any pending litigation at the time of the passage of this Act.

[Acts 1961, 57th Leg., p. 892, ch. 392.]

Art. 974c-7. Validation of Annexation of Entire Territory of Water Control and Improvement District

Sec. 1. In each instance where an incorporated city, after a public hearing, has annexed or attempted to annex the entire territory of a water control and improvement district pursuant to the annexation provisions of The Municipal Annexation Act, Chapter 160, Acts of the 58th Legislature, Regular Session,¹ each and all of said annexations are hereby in all respects validated as of the date of the ordinance annexing or attempting to annex said territory, and the ordinance annexing or attempting to annex such territory or the proceedings in connection with said annexation or attempted annexation shall not be held void or invalid by reason of the fact that the proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities including the territory of annexed areas or areas attempted to be annexed which include the territory of an entire water control and improvement district are in all things validated as of the date of the ordinance annexing or attempting to annex said territory.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1967, 60th Leg., p. 1300, ch. 577, eff. June 16, 1967.]

¹ Article 970a.

Art. 974d. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants Incorporated since January 1, 1935

All cities and towns in this State having more than six hundred (600) and less than two thousand (2,000) inhabitants which have heretofore incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, and which are or may be invalid by reason of having included within their corporate limits lands not used for strictly town purposes, but which cities and towns do not include more than two (2) square miles of territory, are hereby declared to be duly and legally incorporated, and the boundaries of such cities as set forth in their incorporation proceedings are hereby expressly authorized and validated; that all actions, proceedings, and elections done or had in connection with the incorporation or attempted incorporation of such cities and towns are in all things validated; and all subsequent acts of such cities and towns, done or performed as a city or town, are hereby validated and declared as binding as if said cities had been duly and legally incorporated. The provisions of this Act shall apply only to cities and towns incorporated since January 1, 1935.

[Acts 1937, 45th Leg., p. 569, ch. 280, § 1.]

Art. 974d-1. Validation of Incorporation of Cities of 600 to 2,000 Inhabitants

Sec. 1. All cities and towns in Texas of more than six hundred (600) and less than two thousand (2,000) inhabitants, heretofore incorporated and/or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, whether under the aldermanic form of government or under the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of irregularities in the petition for election, order for election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

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

Sec. 3. The provisions of this bill shall affect no city or town now in litigation.

[Acts 1941, 47th Leg., p. 232, ch. 162.]

Art. 974d-2. Validation of Incorporation, Boundaries and Proceedings; Cities and Towns of 5,000 or Less

Sec. 1. All cities and towns, in this State, of five thousand (5,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation.

[Acts 1950, 51st Leg., 1st C.S., p. 85, ch. 22.]

Art. 974d-3. Validation of Incorporation; Counties of 600,000 Population

Sec. 1. All towns and villages in Texas located in counties of over six hundred thousand (600,000) population according to the last preceding Federal Census, heretofore incorporated or attempted to be incorporated under the general laws of Texas, Chapter 11, Title 28, Revised Civil Statutes of Texas, 1925, are hereby in all respects validated as of the date of such incorporation or attempted incorporation.

Sec. 2. The provisions of this Act shall affect no town or village now or heretofore in litigation.

[Acts 1953, 53rd Leg., p. 938, ch. 395.]

Art. 974d-4. Validation of Incorporation; Areas and Boundary Lines; Governmental Proceedings and Acts; Cities of 5,000 or Less

Sec. 1. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which are now functioning or attempting to function as incorporated cities and towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of said city or town.

Sec. 2. All cities and towns in Texas of five thousand (5,000) inhabitants or less, heretofore incorporated, or attempted to be incorporated under any of the terms and provisions of the General laws of the State of Texas, whether under the aldermanic or commission form of government, which have attempted to extend the corporate limits of such city or town, and have passed an ordinance describing the territory annexed and have caused a certified copy of such ordinance to be recorded in the Deed Records of the County in which such city or town is situated, all actions, elections and proceedings had or passed in reference thereto or in connection therewith, are hereby in all respects validated as of the date of such attempted annexation, and such extension of the corporate limits of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law.

Sec. 3. The areas and boundary lines of all such cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated and the incorporation of such cities and towns or any subsequent extension of the corporate limits of such cities and towns shall not be held invalid because of the inclusion in such limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes.

Sec. 4. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings and acts.

Sec. 4a. The provisions of this Act shall in no wise affect or validate the incorporation or attempted incorporation of any city or town

where the election held for such incorporation or attempted incorporation was held prior to January 1, 1953.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the Acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

[Acts 1954, 53rd Leg., 1st C.S., p. 98, ch. 47.]

Art. 974d-5. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Cities and Towns of 15,000 or Less

Sec. 1. All cities and towns in this State of fifteen thousand (15,000) inhabitants or less, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. This Act shall not apply to any municipality which is now involved, or which within sixty (60) days from the effective date becomes involved, in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, annexation, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this State or which may have been established and which was later returned to its original status, nor shall this Act apply to any annexation or incorporation proceedings which have heretofore been declared valid or invalid by a court of competent

jurisdiction of this State before the effective date of this Act.

[Acts 1955, 54th Leg., p. 1175, ch. 454.]

Art. 974d-6. Validation of Organizational Proceedings; Incorporation; Consolidation; Boundaries, etc.; Exception

Sec. 1. All cities (except home rule cities), towns and villages in this State, heretofore incorporated under the general laws of this State, whether under the aldermanic, commission, or council form of government, and which have functioned as incorporated cities, towns or villages since the date of their incorporation or attempted incorporation, are hereby in all respects validated, ratified and confirmed as of the date of such incorporation or attempted incorporation; and the incorporation of such cities, towns and villages shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in compliance with law.

Sec. 2. In each instance where a charter or amendment or amendments to a charter of a home rule city has been (a) submitted to a vote of the qualified voters of such city at an election, and (b) a majority of the voters participating in such election of such city have approved the charter or amendment or amendments, and (c) the home rule city has functioned under the home rule charter or home rule charter as amended, the charter or the amendment or amendments to the home rule charter shall not be held invalid by reason of the fact that the election proceedings or other proceedings required to adopt or amend home rule charters may not have been in accordance with law.

Sec. 3. In each instance where two or more incorporated cities (including home rule cities), towns or villages in this State have consolidated or attempted to consolidate under one government, and the question of consolidation has been approved by a majority of the electorate participating in the election in each of the cities sought to be consolidated, the consolidation or attempted consolidation of such cities is hereby in all things ratified, validated, and confirmed, and the consolidation of such cities, towns or villages shall not be held invalid by reason of the fact that the election proceedings or other proceedings of consolidation may not have been in accordance with law.

Sec. 4. The boundary lines of all cities (including home rule cities), towns or villages, including the boundary lines covered by the original incorporation or consolidation and by any subsequent extension thereof, are hereby in all things validated.

Sec. 5. All governmental proceedings performed by the governing body of any city (including home rule cities), town or village, including, but not limited to, the adoption of the provisions relating to cities and towns, and all offices and officers thereof since their incorporation, consolidation, adoption of a charter, or amendment or amendments to a home rule

charter, are hereby in all respects validated, ratified and confirmed as of the respective dates of such proceedings; provided, however, any provision to the contrary of this Act shall not apply to the Acts of any city, town or village in this State, hereinafter incorporated or attempted to be incorporated under the general laws of this State where such Acts come after the effective date of this Act.

Sec. 6. In any instance where an incorporated city, town or village has changed its name by an election in which the question of the change of the name of such city, town or village has been submitted to a vote of the qualified voters of such city, and the majority of the voters of such city voting in such election have approved such change of name, such change of name is hereby validated, ratified and confirmed as of the date of such election, without regard to the fact that the election proceedings or other proceedings involved in such change of name may not have been in compliance with law.

Sec. 7. The validation provisions of this Act shall not apply to litigation pending in any court of competent jurisdiction in this State on the effective date of this Act which litigation questions the legality of any of the matters which would otherwise be validated by the provisions hereof, if such litigation ultimately results in holdings or holding that the matters questioned thereby are invalid.

[Acts 1957, 55th Leg., p. 136, ch. 58.]

Art. 974d-7. Validation of Orders of County Judges Declaring Incorporation of Certain Cities, Towns or Villages; Boundaries; Elections and Proceedings; Exceptions

Sec. 1. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the County Judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village, incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries thereof, as he finds such boundaries to exist at the time of entering such order, and finding and declaring the names of the officials of any such city, such order by the County Judge is hereby in all things validated, ratified and approved, and such city, town or village shall be known by the name specified in such order.

Sec. 2. Any city, town or village declared to be incorporated by an order as mentioned in Section 1 of this Act is hereby validated and declared to be a duly incorporated city with the boundaries as defined in such order, and the act of the governing body thereof in accepting the provisions of Title 28, Revised Civil Statutes, as amended, relating to cities and

towns is hereby validated and the officials named in such order are hereby declared to have been the mayor, aldermen and city secretary of such city at the time of the entry of said order, and all elections held for the election of city officials are hereby validated and ratified.

Sec. 3. Any election held heretofore but after the entry of such order by the County Judge resulting favorably to the issuance of bonds of such city, town or village is hereby validated and shall constitute sufficient authority for the governing body to proceed with the issuance of the bonds thus voted.

Sec. 4. This Act shall not apply to any municipality which is now involved in litigation in any District Court of this State, the Court of Civil Appeals, or the Supreme Court of Texas, in which litigation the validity of the organization, incorporation or creation of such municipality is attacked; and this Act shall not apply to any municipality involved in formal proceedings now pending before such municipality's commission or council in which proceedings the organization or creation of such municipality is attacked. Provided further, that this Act shall not apply to any municipality which has heretofore been declared invalid by a court of competent jurisdiction of this state or which may have been established and which was later returned to its original status. [Acts 1957, 55th Leg., p. 208, ch. 96.]

Art. 974d-8. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of 5,100 to 5,300

Sec. 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not less than 5100 nor more than 5300, where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., p. 226, ch. 116.]

Art. 974d-9. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Adoption of Home Rule Charter; Cities and Towns of Not More Than 6,000

Sec. 1. The incorporation proceedings of all cities and towns in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns covered by the original incorporation proceedings are hereby in all things validated.

Sec. 3. All governmental proceedings other than annexation proceedings performed by the governing bodies of such cities and towns and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any such city or town in this state heretofore incorporated or attempting to be incorporated under the General Laws of Texas and having a population according to the Federal Census of 1960 of not more than six thousand (6,000), where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of said charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city, other than acts pertaining to annexation, are hereby in all things validated.

Sec. 5. This Act shall not be construed as validating the adoption of any charter if the validity of the charter adoption proceedings or of the charter is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., 1st C.S., p. 153, ch. 40.]

Art. 974d-10. Validation of Incorporation; Elections; Governmental Proceedings; Adoption of Home Rule Charter; Exceptions; Cities, Towns or Villages

Sec. 1. The incorporation proceedings of any city, town or village in this state heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the Aldermanic form of government or the Commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation and the incorporation of any such city, town or village shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may have not been in accordance with law.

Sec. 2. In each instance where an election has been held for the purpose of incorporating a city, town or village, and the territory to be contained in such city, town or village was inadequately or incorrectly described in connection with such election proceedings, or such territory contained a greater area than was permitted by law, and where, thereafter, the county judge of the county in which such city, town or village is situated entered an order declaring the inhabitants of such city, town or village incorporated under the General Laws of the State of Texas relating to cities and towns, and fixing and declaring the boundaries there-

of, as such boundaries were originally intended, together with territory annexed prior to any such order, and finding and declaring the names of the officials of any such city, such order by the county judge is hereby in all things validated, ratified and approved, and such city, town, or village shall be known by the name specified in such order.

Sec. 3. All governmental proceedings performed by the governing body of any such city, town or village and all offices thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the respective date of such proceedings. Any election held in such city, town or village resulting favorably to the issuance of bonds is hereby validated, and the governing body thereof is authorized to proceed with the issuance of such bonds.

Sec. 4. The proceedings for the adoption and adopting or attempting to adopt a Home Rule Charter for any and each city or town in this state where any legal step required to make such adoption effective has been omitted or was done in an irregular manner and where a majority of the qualified voters of said city voting at said election voted in favor of the adoption of any and each such charter are in all things validated, ratified and confirmed, and such charter shall constitute the Home Rule Charter of said city and each such city under the Constitution and laws of this state. All elections held under the provisions of said charter for the purpose of electing members of the governing body of each such city and the assumption of office by such elected members are hereby in all things validated.

Sec. 5. This Act shall not apply to any city, town or village which is now or was heretofore involved in litigation questioning in any District Court of this state, the Court of Civil Appeals, or the Supreme Court of Texas, the validity or legality of the charter, organization, incorporation, boundaries, extension of boundaries, or creation of such city, town or village. Nor shall this Act validate any act or proceedings of any city, town or village which upon the effective date of this Act is the subject of litigation in a court of competent jurisdiction. This Act shall neither validate any act or proceedings of any city, town or village done subsequent to October 1, 1962, nor shall the Act operate to affect any ordinance or ordinances annexing territory that have been passed on first or subsequent readings by a city, town or village prior to the passage of this Act. This Act shall not apply to any such extensions, acts or proceedings of any city, town or village if such extensions, acts or proceedings have been later rescinded.

Sec. 6. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, or for other reasons void or unconstitutional, it shall not affect any other

word, phrase, clause, sentence or part of this Act.

[Acts 1963, 58th Leg., p. 609, ch. 222.]

Art. 974d-11. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Cities Within Extraterritorial Jurisdiction of Other Cities; Litigation

Sec. 1. The incorporation proceedings of all cities and towns in this State heretofore incorporated or attempted to be incorporated under the General Laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 5. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1965, 59th Leg., p. 342, ch. 160, eff. May 17, 1965.]

Art. 974d-12. Validation of Incorporation; Boundary Lines; Governmental Proceedings; Exceptions; Home Rule Cities and Towns of 6,900 to 7,100

Sec. 1. The incorporation proceedings of all home-rule cities and towns having a population of 6,900 to 7,100 and all cities and towns in this state heretofore incorporated or attempted

to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof, are hereby in all things validated. No boundary extension of any kind shall be deemed invalid by failure to comply with requirements of publication, whether such requirements are imposed by statute, general law or charter, and such extensions are hereby in all things validated. In the event of multiple annexations covering the same territory, the proceedings prior in time shall prevail despite any irregularities hereby validated.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1967, 60th Leg., p. 2023, ch. 747, eff. June 18, 1967.]

Art. 974d-13. Validation of Incorporation; Charters and Amendments of Cities of More Than 5,000; Boundary Lines; Governmental Proceedings; Revenue Bonds; Exceptions

Sec. 1. The incorporation proceedings of cities and towns (including home rule cities) heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. That each charter, and amendment to a charter adopted by any city of more than 5,000 inhabitants in this state, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, and as thereafter amended, relating to home rule, and all of the amendments and proceedings had under same, that all bonds issued under any amendment where said bonds issued under any amendment have been approved by the attorney general and registered with the comptroller of public accounts, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the 33rd Legislature and as thereafter amended and the general laws of Texas relating thereto.

Sec. 3. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof are hereby in all things validated.

Sec. 4. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 5. Where any city in the state which operated under the general law or pursuant to a home rule charter has heretofore at an election submitted to the qualified electors who own taxable property in said city and who have duly rendered the same for taxation propositions for the issuance of the bonds of such city for the purposes stated in such propositions, such bonds being payable from the revenues stated in such propositions or payable from ad valorem taxes to be levied therefor, and such propositions having carried by the vote of a majority of the persons voting in such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, despite any failure or failures in such proceedings to comply with the pertinent statutes and all proceedings heretofore had by any such city to authorize the issuance of revenue bonds under the provisions of Section 11 of Article 2368a, Vernon's Texas Civil Statutes (irrespective of the location of the improvements to be constructed or acquired with bond proceeds) are hereby ratified, validated, and confirmed. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of such bonds. All of such proceedings relating to the authorization of bonds shall be submitted to the Attorney General of Texas, and when such bonds have been or are hereafter approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, they shall be incontestable.

Sec. 6. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by Chapter 160, Article I, Acts of the 58th Legislature, Regular Session, 1963, the Municipal Annexation Act, compiled as Article 970a, Vernon's Texas Civil Statutes.

Sec. 7. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceedings which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1969, 61st Leg., p. 44, ch. 15, eff. March 13, 1969.]

Art. 974d-14. Validation of Boundary Lines; Cities and Towns of 5,270 to 5,350

Sec. 1. This Act applies to cities and towns incorporated under the general laws of this state and having a population of not less than 5,270 and not more than 5,350 inhabitants and being situated in a county having a population less than 50,000 inhabitants, according to the last preceding federal census.

Sec. 2. The boundary lines of the cities and towns, including the boundary lines covered by the original incorporation proceedings and by subsequent extensions of the boundaries, are validated.

Sec. 3. No boundary extension is invalid for failure to comply with the provisions and requirements of the Municipal Annexation Act. [Acts 1969, 61st Leg., p. 1021, ch. 331, eff. May 27, 1969.]

Art. 974d-15. Validation of Incorporation, Boundary Lines, and Governmental Proceedings; Exceptions; Cities and Towns of 215 to 217

Sec. 1. All cities and towns in Texas having a population of not less than 215 nor more than 217 according to the last federal census, heretofore incorporated under a special Act of the Legislature and thereafter adopting or attempting to adopt the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, as provided in Article 961, thereof, and which have functioned as incorporated cities or towns since the adoption or attempted adoption of the said provisions of Title 28 either under the aldermanic, commission, or council form of government, are hereby in all respects validated, ratified and confirmed as of the date of such adoption or attempted adoption of the said provisions of Title 28; and the adoption of said provisions of Title 28 shall not be held invalid by reason of the fact the proceedings or findings of the governing bodies of

said cities or towns may not have been in compliance with the law.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation and the adoption or attempted adoption of the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 3. All cities and towns in Texas having a population of not less than 215 nor more than 217, according to the last federal census, and heretofore incorporated under a special Act of the Legislature and thereafter adopting or attempting to adopt the provisions of Chapter 1 of Title 28 of the Revised Civil Statutes of Texas, 1925, which have extended or attempted to extend the corporate limits of such city or town to include territory, the majority of the inhabitants of said territory qualified to vote for members of the State Legislature having voted in favor of becoming a part of said town or city, are hereby in all respects ratified, validated and confirmed as of the date of such annexation or attempted annexation, as fully and completely as if said action had been taken and happened under legislative authority previously given, and such extension of boundaries and all proceedings had in connection therewith shall not be held invalid by reason of the fact that the election proceedings or other proceedings had in connection with such annexation may not have been in accordance with law nor because of the inclusion in such limits of more territory than is expressly authorized in Article 971, Revised Civil Statutes of Texas, 1925, or by reason of the inclusion in the corporate area of territory other than that which is intended to be used for strictly town purposes, provided, however, that the annexed area does not include any area that was validly within the extraterritorial jurisdiction of another incorporated city or town at the time of such annexation.

Sec. 4. The validation provisions of this Act shall not apply to litigation pending in any court of competent jurisdiction in this state on the effective date of this Act which litigation questions the legality of any of the matters which would otherwise be validated by the provisions hereof, if such litigation ultimately results in holdings or holding that the matters questioned thereby are invalid.

Sec. 5. If any part or provision of this Act or the application thereof to any person or circumstance shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder hereof and the application of such part or provision to other persons or circumstances shall not be affected thereby.

Sec. 6. As used in this Act, "the last federal census" means the 1970 census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970

census for general state and local governmental purposes.

[Acts 1971, 62nd Leg., p. 945, ch. 157, eff. May 11, 1971.]

Art. 974d-16. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,500 to 1,800

Sec. 1. All cities and towns in Texas of more than one thousand five hundred (1,500) and less than one thousand eight hundred (1,800) inhabitants, heretofore incorporated or attempted to be incorporated under the general laws of Texas, under the Commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, and where there was an overlapping of territory with another city or town at the time of such incorporation and which overlapping of territory has been corrected by an ordinance of either of such cities or towns, are hereby in all respects validated, as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid on account of such overlapping of territory at the time of such original incorporation.

Sec. 2. That the boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings, as corrected by such city ordinance, or by any subsequent extension thereof, are in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

[Acts 1971, 62nd Leg., p. 2581, ch. 846, eff. Aug. 30, 1971.]

Art. 974d-17. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns of 300 to 750

Sec. 1. All cities and towns in this state with not more than 750 inhabitants, nor less than 300 inhabitants, heretofore incorporated or attempted to be incorporated under the General Laws of Texas, whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceed-

ings and by any subsequent extension thereof, are hereby in all things validated.

Sec. 3. All governmental proceedings performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation.

[Acts 1971, 62nd Leg., p. 2941, ch. 972, eff. June 15, 1971.]

Art. 974d-18. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Cities and Towns of 1,000 or Less

Sec. 1. All cities and towns in Texas of 1,000 inhabitants or less, heretofore incorporated, or attempted to be incorporated under the terms and provisions of the general laws of the State of Texas under the aldermanic form of government, and which are now functioning or attempting to function as incorporated cities or towns, are hereby in all respects validated as of the date of such incorporation, or attempted incorporation; and the incorporation of those cities and towns shall not be held invalid by reason of the fact that the election proceedings or other incorporation proceedings may not have been in accordance with law, or by reason of a failure to properly define the limits of the city or town.

Sec. 2. The areas and boundary lines of all cities and towns affected by this Act, including both the boundary lines covered by the original incorporation proceedings and by any subsequent extension thereof are in all things validated, and the incorporation of the cities and towns or any subsequent extension of the corporate limits of the cities and towns shall not be held invalid because of the inclusion in the limits of more territory than is expressly authorized in Article 971 of the Revised Civil Statutes of the State of Texas of 1925.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such cities and towns and all officers thereof since their incorporation, or attempted incorporation, are hereby in all respects validated as of the respective date of the proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in quo warranto questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof.

Sec. 5. If any word, phrase, clause, sentence, paragraph, or provision of this Act is declared unconstitutional, it is the intention of the legislature that the remaining provisions thereof shall be effective, and that such re-

maining portions shall remain in full force and effect.

[Acts 1973, 63rd Leg., p. 363, ch. 160, eff. May 23, 1973.]

Art. 974d-19. Validation of Incorporation, Boundary Lines and Governmental Proceedings; Exceptions; Cities and Towns Under 10,000

Sec. 1. The incorporation proceedings of all cities and towns in this state with a population of less than 10,000 heretofore incorporated or attempted to be incorporated under the general laws of the State of Texas, whether under the aldermanic or commission form of government, and which have functioned or attempted to function as incorporated cities or towns since the date of such incorporation or attempted incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election proceedings or incorporation proceedings may not have been in accordance with law.

Sec. 2. The boundary lines of all such cities and towns, including both the boundary lines covered by the original incorporation proceedings and any subsequent extensions thereof by annexation are hereby in all things validated; provided, however, that no provisions of this Act shall validate any boundary line extended by annexation, which extends into or through the extraterritorial jurisdiction [as that term is defined by the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes)], of any other city or town.

Sec. 3. All governmental proceedings performed by the governing bodies of all such cities and towns and all officers thereof since their incorporation or attempted incorporation are hereby in all respects validated as of the date of such proceedings.

Sec. 4. The provisions of this Act shall not apply to any city or town incorporated or attempted to be incorporated from and after August 23, 1963, which is situated in whole or in part within the extraterritorial jurisdiction of another city or town, unless consent or permission to incorporate was obtained in the manner prescribed by the Municipal Annexation Act, as amended (Article 970a, Vernon's Texas Civil Statutes).

Sec. 5. The provisions of the Act shall not apply to any city or town now involved in litigation questioning the legality of the incorporation or extension of boundaries or any of the acts or proceedings hereby validated if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1973, 63rd Leg., p. 734, ch. 318, eff. Aug. 27, 1973.]

Art. 974e. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 4,190 to 4,250 Population

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than four thousand one hundred and ninety (4,190) inhabitants, and not more than four thousand two hundred and fifty (4,250) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five and not more than thirty days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1937, 45th Leg., p. 1052, ch. 447.]

Art. 974e-1. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 1251 to 1259 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any school or schools which occupy such territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than twelve hundred fifty-one (1251) and not more than twelve hundred fifty-nine (1259) inhabitants, according to the last preceding Federal Census; may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and

territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1939, 46th Leg., Spec.L., p. 519.]

Art. 974e-2. Procedure for Annexation of Unoccupied Lands to Cities of 20,520 to 20,540 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Directors of any University or College, which occupies such territory, which is vacant and without residents contiguous and adjacent to any city in this State having a population of not less than twenty thousand five hundred and twenty (20,520) nor more than twenty thousand five hundred and forty (20,540) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to

all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1939, 46th Leg., Spec.L., p. 520.]

Art. 974e-3. Procedure for Annexation of Unoccupied Lands to Cities of 14,100 to 14,950 Population

Sec. 1. The owner or owners of any land or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than fourteen thousand, one hundred (14,100) inhabitants and not more than fourteen thousand, nine hundred and fifty (14,950) inhabitants, according to the Federal Census last preceding the exercise of the power herein granted, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city, and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation owning each part of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordi-

nance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by the owners of such land shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 423, ch. 252.]

Art. 974e-4. Procedure for Annexation of Unoccupied Lands to Cities of 1,583 to 1,602 Population

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than one thousand, five hundred and eighty-three (1,583) inhabitants and not more than one thousand, six hundred and two (1,602) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every owner of such land and territory sought to be annexed shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every owner of such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 432, ch. 264.]

Art. 974e-5. Procedure for Annexation of Unoccupied Lands to Cities or Towns of 900 to 920 Population

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such territory, which is vacant and without residents contiguous and adjacent to any city in this State having a population of not less than nine hundred (900) nor more than nine hundred and

twenty (920) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1941, 47th Leg., p. 1417, ch. 650.]

Art. 974e-6. Procedure for Annexation of Unoccupied Lands to Cities of 3,944 to 3,964

Sec. 1. The owner or owners of any land and/or territory, or the Board of Trustees of any public school, which occupies such territory, which is vacant and without residents, contiguous and adjacent to any city in this state having a population of not less than three thousand nine hundred and forty-four (3,944) nor more than three thousand nine hundred and sixty-four (3,964) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so re-

ceived and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city; and shall be bound by the acts and ordinance of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments of deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having interest in such land, shall be filed in the office of the County Clerk of the county in which such city is situated.

[Acts 1945, 49th Leg., p. 147, ch. 97.]

Art. 974e-7. Annexation of Vacant Land to City of 2,315 to 2,400

Sec. 1. The owner or owners of any land and/or territory, which is vacant and without residents, contiguous and adjacent to any city in this State having a population of not less than two thousand, three hundred and fifteen (2,315) inhabitants, and not more than two thousand, four hundred (2,400) inhabitants, according to the last preceding Federal Census, may by petition in writing to the governing body of such city request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of said city. Thereafter the territory so received and annexed shall become a part of said city, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city, and shall be bound by the acts and ordinances of such city.

Sec. 2. No such petition for annexation of such contiguous and adjacent territory shall be received and acted upon by such governing body of such city unless and until each and every person and corporation having any interest in such land and territory sought to be annexed, shall have executed the petition hereinabove mentioned and duly acknowledged same as provided for acknowledgments for deeds. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such

governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition duly acknowledged as required for deeds by each and every person or corporation having an interest in such land, shall be filed in the office of the county clerk of the county in which such city is situated.

[Acts 1949, 51st Leg., p. 584, ch. 313.]

Art. 974e-8. Annexation of Levee Improvement District; Effect; Contracts

Sec. 1. Any city, including Home Rule cities and those operating under General Laws or special charters, having a population in excess of four hundred twenty-five thousand (425,000) according to the last preceding Federal Census, which has heretofore annexed or may hereafter annex all of the territory within a levee improvement district organized under the laws of the State of Texas, shall take over the properties and assets and shall assume all debts, liabilities and obligations and perform all functions and services of such district, and such district shall be abolished. No abolishment of such levee improvement district shall affect or impair any existing contracts by and between such levee improvement district and any flood control district or other governmental agency for operation or maintenance of levees or other flood control works, but the city shall assume the rights and obligations of the levee improvement district under such contract or contracts. In the event of annexation of the whole district, and the taking over of the assets and liabilities of such a district, the annexing city shall have the power and authority to refund, in whole or in part, any outstanding bonded indebtedness and provide for a sufficient sinking fund to meet the refunding bonds if any are issued.

When less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district; provided, however, that the amount of taxes levied by the levee improvement district against any parcel of real estate hereafter so annexed shall be credited against any ad valorem taxes levied against such parcel of real estate by the city. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be

stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, the district shall be authorized to continue to exercise all the powers and functions and be required to discharge such duties and obligations granted to it, or imposed upon it, by law, wholly unaffected by the annexation. The annexing city shall not be required or be obligated to perform any drainage functions in the district; provided however, that the city may, with the consent of the district, construct and maintain drainage facilities therein consistent with the plan of reclamation of such district. The city may, however, perform all other municipal functions which it is authorized to perform and in which the district is not engaged, nor authorized to perform.

Sec. 2. If any clause, phrase, sentence, paragraph, section or provision of this Act, or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing.

[Acts 1951, 52nd Leg., p. 561, ch. 326.]

Art. 974f. Annexation of Streets, Highways and Alleys by Cities and Towns of 1245 to 1260; Procedure

All cities and towns within the State of Texas, having a population of not less than twelve hundred and forty-five (1245) and not more than twelve hundred and sixty (1260), according to the last preceding census, may, by ordinance duly passed and enacted by the governing bodies of such cities and towns, after the same shall have been advertised as provided by Article 1013 of the Revised Civil Statutes of 1925, annex streets, highways, and alleys adjacent to the city limits of such cities and towns, and incorporate such highways, streets, and alleys within the corporate limits of such cities and towns.

[Acts 1941, 47th Leg., p. 1417, ch. 649, § 1.]

Art. 974f-1. Annexation of Streets, Highways and Alleys by Cities of 15,900 to 16,000

Sec. 1. Any city incorporated and operating under the general laws of this State, having not less than 15,900 inhabitants nor more than 16,000 inhabitants according to the last preceding federal census may, by ordinance duly passed and enacted by its governing body, annex streets, highways, and alleys contiguous and adjacent to the city limits, and incorporate such streets, highways, and alleys within the corporate limits of the city.

Sec. 2. Before the governing body of a city may pass and enact the ordinance described in Section 1 of this Act, the governing body must advertise the ordinance as provided by Article

1013, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1967, 60th Leg., p. 107, ch. 51, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1840, ch. 542, § 95, eff. Sept. 1, 1971.]

Art. 974f-2. Annexation of Adjacent Streets, Highways and Alleys by Cities of 4,140 to 4,160

Sec. 1. Any city incorporated and operating under the general laws of this state, having a population of not less than 4,140 but less than 4,160 according to the last preceding federal census may, by ordinance duly passed and enacted by its governing body, annex streets, highways, and alleys contiguous and adjacent to the city limits, and incorporate those streets, highways, and alleys within the corporate limits of the city.

Sec. 2. Before the governing body of a city may pass and enact the ordinance described in Section 1 of this Act, the governing body must advertise the ordinance as provided by Article 1013, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1971, 62nd Leg., p. 3068, ch. 1022, eff. June 15, 1971.]

Art. 974g. Annexation by Cities of Territory Occupied by Less Than Three Voters

Sec. 1. The owner or owners of any land or territory, to the extent of one-half ($\frac{1}{2}$) mile in width, which is vacant and without residents, or on which less than three (3) qualified voters reside, contiguous and adjacent to any incorporated city or town within this State, may by petition in writing to the governing body of such city or town request the annexation of such contiguous and adjacent land and territory, describing the same by metes and bounds, said petition to be duly acknowledged as required for deeds by each and every person or corporation having an interest in said land. The governing body of such city or town shall thereafter, and not less than five (5) and not more than thirty (30) days after the filing of such petition, hear such petition and the arguments for and against the same, and grant or refuse such petition as such governing body may see fit. If such governing body shall grant such petition, the said governing body by proper ordinance may receive and annex such territory as a part of such city or town. Thereafter the territory so received and annexed shall become a part of such city or town, and the said land and any future inhabitants thereof shall be entitled to all the rights and privileges of other citizens of such city or town, and shall be bound by the acts and ordinances of such city or town. If such petition shall be granted and the ordinance hereinabove mentioned adopted by such governing body, a certified copy of such ordinance together with a copy or a duplicate of such petition shall be filed in the office of the county clerk of the county in which such city or town is situated.

Sec. 2. The provisions of this Act shall be cumulative of all other laws on the subject of

annexation of land or territory by incorporated cities and towns in the State.

[Acts 1949, 51st Leg., p. 451, ch. 243; Acts 1953, 53rd Leg., p. 367, ch. 93, § 1.]

Art. 974-1. Annexation by Petition and Election

Territory adjoining the limits of any city having a population greater than 5,000 inhabitants according to the last preceding or any future Federal Census, and operating under the General Laws of Texas, may become a part of such city in the following manner:

The inhabitants of such territory may petition said city to order an election to be held within such territory for the purpose of voting upon the question of whether such territory shall become a part of such city. Such petition shall contain a metes and bounds description of the territory, which shall not be more than one mile in width, be accompanied by a plat of the territory, and shall be signed by 100, or more, or by a majority, of the qualified electors residing within such territory. Upon the filing of such petition with the City Secretary or City Clerk of such city, the City Council may, by ordinance, order such election so requested. Such ordinance shall specify the day on which such election shall be held, designate the place or places for holding such election, appoint the election officers, and prescribe the form of the ballot. Ten days notice of such election shall be given by posting a copy of such ordinance, certified by the City Secretary or City Clerk, in three public places in said territory, and by publishing the same for one time in some newspaper published in such territory or in such city. Such election shall be held in the manner prescribed for general city elections; only qualified electors residing within such territory shall be permitted to vote and the cost of such election shall be paid by such city. Returns of such election shall be made to the City Council of such city, and shall be canvassed and the result of such election declared by the City Council by an order entered in its minutes, which order shall be conclusive of the authority to annex such territory to such city. Should the results of such election show a majority in favor of becoming a part of such city, such City Council may by ordinance receive such territory as a part of such city. Thereafter, the territory so received shall be a part of such city, and the inhabitants thereof shall be entitled to all the rights and privileges of other citizens, and bound by the acts and ordinances made in conformity thereto and passed in pursuance of this title.

[Acts 1949, 51st Leg., p. 363, ch. 187, § 1.]

Art. 974-2. Contest of Annexation Proceeding

To contest the validity of any annexation proceeding had under the provisions of Section 1 of this Act,¹ such contestant shall, within 60 days after the effective date of the ordinance annexing such territory, file with the City Secretary or City Clerk of such city, written notice

and a written statement of the grounds on which such contestant relies to sustain such contest. In the event no such contest is filed with the City Secretary or City Clerk in the manner and within the time above stated, it shall be conclusively presumed that said election as held and the results thereof as declared by the City Council or City Commission, are in all respects valid and final and binding upon all courts. The provisions of Chapter 9, Title 50, of the Revised Civil Statutes of the State of Texas of 1925, and amendments thereto, not in conflict herewith, shall be applicable to all proceedings contesting the validity of any annexation proceeding had under Section 1 hereof, so far as applicable.

[Acts 1949, 51st Leg., p. 363, ch. 187, § 2.]

¹ Article 974-1.

Art. 975. Segregating Territory

Whenever fifty qualified voters of any territory within the limits of any incorporated town shall sign and present a petition to the mayor of such city, praying that such territory, setting the same out by metes and bounds, be declared no longer a part of such town, the mayor thereof shall order an election within thirty days thereafter to be held at the different voting precincts of said town; and if a majority of the legal voters of said town voting at such election cast their votes in favor of discontinuing said territory as a part of said town, the mayor of said city shall declare such territory no longer a part of said city, and shall enter an order to that effect on the minutes or records of the city council; and from and after the date of such order, said territory shall cease to be a part of said town; provided, no city or town shall thus be reduced to a less area than one square mile or one mile in diameter around the center of the original corporate limits.

[Acts 1925, S.B. 84.]

Art. 976. Liable for Debts

Whenever any territory shall withdraw as above provided, and such city or town shall at the time of such withdrawal owe any debts by bond or otherwise, such withdrawing territory shall not be released from the payment of its pro rata of such indebtedness; but it shall be the duty of said city council to continue to levy an ad valorem tax each year on the property of such territory of the same rate as is levied upon other property of such city, until the taxes collected from said territory shall equal its pro rata share of the indebtedness of said city or town at the time of the withdrawal. The taxes so collected shall be charged only with the cost of levying and collecting the same, and the same shall be applied exclusively to the payment of said pro rata share of indebtedness. Nothing herein shall be construed to prevent the inhabitants of said territory from paying in full, at any time, their pro rata share of the indebtedness of said city.

[Acts 1925, S.B. 84.]

Art. 976a. Zoning Ordinances Upon Annexation

Sec. 1. From and after the effective date of this Act, before any municipal corporation or city existing, or which may hereafter come into existence, as provided by Title 28 of the Revised Civil Statutes of this State, and which municipal corporation or city has in effect a comprehensive zoning ordinance as prescribed by the State Statutes, may be annexed to or incorporated into another such municipal corporation or city, the annexation ordinance or consolidation proceedings combining or incorporating such zoned territory, shall provide for and adopt the identical comprehensive zoning for such zoned territory as same existed prior to any such annexation to or incorporation by another or new municipal corporation. Any attempted annexation or incorporation of such zoned territory without an ordinance adopting the comprehensive zoning as the same existed prior to incorporation of such territory into a larger or another municipal area shall render any such attempted proceedings void. Such zoning ordinance shall be administered and enforced by the governing body within the combined municipal boundaries, as provided by law.

Sec. 2. Thereafter such zoning ordinance as adopted in the incorporation or annexation ordinance shall not be repealed, altered or amended except by an election at which only the qualified voters residing in the zoned territory as it existed prior to being consolidated shall be eligible to vote.

Sec. 3. Nothing in this Act shall be construed so as to permit consolidation or annexation of any such municipal corporation or city without a vote of the people thereof, as now provided by law.

Sec. 4. If any word, clause, sentence or Section of this Act shall be declared invalid, such holding shall not affect any other word, clause, sentence or Section of this Act.

[Acts 1949, 51st Leg., p. 729, ch. 392.]

Art. 976b. Ascertainment of Population; Validation of Acts

All actions of the governing bodies of incorporated cities and towns in this State to ascertain the population of any such city or town which are evidenced by resolution or ordinance entered in its minutes, and all elections, election orders and other proceedings of every nature and kind in any manner dependent upon population affecting any such city or town are in all things ratified and confirmed, regardless of the population of such city or town as shown by the last Federal Census.

[Acts 1949, 51st Leg., p. 963, ch. 530, § 1.]

Art. 976c. Validation of Certain Contracts of Cities of 900,000

Sec. 1. This Act is applicable only to cities (including Home Rule Cities) having a population in excess of 900,000, according to the last

preceding Federal Census or any future Federal Census.

Sec. 2. In every instance where the governing body of an incorporated city (including Home Rule Cities) in this State has, prior to the date when this Act becomes effective, entered into contracts involving terms in excess of five (5) years for the use of land or interest in land owned or to be acquired by such city and for the purchase of services related to garbage disposal and for the disposal of garbage on a contract basis and has, prior to the date when this Act becomes effective, adopted orders or ordinances to authorize or ratify execution of such contracts, all such contracts and all proceedings, governmental acts, ordinances, orders, resolutions and other instruments thus adopted or executed by or in behalf of the governing body of any such incorporated city (including Home Rule Cities) relating thereto are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract executed by any city (including Home Rule Cities) the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. The Legislature hereby finds and declares that the enactment of this legislation is in fulfillment of the duty conferred upon it by the Constitution of the State of Texas wherein it is required to pass such laws as may be appropriate for the promotion of the health and public welfare of the inhabitants of this State, and that the contracts and proceedings hereby ratified, confirmed and validated and the contracts hereby authorized to be negotiated are for the protection and preservation of the health and public welfare of the inhabitants of this State, and that the matters herein set forth and the subject matter of this legislation are of public convenience, necessity and use, and essential to the accomplishment of such purposes and that this Act therefore operates on a subject in which the State and the public at large are interested and that this legislation is for a public purpose and use and promotes the public interest and welfare of this State.

[Acts 1965, 59th Leg., p. 639, ch. 314, eff. June 1, 1965.]

Acts 1966, 59th Leg., 1st C.S., H.C.R. No. 15, p. 32, provides in part as follows: "Resolved, That the House of Representatives of the 59th Legislature of Texas, 1st Called Session, the Senate concurring, clarify that the legislative intent in passing House Bill No. 869, Chapter 314, Acts of the Fifty-ninth Legislature, Regular Session, was not to authorize the diversion of bond funds or any other action contrary to the charter and ordinances of the city concerned or of the statutes of the State of Texas, save and except the right to enter contracts for longer than five years' duration."

CHAPTER TWO. OFFICERS AND THEIR ELECTION

Article

977. City Officials.

978. Election.

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Art. 977. City Officials

The municipal government of the city shall consist of a city council composed of the mayor and two (2) aldermen from each ward, a majority of whom shall constitute a quorum for the transaction of business, except at called meetings, or meetings for the imposition of taxes, when two-thirds ($\frac{2}{3}$) of a full board shall be required, unless otherwise specified, provided that where the city or town is not divided into wards, the city council shall be composed of the mayor and five (5) aldermen, and the provisions of this title relating to proceedings in a ward shall apply to a whole city or town. The above-named officers shall be elected by the qualified electors of the city for a term of two (2) years. Other officers of the corporation shall be a treasurer, an assessor and collector, a secretary, a city attorney, a marshal, a city engineer, and such other officers and agents as the city council may from time to time direct, who may either be appointed or elected as provided by ordinance. The city council may confer the powers and duties of one or more of these offices upon other officers of the city.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 375, ch. 199, § 1.]

Art. 978. Election

An election shall be held annually in each ward of said city on the first Saturday in April, at such places as the city council may direct, and of which twenty days' notice shall be given. Such election shall be ordered and notice thereof given, and the election officers and watchers appointed, as provided by the general laws pertaining to elections. The election officers must be qualified voters in the city. The city council shall provide for their compensation.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1930, ch. 723, § 73, eff. Aug. 28, 1967.]

Art. 978a. Date of Election in Home Rule Cities

Sec. 1. The governing body of any Home Rule City is authorized to set the date of election of officers of such city.

Sec. 2. [Designated as art. 978b and amended].

[Acts 1965, 59th Leg., p. 972, ch. 467, eff. Aug. 30, 1965.]

Art. 978b. Joint Elections in Cities and School Districts

Whenever an election of members of the board of school trustees of any school district, all or part of which is located within all or part of the territory of any home rule city or general law city, is to be held on the same day as an election of city officers of such city, the various officers, boards or bodies charged with the duty of appointing the election officers, providing the supplies, canvassing the returns, and paying the expenses of such elections may agree to hold the elections jointly and may agree upon the method for allocating the expenses for the joint election. Resolutions reciting the terms of the agreement shall be adopted by each of the participating boards or bodies. The agreement may provide for use of a single ballot form at each polling place, to contain all the offices to be voted on at that polling place, or for separate ballot forms, provided that all the offices and candidates for each city shall appear on the same ballot and all the offices and candidates for each school district shall appear on the same ballot; provided further, that no voter shall be given a ballot containing the name of any candidate for whom the voter is ineligible to vote. One set of election officers may be appointed to conduct the joint election, and any person otherwise qualified who is a resident of either the city or school district concerned shall be eligible to serve as an election officer. Poll lists, tally sheets, and return forms for the various elections may be combined in any manner convenient and adequate to record and report the results of each election, and one set of ballot boxes and one stub box may be used for receiving all ballots and ballot stubs for the joint election. Returns on joint or separate forms may be made to, and the canvass made by, each officer, board or body designated by law to receive and canvass the returns of each election, or one of such officers, boards or bodies may be designated to receive and canvass the returns for the joint election and to report the results of each election to the proper authority. Where the counted ballots for two or more of the elections are deposited in a single ballot box, the box containing the counted ballots shall be returned to the officer or board designated in the agreement, which shall be an officer or board designated by law to receive and preserve the counted ballots for one of the elections constituting a part of the joint election.

[Acts 1965, 59th Leg., p. 972, ch. 467, § 2, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1931, ch. 723, § 74, eff. Aug. 28, 1967.]

Art. 979. Ward Election of Councilmen

At the first election under this title there shall be elected a mayor, and two aldermen from each ward, one of whom shall hold office for one year, and the other for two years from the date of their election, to be determined by lot at the first regular meeting after said election. At each annual election thereafter there

shall be elected one alderman from each ward, who shall hold office for two years. If the city or town is not divided into wards, the city council may determine by ordinance what number of aldermen shall go out of office in one year, and the manner of deciding which shall hold for the long term and which for the short term.

[Acts 1925, S.B. 84.]

Art. 980. Conduct of the Election

The ballots for each ward shall be taken separately. Except as otherwise provided in this chapter, the election shall be held and the returns thereof shall be made and canvassed in accordance with the general laws pertaining to municipal elections, and the persons receiving the highest number of votes for the respective offices shall be declared elected. In the first election held hereunder, the two persons from the same ward receiving the highest number of votes in the city for aldermen of the wards for which they are candidates shall be declared elected aldermen of such wards.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 1017, ch. 424, § 119.]

Art. 980a. Election of Governing Body on Place System in Cities of 5,550 to 5,560

The governing body of a city with a population larger than 5,550 but smaller than 5,560, according to the last preceding federal census, may, by ordinance, provide that the members of the governing body shall be elected on the place system rather than the precinct system.

[Acts 1965, 59th Leg., p. 1095, ch. 526, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 1839, ch. 542, § 93, eff. Sept. 1, 1971.]

Art. 980b. Election of Aldermen by Place System in Cities and Towns not Divided into Wards

In any city or town not divided into wards and incorporated under the general laws, and which city or town elects its aldermen from the city at large, at least sixty (60) days prior to any regular city election the city council may by ordinance provide that aldermen shall be elected by the place system. As soon as possible after the enactment of such ordinance, the city council shall assign place numbers to the offices of aldermen then held by the incumbent members thereof. Thereafter, as terms of incumbent aldermen expire, any candidate for the office of alderman in any city election in such city or town shall file his application for a specific place on the council, such as, "Alderman, Place No. 1", "Alderman, Place No. 2", "Alderman, Place No. 3", "Alderman, Place No. 4", or "Alderman, Place No. 5." In such election the ballot shall show each office of alderman as a separate office by place number, with the name of each candidate printed thereon under the specific office for which he is a candidate.

[Acts 1967, 60th Leg., p. 293, ch. 138, § 1, eff. Aug. 28, 1967.]

Arts. 981, 982. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121

Art. 983. Installation of Officers

The newly elected officers may enter upon their duties on the fifth day thereafter, Sundays excepted. If any such officer fails to qualify within thirty days after his election, his office shall be deemed vacant, and a new election held to fill the same. The city council-elect shall meet at the usual place of meeting on the fifth day, Sundays excepted, after their election or as soon thereafter as possible, and be installed under the provisions of this title.

[Acts 1925, S.B. 84.]

Arts. 984 to 986. Repealed by Acts 1963, 58th Leg., p. 1017, ch. 424, §§ 119, 121.

Art. 987. Qualifications of Officers

No person shall be eligible to the office of mayor unless he is a qualified elector and has resided twelve months next preceding the election within the city limits. To be eligible for aldermen, one must reside in the ward from which he may be elected at the time of his election. If any alderman removes from the ward in which he was elected, his office shall be deemed vacant.

[Acts 1925, S.B. 84.]

Art. 988. Limitations of Councilmen

No member of the city council shall hold any other employment or office under the city government until¹ he is a member of said council, unless herein otherwise provided. No member of the city council, or any other officer of the corporation, shall be directly or indirectly interested in any work, business or contract, the expense, price or consideration of which is paid from the city treasury, or by an assessment levied by an ordinance or resolution of the city council, nor be the surety of any person having a contract, work or business with said city, for the performance of which security may be required, nor be the surety on the official bond of any city officer.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Probably should read "while".

Art. 989. Vacancy or Vacancies

In the event of a vacancy or vacancies from any cause in the office of mayor or alderman, such vacancy or vacancies may be filled as follows:

(a) If no more than one vacancy on the city council exists, a majority of the remaining members of the city council may fill such vacancy by appointment, such appointee to serve until the next regular city election; provided, however, in filling such vacancy, the mayor, if any, shall have a vote only in the event of a tie.

(b) In lieu of filling one vacancy on the city council by appointment as provided for in paragraph (a) above, a special election may be called to fill such vacancy.

(c) If two or more vacancies on the city council exist at the same time, a special

election shall be called to fill such vacancies.

(d) Any special election to fill a vacancy or vacancies shall be ordered, held, and conducted in accordance with the general laws of the State of Texas.

(e) In the event of a vacancy in any other office in the city, the mayor or acting mayor shall fill such vacancy by appointment, to be confirmed by the city council.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 1017, ch. 424, § 119; Acts 1965, 59th Leg., p. 974, ch. 469, § 1.]

Art. 990. Special Election

Whenever a vacancy occurs by resignation or otherwise, in the municipal offices of any incorporated city or town in this State, so that the vacancy cannot be filled under the charter of said city or town, or under the laws of this State now in force, then the commissioners court of said county in which said town or city is situated, upon a petition of not less than twenty-six tax paying voters living in such city, shall order an election to be held to fill such vacancy, giving notice of not less than ten days in the usual manner provided for such elections, which shall be held in like manner as similar elections and the officers so elected shall in like manner be qualified and installed.

[Acts 1925, S.B. 84.]

Art. 991. Mayor Pro Tempore

At the first meeting of each new council, or as soon thereafter as practicable, one of the aldermen shall be elected president pro tempore, who shall hold his office for one year. In case of the failure, inability or refusal of the mayor to act, the president pro tempore shall perform the duties and receive the fees and compensation of the mayor.

[Acts 1925, S.B. 84.]

Art. 992. Change of Wards

The wards of each city accepting the provisions of this title shall be and remain unchanged by its acceptance. The city council shall have power from time to time to cause a division of said city to be made into as many wards as they may deem necessary, and for the good of the inhabitants of said city, and may change the boundaries of the same. No such division or change shall be made unless it be done at least three months preceding the city election next ensuing; and said wards so established shall contain as far as practicable an equal number of voters.

[Acts 1925, S.B. 84.]

CHAPTER THREE. DUTIES AND POWERS OF OFFICERS

Article

- 993. Oath.
- 994. Duties of Mayor.
- 995. Special Police Force.
- 996. Powers of the Mayor.

Article

- 997. Ordinances and Resolutions.
- 998. Police Officers.
- 998a. Police Reserve Force.
- 999. Marshal, Duties, etc.
- 999a. Marshal May be Dispensed With.
- 999b. Law Enforcement Officers; Interlocal Assistance.
- 999c. Payment of Hospitalization Costs for Peace Officers and Firemen.
- 1000. Secretary, Duties, etc.
- 1001. Treasurer, Duties, etc.
- 1002. Control of Officers.
- 1003. Qualifications of Appointee.
- 1004. Officer Disqualified.
- 1005. Resignation of Officers.
- 1006. Removal of Officers.

Art. 993. Oath

Every person elected or appointed to fill an office under this title shall, before entering upon the duties of his office, take and subscribe the official oath. The city council by ordinance may require such additional oath as it may deem best calculated to secure faithfulness in the performance of their duties by such officers.

[Acts 1925, S.B. 84.]

Art. 994. Duties of Mayor

The mayor shall be the chief executive officer of said corporation, and shall be active at all times in causing the laws and ordinances of said city to be duly executed and put in force. He shall inspect the conduct of all subordinate officers in the government thereof, and, shall cause all negligence, carelessness and other violations of duty to be prosecuted and punished. He shall have power, if in his judgment the good of the city may require it, to summon meetings of the city council; and he shall communicate to that body such information and recommend such measures as may tend to the improvement of the finances, the police, health security, cleanliness, comfort, ornament and good government of said city.

[Acts 1925, S.B. 84.]

Art. 995. Special Police Force

Whenever the mayor deems it necessary, in order to enforce the laws of the city, or to avert danger, or to protect life or property, in case of riot or any outbreak or calamity or public disturbance, or when he has reason to fear any serious violation of law or order, or any outbreak or any other danger to said city, or the inhabitants thereof, he shall summon into service as a special police force, all or as many of the citizens as in his judgment may be necessary. Such summons may be by proclamation or other order addressed to the citizens generally, or those of any ward of the city, or subdivision thereof, or may be by personal notification. Such special police force while in service, shall be subject to the orders of the mayor, shall perform such duties as he may require, and shall have the same power while on duty as the regular police force of said city.

[Acts 1925, S.B. 84.]

Art. 996. Powers of the Mayor

The mayor shall have power to administer oaths of office. He shall have authority in case of a riot or any unlawful assemblage, or with a view to preserve peace and good order in said city, to order and enforce the closing of any theatre, ball room, or other place of resort, or public room or building, and may order the arrest of any person violating in his presence, the laws of this State, or any ordinance of the city. He shall perform such other duties and possess and exercise such other power and authority as may be prescribed and conferred by the city council.

[Acts 1925, S.B. 84.]

Art. 997. Ordinances and Resolutions

All ordinances and resolutions adopted by the council shall, before they take effect, be placed in the office of the city secretary; and the mayor shall sign those he approves. Such as he shall not sign, he shall return to the city council with his objections thereto. Upon the return of any ordinance or resolution by the mayor, the vote by which the same was passed shall be reconsidered. If, after such reconsideration, a majority of the whole number of aldermen agree to pass the same, and enter their votes on the journal of their proceedings, it shall be in force. If the mayor shall neglect to approve or object to any such proceedings for a longer period than three days after the same shall be placed in the secretary's office as aforesaid, the same shall go into effect.

[Acts 1925, S.B. 84.]

Art. 998. Police Officers

The city or town council in any city or town in this State, incorporated under the provisions of this title may, by ordinance, provide for the appointment, term of office and qualifications of such police officers as may be deemed necessary. Such police officers so appointed shall receive a salary or fees of office, or both, as shall be fixed by the city council. Such council may, by ordinance, provide that such police officers shall hold their office at the pleasure of the city council, and for such term as the city council directs. Such police officers shall give bond for the faithful performance of their duties, as the city council may require. Such officers shall have like powers, rights, authority and jurisdiction as are by said title vested in city marshals. Such police officers may serve all process issuing out of a corporation court anywhere in the county in which the city, town or village is situated. If the city, town or village is situated in more than one county, such officers may serve the process throughout those counties.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1171, ch. 523, § 2, eff. Aug. 28, 1967.]

Art. 998a. Police Reserve Force

(a) The governing body of any city, town, or village may provide for the establishment of a police reserve force. Members of the police re-

serve force, if authorized, shall be appointed at the discretion of the chief of police and shall serve as peace officers during the actual discharge of official duties.

(b) The governing body shall establish qualifications and standards of training for members of the police reserve force, and may limit the size of the police reserve force.

(c) No person appointed to the police reserve force may carry a weapon or otherwise act as a peace officer until he has been approved by the governing body. After approval, he may carry a weapon only when authorized by the Chief of Police, and when discharging official duties as a duly constituted peace officer.

(d) Members of the police reserve force serve at the discretion of the chief of police and may be called into service at any time the chief of police considers it necessary to have additional officers to preserve the peace and enforce the law.

(e) Members of the police reserve force may serve without compensation but the governing body may provide uniform compensation for members of the police reserve force. The compensation shall be based solely upon time served by a member of the police reserve force while in training for, or in the performance of, official duties.

(f) The governing body may provide hospital and medical assistance to a member of the police reserve force who sustains injury in the course of performing official duties in the same manner as provided by the governing body for a full time police officer, and reserve officers shall be eligible for death benefits as set out in Chapter 86, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6228f, Vernon's Texas Civil Statutes), provided, however, that nothing in this Act shall be construed to authorize or permit a member of the police reserve force to become eligible for participation in any pension fund created pursuant to State statute to which regular officers may become a member by payroll deductions or otherwise.

(g) Reserve police officers shall act only in a supplementary capacity to the regular police force and shall in no case assume the full time duties of regular police officers without first complying with all requirements for such regular police officers.

(h) This Act does not limit the power of the mayor of any general-law city to summon into service a special police force, as provided by Article 995, Revised Civil Statutes of Texas, 1925.

[Acts 1971, 62nd Leg., p. 2532, ch. 829, § 3, eff. Aug. 30, 1971.]

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Art. 999. Marshal, Duties, etc.

The marshal of the city shall be ex officio chief of police, and may appoint one or more deputies which appointment shall only be valid upon the approval of the city council. Said marshal shall, in person or by deputy, attend

upon the corporation court while in session, and shall promptly and faithfully execute all writs and process issued from said court. For the purpose of executing all writs and process issued from the corporation court, the jurisdiction of the marshal extends to the boundaries of the county in which the corporation court is situated. If the corporation court is in a city which is situated in more than one county, the jurisdiction of the marshal extends to all those counties. He shall have like power, with the sheriff of the county, to execute warrants; he shall be active in quelling riots, disorder and disturbance of the peace within the city limits and shall take into custody all persons so offending against the peace of the city and shall have authority to take suitable and sufficient bail for the appearance before the corporation court of any person charged with an offense against the ordinance or laws of the city. It shall be his duty to arrest, without warrant, all violators of the public peace, and all who obstruct or interfere with him in the execution of the duties of his office or who shall be guilty of any disorderly conduct or disturbance whatever; to prevent a breach of the peace or preserve quiet and good order, he shall have authority to close any theatre, ballroom or other place or building of public resort. In the prevention and suppression of crime and arrest of offenders, he shall have, possess and execute like power, authority, and jurisdiction as the sheriff. He shall perform such other duties and possess such other powers and authority as the city council may by ordinance require and confer, not inconsistent with the Constitution and laws of this State. The marshal shall give such bond for the faithful performance of his duties as the city council may require. He shall receive a salary or fees of office, or both, to be fixed by the city council. The governing body of any city or town having less than five thousand inhabitants according to the preceding Federal census, may by an ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon any peace officer of the county, but no marshal elected by the people shall be removed from his office under the provisions of this article.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1172, ch. 523, § 3, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1605, ch. 496, § 2, eff. June 10, 1969.]

Art. 999a. Marshal May be Dispensed With

The governing body of any city or town operating under the general laws having less than five thousand (5,000) inhabitants according to the last preceding Federal Census, may by ordinance, dispense with the office of marshal, and at the same time by such ordinance confer the duties of said office upon a city police officer to be appointed as the city council shall direct.

[Acts 1949, 51st Leg., p. 375, ch. 199, § 2.]

Art. 999b. Law Enforcement Officers; Inter-local Assistance

Sec. 1. "Municipality" as used herein means any city or town, including home-rule city or a city operating under the general law or a special charter. "Law enforcement officer" as used herein means any policeman, sheriff, or deputy sheriff, constable, or deputy constable, marshal, or deputy marshal.

Sec. 2. Any county or municipality shall have the power by resolution or order of its governing body to make provision for, or to authorize its major or chief administrative officer, chief of police or marshal to make provision for, its regularly employed law enforcement officers to assist any other county or municipality, when in the opinion of the mayor, or other officer authorized to declare a state of civil emergency in such other county or municipality, there exists in such other county or municipality a need for the services of additional law enforcement officers to protect the health, life, and property of such other county or municipality, its inhabitants, and the visitors thereto, by reason of riot, unlawful assembly characterized by the use of force and violence, or threat thereof by three or more persons acting together or without lawful authority, or during time of natural disaster or man-made calamity.

Sec. 2a. A county or municipality may by resolution or order of its governing body enter into an agreement with any neighboring municipality or contiguous county to form a mutual aid law enforcement task force to cooperate in the investigation of criminal activity and enforcement of the laws of this state. Peace officers employed by counties or municipalities entering into such agreements shall have only such additional investigative authority throughout the region as may be set forth in the agreement. The counties or municipalities shall provide for compensation of peace officers involved in the activities of a mutual aid law enforcement task force, which provision for compensation shall be contained in the agreement.

A law enforcement officer employed by a county or municipality covered by an agreement authorized by this section may make arrests outside the county or municipality in which he is employed, but within the area covered by the agreement, provided however, that the law enforcement agencies within such county or municipality shall be notified of such arrest without delay. Such notified agency shall make available the notice of such arrest in the same manner as if said arrest were made by a member of the law enforcement agency of said county or municipality.

Sec. 3. While any law enforcement officer regularly employed as such in one county or municipality is in the service of another county or municipality pursuant to this Act, he shall be a peace officer of such other county or municipality and be under the command of the

law enforcement officer therein who is in charge in that county or municipality, with all the powers of a regular law enforcement officer in such other county or municipality, as fully as though he were within the county or municipality where regularly employed and his qualification, respectively, for office where regularly employed shall constitute his qualification for office in such other county or municipality, and no other oath, bond, or compensation need be made.

Sec. 4. Any law enforcement officer who is ordered by the official designated by the governing body of any county or municipality to perform police or peace duties outside the territorial limits of the county or municipality where he is regularly employed as such officer, shall be entitled to the same wage, salary, pension, and all other compensation and all other rights for such service, including injury or death benefits, the same as though the service had been rendered within the limits of the county or municipality where he is regularly employed, and shall also be paid for any reasonable expenses of travel, food, or lodging that he may incur while on duty outside such limits.

Sec. 5. All wage and disability payments, pension payments, damage to equipment and clothing, medical expense, and expenses of travel, food, and lodging shall be paid by the county or municipality regularly employing such law enforcement officer. Upon making such payments, the county or municipality that furnished the services shall, when it so requests, be reimbursed by the county or municipality whose authorized official requested the services out of which the payments arose. Each such county or municipality is hereby expressly authorized to make such payments and reimbursements notwithstanding any provision in its charter or ordinances to the contrary.

[Acts 1969, 61st Leg., p. 201, ch. 81, eff. April 17, 1969; Acts 1973, 63rd Leg., p. 1626, ch. 587, § 1, eff. June 15, 1973.]

Art. 999c. Payment of Hospitalization Costs for Peace Officers and Firemen

Sec. 1. As used in this Act:

(1) "Peace officer" means a peace officer as defined in Article 2.12, Code of Criminal Procedure, 1965, as amended.

(2) "City" means an incorporated city or town, whether operated under a home-rule charter or incorporated under the general laws of this state.

Sec. 2. If a peace officer or fireman employed by a city sustains an injury in the performance of his duties which results in permanent incapacity for work and requires constant confinement in a hospital or other institution providing medical treatment, the city may pay all costs of such confinement in excess of amounts which are paid under any policy of insurance or by another governmental entity.

Sec. 3. To the extent it is permitted to make payments under this Act, the city is sub-

rogated to the rights of the peace officer or fireman in a suit against a third party because of the injury.

Sec. 4. To receive funds under this Act, a peace officer or fireman must furnish the governing body of the city:

(1) proof that he sustained an injury in the course of his duties resulting in permanent incapacity for work and requiring constant confinement for medical treatment;

(2) proof of the portion of the cost of confinement not paid under any policy of insurance or by another governmental entity; and

(3) any other information or evidence required by the governing body.

Sec. 5. This Act does not permit payment of costs of constant confinement for medical treatment incurred prior to the effective date of the Act.

[Acts 1973, 63rd Leg., p. 1696, ch. 616, eff. Aug. 27, 1973.]

Art. 1000. Secretary, Duties, etc.

The city secretary shall attend every meeting of the city council, and keep accurate minutes of the proceedings thereof in a book to be provided for that purpose, and engross and enroll all laws, resolutions and ordinances of the city council, keep the corporate seal, take charge of and preserve and keep in order all the books, records, papers, documents and files of said council, countersign all commissions issued to city officers, and licenses issued by the mayor, and keep a record or register thereof, and make out all notices required under any regulation or ordinance of the city. He shall draw all the warrants on the treasurer and countersign the same and keep an accurate account thereof in a book provided for the purpose. He shall be the general accountant of the corporation, and shall keep in books regular accounts of the receipts and disbursements for the city, and separately, under proper heads, each cause of receipt and disbursement, and also accounts with each person including officers who have money transactions with the city, crediting accounts allowed by proper authority and specifying the particular transaction to which such entries apply. He shall keep a register of bonds and bills issued by the city, and all evidence of debt due and payable to it, noting the particulars thereof, and all facts connected therewith, as they occur. He shall carefully keep all contracts made by the city council; and he shall perform all such other duties as may be required of him by law, ordinance, resolution or order of the city council. He shall receive for his services an annual salary payable at stated periods, and such additional fees as the city council may allow.

[Acts 1925, S.B. 84.]

Art. 1001. Treasurer, Duties, etc.

The treasurer shall give bond in favor of the city in such amount, and in such form as the

city council may require, with sufficient security to be approved by the city council, conditioned for the faithful discharge of his duties. He shall receive and securely keep all moneys belonging to the city, and make all payments for the same upon the order of the mayor, attested by the secretary under the seal of the corporation. No order shall be paid unless the said order shall show upon its face that the city council has directed its issuance, and for what purpose. He shall render a full and correct statement of his receipts and payments to the city council, at their first regular meeting in every quarter and whensoever, at other times, he may be required by them so to do. At the end of every half year he shall cause to be published, at the expense of the city, a statement showing the amount of receipts and expenditures for the six months next preceding, and the general condition of the treasury. He shall do and perform such other acts and duties as the city council may require. He shall receive such compensation as the city council shall fix.

[Acts 1925, S.B. 84.]

Art. 1002. Control of Officers

The city council shall have power from time to time to require other and further duties of all officers whose duties are herein prescribed, and to define and prescribe the powers and duties of all officers appointed or elected to any office under this title whose duties are not herein specially mentioned, and fix their compensation. They may also require bonds to be given to the said corporation by all officers for the faithful performance of their duties. The city council shall provide for filling vacancies in all offices, not herein provided for. In all cases of vacancy, the same shall be filled only for the unexpired term.

[Acts 1925, S.B. 84.]

Art. 1003. Qualifications of Appointee

No person other than an elector resident of the city shall be appointed to any office by the city council.

[Acts 1925, S.B. 84.]

Art. 1004. Officer Disqualified

Any officer who has been intrusted with the collection or custody of funds belonging to a city who shall be in default to said city, shall thereafter be incapable of holding any office under said city, until the amount of his default shall have been fully paid to said city, with ten per cent interest.

[Acts 1925, S.B. 84.]

Art. 1005. Resignation of Officers

Resignation by any officer authorized by this title to be elected or appointed shall be made to the city council in writing, subject to their approval and acceptance. Any appointee of the mayor may present his written resignation to that officer for his action.

[Acts 1925, S.B. 84.]

Art. 1006. Removal of Officers

The city council shall have power to remove any officer for incompetency, corruption, misconduct or malfeasance in office, after due notice and an opportunity to be heard in his defense. The city council shall also have power at any time to remove any officer of the corporation elected by them, by resolution declaratory of its want of confidence in said officer; provided, that two-thirds of the aldermen elected vote in favor of said resolution.

[Acts 1925, S.B. 84.]

CHAPTER FOUR. THE CITY COUNCIL

Article

- 1007. Presiding Officer.
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Art. 1007. Presiding Officer

The mayor shall preside at all meetings of the city council, and shall have a casting vote, except in elections. If he and the president pro tem are absent, any alderman may be appointed to preside.

[Acts 1925, S.B. 84.]

Art. 1008. Meetings

Petitions and remonstrances may be presented to the council in writing only. The city council shall hold stated meetings at such times and places as they shall by resolution direct. The mayor, of his own motion, or on the application of three aldermen, may call special meetings, by notice to each member of said council, the secretary and city attorney, served personally or left at their usual place of abode. The council shall determine the rules of its proceedings and be the judge of the election and qualification of its own members, and may compel the attendance of absent members and punish them for disorderly conduct.

[Acts 1925, S.B. 84.]

Art. 1009. Attendance of Officers

Each alderman shall be fined three dollars for each meeting which he fails to attend, unless on account of his own sickness or that of his family. Any member of the city council remaining absent for three regular consecutive meetings of the board, unless prevented by sickness, without first having obtained leave of absence at a regular meeting, shall be deemed to have vacated his office, and the mayor shall proceed to fill the vacancy in accordance with the charter.

[Acts 1925, S.B. 84.]

Art. 1010. Salary of Officers

The city council shall, on or before the first day of January next preceding each election, fix the salary and fees of office of the mayor to be elected at the next regular election, and fix the compensation to be paid to the officers elected or appointed by the city council. The compensation so fixed shall not be changed during the term for which said officers shall be elected or appointed.

[Acts 1925, S.B. 84.]

Art. 1011. Powers

The City Council, or other governing body shall have power to pass, publish, amend or repeal all ordinances, rules and police regulations, not contrary to the Constitution of this State, for the good government, peace and order of the City and the trade and commerce thereof, that may be necessary or proper to carry into effect the powers vested by this title in the corporation, the city government or in any department or office thereof; to enforce the observance of all such rules, ordinances and police regulations, and to punish violations thereof. No fine or penalty shall exceed Two Hundred Dollars (\$200).

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 367, ch. 190, § 1.]

Art. 1011a. Grant of Power for Zoning

For the purpose of promoting health, safety, morals, and for the protection and preservation of places and areas of historical and cultural importance and significance, or the general welfare of the community, the legislative body of cities and incorporated villages is hereby empowered to regulate and restrict the height, number of stories, and size of buildings, and other structures, the percentage of lot that may be occupied, the size of the yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land for trade, industry, residence, or other purpose; and, in the case of designated places and areas of historic and cultural importance, to regulate and restrict the construction, alteration, reconstruction, or razing of buildings and other structures.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 1; Acts 1959, 56th Leg., p. 883, ch. 406, § 1.]

Art. 1011b. Districts

For any or all of said purposes the local legislative body may divide the municipality into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 2.]

Art. 1011c. Purposes in View

Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements. Such regulations shall be made with reasonable consideration, among other things,

to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout such municipality, and it is hereby provided that this Act shall not enable cities and incorporated villages aforesaid to require the removal or destruction of property, existing at the time such city or incorporated village shall take advantage of this Act, actually and necessarily used in a public service business. [Acts 1927, 40th Leg., p. 424, ch. 283, § 3.]

Art. 1011d. Method of Procedure

The legislative body of such municipality shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However, no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the time and place of such hearing shall be published in an official paper, or a paper of general circulation, in such municipality.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 4.]

Art. 1011e. Changes

Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a written protest against such change, signed by the owners of 20 per cent or more either of the area of the lots or land included in such proposed change, or of the lots or land immediately adjoining the same and extending 200 feet therefrom, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the legislative body of such municipality. The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.

[Acts 1927, 40th Leg., p. 425, ch. 283, § 5; Acts 1971, 62nd Leg., p. 2864, ch. 942, § 1, eff. June 15, 1971.]

Art. 1011f. Zoning Commission

In order to avail itself of the powers conferred by this Act, such legislative body shall appoint a commission, to be known as the Zoning Commission, to recommend the boundaries of the various original districts and appropriate regulations to be enforced therein. Such Commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and such legislative body shall not hold its public hearings or take action until it has received the final report of such Commission; provided, however, that any city or town, by ordinance, may provide for the holding of any public hearing of the legislative body, after published notice required by Section 4 of this Act,¹ jointly with any public hearing required to be held by the Zoning Com-

mission, but such legislative body shall not take action until it has received the final report of such Zoning Commission. Where a City Plan Commission already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings before the Zoning Commission on proposed changes in classification shall be sent to owners of real property lying within two hundred (200) feet of the property on which the change in classification is proposed, such notice to be given, not less than ten (10) days before the date set for hearing, to all such owners who have rendered their said property for city taxes as the ownership appears on the last approved city tax roll. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office. Where property lying within two hundred (200) feet of the property proposed to be changed is located in territory which was annexed to the city after the final date for making the renditions which are included on the last approved city tax roll, notice to such owners shall be given by publication in the manner provided in Section 4 of this Act. [Acts 1927, 40th Leg., p. 424, ch. 283, § 6; Acts 1949, 51st Leg., p. 205, ch. 111, § 1; Acts 1953, 53rd Leg., p. 732, ch. 287, § 1; Acts 1961, 57th Leg., p. 570, ch. 267, § 1.]

¹ Article 1011d.

Art. 1011g. Board of Adjustment

(a) Such local legislative body may provide for the appointment of a Board of Adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said Board of Adjustment may, in appropriate cases and subject to appropriate conditions and safeguards, make special exceptions to the terms of the ordinance in harmony with its general purpose and intent and in accordance with general or specific rules therein contained.

(b) The Board of Adjustment shall consist of five (5) members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Provided, however, that the governing body of any city may, by charter provision or ordinance, provide for the appointment of four (4) alternate members of the Board of Adjustment who shall serve in the absence of one or more regular members when requested to do so by the mayor or city manager, as the case may be. All cases to be heard by the Board of Adjustment will always be heard by a minimum number of four (4) members. These alternate members, when appointed, shall serve for the same period as the regular members and any vacancies shall be filled in the same manner and shall be subject to removal as the regular members.

(c) The Board shall adopt rules in accordance with the provisions of any ordinance adopted pursuant to this Act. Meetings of the

Board shall be held at the call of the chairman and at such other times as the Board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and shall be a public record.

(d) Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the officer from whom the appeal is taken and with the Board of Adjustment a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

(e) An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(f) The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(g) The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any ordinance adopted pursuant thereto.

2. To hear and decide special exceptions to the terms of the ordinance upon which such Board is required to pass under such ordinance.

3. To authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the ordinance will result in unnecessary hardship, and so that the

spirit of the ordinance shall be observed and substantial justice done.

(h) In exercising the above-mentioned powers such Board may, in conformity with the provisions of this Act, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

(i) The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such ordinance, or to effect any variation in such ordinance.

(j) Any person or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board or bureau of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the Board.

(k) Upon presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the Board and on due cause shown, grant a restraining order.

(l) The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(m) If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm wholly or partly, or may modify the decision brought up for review.

(n) Costs shall not be allowed against the Board unless it shall appear to the court that it acted with gross negligence, or in bad faith,

or with malice in making the decision appealed from.

(o) All issues in any proceeding under this Section shall have preference over all other civil actions and proceedings.

[Acts 1927, 40th Leg., p. 425, ch. 283, § 7; Acts 1959, 56th Leg., p. 545, ch. 244, § 1; Acts 1961, 57th Leg., p. 687, ch. 322, § 1; Acts 1971, 62nd Leg., p. 2385, ch. 742, § 1, eff. June 8, 1971.]

Art. 1011h. Enforcement and Remedies

The local legislative body may provide by ordinance for the enforcement of this Act and of any ordinance or regulation made thereunder. A violation of this Act or of such ordinance or regulation is hereby declared to be a misdemeanor, and such local legislative body may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Act or of any ordinance or other regulation made under authority conferred hereby, the proper local authorities of the municipality, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct, business, or use in or about such premises.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 8.]

Art. 1011i. Buildings for Telephone Service Excepted

The provisions of this Act or of any ordinance of any city or town, enacted under the authority of this Act, shall not apply to the location, construction, maintenance or use of central office buildings of corporations, firms or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or use of any equipment in connection with such buildings or a part of such telephone system, necessary in the furnishing of telephone service to the public.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 8a.]

Art. 1011j. Conflict with Other Laws

Wherever the regulations made under authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local ordinance or regulation, the provisions of the regulations made under authority of this Act shall govern. Wherever the provisions of any other statute or local ordinance or regulation requires a greater width or size of yards, courts, or other open spaces, or require

a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such statute or local ordinance or regulation shall govern.

[Acts 1927, 40th Leg., p. 424, ch. 283, § 9.]

Art. 1011k. Neighborhood Zoning Areas in Cities over 290,000

The legislative body of any city having a population of more than 290,000 inhabitants according to the last preceding Federal Census, and which has adopted a comprehensive zoning ordinance under the law of the State of Texas, may by ordinance divide the city into such neighborhood zoning areas after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen days notice of the time and place of such hearing shall be published in an official paper or a paper of general circulation in such municipality. The Mayor of such city, with the approval of its legislative body, may thereupon appoint for each of said areas a Neighborhood Advisory Zoning Council, consisting of five citizens residing in the area, who shall hold office for two years or until their successors are appointed and qualify. It shall be the duty of such Neighborhood Advisory Zoning Council to furnish to the Zoning Commission of such city information, advice and recommendations with respect to all applications filed with the Zoning Commission for changes in the zoning regulations of such city affecting property within said area. As soon as any such application is filed with the Zoning Commission of the city, the Zoning Commission shall furnish the Neighborhood Advisory Zoning Council for the area which would be affected by such application if granted with a copy thereof, and thereupon it shall be the duty of the Neighborhood Advisory Zoning Council to hold a public hearing in relation thereto, giving at least ten days notice of the time and place of such hearing by publication in an official paper or a paper of general circulation in such municipality, and at or before the hearing on such application before the Zoning Commission it shall be the duty of the Neighborhood Advisory Zoning Council to furnish and submit to the Zoning Commission such information, advice and recommendations with respect to such application as it deems proper. Overruling of any recommendation of the Neighborhood Advisory Zoning Council with respect to the disposition of such application shall require the vote of at least three-fourths ($\frac{3}{4}$) of the members of the Zoning Commission present.

[Acts 1945, 49th Leg., p. 202, ch. 155, § 1.]

Art. 1011l. Joint Municipal Planning in Certain Areas

Grant of Power to Expend Public Funds

Sec. 1. Each city (including home rule charter cities), town, or village incorporated

under the laws of this State, or by special act or charter, is hereby authorized, by ordinance duly passed, to expend public funds from the municipal treasury for compiling statistics, conducting studies and formulating plans relative to the future growth and development of such municipality or municipalities.

Municipalities Subject to Act

Sec. 2. Municipalities located or situated in whole or in part within an area wherein the sphere of zoning influence of each municipality is adjacent or contiguous to the other may contribute, and/or expend, public funds from the municipal treasury, to a joint planning commission for the joint planning of the growth and development of two (2) or more of such municipalities that are located or situated in whole or in part within the sphere of influence of such planning commission.

Joint Planning Commission

Sec. 3. Municipalities affected by this Act shall, if they adopt the provisions hereof, by the governing bodies of each of such municipalities, appoint an equal number of representatives, from each of the municipalities affected hereby, to a joint planning commission, and it shall be the duty of such joint planning commission to meet and determine the sphere of influence of such planning commission which they shall describe by metes and bounds in writing and cause the same to be placed upon a map and the same shall be recorded for record with the county clerk of the county within which such municipalities are located or situated.

Powers and Duties of Commission

Sec. 4. The duties, powers and authorities of such joint planning commission, so appointed by the governing body of such municipalities, shall be as follows, as authorized by ordinances duly passed within each of such municipalities, to wit:

(a). To employ engineers, clerks, secretaries, field personnel, and administrative personnel as are necessary to formulate, prepare, and design an organized master plan for the area as designated.

(b). To prepare, formulate, and design an organized master plan for the area which such members represent, including, but not limited to, highway design, street layout, park layout, schooling areas, residential areas, business areas, commercial areas, industrial areas, and water reservoir areas, for the orderly growth of the area, such plan must be approved by each of the municipalities within the area.

(c). To make aerial photographs, land surveys, and topography studies to facilitate such planning.

(d). To keep and maintain a complete record of all activities, meetings, expenditures, and plans.

(e). To submit regular reports of income, expenditures, accounts, and progress reports to each municipality represented.

(f). All records, minutes, books, accounts and meetings shall be open to the public for attendance and/or examination.

(g). To prepare and submit to each municipality represented an annual audit of all accounts, expenditures, funds and moneys coming into the hands of said joint planning commission.

(h). To make all reports, accounts, and records as may be required by each of the municipalities represented, by ordinance or resolution duly passed.

(i). To perform such duties and functions as may be required by each of the municipalities represented, by ordinance or resolution duly passed where the same is approved by a majority of the governing bodies of such municipalities so represented and where such is not inconsistent with the purposes of this Act.

Authority Cumulative

Sec. 5. The authority granted and conferred in Sections 1 and 2 of this Act is cumulative of all other existing authority of municipalities to expend public funds from the municipal treasury for the purpose or purposes of municipal planning and this Act shall not be construed to limit such authority in any manner.

[Acts 1957, 55th Leg., p. 423, ch. 202.]

Art. 1011m. Regional Planning Commissions Definitions

Sec. 1. A. "City" means any incorporated city, town or village in the State of Texas.

B. "Governmental Unit" means any county, city, town, village, authority, district or other political subdivision of the state.

C. "Commission" means a Regional Planning Commission, Council of Governments or similar regional planning agency created under this Act.

D. "Region," "Area," or "Regional" means a geographic area consisting of a county or two or more adjoining counties which have common problems of transportation, water supply, drainage or land use, similar, common or inter-related forms of urban development or concentration, or special problems of agriculture, forestry, conservation or other matters, or any combination thereof. It is the intention of this Act to permit the greatest possible flexibility among the various participating governmental units to organize and establish Commissions most suitable to the nature of the area problems as they see them.

E. "Comprehensive Development Planning Process" means the process of (1) assessing the needs and resources of an area; (2) formulating goals, objectives, policies and standards to guide its long-range physical, economic, and human resource development; and (3)

preparing plans and programs therefor which (a) identify alternative courses of action and the spacial and functional relationships among the activities to be carried out thereunder, (b) specify the appropriate ordering in time of such activities, (c) take into account other relevant factors affecting the achievement of the desired development of the area, (d) provide an overall framework and guide for the preparation of function and project development plans, (e) make recommendations for long-range programming and financing of capital projects and facilities which are of mutual concern to two or more member governments, and (f) make such other recommendations as may be deemed appropriate.

F. "General purpose governmental unit" means a county or incorporated municipality.

Objectives

Sec. 2. The purpose of this Act is to encourage and permit local units of government to join and cooperate with one another to improve the health, safety and general welfare of their citizens; to plan for the future development of communities, areas, and regions to the end that transportation systems may be more carefully planned; that communities, areas, and regions grow with adequate street, utility, health, educational, recreational, and other essential facilities; that needs of agriculture, business, and industry be recognized; that residential areas provide healthy surroundings for family life; that historical and cultural value be preserved; and that the growth of the communities, areas, and regions is commensurate with and promotive of the efficient and economical use of public funds.

Creation

Sec. 3. (a) Any two or more general purpose governmental units may join in the exercise, performance, and cooperation of planning, powers, duties, and functions as provided by law for any or all such governmental units. When two or more such governmental units agree, by ordinance, resolution, rule, order, or other means, to cooperate in regional planning, they may establish a Regional Planning Commission. But nothing in this Act shall be construed to limit the powers of the participating governmental units as provided by existing law. The participating governmental units, by appropriate mutual agreement, may establish a Regional Planning Commission for a region designated in such agreement, provided that such region shall consist of territory under their respective jurisdictions, including extra-territorial jurisdiction.

(b) The geographic boundaries of Commissions established under this Act must be consistent with State Planning Regions or Subregions as delineated by the Governor and subject to review and modification at the end of each State biennium.

Powers

Sec. 4. (a) Under this Act, a Regional Planning Commission shall be a political subdi-

vision of this State, the general purpose of which is to make studies and plans to guide the unified, far-reaching development of the area, to eliminate duplication, and to promote economy and efficiency in the coordinated development of the area. The Commission may make plans for the development of the area which may include recommendations on major thoroughfares, streets, traffic and transportation studies, bridges, airports, parks, recreation sites, school sites, public utilities, land use, water supply, sanitation facilities, drainage, public buildings, population density, open spaces, and other items relating to the effectuation of the general purpose.

(b) The plans and recommendations of the Commission may be adopted in whole or in part by the respective governing bodies of the cooperating governmental units. The Commission may assist the participating governmental units individually or collectively in carrying out plans or recommendations developed by the Commission. The Commission may assist any participating governmental unit individually in the preparation or effectuation of local planning consistent with the general purposes of this Act.

(c) The Commission may contract with one or more of its member governments to perform any service which that government could, by contract, have any private organization without governmental powers perform, provided that such contract imposes no cost or obligation upon any member government not signatory thereto.

(d) A Commission may purchase, lease or otherwise acquire, hold, sell or otherwise dispose of real and personal property. It may employ such staff, and consult with and retain such experts as it deems necessary. It may provide for retirement benefits for its employees by means of a jointly contributory retirement plan with an agency, firm, or corporation authorized to do business in this State. A Commission may participate in the Texas Municipal Retirement System, the State Employees Retirement System or the City, County, and District Retirement System when such established systems by legislation or administrative arrangement make such participation permissible.

(e) Agencies of the State government and of governmental units are authorized to detail or loan employees to a Commission on either a reimbursable or nonreimbursable basis as may be mutually agreed by the State agency or governmental unit and the Commission. During the period of loan or detail the person will continue to be an employee of the lending agency or unit for purposes of salary, leave, retirement and other personnel benefits but will work under the direction and supervision of the Commission. A loan or detail made pursuant to this section shall expire at the mutual consent of the loaning or detailing agency or governmental unit and the Commission.

(f) In each State Planning Region or Subregion in which a Commission has been organized, the governing body of each governmental unit within the Region or Subregion, whether or not such unit is a member of the Commission, shall submit to the Commission for review and comment any application for loans or grants-in-aid from agencies of the federal government (for a project for which the federal government at the time is requiring the review and comment of an areawide planning agency) or agencies of the State of Texas before such application is filed with the federal or State government. For federally-aided projects for which an areawide review is required by federal law or regulation, the Commission shall review such application from the standpoint of consistency with regional plans and such other considerations as may be specified in federal or State regulations and shall enter its comments upon the application, returning same to the originating governmental unit.

(g) With respect to other federally-aided projects and to State-aided projects, the Commission shall advise the governmental unit as to whether or not the proposed project for which funds are requested has region wide significance. If it does not have region wide significance, the Commission shall certify that it is not in conflict with the regional plan or policies. If it does have region wide significance, the Commission shall determine whether or not it is in conflict with the regional plan or policies. In making such determination, it may also consider whether the proposed project is properly coordinated with other existing or proposed projects within the region. The Commission shall thereupon record upon the application its views and comments and transmit the application to the originating governmental unit, with a copy to the federal or State agency concerned.

(h) The Governor shall issue guidelines to Commissions and governmental units to carry out the provisions of this Act relating to review and comment procedures.

(i) The Governor and agencies of the State shall provide such technical information and assistance to members of Commissions and their staffs as will increase to the greatest extent feasible the capabilities of such Commissions in discharging the various duties and responsibilities set forth in this Act.

Operations

Sec. 5. The cooperating governmental units may through joint agreement determine the number and qualifications of the governing body of the Commission. The governing body of the Commission shall consist of at least sixty-six and two-thirds percent (66 $\frac{2}{3}$ %) elected officials of general purpose governmental units. The joint agreement may provide for the manner of cooperation and the means and methods of the operation of the Commission. The joint agreement may provide a method for the employment of the staff and consultants,

the apportionment of the cost and expenses, and the purchase of property and materials. The joint agreement may allow for the addition of other governmental units to the cooperative arrangement.

Funds

Sec. 6. (a) A Regional Planning Commission is authorized to apply for, contract for, receive and expend for its purposes any funds or grants from any participating governmental unit or from the State of Texas, federal government, or any other source.

(b) The Commission shall have no power to levy any character of tax whatever. The participating governmental units may appropriate funds to the Commission for the cost and expenses required in the performance of its purposes.

(c) A Commission which meets the conditions set forth below shall be annually eligible for a maximum amount of State financial assistance based on the formula: Ten Thousand Dollars (\$10,000.00) base grant to each certified organization, plus an additional One Thousand Dollars (\$1,000.00) per dues paying member county, plus an additional ten cents (\$.10) per capita for all population served of dues paying member counties and incorporated municipalities. The minimum amount of annual State financial assistance for which a Commission shall apply shall be Fifteen Thousand Dollars (\$15,000.00).

(d) A Commission to qualify for State financial assistance must have an amount of funds available annually from sources other than federal or state governments equal to or greater than one-half of the State financial assistance amount for which the Commission applies.

(e) In order to be eligible for State financial assistance, a Commission shall comply with the regulations of the agency responsible for administering this Act and shall:

(1) Offer membership in the Commission to all general purpose governments (counties and incorporated municipalities) included in the State Planning Region or Subregion;

(2) Be composed of two or more general purpose governments having a combined population equal to not less than sixty percent (60%) of the total population of the State Planning Region or Subregion, and for purposes of this Act the population of the county shall be the population outside any dues paying member incorporated municipality;

(3) Encompass a geographical area that is economically and geographically interrelated and which forms a logical planning area or region and includes at least one full county;

(4) Be engaged in a comprehensive development planning process.

Interstate Commissions

Sec. 7. With advance approval of the Governor, a Commission including a region or area which is contiguous to an area lying in another state may join with any similar commission or planning agency in such areas to form an interstate Regional Planning Commission or may permit the Commission in the contiguous area to participate in the planning functions of a Commission formed pursuant to this Act, and the funds provided under the provisions of Section 6 of this Act may be commingled with the funds provided by the state governments having jurisdiction over the contiguous areas.

International Areas

Sec. 8. With advance approval of the governor, a Commission in a region or area contiguous to areas in the Republic of Mexico may expend the funds available under the provisions of Section 6 of this Act in cooperation with agencies of the Republic of Mexico or its constituent states or local governments for planning studies encompassing areas lying both in this state and in contiguous territory of the Republic of Mexico.

Dissolution

Sec. 9. Unless it has been agreed to the contrary, any participating governmental unit may, by a majority vote of its membership qualified in serving, withdraw from its participation in any Regional Planning Commission.

[Acts 1965, 59th Leg., p. 1248, ch. 570, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1367, ch. 413, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1699, ch. 492, §§ 1, 2, eff. May 28, 1971.]

Art. 1012. Style of Ordinances

The style of all ordinances shall be "Be it ordained by the city council of the city of _____" (inserting the name of the city); but it may be omitted when published in the form of a book or pamphlet.

[Acts 1925, S.B. 84.]

Art. 1013. Publication of Ordinances

(1) Every ordinance imposing any penalty, fine or forfeiture shall, after the passage thereof, be published in every issue of the official paper for ten (10) days. If the official paper be published weekly, the publication shall be made in one issue thereof. Proof of such publication shall be made by the printer or publisher of such paper by affidavit filed with the city secretary, and shall be prima-facie evidence of such publication and promulgation of such ordinances in all courts of the State. Such ordinances shall take effect and be in force from and after the publication thereof, unless otherwise expressly provided. Ordinances not required to be published shall take effect from their passage, unless otherwise provided.

(2) In lieu of the publication required in Section (1) of this Article, the governing body may in its discretion provide for the publica-

tion of a descriptive caption or title, stating in summary the purpose of the ordinance and the penalty for violation thereof.

(3) Any town or city desiring to publish its ordinances in pamphlets or book form need not republish such ordinances as have been previously published. All such ordinances, where printed and published by authority of the city council, shall be admitted and received in all courts without further proof.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 462, ch. 263, § 1.]

Art. 1014. May Remit Fines

The city or town council shall have power to remit in whole or in part by a vote of two-thirds of the members present, any fine or penalty belonging to the city, which may be imposed or incurred under this title, or under any ordinance or resolution passed in pursuance thereof.

[Acts 1925, S.B. 84.]

Art. 1015. Other Powers

The governing body shall also have power:

1. Promotion of health.—To do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease.

2. Quarantine regulations.—To make regulations to prevent the introduction of contagious disease into the city; to make quarantine laws for that purpose, and to enforce them within the city and within ten miles thereof.

3. Joint sanitary regulations.—To co-operate with the commissioners' court of the county in which the municipality is situated in making such improvements as may, by it and said court, be deemed necessary to improve the public health and promote efficient sanitary regulations, and to arrange for the construction of, and payment for, said improvements.

4. Hospitals.—To erect or establish one or more hospitals, and control and regulate the same, and to prohibit or to permit and regulate the establishment of private hospitals.

5. Food inspection, etc.—To regulate the inspection of beef, pork, flour, meal, salt and other provisions; to appoint weighers, gaugers and inspectors, and to prescribe their duties and regulate their fees.

6. Sale of bread.—To regulate the weight and quality of the bread to be sold or used within the city.

7. Butchers.—To make such rules and regulations in relation to butchers as they may deem necessary and proper.

8. Unclean establishments.—To compel the owner or occupant of any grocery, soap, tallow, or Chandler establishment, or blacksmith shop, tannery, stable, slaughterhouse, sewers, privy, hide house or other unwholesome or nauseous house or place, to cleanse, remove or abate the same, as may be necessary for the health, comfort and convenience of the inhabitants.

9. Location of establishment.—To direct the location of business, tanneries, blacksmith shops, foundries, livery stables and any manufacturing establishments; to direct the location and regulate the management and construction of, restrain, abate and prohibit within the city limits, slaughtering establishments and hide houses or establishments for making soap, for steaming or rendering lard, tallow, offal and such other substances as may be rendered; and all other establishments or places where any nauseous, offensive or unwholesome business may be carried on.

10. Drains, sinks, etc.—To require the owner of private drains, sinks and privies to fill up, cleanse, drain, alter, relay, repair, fix or improve the same as may be ordered by any resolution or ordinance of said city; and in the event of any failure, neglect or refusal to comply with any such order, the party so failing shall be liable to fine. In the event of there being no person in the city on whom such order can be served, the city may have such work done and such improvements made on account of the owner thereof. All costs, charges and expenses shall be a lien on the property, on the filing of a memorandum by the mayor, under the seal of the corporation thereof, and recording the same with the clerk of the district court. The city may enforce said lien and institute suit in the corporate name and obtain judgment against said party for the amount so due as aforesaid in any court having jurisdiction.

11. Nuisances.—To abate and remove nuisances and to punish the authors thereof by fine, and to define and declare what shall be nuisances and authorize and direct the summary abatement thereof; and to abate all nuisances which may injure or affect the public health or comfort in any manner they may deem expedient.

12. Dead animals, etc.—To prevent any person from bringing, depositing or having within the limits of said city any dead carcass, or other offensive or unwholesome substance or matter, and to require the removal or destruction by any person who shall have placed or caused to be placed upon or near his premises, or elsewhere, of any substance or matter, filth, or any putrid or unsound beef, pork or fish, hides or skins of any kind; and, on his default, to authorize the removal or destruction thereof by some officer of the city, and to require the owner of any dead animal to remove the same to such place as may be designated.

13. Burial of dead, etc.—To regulate the burial of the dead; to purchase, establish and regulate one or more cemeteries; to regulate the registration of marriages; and to direct the returning and keeping of bills of mortality.

14. Driving animals in city.—To prevent regulate and control the driving of cattle, horses and other animals into or through the city.

15. Dogs.—To tax, regulate or restrain and prohibit the running at large of dogs and to authorize their destruction when at large con-

trary to ordinances, and to impose penalties for violation of such ordinances.

16. Pounds.—To establish and regulate public pounds, and to regulate, restrain and prohibit the running at large of horses, mules, cattle, sheep, swine, and goats, and to authorize the distraining, impounding and sale of the same for the costs of the proceedings and the penalty incurred, and to order their destruction when they cannot be sold and to impose penalties on the owners thereof for the violation of any ordinance.

17. Breeding animals.—To pass necessary ordinances to prevent any person, corporation or association of individuals from keeping for breeding purposes a jack, bull or stallion within the corporate limits of such city or town.

18. Control of police.—To create, establish and regulate the police of the city; to appoint watchmen and policemen, and to prescribe their duties and powers and compensation.

19. Workhouses.—To erect and establish one or more workhouses or houses of correction, within or without the city limits, make all necessary rules and regulations therefor, and appoint all necessary keepers or assistants. In such workhouse or house of correction may be confined all vagrants and disorderly persons, who may be committed by the mayor or recorder, and any person who shall fail or refuse to pay the fine or costs imposed for any offense may, instead of being committed to jail, be kept therein.

20. Breach of peace, etc.—To prevent all trespasses, breaches of the peace and good order, assaults and batteries, fighting, quarreling, using abusive, obscene, profane or insulting language and all disorderly conduct, and punish all persons thus offending.

21. Public disturbances.—To suppress and prevent any riot, affray, noise, disturbance or disorderly assembly in any public or private place within the city.

22. Noises and annoyances.—To prohibit and restrain the firing of firecrackers, guns and pistols, use of velocipedes, or use of any pyrotechnic or any other amusements or practices tending to annoy persons passing in the streets or sidewalks, or to frighten horses or teams; to restrain and prohibit the ringing of bells, blowing of horns and bugles, crying of goods, and all other noises, practices and performances tending to the collection of persons on the streets and sidewalks, by auctioneers and others, for the purpose of business, amusement or otherwise.

23. Obstructions on public ways, etc.—To prevent the incumbering of the streets, alleys, sidewalks, and public grounds, with any vehicle whatsoever, boxes, lumber, posts, awnings, signs, or any other substance or material whatever, to compel persons to keep all weeds, filth or any kind of rubbish from the sidewalks and streets and gutters in front of their premises, and to compel the owners of property to fill up,

grade, gravel and otherwise improve the sidewalks in front of same.

24. Dangerous buildings, etc.—To order, whenever in the opinion of the city council, any building, fence, shed, awning or any erection of any kind or any part thereof is liable to fall down and endanger persons or property, any owner or agent of the same, or any owner or occupant of the premises on which such building, shed, awning or other erection stands or to which it is attached, to take down and remove the same, or any part thereof, within such time as they may direct; and to punish by fine and imprisonment, or either, any neglect, failure or refusal to comply therewith. The city council shall have power to remove the same at the expense of the city, on account of the owner of the property or premises, and assess the expenses on the land on which it stood or to which it was attached, and shall, by ordinance, provide for such assessment, the mode and manner of giving notice and the means of recovering any such expenses.

25. Bridges, sewers, etc.—To establish, erect, construct, regulate and keep in repair, bridges, culverts, and sewers, sidewalks and crossways, and to regulate the construction and use of the same, and to abate any obstructions or encroachments thereon; and the cost of construction of sidewalks shall be defrayed by the owner of the lot, or part of lot or block, fronting on the sidewalk. The cost of any sidewalk constructed by the city shall be collected, if necessary, by the sale of the lot, or part of lot or block on which it fronts, together with the cost of collection, in such manner as the city council may by ordinance provide. A sale of any lot or part of lot or block to enforce collection of costs of sidewalks shall convey a good title to the purchaser. The balance of proceeds of such sale, after paying the amount due the city and costs of sale, shall be paid to the owner.

26. Street railways.—To compel street railway companies to keep their roads in repair, and to make them conform to the grades of the streets upon which their tracks may be laid, whenever said streets shall have been graded by the city, and to restrain the rate of speed and to compel such railroads to supply ample accommodation for the safe and convenient travel of the people on the street where their track may run. The city council may enforce these regulations by proper ordinances with suitable penalties.

27. Railway companies.—To direct and control the laying and constructing of railroad tracks, turnouts and switches, or prohibit the same in the streets, avenues and alleys, unless the same have been authorized by law, and the location of depots within the city; to require that railroad tracks, turnouts and switches shall be so constructed as to interfere as little as possible with the ordinary travel and use of streets, avenues and alleys and that sufficient space shall be left on either side of a track for the safe and convenient passage of teams, car-

riages and other vehicles, and persons; to require railroad companies to keep in repair the streets, avenues or alleys through which their track may run, and, if ordered by the city council, to construct and keep in repair, suitable crossings at the intersection of streets, avenues and alleys, and ditches, sewers and culverts, when the city council shall deem it necessary; to direct the use and regulate the speed of locomotive engines in said city, or to prevent and prohibit the use or running of the same within the city.

28. Unsafe driving.—To prevent, prohibit and suppress horseracing, immoderate riding or driving in the streets; to compel persons to fasten their horses or other animals attached to vehicles, or otherwise, while standing or remaining in the streets.

29. Light and gas.—To provide for lighting the streets and erecting lamp posts therein, and regulating the lighting thereof, and from time to time create, alter or extend lamp districts, to exclusively regulate, direct and control the laying and repairing of the gas pipes and gas fixtures in the streets, alleys, sidewalks and elsewhere.

30. Water system.—To provide, or cause to be provided, the city with water; to make, regulate and establish public wells, pumps and cisterns, hydrants and reservoirs in the streets or elsewhere within said city or beyond the limits thereof, for the extinguishment of fires and the convenience of the inhabitants, and to prevent the unnecessary waste of water. Any city or town owning, or that may hereafter own, its water system and plant, shall not lease or sell the same without first submitting the question of such proposed lease or sale to a vote of the qualified voters who are property taxpayers of such town or city as shown by the last preceding tax rolls, at a general election, or at one held for that especial purpose, nor unless a majority of those voting shall vote in favor thereof. Before submitting such question to a vote as aforesaid, the proposed contract of lease or sale shall be distinctly set forth in the form of an ordinance or contract, and shall be filed with the city or town secretary or clerk at least twenty days prior to the day of the election, and shall at all times be subject to inspection by the people of such city.

31. Market house.—To establish or erect, or cause to be established or erected, markets and market houses; designate, control and regulate market places and privileges; inspect and determine the mode of inspecting meat, fish, vegetables and all produce and every article and thing therein brought for sale.

32. Parks, etc.—To provide for inclosing, regulating and improving all public grounds and cemeteries belonging to the city, and to direct and regulate the planting and preserving of ornaments and shade trees in the streets, sidewalks or public grounds.

33. Libraries.—To establish a free library in such city or town; to adopt rules and regula-

tions for the proper management thereof, and to appropriate such part of the revenues of such city or town for the management and increase of such free library as the municipal government of such city or town may determine.

34. Street car taxes.—To assess and collect the ordinary municipal taxes upon street railways.

35. Trade taxes.—To tax all trades, professions, occupations and callings, the taxing of which is not prohibited by the Constitution of this State; which tax shall not be construed to be a tax on property.

36. Chauffeurs, porters, etc.—To license, tax and regulate hackmen, draymen, omnibus drivers and drivers of baggage wagons, porters, and all others pursuing like occupations, with or without vehicles, and prescribe their compensation, and provide for their protection and make it a misdemeanor to attempt to defraud them of any legal charge for services rendered, and to regulate, license and restrain runners for railroads, stages and public houses.

37. Peddlers, theaters, etc.—To license, tax and regulate or suppress and prevent hawkers, peddlers, pawnbrokers and keepers¹ or other exhibitions, shows and amusements.

38. Circuses, etc.—To license, tax or regulate theaters, circuses, the exhibitions of common showmen, shows of any kind, and the exhibition of natural and artificial curiosities, caravans, menageries and musical exhibitions and performances.

39. Licenses and fees.—To authorize the proper officer of the city to grant and issue licenses, and to direct the manner of issuing and registering thereof, and the fees to be paid therefor. No license shall be issued for a longer period than one year, and shall not be assignable except by permission of the city council.

40. Finances and property.—To manage and control the finances and all property, real and personal and mixed, belonging to the corporation.

41. Appropriations.—To appropriate money, and provide for the payment of debts and expenses of the city.

42. Special funds.—To provide by ordinance special funds for special purposes, and to make the same disbursable only for the purpose for which the fund was created. Any officer of the city misappropriating said special fund shall be deemed guilty of malfeasance in office, and shall, on complaint of any one interested in said funds misappropriated, be removed from office, and be incapable thereafter to hold any office in said city.

43. Improvements.—To appropriate so much of the revenues of the city emanating from whatever source, for the purpose of retiring and discharging the accrued indebtedness of the city, and for the purpose of improving the

public markets and streets, erecting and conducting city hospitals, city hall, waterworks, and so forth, as they may from time to time deem expedient; and in furtherance of these objects, to borrow money upon the credit of the city.

[Acts 1925, S.B. 84.]

¹So in enrolled bill. Words "of theatrical" probably should be inserted.

Art. 1015a. Condemnation of Lands for Parks

In case of the condemnation of land for laying out, establishing or enlarging any parks, parkways or pleasure grounds by any city in Texas which now has or may hereafter have a population of 12,000 or more inhabitants, the governing body of said city may, by ordinance, provide that the cost of such land and improvements shall be paid for, wholly or in part to an extent not exceeding the special benefits received by the property owners owning property in the vicinity thereof and benefited thereby, and may fix liens against said property so benefited to the extent same is specially benefited, provided, however, no assessments nor liens shall hold against homestead property so designated under existing laws and the procedure for and manner of assessing and collecting said benefits against and from said property owners and their said property shall be the same as that authorized by law in such city in which such proceedings are had in connection with the opening or widening of streets. Such assessments may be made payable in not exceeding sixteen (16) installments, the last maturing in not over fifteen (15) years, and may bear interest at not more than eight per cent (8%) per annum.

[Acts 1927, 40th Leg., p. 433, ch. 288, § 1.]

Art. 1015b. Repealed by Acts 1969, 61st Leg., p. 362, ch. 131, § 1, eff. Sept. 1, 1969.

Art. 1015c. Parks and Recreation Projects

Purchase and Encumbrance

Sec. 1. All cities and towns, including Home Rule cities, in the State of Texas, shall have power to build and purchase, to mortgage and encumber any of the hereinafter named project and/or projects, to wit: parks and/or swimming pools, golf courses, golf course club houses, ball parks, fairgrounds, exposition buildings, airports, and the land upon which the same are situated, either or all, and the income therefrom and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same or funds with which to construct and equip the same; and as additional security therefor, by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the projects herein enumerated and properties so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then

in force. No such obligation of any such project and/or projects shall ever be a debt of said city or town, but solely a charge upon the properties of the project and/or projects so encumbered, and shall never be reckoned in determining the power of any such city or town to issue any bonds for any purpose authorized by law.

Election to Authorize Sale

Sec. 2. None of the projects named in Section 1 of this Act, nor the land upon which the same are situated, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city or town; nor shall the same be encumbered for more than Five Thousand Dollars (\$5000), except for purchase money, or funds with which to construct and equip the same or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities and towns, provided that no election shall be necessary for the encumbering of golf courses, golf course club houses, fairgrounds, airports and exposition buildings and the land upon which the same are situated, where encumbrances of any such project and/or projects has or have already been authorized at the time of the passage of this Act by a majority vote of the qualified voters at an election held for such purpose.

Validation of Bonds or Warrants

Sec. 3. All proceedings heretofore had by the governing bodies of all cities and towns, including Home Rule cities, in the State of Texas in the issuance and sale of bonds, notes and warrants or other obligations to aid in financing any of such project and/or projects for which a loan or grant has been made or applied for the United States through the Federal Emergency Administrator of Public Works or any agency, department or division of the Government of the United States of America are herein in all things fully validated, confirmed, approved and legalized, and all such bonds, notes or warrants or other obligations issued thereunder are hereby declared to be the valid and binding obligation of said cities or towns and all such bonds, notes or warrants or other obligations which have been heretofore authorized but not yet issued, shall, when delivered and paid for, constitute valid and binding obligations of such cities or towns, and any election heretofore held in such cities and towns, including Home Rule cities, in which the qualified votes of any such city or town have authorized the mortgage or encumbrance of any such project and/or projects named in this Act and the ground on which the same was to be erected, is hereby in all things fully validated, ratified, confirmed, approved, and legalized.

Records and Accounts; Penalty

Sec. 4. It shall be the duty of the mayor of such cities or towns to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest and the creation of a sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such project and/or projects to file with the mayor of such cities or towns, not later than February 1st, a detailed report of the operations of such project and/or projects for the year ending January 1st preceding, showing the total sum of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such project and/or projects during such calendar year.

Failure or refusal on the part of the mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such project and/or projects, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000); and any taxpayer residing within such city or town, or holder of such indebtedness, shall have the right, by appropriate civil action in the District Court of the county in which such city or town is located, to enforce the provisions of this Act.

[Acts 1935, 44th Leg., 2nd C.S., p. 1741, ch. 453.]

Art. 1015c-1. Recreational Programs and Facilities; Establishment by Counties, Cities and Towns, Jointly or Singly, Authorized

Purpose

Sec. 1. The purpose of this Act is to promote the establishment, operation and support of public recreational facilities and programs by local government units of this State either singly or jointly.

Definitions

Sec. 2. As used in this Act:

(a) The term "governing body" means any city council, city commission, county commissioners court, or other body acting in lieu thereof.

(b) The term "governmental unit" means any city, town, or county.

(c) The term "board" means any board, commission, committee or council appointed or designated to carry out the provisions of this Act.

Recreational Powers

Sec. 3. Any governmental unit may establish, provide, acquire, maintain, construct, equip, operate, and supervise recreational facilities and programs, either singly or jointly in cooperation with one (1) or more other governmental units.

Elections

Sec. 4. Any governmental unit may submit the question of whether it shall exercise the powers conferred in Section 3 to an election of the qualified electors of such unit.

Finances

Sec. 5. Any governmental unit may pay costs and expenses of carrying out the provisions of this Act from the general revenues of the unit, or from other revenues now provided by law for the establishment or the operation of parks and recreational facilities. Governmental units jointly exercising the powers conferred in Section 3 may agree upon the manner and method of division of costs and expenses.

Administration

Sec. 6. A governing body may administer and operate recreational facilities and programs through a bureau or department of recreation or through a board established jointly with another governing body. The Board shall adopt and promulgate rules and regulations for administration and operation of recreational facilities and programs in its charge subject to the approval of the establishing governing bodies.

Acceptance of Gifts

Sec. 7. Any governmental unit may accept any grant, lease, loan or devise of real estate, or gift or bequest of money, either principal or income, or any other personal property for either temporary or permanent use for the establishment, operation, or support of public recreation facilities and programs.

Limitations

Sec. 8. This Act shall be cumulative as to all laws, ordinances, and charter provisions relating to public recreation and parks.

[Acts 1955, 54th Leg., p. 1179, ch. 458.]

Art. 1015c-2. Swimming Pools

Power of Cities; Obligations as Debts of Cities or Towns

Sec. 1. All cities and towns, including Home Rule Cities, operating under Title 28, Revised Civil Statutes, 1925, as amended, shall have the power to build, purchase, improve, enlarge and repair, to mortgage and encumber their swimming pools and the gross income and revenues thereof, either or both, and everything pertaining thereto acquired or to be acquired, and to evidence the obligation thereof by the issuance of its revenue bonds. No such obligation shall ever be a debt of such city or town, but shall be solely a charge upon the

properties or income so encumbered, and such bonds shall never be reckoned in determining the power of such city or town to issue bonds for any other purpose authorized by law.

Bond Issues

Sec. 2. Except as modified by the provisions of this Act, the issuance of bonds, additional bonds or refunding bonds shall be governed by the provisions of Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925, as amended, which Chapter is hereby made applicable to the bonds authorized to be issued under the provisions of this Act.

Examination and Approval of Bonds; Registration

Sec. 3. Prior to delivery thereof, all bonds authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city or town authorizing their issuance, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Bonds Eligible for Investment and to Secure Deposits

Sec. 4. Such bonds shall be and are hereby declared to be legal and authorized investments of banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas, and for all public funds of the State of Texas or its agencies including the State Permanent School Fund. Such bonds shall be eligible to secure deposit of public funds of the State of Texas and public funds of cities, towns, villages, counties, school districts or other political subdivisions or corporations of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative Effect of Law

Sec. 5. This Act is cumulative of all other Acts on the subject and shall not repeal or affect any other law or part of law relating to such subject unless they are expressly inconsistent and then only to the extent of such inconsistency. It is expressly provided that all existing laws relating to the issuance of revenue bonds by cities and towns, including but not limited to those found in Chapter 10, Title 28 of the Revised Civil Statutes of Texas, 1925, as amended, shall remain unimpaired by the provisions of this Act.

[Acts 1965, 59th Leg., p. 1452, ch. 640, eff. Aug. 30, 1965.]

Art. 1015d. Acquisition of Gas Systems and Distribution of Gas by Cities

Sec. 1. Any city (or), town, or village, whether created by general or special law, including cities operating under the Home Rule Amendment to the State Constitution, which is served neither by an artificial gas distribution system nor by a natural gas distribution system, privately owned or owned by said city, may acquire either by purchase, construction, or otherwise a system designed to prepare, to make available, and to distribute to the inhabitants of the city who may subscribe for such service, artificial gas useful for fuel and lighting purposes, manufactured and compounded substantially in the following manner: liquefied butane, a by-product obtained in the manufacture of gasoline from natural gas, is mixed with a proper proportion of propane, resulting in a liquefied gas capable of being transported in tank cars or otherwise to storage tanks, whence it may be drawn and mixed by automatically controlled mixing machines and released into gas storage tanks, said mixture then being suitable for distribution in mains and laterals to consumers, or manufactured and compounded in any other manner which will result in making available for distribution in mains and laterals, an economically useful gas for domestic and commercial fuel and lighting uses.

Sec. 2. The provisions of Articles 1111 to 1118, inclusive, of Revised Civil Statutes of 1925 with all amendments thereto are hereby adopted by reference as prescribing the procedure to be used by such cities and towns in acquiring such gas systems, and in making and evidencing their obligations to pay for same out of revenues pledged for the purpose, in encumbering said systems, in operating said systems and in reference to the enforcement of such obligations to the extent that such provisions are not in conflict with the provisions of this Act, as fully as if all of said provisions were copied herein, including that provision that every contract, note or other evidence of indebtedness issued or under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Sec. 3. In letting contracts for construction of such systems and in providing for the issuance of revenue bonds, notes or warrants under authority of this Act, the applicable provisions of Chapter 163, Acts of the Regular Session of the Forty-second Legislature,¹ known as "The Bond and Warrant Law of 1931" are hereby adopted as the procedure to be followed under this Act insofar as said provisions have reference to revenue bonds, notes and warrants.

Sec. 4. This Act shall be cumulative of all existing laws and the powers herein conferred shall be considered as in addition to powers now possessed by cities of the class included in this Act.

[Acts 1935, 44th Leg., 2nd C.S., p. 1866, ch. 473; Acts 1937, 45th Leg., p. 567, ch. 278, § 1.]

¹ Article 2368a.

Art. 1015e. Licensing Dealers in Motor Vehicles or Accessories

Sec. 1. The power and authority is hereby conferred upon all cities and towns of Texas, whether incorporated under general or special law, to provide suitable ordinance, for the regulation, supervision, control and licensing of all persons, firms or corporations engaged, primarily or incidentally, in the sale, barter or exchange of motor vehicles, or parts thereof or accessories thereto within the corporate limits of such city, and to fix penalties for the violation thereof; provided that all sums of money collected from such dealers shall be used by the city for the enforcement hereof, and for the enforcement of all provisions of the law regulating the sale, theft or exchange of motor vehicles or parts, or accessories thereto and for no other purpose.

Sec. 2. In case any section, subdivision, paragraph, or sentence of this Act is declared unconstitutional the validity of the remainder of this Act shall not be affected thereby.

[Acts 1937, 45th Leg., p. 404, ch. 203.]

Art. 1015f. Motor Vehicles, Regulation of Operation by Cities of 230,000 to 232,000 Inhabitants**Ordinances Authorized**

Sec. 1. All Cities and Towns in the State of Texas, whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of 230,000 and not exceeding 232,000 inhabitants, according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority to pass an ordinance or ordinances:

(a) Requiring all residents of said City, including corporations having their principal office or place of business in said City, owning a motor vehicle used for the transportation of persons or property, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of all such motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said City after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said City that such motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, including the State Highway Patrol, and shall have com-

plied with all provisions of said ordinance;

(d) Authorizing City Patrolmen and State Highway Patrolmen in uniform to stop without warrant such drivers of motor vehicles as may fail to comply with said ordinance and issue to the violators such traffic violation tickets as may be provided under said ordinance;

(e) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Testing Stations

Sec. 2. Said Cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Fees for Testing and Inspecting Vehicles

Sec. 3. Said Cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One (\$1.00) Dollar per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Financing Purchase of Testing Stations

Sec. 4. Said Cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such City, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such City to issue bonds for any purpose authorized by law. Said Cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Partial Invalidity

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitu-

tional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Not Applicable to Vehicles Operating Under Certificate from Railroad Commission

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers, or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

[Acts 1937, 45th Leg., p. 750, ch. 368.]

Art. 1015g. Toll Bridges Over International Boundary Rivers, Powers Respecting

Acquisition

Sec. 1. Any city or town in this State now or hereafter incorporated under the General Laws of the State, or incorporated and acting under its Special Charter or Home Rule Charter, and having located within its corporate limits or outside its corporate limits but within a distance of fifteen (15) miles from such corporate limits thereof, a toll bridge over a river between the State of Texas and the Republic of Mexico shall have power to acquire any such toll bridge, with its rights and franchises and appurtenant properties, by purchase thereof from the owner or owners thereof; either by purchase of the properties, as such, or, if such toll bridge is owned by a private corporation, either by purchase from it of the properties, as such, or by purchasing the capital stock of such corporation from the owner or owners of such stock, either all of the outstanding capital stock of such corporation or a sufficient amount thereof as required under the law for the dissolution and liquidation of such corporation, and immediately liquidating such corporation, paying the debts and obligations or liabilities thereof, and winding up its business and affairs, and causing conveyance of its properties to said city or town, taking the Title to such stock either in the name of such city or town or in the name of a trustee therefor, and voting or causing such stock to be voted to carry out and accomplish such purposes, and all in such manner and to such effect as to vest title to such toll bridge, with its rights and franchises and appurtenant properties, in such city or town; and to thus purchase and acquire any such properties or stock of such corporation, from the owner or owners thereof, for such price, upon such terms and conditions, and upon such covenants and agreements in respect thereto, and to make and enter into such contracts and agreements with such owner or owners therefor, in respect thereto, and to accomplish the purposes of this Act, as may be agreed upon by and between such owner or owners and the Governing Body of any such city or town, the action of the latter being expressed by Ordinance, all as consistent with and subject to the provisions of this Act.

General Powers after Acquiring Bridge

Sec. 2. Any such city or town thus acquiring any such toll bridge shall have power to maintain and operate same, and to own, hold, and control the same, and to make or cause to be made any repairs, improvements, replacements, extensions, or additions thereto, and to renew or extend any franchises therefor, and to obtain new or additional franchises therefor, and to do any and all things required or that may be proper or necessary to the maintenance and operation thereof, and conduct of the business thereof, and of rendering the services thereof to the public and to the patrons of said toll bridge; and to such end and for such purposes shall have power to make and enter into, and to carry out, observe, and perform, any and all contracts, agreements, and undertakings, of any and every kind, required by the United States of America or any of its departments, officers, or governmental agencies, or the public authorities thereof; or required by the Republic of Mexico, or any of its departments, officers, or governmental agencies, or the public authorities thereof.

Tolls and Charges

Sec. 3. Any such city or town thus acquiring any such toll bridge shall have power, to be exercised by its Governing Body as expressed by Ordinance, to fix and to enforce and collect tolls and charges for the use thereof, and for the passage or transportation of persons or property, passengers, vehicles, freight and commodities, over and across such toll bridge. Such tolls and charges shall be fixed from time to time by the Governing Body of any such city or town, and collected under its direction, in accordance with the provisions and requirements of any permits or franchises granted or extended by any governmental authority in respect of or applicable thereto; and, subject to the provisions and requirements of any such permits or franchises, shall be just and reasonable and non-discriminatory, as determined by such Governing Body of any such city or town, and with no free service until the bonds herein provided to be issued to acquire such properties, together with the interest thereon, and all duties and obligations incident thereto or arising therefrom are first fully paid, met, and discharged; and, subject to the provisions and requirements of any such permits and franchises, shall be sufficient to produce revenues adequate:

(a) to pay all expenses necessary to the maintenance and operation of such toll bridge, and to comply with the requirements and make all payments necessary under the provisions of any such permits and franchises therefor;

(b) to pay the interest on and the principal of all bonds issued under this Act when and as the same shall become due and payable;

(c) to pay all sinking fund and/or reserve fund payments agreed to be made in respect of any such bonds, and payable out-

of such revenues, when and as the same shall become due and payable; and

(d) to fulfill the terms of any agreements made with the holders of such bonds and/or with any person in their behalf;

(e) out of the revenues which may be received in excess of those required for the purposes specified in subparagraphs (a), (b), (c), and (d) above, the Governing Body of any such city or town may in its discretion establish a reasonable depreciation and emergency fund, or retire (by purchase and cancellation or redemption) bonds issued under this Act, or apply the same to accomplish any of the purposes of this Act;

(f) it is the intention of this Act that the tolls and charges herein provided for shall not be in excess of what may be necessary to fulfill the obligations imposed by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control tolls and charges to be collected for such purposes, or to provide for bridges over any such river to be used free of any tolls or charges, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the State will not limit or alter the power hereby vested in any such city or town or the Governing Body thereof to establish and collect such fees and charges as will produce revenues sufficient to pay the items specified in subparagraphs (a), (b), (c), and (d) of this Section 3 of this Act, or exercise its powers in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of any such city or town in connection with such bonds are fully met and discharged.

Definition of Toll Bridge with its Rights and Franchises and Appurtenant Properties; Acquisition of All or Part

Sec. 4. The term "toll bridge, with its rights and franchises and appurtenant properties" is hereby defined to mean and include the physical properties of any such bridge, together with and including all permits, grants, franchises, rights, and privileges, of every kind granted or extended by the United States of America, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by the Republic of Mexico, or the Congress thereof, or any department, officer, agency, or governmental authority thereof; or by any State or municipality or political subdivision of either or both said two (2) Nations; for or in relation to or in respect of the construction, maintenance, or operation of any

such toll bridge; or the collection of tolls and charges for the uses thereof; and including all lands, rights of way, easements, leasehold, contractual or other interest of any kind in any lands in either or both said two (2) Nations, held or used or in any manner incident to or for the construction, maintenance, or operation of such bridge, or the approaches thereto, or for the use or occupancy of any buildings, structures, appurtenances, appliances, roads, streets, parks, grounds, or conveniences or facilities of any kind, related or in any manner incident thereto; and including all buildings, structures, appurtenances, appliances, equipment, conveniences and facilities, of every kind, held or used or in any manner incident to or for the construction, maintenance, and operation of said bridge; and including all leases and contracts of every kind for the use or occupancy of any such lands, buildings, structures, conveniences, appliances and facilities; and including all rights and properties of every kind incident to or used for the construction, maintenance, or operation of any such toll bridge; each and all whereof shall be construed as included within the meaning of such term "toll bridge, with its rights and franchises and appurtenant properties" as such term is used in this Act; provided, however, that any such city or town, in exercising the powers herein granted, may acquire by purchase as herein provided, all or any part of any such toll bridge, that is, either the entire bridge or only that part thereof which is situated in the State of Texas; and either all or any part of or any of the respective such grants, permits, franchises, rights, contracts, privileges, easements, leases, lands, rights of way, buildings, structures, appurtenances, appliances, equipment, facilities, and other interests and items above enumerated, as included within the meaning of such term "toll bridge, with its rights and franchises and appurtenant properties" as used in this Act; as the Governing Body of any such city or town may, in its discretion, determine and deem best.

**Parks, Recreation Grounds, Camps, Quarters,
Accommodations and Facilities**

Sec. 5. Any such city or town acquiring any such toll bridge shall have the power, in connection with the maintenance and operation thereof, to acquire lands and a site or sites for the purpose either within or without the corporate limits of such city or town, within territory adjacent to said city or town or to said toll bridge, and to construct, maintain, and operate parks, recreation grounds and facilities, camps, quarters, accommodations and facilities, for the use and convenience of the public; and to fix and to enforce and collect fees, rentals, and charges, for the use thereof, which shall be just and reasonable and non-discriminatory, as determined by and fixed from time to time by the Governing Body of such city or town; and to make and enforce reasonable rules and regulations therefor; and if such toll bridge is located within the corporate limits of the city, to

manage, control, govern, police and regulate the same, and if the toll bridge is situated outside of the corporate limits of the city to manage, control, govern, police and regulate the same to the same extent as if it were located within the corporate limits of the city.

**Borrowing Money; Grants from United States
or Agencies**

Sec. 6. Any such city or town, to accomplish the purposes of this Act, shall have power to borrow money from any person or corporation, and, without limitation of the generality of the foregoing, to borrow money and accept grants from the United States of America, or from any corporation or agency created by the United States of America or designated or empowered to act as an agency thereof, and, in connection with any such loan or grant, to enter into such agreements as the United States of America or such agency or corporation may require in respect or in relation thereto.

Issuance of Bonds

Sec. 7. Any such city or town shall have the power to accomplish the purposes of this Act, to issue, sell and deliver, its negotiable bonds; which bonds or the proceeds of the sale thereof may be used to purchase and acquire from the owner or owners thereof any such toll bridge, with its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased by any such city or town as herein provided for, either by purchase of the properties, as such, or by using such bonds or the proceeds of the sale thereof for the purchase from the owner or owners thereof of the stock of any corporation owning such toll bridge and for the liquidation and winding up of the business and affairs of such corporation and paying the debts and obligations or liabilities thereof, and all in such manner and to such effect as to vest title to such toll bridge, with its rights and franchises and appurtenant properties, or such part or portion thereof as may be purchased, in said city or town as provided for herein; and which bonds may be exchanged for property or sold as herein provided; to accomplish any of the purposes of this Act as herein provided.

Mortgages or Pledges

Sec. 8. Any such city or town shall have the power, in respect to any such bonds issued in pursuance of the provisions of this Act to accomplish any of the purposes of this Act, to mortgage or pledge all or any part of or any interest in any such toll bridge, with its rights and franchises and appurtenant properties, or any of the properties acquired or to be acquired with such bonds or the proceeds of the sale thereof; and all or any part of the gross or net revenues thereafter received by said city or town from or in respect of any such properties so acquired or to be acquired by said city or town with such bonds or the proceeds of the sale thereof; to secure the payment of the principal of and interest on such bonds, and of the sinking fund or reserve fund payments

agreed to be made in respect of such bonds; and to make and enter into such covenants and agreements with the purchasers of such bonds or any person in their behalf in respect thereto and for securing the payment thereof and for providing rights and remedies to the owners and holders of such bonds or to any person in their behalf, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Amount, Denominations and Terms of Bonds

Sec. 9. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall be in such aggregate principal amount or amounts, of such denominations, bearing such date or dates, of such maturities, bearing interest at such rate or rates, not exceeding six (6) per cent per annum, payable annually or semi-annually on such respective dates, in such form, containing such terms, provisions, and conditions, either coupon or registered, with such registration privileges, such provisions for the call or redemption thereof before maturity, payable at such place or places within or without the State of Texas, as the Governing Body of any such city or town may in its discretion approve and determine and provide by an Ordinance or Ordinances adopted for such purposes; all in accordance with the provisions of this Act.

Sale or Exchange of Bonds

Sec. 10. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, may either be:

(a) sold for cash, at public or private sale, at such price or prices as the Governing Body of any such city or town shall determine, provided, that the interest cost of the money received therefor, computed to maturity in accordance with standard bond tables in general use by banks and insurance companies, shall not exceed six (6) per cent per annum; or,

(b) may be issued on such terms as the Governing Body of any such city or town shall determine in exchange for property of any kind, real, personal or mixed, or any interest therein, which the Governing Body of such city or town shall determine to be proper and necessary to accomplish any of the purposes of this Act; or,

(c) may be issued in exchange for like principal amounts of any other bonds of such issue, matured or unmatured.

Deposit of Proceeds

Sec. 11. If such bonds are sold for cash, the proceeds of the sale of such bonds shall be deposited in such depository and shall be paid out pursuant to such terms and conditions, as may be agreed upon between the Governing Body of such city or town and the purchasers of such bonds.

Negotiability; Exemption from Taxation; Investment in Bonds

Sec. 12. Any such bonds issued by any such city or town in pursuance of and to accomplish the purposes of this Act, shall constitute negotiable instruments under the Negotiable Instruments Act of this State; and are hereby exempted from any and all State, county, municipal, and other taxation under the laws of this State; and shall be legal investments for banks, trust companies, and insurance companies organized under the laws of this State.

Application of Other Laws

Sec. 13. The provisions of Articles 1111 to 1118, inclusive, of the Revised Civil Statutes of Texas of 1925, as amended, and of the Bond and Warrant Law of 1931, as amended,¹ shall apply to and govern the purchase of any such properties by any such city or town, in pursuance of the provisions of this Act, and the issuance, sale, and delivery of any such bonds, and manner of securing the payment thereof, and in respect to the enforcement of such obligations, and the rights and remedies of the owners and holders of such bonds or of any person acting in their behalf, in respect to the maintenance and operation of the properties acquired in pursuance of this Act, and in respect to the accomplishment of all the purposes of this Act; except as herein specifically provided for and prescribed by the terms of this Act; and except that none of the limitations and restrictions contained in or imposed by Sections 2, 3, and 4 of said Bond and Warrant Law of 1931, as amended, shall apply to or govern any such purchase of any such properties or issuance of any such bonds by any such city or town; and except that, as is hereby expressly provided, any such city or town may purchase any such properties and issue any such bonds, and may use such bonds or the proceeds of the sale thereof for the purchase of any such properties or to accomplish any of the purposes of this Act, by action of its Governing Body as expressed by Ordinance authorizing and effecting same, and without the necessity of any referendum, and without the necessity of calling or holding any election to authorize any such action, and without the necessity of giving or publishing any notice of intention to acquire any such properties or to issue any such bonds, and without the necessity of advertising or calling for any competitive bids in respect thereto; and provided that in the event there is any conflict between the provisions of this Act and the provisions of said Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas of 1925, as amended, or the provisions of said Bond and Warrant Law of 1931, as amended, or the provisions of any other applicable Act or law, the provisions of this Act shall control; and, in all events, all specific provisions of this Act shall control.

¹ Article 2368a.

Approval of Bonds by Attorney General; Incontestability

Sec. 13(a). After any such bonds are authorized by the governing body of any such

city, the bonds and the record relating to their issuance shall be submitted to the Attorney General for examination by him. If such bonds shall have been issued in accordance with the Constitution and Laws of the State they shall be approved by the Attorney General and shall be registered by the Comptroller of Public Accounts, and after such approval and registration the bonds shall be incontestable.

Bonds or Warrants to Repair, Improve, Alter or Reconstruct Toll Bridge; Issuance

Sec. 13(b). After any such city or town shall have acquired a toll bridge as defined and used in Section 4 of this Act, it may in the manner prescribed in Section 13 of this Act issue and deliver bonds for the purpose of repairing or improving or altering or reconstructing or replacing the toll bridge, or building an additional or supplementary, or auxiliary bridge, or for any one or more of said purposes, subject only to the restrictions contained in the ordinance authorizing the original issue and/or subsequent issue of toll bridge revenue bonds, or both, and in the deed of indenture securing such original issue or subsequent issue of bonds, or it may issue warrants, including revenue time warrants, in accordance with applicable Texas law, to accomplish any one or more of such purposes, subject to the restrictions contained in ordinances and deed of indenture authorizing prior issue or issues of bonds or warrants.

Revenue Bonds or Revenue Time Warrants; Charge Against Pledged Revenues

Sec. 13(c). Revenue bonds or revenue time warrants only may be issued to accomplish the purposes of this Act. Such bonds or warrants shall not constitute indebtedness of any such city or town, but shall be a charge only against the pledged revenues, and against the property comprising the toll bridge if a lien is given on such property. And every such bond or warrant shall contain substantially this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Refunding Bonds

Sec. 13(d). The governing body of any such city or town which shall have issued bonds or warrants pursuant to this Act or has outstanding bonds or warrants or bonds and warrants, the interest on and the principal of which are payable from all or part of the gross or net revenues received by said city or town from or in respect to any such properties, shall have power and authority to issue refunding bonds to refinance or refund any or all of such bonds and warrants by the issuance of its refunding bonds, and any said governing body may pledge all or part of said gross or net revenues to the refunding bonds and may provide that the refunding bonds shall have the same relative priorities of lien as the bonds or warrants refunded, or in providing for the security of the refunding bonds, may combine liens of differing priorities securing the bonds or warrants re-

funded, into one or more issues of refunding bonds. The provisions of this Act, where not inconsistent with this Section, concerning form of bonds, sale, approval by the Attorney General, registration by the Comptroller of Public Accounts, and delivery pertaining to other bonds authorized to be issued pursuant to this Act shall apply to said refunding bonds.

Taxes or Assessments; Pledge of Credit; Not Authorized

Sec. 14. Nothing in this Act shall authorize any such city or town, acting in pursuance hereof or to accomplish any of the purposes hereof, to levy or collect any taxes or assessments therefor or in respect thereto, or to pledge the credit of the State in any manner; or to issue or to sell or deliver any bonds or to create any obligations of any kind or to incur any liabilities of any kind or to make or enter into any contracts or agreements of any kind, to be paid or performed or met or discharged out of or from any taxes or assessments.

How Powers Exercised

Sec. 15. All powers, rights, privileges and functions, conferred by this Act upon any such city or town shall be exercised by and through the Governing Body thereof as expressed by an Ordinance or Ordinances duly adopted to authorize and effectuate the same. No referendum and no election by the voters of any such city or town shall be necessary or required to authorize the exercise of any such powers, rights, privileges, or functions, or the doing of any act or thing to accomplish the purposes of this Act.

Application of Other Laws

Sec. 16. This Act shall constitute full authority for the authorization and issuance of bonds hereunder and no other Act or law with regard to the authorization or issuance of obligations, or the deposit of the proceeds thereof, in any way impeding or restricting the carrying out of the acts and things herein authorized to be done shall be construed as applying thereto or to any acts or proceedings taken hereunder and acts or things done pursuant hereto, and for the accomplishment of the purposes of this Act.

Cumulative Character

Sec. 17. This Act shall be cumulative of all other Acts and laws; and the powers, rights, privileges, and functions hereby conferred on any such city or town, shall not prevent the exercise by any such city or town of any and all other powers, rights, privileges, or functions conferred upon any such city or town by any other Act or law now existing or hereafter enacted.

Liberal Construction

Sec. 18. This Act and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein.

Partial Invalidity

Sec. 19. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[Acts 1945, 49th Leg., p. 397, ch. 258; Acts 1955, 54th Leg., p. 551, ch. 173, §§ 1 to 3; Acts 1965, 59th Leg., p. 770, ch. 361, §§ 1, 2, eff. June 9, 1965; Acts 1967, 60th Leg., p. 561, ch. 248, § 1, eff. May 22, 1967.]

Art. 1015g-1. Pledge of Revenue Derived from Operation of Toll Bridge

Any city or town in this State incorporated under the General Laws of the State, or incorporated and acting under its Special Charter or Home Rule Charter which is receiving revenue, by virtue of a contract with another city or town concerning the operation of a toll bridge over a river between the State of Texas and the Republic of Mexico, may appropriate or pledge all or any part of such revenue to redeem or pay any bonds, notes or warrants, as well as interest thereon, authorized to be issued by such city or town under any provision of law or to retire any other indebtedness which such city or town may legally incur.

[Acts 1961, 57th Leg., p. 520, ch. 246, § 1.]

Art. 1015g-2. Validation of Proceedings for Issuance and Sale of Time Warrants for International Toll Bridges

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including Home Rule Cities in the State of Texas, in the issuance and sale of revenue time warrants under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, and Chapter 258, Acts of the 49th Legislature, 1945, as amended (Article 1015g, Vernon's Texas Civil Statutes), to finance and undertaking to finance the cost of repairing, improving, reconstructing, or replacing any existing international toll bridge owned by such city or town is hereby in all things fully validated, confirmed, approved, ratified, and legalized, and any such warrants heretofore sold or heretofore authorized but not yet delivered, are in all things fully validated, confirmed, ratified, approved, and legalized and such warrants are hereby declared to be the valid and binding special obligations of such cities or towns, payable only from sources other than taxation and which do not constitute a tax obligation. All orders, resolutions, ordinances, and actions authorizing the issuance of any such warrant and setting aside and pledging the revenues of any such international toll bridge system are hereby in all things validated, confirmed, approved, ratified, and legalized, and the fact that any city or town, in the issuance and sale of any such obligations or in the pledging of any said revenues of such systems to the payment of such warrants, failed to have or lacked the power and right to do all things necessary to make said obligations legal, shall in no wise impair such obligations nor

the pledge of such revenues, but the same are in all things validated, confirmed, ratified, and approved.

Sec. 2. The provisions of this Act shall not apply to any such proceedings or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation; nor shall the provisions of this Act affect, in any way, the title to real estate, the ownership of which has been contested or attacked in any pending suit or litigation.

[Acts 1965, 59th Leg., p. 742, ch. 348, eff. June 9, 1965.]

Art. 1015g-3. Revenue Bonds by Border Cities; Pledge of Revenue from Toll Bridges; Approval and Registration

Sec. 1. Any city or town in this state, including Home Rule Cities, having located within its corporate limits, or outside its corporate limits but within a distance of fifteen (15) miles from such corporate limits, a toll bridge over a river between the State of Texas and the Republic of Mexico, shall have the power, subject to any outstanding covenants relating to or made in favor of the holders of outstanding bonds of any such city or town, to appropriate or pledge all or any part of any revenues derived by any such city or town from or on account of any such toll bridge, including revenues derived by any such city or town from or on account of and pursuant to any contract with another city or town covering or relating to the operation of such a toll bridge, to the payment of bonds issued under and for the purposes permitted by this Act.

Sec. 2. Revenue bonds, payable from the source aforesaid, may be issued by any such city and town for the purpose of acquiring by purchase, construction or otherwise, or making repairs to, or extending or improving, any or all public buildings, utility system or systems and/or other public properties or facilities, considered necessary and appropriate by the governing body of such city or town. Such revenue bonds may be issued without the necessity of an election when authorized by an ordinance or ordinances of such governing body, which ordinance may provide and contain such terms and conditions for such bonds and such covenants and commitments to bondholders with respect thereto as may be deemed appropriate by such governing body, except that each issue of such bonds shall mature in not more than forty (40) years from their date and shall bear interest not to exceed the rate or rates as provided in and computed in accordance with Senate Bill No. 20, 61st Legislature, Regular Session, 1969.¹ Additionally, such bonds may be refunded upon such terms and at such times, and maturing at such times and bearing such rate or rates of interest as the issuer shall deem appropriate.

Sec. 3. The proceedings authorizing such bonds shall be presented to the Attorney General for review and to the Comptroller of Public Accounts for registration, all as in the case of other bonds issued by cities and counties in

this state. Upon the approval thereof by the Attorney General, the bonds and such proceedings thus approved shall be incontestable for any cause.

[Acts 1969, 61st Leg., p. 1472, ch. 436, eff. June 4, 1969.]

¹ Article 717k-2, §§ 1 to 3.

Art. 1015g-4. Eligible City Operating Toll Bridge Over Rio Grande River; Acquisition of Property, etc.; Revenue Bonds

Definition

Sec. 1. As used in this Act the term "eligible city" is defined as and means any incorporated city which owns and operates any portion of a toll bridge over the Rio Grande River.

General Authority

Sec. 2. Each eligible city is authorized to acquire, purchase, construct, improve, enlarge, equip, operate, and maintain any property, buildings, structures, activities, operations, or other facilities, for any public purpose.

Authority to Issue Revenue Bonds

Sec. 3. For the purpose of providing funds to acquire, purchase, construct, improve, enlarge, and equip any property, buildings, structures, or other facilities, for any public purpose, the governing body of an eligible city may issue revenue bonds of said eligible city from time to time and in one or more issues or series, to be payable from and secured by liens on and pledges of all or any part of any of the revenues, income, or receipts derived by the eligible city from its ownership and operation of any portion of any toll bridge or bridges over the Rio Grande River, and from its ownership and operation of any other property, buildings, structures, activities, operations, or facilities.

Terms and Conditions of Bonds

Sec. 4. (a) The bonds may be issued to mature serially or otherwise within not to exceed 50 years from their date, and provisions may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the ordinance authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are and shall constitute negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code, provided that the bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance, the proceeds from the sale of the bonds may be

used for paying interest on the bonds during the period of the acquisition or construction of any facilities to be provided through the issuance of bonds, for paying expenses of operation and maintenance of any facilities, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds, and such proceeds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges

Sec. 5. Each eligible city shall be authorized to fix and collect tolls, rentals, rates, and charges for the occupancy, use and availability of all or any of its toll bridge or bridges, and its property, buildings, structures, activities, operations, or other facilities, in such amounts and in such manner as may be determined by the governing body of the eligible city.

Pledges

Sec. 6. (a) Each eligible city may pledge all or any part of its revenues, income, or receipts from such tolls, rentals, rates, and charges, or other resources to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged tolls, rentals, rates, and charges shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the aforesaid toll bridge or bridges, property, buildings, structures, or other facilities.

(b) Said bonds may be additionally secured by mortgages or deeds of trust on any real property owned by the eligible city and by chattel mortgages or liens on any personal property appurtenant to such real property; and the governing body of the eligible city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence same.

(c) Also, each eligible city may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Additional Powers

Sec. 7. It is hereby found, determined, and declared that the acquisition, purchase, construction, improvement, enlargement, and/or equipment by an eligible city of any property, buildings, structures, or other facilities for lease or rental to the United States of America, or any department or agency thereof, for

use in performing federal governmental functions in the city, or in performing federal governmental functions at or near, and relating to, its toll bridge, even though its toll bridge and said federal facilities relating thereto are not located in the city is and constitutes a public purpose and a proper municipal function. Any such property, buildings, structures, or other facilities acquired, purchased, constructed, improved, enlarged, and/or equipped in whole or in part with proceeds from the sale of bonds issued pursuant to this Act may be leased or rented by an eligible city to the United States of America, or any department or agency thereof, upon such terms and conditions, and for such period, as such parties shall agree.

Bonds Not General Obligations of an Eligible City

Sec. 8. Bonds issued pursuant to this Act by an eligible city are payable solely from the revenues, income, receipts, or other resources of the eligible city, as provided in this Act, and such bonds are not tax obligations of the eligible city.

Refunding Bonds

Sec. 9. Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for such purpose, under such terms, conditions, and details as may be determined by ordinance of the governing body of the eligible city. All pertinent and appropriate provisions of this Act shall be applicable to such refunding bonds, and they shall be issued in the manner provided herein for other bonds authorized under this Act; provided that such refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date. Also, such refunding bonds may be issued to be exchanged for the bonds being refunded thereby. In the latter case, the Comptroller of Public Accounts of the State of Texas shall register the refunding bonds and deliver the same to the holder or holders of the bonds being refunded thereby, in accordance with the provisions of the ordinance authorizing the refunding bonds; and any such exchange may be made in one delivery, or in several installment deliveries. Bonds issued at any time by an eligible city also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 10. All bonds issued pursuant to this Act and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with law, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such bonds shall be

incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Bonds are Authorized Investments and Security for Deposits

Sec. 11. All bonds issued pursuant to this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect of Act

Sec. 12. This Act shall be cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control; provided, however, that any eligible city shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 13. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 1881, ch. 557, eff. June 1, 1971.]

Art. 1015h. Public Building; Powers of City Owning Natural Gas Distribution System**Application of Act; Powers of Eligible City**

Sec. 1. This Act shall apply to all incorporated cities, including Home Rule Cities, of more than fifty thousand (50,000) population according to the last preceding Federal Census which own and operate a natural gas distribution system serving the inhabitants of all or part of such city. Any such city, for the purposes of this Act, shall be an "eligible" city.

Any eligible city shall have the power to construct, purchase, equip, improve, repair, remodel and enlarge coliseums, exposition and convention halls, city halls and other public buildings and the necessary sites therefor, and to issue revenue bonds for such purposes. Such cities may acquire one (1) building for any one (1) or more of the foregoing purposes or may acquire one (1) or more buildings for any one (1) or more of such purposes.

Revenue Bonds; Security; Pledge of Revenues of Gas System

Sec. 2. When authorized at an election as hereinafter provided, the governing body of any eligible city shall be authorized to issue the revenue bonds of such city bearing interest at a rate not to exceed five per cent (5%) per annum and maturing within not more than thirty (30) years from their date or dates, and to secure the payment thereof by pledging and encumbering the net revenues of the revenue producing parts of such buildings and, at the option of the governing body, by a further pledge of the net revenues of the city's municipal gas distribution system, either any part or all. Such bonds shall be issued under the provisions of Articles 1111 to 1118, both inclusive of the Revised Civil Statutes of Texas, 1925, as amended, except where same are in conflict with the provisions of this Act. No such bonds shall be issued, however, until first authorized by a majority vote of the voters qualified to vote in such elections and voting at an election called for such purpose. Such election shall be called and held in the same manner provided for other bond elections for such city. The issuance of revenue bonds to provide funds with which to acquire one (1) or more buildings for one (1) or more of the foregoing purposes may be submitted as one (1) proposition at such election; provided that all bonds included in one (1) proposition are secured by a pledge of the same revenues.

Ordinances; Books and Accounts

Sec. 3. The governing body of any such city shall be authorized to make such provisions in the ordinance or ordinances authorizing the issuance of such bonds as it shall deem proper and desirable in regard to the terms and conditions upon which such revenues, or any designated part thereof, shall be pledged, the method of securing the payment of such bonds, the use of the pledged revenues, the establishment of reserves for depreciation, replacements, betterments, additions and extensions, the duties

and obligations of the city in regard to the use, maintenance and operation of the facilities whose net revenues are pledged to the payment of such bonds and as to the right of redemption, if any, of such bonds before their respective maturity dates. It shall be the duty of the city to establish and maintain separate books and accounts for each of the properties whose income shall have been pledged.

Additional Bonds

Sec. 4. The governing body of such cities shall be authorized to issue additional revenue bonds for such purposes secured by a pledge of all or any part of the net revenues which are pledged to the payment of previously issued bonds to the extent and in the manner expressly permitted by the ordinance or ordinances authorizing such previously authorized and outstanding revenue bonds. Such additional revenue bonds shall be issued only after being authorized at an election held as hereinabove provided for original issues. Any ordinance authorizing the issuance of bonds under this Act may provide for the use by the city of surplus revenues for other lawful purposes.

Refunding Bonds

Sec. 5. The governing body of any said city shall be authorized to refund all or any part of any bonds issued under the provisions of this Act by the issuance of refunding bonds without the necessity of an election; provided that the refunding bonds shall not bear interest at a higher rate than that borne by the bonds being refunded.

Act Cumulative; Conflict with Existing Laws

Sec. 6. This Act shall be cumulative of all other laws on the subject, but in the event any of its provisions are in conflict with any existing laws, the provisions hereof shall prevail and be effective in regard to the subject matter of this Act.

Partial Invalidity

Sec. 7. If any paragraph, sentence, clause, phrase or provision of this Act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the remaining provisions of this Act or the application thereof to any other person or circumstance and the provisions of this Act are declared to be severable.

[Acts 1949, 51st Leg., p. 735, ch. 397.]

Art. 1015i. Lease of City Owned Hospital; Cities of 65,000 or Less

The governing body of any incorporated city or town (including home rule cities) having a population of sixty-five thousand (65,000) inhabitants or less, according to the last preceding Federal Census, is hereby authorized to lease any city-owned hospital, or part thereof, to be operated by the lessee as a public hospital under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by

such governing body, and the lease agreement shall be executed, on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years.

[Acts 1953, 53rd Leg., p. 930, ch. 389, § 1.]

Art. 1015j. Appropriations for Advertising and Promoting Growth and Development of General Law Cities

Each city incorporated or operating under the general laws of this State may appropriate from the General Fund of the city an amount not exceeding Five Cents (5¢) on the One Hundred Dollars (\$100) assessed valuation, for the purpose of advertising and promoting the growth and development of such city; providing that before the governing body of any city may appropriate any sums for such purpose, the qualified property taxpaying voters of the city shall, by a majority vote at an election, authorize the governing body of the city to thereafter appropriate not to exceed Five Cents (5¢) on the One Hundred Dollars (\$100) assessed valuation.

[Acts 1955, 54th Leg., p. 949, ch. 370, § 1.]

Art. 1015j-1. Promotional Advertising for Growth and Development in Cities of Not More Than 500,000; Board of Development; Appropriations and Expenditures Authorized

Sec. 1. The governing body of any incorporated city having a population of not more than 500,000 according to the last preceding Federal Census may appropriate from the general fund an amount not exceeding one percent of the general fund budget for that year, such appropriation to be for advertising such city and promoting its growth and development.

Sec. 2. Before expending any money appropriated under authority of this Act, the governing body shall create a Citizens' Advisory Committee known as a City Board of Development, or by any other name, consisting of five members, to be appointed by the governing body for two-year terms. Members of the board shall receive no compensation, shall have advisory powers only, and shall not be deemed to be public officers or agents of the city, and their service on the board shall not invalidate city contracts in which they may have an interest.

Sec. 3. The board of development shall investigate the desirability of various methods of advertising and promoting the city and shall make appropriate recommendations to the governing body as to the best method of expending funds already available, and as to the amount which should be appropriated in the next budget. Recommendations of the board are not binding on the governing body, which shall have discretion as to the amount to be appropriated (within the limit of one percent of the general fund budget) and as to the methods of using it.

Sec. 4. This statute is cumulative of any powers which a city has or shall have under its charter, and shall not impair any such charter power.

[Acts 1971, 62nd Leg., p. 678, ch. 63, eff. April 20, 1971.]

Art. 1015k. Regulation of Rendering Plants

For the purpose of protecting its residents from health hazards arising from unsanitary conditions which may exist in conjunction with certain industrial establishments, any city, town or village in this State shall have the power by the enactment of the necessary ordinances to regulate the equipment and mode of operation of rendering plants within the city limits or within one (1) mile from the city limits.

[Acts 1959, 56th Leg., p. 586, ch. 269, § 1.]

Art. 1015l. Parking on Private Property

Any incorporated city or town may by ordinance regulate the parking of motor vehicles on private property, and may enforce the ordinance in the same manner that it enforces ordinances regulating parking in public no-parking zones, including impoundment of offending vehicles.

[Acts 1967, 60th Leg., p. 562, ch. 249, § 1, eff. Aug. 28, 1967.]

Art. 1015m. Unauthorized Vehicles in Parking Lots; Removal; Liability

Sec. 1. The owner of a parking lot, or his agent, or the lessee of a space in a parking lot may have any motor vehicle parked on the lot without the consent of the owner of the lot, or his agent, or parked in the space of the lessee without the consent of the lessee, removed and stored at the expense of the owner or operator of the vehicle if a readable sign specifying those persons who may park in the lot and prohibiting all others is prominently placed at all entrances to the lot.

Sec. 2. The owner of a lot or the lessee of a space in a lot who has an unauthorized vehicle removed and stored under the provisions of Section 1 of this Act is not liable for damages incurred by the owner or operator of an unauthorized vehicle as a result of removal or storage if the vehicle is removed by an insured vehicle wrecker service and stored by an insured storage company.

[Acts 1969, 61st Leg., p. 1673, ch. 536, eff. Sept. 1, 1969.]

Art. 1016. Streets and Alleys, etc.

Any city or town incorporated under the general laws of this State shall have the exclusive control and power over the streets, alleys, and public grounds and highways of the city or town, and to abate and remove encroachments or obstructions thereon; to open, alter, widen, extend, establish, regulate, grade, clean and otherwise improve said streets; to put drains or sewers therein, and prevent encumbering thereof in any manner, and to protect same from encroachment or injury; and to regulate

and alter the grade of premises; to require the filling up and raising of same; and, upon petition of all of the owners of real property abutting a street or alley, the governing body of any such city or town shall also have the power, by ordinance, to vacate and abandon and close any such street or alley.

[Acts 1925, S.B. 84; Acts 1961, 57th Leg., p. 704, ch. 329, § 1.]

Art. 1017. Sale of Parks, Land for Buildings and Abandoned Streets, etc.; Disposition of Proceeds

The governing body of any incorporated city or town in this State, however incorporated, may sell and convey any land or interest in land owned, held or claimed as public square, park or site for city hall or other municipal building, and abandoned parts of streets and alleys, together with all improvements on any such property owned by any such city or town. The proceeds of any such sale shall be used only for the acquisition and improvement of property for the same uses as that so sold. Provided, however, that the title of any purchaser of such property for a valuable consideration shall not be impaired by reason of the failure of such governing body to so apply said funds. Such sales shall be made by an ordinance passed by such governing bodies which shall direct the execution of conveyance by the mayor or city manager of any such city or town.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 151, ch. 88, § 1.]

Art. 1018. Use by Railway, etc.

The charter, or any amendment thereto, may authorize the governing body to close for the exclusive use temporarily or perpetually by any railroad company or other corporation having power of eminent domain, any part or parts, of any street or streets, alley or alleys, and to ratify and confirm any prior ordinances closing any street or streets, alley or alleys, or any part or parts thereof, for the use of any railroad company or any such other corporation.

[Acts 1925, S.B. 84.]

Art. 1019. Special Election

No public square or park shall be sold, and no street or alley, nor part or parts of any street or alley closed, until the question of such sale or closing has been submitted to a vote of the qualified voters of the city or town, and approved by a majority of the votes cast at such election.

[Acts 1925, S.B. 84.]

Art. 1020. Towns so Empowered

The provisions of the three preceding articles shall be enforced in towns or cities under five thousand population, or cities over five thousand population which have no special charter, and in towns or cities incorporated under this title, and in cities or towns incorporated under any special law. The power authorized by this article may be conferred upon the

governing body by vote of the qualified voters as provided in the preceding article.

[Acts 1925, S.B. 84.]

Art. 1021. Interest on Indebtedness

No indebtedness of any character whatever, hereafter incurred by said corporation, shall draw a higher rate of interest than six per cent per annum.

[Acts 1925, S.B. 84.]

Art. 1022. Audit Board

With the consent of the governing body, the mayor of each city or town incorporated under the general laws, shall at the first meeting of said body in January of each year appoint three resident citizens of said city or town who shall constitute a board of examiners of the finances of said city or town. Such examiners shall proceed to examine the books and accounts of each officer of said city or town, and make a sworn true report of the financial condition thereof to said governing body as soon as practicable and not later than the first meeting of said body in March of each year. The annual report of said board shall be passed upon by said governing body and spread upon the minutes of their meeting at the first regular meeting after the return of such report. Such examiners shall receive for their services such compensation as said governing body shall fix for every day actually employed in their investigations, not to exceed fifteen days in each year, which shall be paid by order of said body.

[Acts 1925, S.B. 84.]

Art. 1023. Financial Statement

The city council shall, at least ten days before the expiration of each municipal year, cause to be published in a city newspaper a correct and full statement of the receipts and expenditures from the date of the last annual report, together with the sources from which the funds were derived, and showing for what purpose disbursed, the condition of the treasury, together with such information as may be necessary to a full understanding of the financial condition of the city.

[Acts 1925, S.B. 84.]

Art. 1024. Receiver Appointed

A city or town so situated as is herein set forth, which fails to effect a compromise of its debts, or pending the negotiation of a compromise, shall be permitted, on its application setting forth its financial condition and insolvency, to have the district court of the county in which said city or town is situated, take charge of the collection and appropriation of all taxes levied and assessed by said city or town, except so much thereof as is necessary to pay the current expenses of the city or town; and to that end, said court, or the judge thereof in vacation, shall appoint a receiver or make the assessor and collector of said city or town its receiver to collect and pay into a named deposito-

ry all taxes levied by said city or town for the payment of its debts; and said courts shall decide all questions of priority between conflicting claimants of said funds, and shall provide for the ratable and equitable distribution of said funds among all creditors entitled thereto. But it shall not be lawful for any court to appoint a receiver of or concerning any city or town except upon the voluntary application of such city or town.

[Acts 1925, S.B. 84.]

Art. 1024a. Relief to Municipalities and Taxing Districts Under Federal Bankruptcy Laws

That all municipalities, political subdivisions and taxing districts in this State which have power to incur indebtedness, either through action of their own governing bodies or through action of the governing bodies of counties or cities in which such political subdivisions or taxing districts are included, are hereby authorized to proceed under all laws enacted by the Congress of the United States under the Federal Bankruptcy powers, which laws have for their object the relief of municipal indebtedness, including H.R. 5950 of the Seventy-Third Congress, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States,' approved July 1, 1898, and acts amendatory thereof and supplementary thereto," approved May 24, 1934,¹ and the officials and governing bodies of such municipalities, political subdivisions and taxing districts are authorized to adopt all proceedings and to do any and all acts necessary or convenient to fully avail such municipalities, political subdivisions and taxing districts of the provisions of such Acts of Congress.

[Acts 1935, 44th Leg., p. 293, ch. 107, § 1.]

¹ 11 U.S.C.A. §§ 301 to 303 (unconstitutional).

Art. 1024b. Composition with Creditors Under Federal Bankruptcy Laws

All municipalities, political subdivisions, and taxing districts in this State as defined in Section 81, Chapter 657, Acts of the Seventy-fifth Congress of the United States, 50 Statutes at Large, Page 654, 11 U.S.C.A. Sec. 401, which have power to incur indebtedness, either through action of their own governing bodies or through action of the governing bodies of counties or cities in which such political subdivisions or taxing districts are included, are hereby authorized to proceed under all laws that have been heretofore enacted by the Congress of the United States under the Federal Bankruptcy powers to effect a plan for the composition of their indebtedness, and the officials and governing bodies of such municipalities, political subdivisions, and taxing districts are authorized to adopt all proceedings and to do any and all acts necessary to fully avail such municipalities, political subdivisions, and taxing districts of the provisions of such Acts of Congress, but this Act shall not apply to any

bond or bonds while held by the permanent school fund of Texas.

[Acts 1939, 46th Leg., p. 70, § 1.]

Art. 1025. Official Paper

The city council shall, as soon as may be after the commencement of each municipal year, contract, as they may by ordinance or resolution determine, with a public newspaper of the city as the official paper thereof, and to continue as such until another is elected, and shall cause to be published therein all ordinances, notices and other matters required by this title or by the ordinance of the city to be published.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. TAXATION

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- 1066. Payment of Taxes.
- 1066a. Taxes Levied by Counties and Other Political Subdivisions Not Included in Determining Power of Home Rule City or Town to Levy Taxes.
- 1066b. Assessor, Collector and Equalization Board Acting for Included Municipality or District.
- 1066c. Local Sales and Use Tax Act.

Art. 1026. Power to Levy

The governing body of any city or town in this State having a population of five thousand or less shall have power by ordinance to levy, assess and collect such taxes as such governing body may determine, not to exceed for any one year one and one-half per cent of the taxable property of such city or town, for current expenses and for the purpose of construction or the purchase of public buildings, water works, sewers, and other permanent improvements, within the limits of such city or town, and for the construction and improvement of the roads, bridges and streets of such city or town within its limits.

[Acts 1925, S.B. 84.]

Art. 1027. Ad Valorem Tax

The governing body of any incorporated city or town having a population of not more than five thousand inhabitants, shall have power, by ordinance, to levy and collect an annual ad valorem tax of not exceeding one and one-half per cent on the one hundred dollars valuation of taxable property within such city or town for the erection, construction or purchase of public buildings, streets, sewers and other permanent improvements within the limits of such city or town. Within the meaning of this article shall be included building sites and buildings for public free schools and institutions of learning within those cities and towns which have or may assume the exclusive control and

management of public free schools and institutions of learning within their limits.

[Acts 1925, S.B. 84.]

Art. 1027a. Validating Ad Valorem Tax Levies in Towns of 1,200 in Certain Counties

All levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State which are void and unenforceable because such levies were made and adopted by resolution, motion or other informal action instead of having been made by ordinance, or which are void and unenforceable because of the failure of the governing bodies of such incorporated city or town to appoint the proper and statutory Board of Equalization, as required by the laws of this State, or where the City Council, City Commission or other governing body of such incorporated city or town have acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated city or town, and which levies are otherwise legally enforceable are hereby validated and that same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and as heard before a properly and legally appointed Board of Equalization; provided that the provisions of this Act shall be applied only to those incorporated cities and towns having a population of less than twelve hundred (1200) inhabitants and situated in counties of this State having a population of thirty-four thousand, one hundred and fifty-six (34,156) to thirty-four thousand, three hundred (34,300) according to the last preceding United States Census.

[Acts 1935, 44th Leg., p. 532, ch. 222, § 1.]

Art. 1027a-1. Cities and Towns Under 1,200; Assessments and Valuations Validated; Budget Hearings Validated

All acts of the governing bodies of all cities and towns in this State, having a population of not more than twelve hundred (1200) according to the last Federal Census, heretofore done, performed or attempted to be done in connection with the making of assessments, providing for valuations, equalization hearings, notices of budget hearings, adoption of budgets, adoption of tax rates and tax rolls and any and all other acts necessary or required in providing the assessment, valuation and collection of city taxes, heretofore had or done by the governing bodies of said cities and towns, are hereby ratified and validated in all respects as though they had been duly and legally made in the first instance, and all taxes, either real, personal or both, heretofore levied, assessed and charged against any person, by any such governing bodies in all cities and towns having a population of not more than twelve hundred (1200) according to the last Federal Census are hereby declared to be valid and binding tax obligations of said individuals and same shall be collectible under the laws of this State pro-

viding for the collection of delinquent taxes with penalty and interest.

This Act shall not have the effect of validating any tax levy unless the same shall be made by a duly constituted governing body acting in the fair and reasonable exercise of its taxing power, nor shall any levy be validated if it should be unreasonable, discriminatory or otherwise apply or affect any person, firm or individual in a confiscatory manner. All taxes validated herein shall be uniform as to persons and classes of property, and any person shall have full recourse to courts of law for the enforcement of his legal rights against discriminatory or confiscatory taxes notwithstanding the validating provisions hereof.

[Acts 1947, 50th Leg., p. 1015, ch. 433, § 1.]

Art. 1027b. Validation of Ad Valorem Tax Levies in Cities of 1,100 to 1,250

All levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State which are void and unenforceable because such levies were made and adopted by resolution, motion or other informal action instead of having been made by ordinance, or which are void and unenforceable because of the failure of the governing bodies of such incorporated city or town to appoint the proper and Statutory Board of Equalization, as required by the laws of this State, or where the City Council, City Commission or other governing body of such incorporated city or town has acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated city or town, and which levies are otherwise legally enforceable are hereby validated and that the same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and/or as heard before a properly and legally appointed Board of Equalization; provided that the provisions of this Act shall be applied only to those incorporated cities and towns in this State having a population of not less than eleven hundred (1100) and not more than twelve hundred and fifty (1250) inhabitants, according to the last preceding United States Census.

[Acts 1935, 44th Leg., p. 332, ch. 123, § 1.]

Art. 1027c. Validation of Ad Valorem Tax Levies in Incorporated Cities and Towns

Sec. 1. All levies for ad valorem taxes heretofore made by the governing body of any incorporated city or town in this State which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance or which are void and unenforceable because of the failure of the governing bodies of such incorporated city or town to appoint the proper and Statutory Board of Equalization, as required by the laws of this State, or where the City Council, City Commission, or other governing body of such incorporated city or town has acted as a Board of Equalization in the fixing of the valuation of

taxable property for ad valorem taxes within any such incorporated city or town and which levies are otherwise legally enforceable are hereby validated and that same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and as heard before a properly and legally appointed Board of Equalization.

Sec. 2. The provisions of this Act shall not be construed as validating any such levies for ad valorem taxes, and/or proceedings incident thereto, where the validity of such levy, and/or proceedings incident thereto, have been attacked or contested in any pending suit or litigation.

[Acts 1935, 44th Leg., 2nd C.S., p. 1740, ch. 452.]

Art. 1027c-1. Validation of Ad Valorem Tax Levies in Incorporated Cities and Towns; Exceptions

All levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State incorporated under the General Laws of this State (commonly referred to as General Law Cities), which are unenforceable because such levies were made and adopted by resolution, motion or other informal action instead of having been made by ordinance, or which are unenforceable because of the failure of the governing bodies of such incorporated cities or towns to appoint the proper statutory Board of Equalization, as required by the laws of this State, or where the governing bodies of such incorporated cities or towns have acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within such incorporated city or town and which levies are otherwise legally enforceable, are hereby validated and the same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and/or as heard before a properly and legally appointed Board of Equalization. Provided this Act shall not validate any taxes levied for street paving, sidewalk, curb and gutter work, or similar work, and no liens shall attach to any real property by virtue of such levy.

[Acts 1963, 58th Leg., p. 766, ch. 293, § 1.]

Art. 1027d. Validation of Ad Valorem Tax Levies in Cities and Towns of 3,305 to 3,445

All levies and assessments of ad valorem taxes heretofore made by the governing body of any city or town incorporated in this State, which are unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by ordinance as required by law; and all assessments of taxes or assessments of property within the limits of any such city or town in this State subject to taxation under the laws of this State, for taxation under such resolution, motion or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and

statutory Board of Equalization, as required by law, and which are insufficient or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for such city or town which are irregular or insufficient because the reports of such equalization were adopted and accepted orally or by other informal action, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record and signed by the proper officials of such governing body, and the same as though such assessments of property within such city or town for taxation purposes had been made in due and complete form, time and manner, and the same as though said equalizations and the reports of the Boards of Equalization acting for such city or town had been made in due and regular form, time and manner, and adopted and accepted in due and regular form. Provided, however, that the terms of this Act shall apply only to incorporated cities and towns having a population of not less than three thousand three hundred five (3,305) inhabitants, and not more than three thousand four hundred forty-five (3,445) inhabitants, according to the last preceding Federal Census; and provided, further, that this Act shall not affect any suit or suits pending in any Court in this State on the effective date of this Act.

[Acts 1936, 44th Leg., 3rd C.S., p. 2090, ch. 500, § 1.]

Art. 1027e. Validation of Ad Valorem Tax Levies in Cities and Towns of 3,000 to 4,000

Sec. 1. All levies for ad valorem taxes heretofore made by the governing body of any incorporated City or Town in this State which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance or which are void and unenforceable because of the failure of the governing bodies of such incorporated City or Town to appoint the proper and statutory Board of Equalization, as required by the laws of this State, or where the City Council, City Commission, or other governing body of such incorporated City or Town has acted as a Board of Equalization in the fixing of the valuation of taxable property for ad valorem taxes within any such incorporated City or Town and which levies are otherwise legally enforceable are hereby validated and that same are hereby declared enforceable the same as though they had been made and adopted originally by ordinance duly passed and as heard before a properly and legally appointed Board of Equalization; provided that the provisions of this Act shall be applied only to those incorporated Cities and Towns in this State having a popula-

tion of not less than three thousand (3,000), and not more than four thousand (4,000) according to the last preceding United States Census.

Sec. 2. The provisions of this Act shall not be construed as validating any such levies for ad valorem taxes, and/or proceedings incident thereto, where the validity of such levy, and/or proceedings incident thereto, have been attacked or contested in any pending suit or litigation.

[Acts 1937, 45th Leg., p. 183, ch. 98.]

Art. 1027f. Validation of Ad Valorem Tax Levies in Cities and Towns of 1,245 to 1,255 Population

All levies and assessments of ad valorem taxes heretofore made by the governing body of any incorporated city or town in this State, which are voidable or unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by order, as required by the Statutes of this State; and all assessments of taxes or assessments of property within the limits of any incorporated city or town in this State, subject to taxation under the laws of this State, for taxation under such resolution, motion, or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient, and voidable, or unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such incorporated city or town, which are irregular or insufficient because the reports of such equalizations were adopted and accepted orally, or by other informal action; and the acts of making such equalizations were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record and signed by the proper officials of such governing body, and the same as though such assessments of property within such incorporated cities or towns for taxation purposes had been made in due and complete form, and the same as though said equalizations and the reports of each of the Boards of Equalization acting for said incorporated cities or towns had been made in due and regular form, and adopted and accepted in due and regular form; and all levies, assessments and equalizations of ad valorem taxes heretofore made in such cities or towns which are insufficient or unenforceable because of the failure of the governing body or any officer of such city or town to prepare, have public hearings on and file a budget are hereby validated and declared enforceable the

same as though the budgets had been made, heard and filed; provided that the provisions of this Act shall be applied only to those incorporated cities and towns having a population of not less than twelve hundred forty-five (1245), and not more than twelve hundred fifty-five (1255), according to the last preceding United States census. Provided, however, that this Act shall not affect any suit now pending in any Court of this State.

[Acts 1937, 45th Leg., 2nd C.S., p. 1883, ch. 14, § 1.]

Art. 1027g. Validation of Ad Valorem Tax Levies in Cities and Towns of 3,450 to 3,455 Population

Sec. 1. All levies and assessments of ad valorem taxes heretofore made by the governing body of any incorporated city or town in this State having a population of not less than three thousand four hundred fifty (3,450) inhabitants nor more than three thousand four hundred fifty-five (3,455) inhabitants according to the last Federal Census, which are void or unenforceable because such levies were made and adopted by resolution, motion, or other informal action, instead of having been made by ordinance, as required by the Statutes of this State, and all assessments of property within the limits of any incorporated city or town in this State, subject to taxation under the laws of this State, for taxation under such resolution, motion, or other informal action, made by the Tax Assessor and Collector of any such incorporated city or town, which are void or unenforceable because of irregularities in the manner of assessing such property or preparing the assessment rolls and reports, and all ad valorem taxes levied and assessed against property within the limits of any incorporated city or town in this State, subject to taxation under the laws of this State, which are void or unenforceable because of irregularities in the manner any such Tax Assessor and Collector prepared the current tax rolls, or because of the failure of any such Tax Assessor and Collector to prepare the current tax rolls as required by the Statutes of this State, are each and all hereby ratified, validated, approved, confirmed, and declared enforceable, the same as though such levies and assessments of ad valorem taxes had been made and adopted originally by proper ordinance, duly passed, entered of record and signed by the proper officers of such governing body, and the same as though such assessments of property within such incorporated cities or towns for taxation purposes had been made in due and complete form and manner, and the same as though such assessment rolls and current tax rolls had been made and prepared in due and complete form and manner as required by the Statutes of this State.

Sec. 2. The provisions of this Act shall not be construed as validating any such levies and assessments for ad valorem taxes, and/or proceedings incident thereto, where the validity of such levy and assessment, and/or proceedings

incident thereto, have been attacked or contested in any pending suit or litigation.

[Acts 1939, 46th Leg., Spec.L., p. 995.]

Art. 1027h. Validation of Levies of Ad Valorem Taxes in Cities or Towns in Counties of 19,070 to 19,200

Sec. 1. All levies for ad valorem taxes heretofore made by the governing body of any city or town in this State, which are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance as is required by the Statutes of the State, and which are otherwise legally enforceable, are hereby validated, and the same are hereby declared to be legally enforceable the same as though originally levied and assessed in strict conformity with the procedure prescribed therefor by law.

Sec. 2. This Act shall apply only in those counties having a population of not less than nineteen thousand and seventy (19,070) and not more than nineteen thousand, two hundred (19,200), according to the Federal Census for the year 1940.

Sec. 3. This Act shall not affect nor in any manner apply to suits pending for the enforced collection of taxes or for any other purpose.

[Acts 1941, 47th Leg., p. 606, ch. 374.]

Art. 1027i. Validation of Ad Valorem Tax Levies in All Cities and Towns for Certain Purposes

All levies for ad valorem taxes heretofore made by the governing bodies of any incorporated city or town in this State for current expenses, maintenance of public free schools, and for interest and sinking funds to pay bonded obligations heretofore authorized by the electorate, which levies are void and unenforceable because such levies were made and adopted by resolution, motion, or other informal action instead of having been made by ordinance, or because made and adopted prior to final approval of the annual budget of any such city or town, or because made and adopted at a time when the tax rolls were not actually before the governing bodies of any such city or town, and which levies are otherwise legally enforceable, are hereby ratified, confirmed, and validated, and such levies are hereby declared enforceable the same as though they had been adopted originally by ordinance in strict compliance with all requirements of the law; provided this Act shall not apply to levies the validity of which has been attacked in any litigation pending in Court at the time this Act becomes effective.

[Acts 1941, 47th Leg., p. 857, ch. 533, § 1.]

Art. 1027j. Unenforceable and Unrecorded Tax Levies in Cities of 7,800 to 8,000; Validation; Assessment and Collection as Notice of Levy

Unenforceable Levies

Sec. 1. (a) All tax levies heretofore made by and for any tax unit, which levies are unen-

forceable because not made in strict compliance with the form and manner required by statute or because of any other defect which may be cured by the Legislature, are hereby validated and declared enforceable the same as though they had been regularly made in proper form and manner.

(b) Henceforth if for any cause any tax unit fails to make a valid tax levy for any year, the last prior valid tax levy of that tax unit shall be continued in force as the tax levy of such tax unit for the year in which a valid levy was not made.

Levies Not Recorded

Sec. 2. Should any tax unit fail to make a proper record of a tax levy for any year, but taxes were assessed and collected by the unit for that year and the tax rate(s) can be determined by examining the tax rolls for such year, this shall constitute notice that a tax levy was made by the unit for that year even though such levy was not properly recorded; and the unit's governing body may make inquiry and determine that a proper tax levy was regularly made for such year but was not recorded, and the governing body may order that a proper tax levy ordinance for such year be entered in the official records nunc pro tunc, and this shall be conclusive evidence that the tax unit's levy for such year was properly and regularly made. This provision shall be cumulative of and in addition to all other rights and remedies not available to any tax unit in such cases.

Definitions

Sec. 3. A tax unit or unit as used in this Act is any incorporated city with a population of not less than 7,800, and not more than 8,000, according to the last preceding federal census.

Inapplicability of this Act

Sec. 4. This Act shall not affect any suit pending in any court on the effective date of this Act where the invalidity or non-record of any tax levy has heretofore been pleaded as a defense.

Partial Invalidity

Sec. 5. If any provision of this Act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 3066, ch. 1021, eff. June 15, 1971].

Art. 1027k. Validation of Proceedings for Ad Valorem Tax Levies to Acquire Facilities for Upper Level College

Sec. 1. Where any city in the state which operates under the general law or pursuant to a home rule charter acting through its governing body has heretofore authorized the issu-

ance of bonds payable from ad valorem taxes for the acquisition of buildings and facilities for an upper level college, and the proposition of issuance of such bonds and the levy of the tax therefor has been submitted to and approved by a majority of the resident, qualified electors who own taxable property in said city and who have duly rendered the same for taxation voting at an election and a majority of all other qualified electors voting at such election, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election, the issuance of such bonds and such bonds are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the delivery of such bonds to purchasers thereof, acquire such buildings and facilities, and convey without consideration all or any part of the properties acquired with the proceeds from the sale of such bonds together with the site or sites therefor, to the State of Texas acting by and through a governing body of a state supported institution of higher learning, and said governing body is hereby authorized to accept such building and facilities and the sites therefor.

Sec. 3. The bonds of any such city when delivered and paid for pursuant to such existing proceedings and lawful proceedings hereinafter had shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. This Act shall have no application to litigation pending in any court of competent jurisdiction in this state on the effective date hereof questioning the validity of any matters hereby validated, if such litigation is ultimately determined against the validity of same.

[Acts 1973, 63rd Leg., p. 133, ch. 67, eff. May 2, 1973.]

Art. 1028. Ad Valorem Tax in Large Cities

The governing body of any city in this State having more than five thousand inhabitants, unless otherwise provided in its special charter granted by the Legislature or adopted by the people, shall have power by ordinance to levy, assess and collect such taxes as such governing body may determine, not to exceed for any one year two and one-half per cent of the taxable property of such city, for current expenses and for the purpose of construction or the purchase of public buildings, water works, sewers, and other permanent improvements, and for the construction and improvement of the roads, bridges and streets of such city, within its limits.

[Acts 1925, S.B. 84.]

Art. 1028a. Validation of Levies of Ad Valorem Taxes in Certain Cities, Towns and School Districts

That all levies and assessments of ad valorem taxes heretofore made by the governing

body of any independent school district or city or town in this State, in counties having a population of not less than twenty-two thousand, four hundred and fifty (22,450), and not more than twenty-two thousand, eight hundred and fifty (22,850), and all cities having a population of not less than eleven thousand, four hundred (11,400), and not more than eleven thousand, five hundred (11,500), according to the last preceding Federal Census, not in excess of the limit now provided by law, which are void or unenforceable because such levies were made and adopted by resolution, motion or other informal action, instead of having been made by order, as required by the Statutes of this State; and all assessments of taxes or assessments of property within the limits of any such independent school district or city or town in this State, subject to taxation under the laws of this State for taxation under such resolution, motion or other informal action, which are insufficient because of the failure of such governing body to appoint the proper and statutory Board of Equalization, as required by law, and which are insufficient and void, and unenforceable on account of technical irregularities in the manner of preparing the books and reports of the assessors assessing such property; and all equalizations of said valuations of such property for taxation purposes made by the Board of Equalization acting for any such independent school district or city or town which are irregular or insufficient because the reports of such equalization were adopted and accepted orally, or by other informal action; and/or the acts of making such equalization were made orally or informally or in incomplete form, are each and all hereby validated, ratified, approved, confirmed, and declared enforceable, the same as though such levies and assessments of taxes had been made and adopted originally by the proper order, motion or resolution, duly passed, entered of record, and signed by the proper officials of such governing body, and the same as though such assessments of property within such independent school district or city or town for taxation purposes had been made in due and complete form, and the same as though such equalizations and the reports of each of the Boards of Equalization acting for said independent school districts or city or town had been made in due and regular form, and adopted and accepted in due and regular form. Provided, however, that this Act shall not affect any suit or suits pending at the time same becomes effective, which have been filed for the collection of taxes by any independent school district or city or town in this State; and provided further, that this Act shall not validate any valuation placed upon property by any Board of Equalization or any Tax Assessor where such property had been valued in excess of its reasonable cash market value, or where such property has been discriminated against as to value or placed upon the rolls at a higher value than property of like kind, or at a greater percentage of its value than other property as-

essed for taxation by such Independent School District or city or town in which located.

[Acts 1935, 44th Leg., p. 540, ch. 228, § 1.]

Art. 1029. Retirement of Indebtedness

To meet the interest and sinking fund on all indebtedness legally incurred prior to the adoption of the constitutional amendment of September 25, 1883, regarding the power of cities and towns to levy and collect taxes, etc., the governing body of the following cities and towns shall have power by ordinance to levy, assess and collect an annual ad valorem tax sufficient therefor:

1. Of any city or town having a population of five thousand or less.

2. Of any city having more than five thousand inhabitants, unless otherwise provided in the special charter granted by the Legislature or adopted by the people.

[Acts 1925, S.B. 84.]

Art. 1030. Poll Tax; When Prerequisite to Voting

The City Council shall have power to levy and collect an annual poll tax, not to exceed One Dollar (\$1) of every inhabitant of said city over the age of twenty-one (21) and under sixty (60) years, those persons exempt by law from paying the State poll tax excepted, who is a resident thereof at the time of such annual assessment; provided that said poll tax levied by the City Council shall not be made a prerequisite to voting in any election in this State except in city elections.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 377, ch. 223, § 1; Acts 1941, 47th Leg., p. 156, ch. 117, § 1.]

Art. 1031. Occupation Tax

The city council shall have the power to levy and collect taxes, commonly known as licenses, upon trades, professions, callings and other business carried on; and each person and firm engaging in the following trades, professions, callings and business, among others, shall be liable to pay such license tax; every person or firm keeping a ball alley, or nine or ten-pin alley; every person or firm selling goods, wares and merchandise at public auction; every merchant or cotton broker or commission merchant; every person or firm pursuing the occupation of hawker or peddler of goods or any article whatever; but this enumeration shall not be held to deprive the city council of the right to levy and collect other license taxes, and from other persons and firms under the general authority herein granted.

[Acts 1925, S.B. 84.]

Art. 1032. Power to Collect Tax

Nothing herein shall prevent the city council from collecting the license, and each license tax provided for by this title. Each establishment shall be liable to said license tax; and any person or firm pursuing occupations, business, avocations or calling subject to said tax shall pay on each. No license shall extend to

more than one establishment, or include more than one occupation, avocation, business or calling.

[Acts 1925, S.B. 84.]

Art. 1033. Power to Assess Tax

The city council shall have power to provide by ordinance for the assessing and collecting of said taxes, and to determine when taxes shall be paid by corporations, and when by the individual corporators. No tax shall be levied unless by consent of two-thirds of the aldermen elected.

[Acts 1925, S.B. 84.]

Art. 1034. Collection of License Tax

The license tax shall be collected by the assessor and collector, and shall be paid to that officer by each person and firm owing such license and before engaging in any trade, profession, business, calling, avocation or occupation subject to said tax. This article shall apply to all persons owning any license and failing to pay the same. The city council may collect said license tax by suit under such rules as they may provide by ordinance. Said taxes, commonly known as licenses, shall not be construed to be a tax on property within the meaning of the provisions of this title.

[Acts 1925, S.B. 84.]

Art. 1035. License Revoked

In any case where, by any provision of this title, or by an ordinance passed in pursuance thereof, a person is required to obtain a license for any calling, occupation, business or avocation, and has by the recorder been adjudged guilty of violating any city ordinance in relation thereto, the recorder, in addition to a fine, may institute proceedings to suspend or revoke the license so granted.

[Acts 1925, S.B. 84.]

Art. 1036. "Real Estate"

The term real estate or property as used in this law shall be held to include lots, lands, and all buildings or machinery and structures of every kind erected upon and affixed to the same.

[Acts 1925, S.B. 84.]

Art. 1037. "Personal Estate"

The term personal estate or property as used in this law shall be held to include all household furniture, money, goods, capital, chattels, public stocks and stocks of corporations, moneyed or otherwise, and generally all property which is not real.

[Acts 1925, S.B. 84.]

Art. 1038. Exemptions

The city council may, by ordinance, provide for the exemption from taxation of such property as they may deem just and proper.

[Acts 1925, S.B. 84.]

Art. 1039. Special Taxes

Nothing in this chapter shall be construed to prevent the city council from imposing, levying

and collecting special taxes and assessments for the improvement of the avenues, streets and alleys, as hereinafter provided.

[Acts 1925, S.B. 84.]

Art. 1040. Indebtedness

The city council may also levy, assess and collect taxes necessary to pay the interest and provide a sinking fund to satisfy any indebtedness heretofore legally made and undertaken. All such taxes shall be assessed and collected separately from those levied, assessed and collected for current expenses of municipal government, and shall, when levied, specify in the act of levying the purpose therefor. Such taxes may be paid in coupons, bonds or other indebtedness for the payment of which such tax may have been levied.

[Acts 1925, S.B. 84.]

Art. 1041. Powers of Council

The city council may provide, by ordinance, for the prompt collection of all taxes assessed, levied and imposed under this title, and is authorized to sell or cause to be sold real as well as personal property, and may make such rules and regulations, and pass all ordinances as they may deem necessary to the levying, laying, imposing, assessing and collecting of any tax herein provided.

[Acts 1925, S.B. 84.]

Art. 1042. Further Powers

The city council may by ordinance, regulate the manner of making out tax lists or inventories and appraisements of property therein, and prescribe the oath that shall be administered on such rendition of property, and to prescribe how and when property shall thus be rendered, and to prescribe the number and form of assessment rolls, and fix the duties and powers of the assessor and collector, and adopt such measures as they deem advisable to secure the assessment of all property within the limits of said city, and collect the tax thereupon.

[Acts 1925, S.B. 84.]

Art. 1042a. Ordinances Authorizing Assessors, or Assessors and Collectors to Prescribe Assessment Forms, Lists, and Rolls; Cities and Towns of 230,000 to 250,000

All cities and towns in the State of Texas whether incorporated under General or Special Law, including Home Rule Cities, having a population in excess of two hundred and thirty thousand (230,000) and not more than two hundred and fifty thousand (250,000), according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority, any law to the contrary notwithstanding, to pass an ordinance or ordinances:

Empowering the assessor of taxes, or the assessor and collector of taxes, as the case may be, to prescribe assessment forms, lists, or statements for rendering

or listing property for taxation by the taxpayer in such city or town, which said assessment forms, lists, or statements shall provide and contain sufficient space and appropriate headings as will make possible their use as a combination assessment-roll-tax-roll, which are now required by law to be made separately, and to provide for the binding of such assessment-roll-tax-roll lists, forms, or statements, into one series of rolls, alphabetically arranged, without reference as to whether such listing or rendering is made by the taxpayer or by the assessor-collector.

[Acts 1937, 45th Leg., 2nd C.S., p. 1896, ch. 22, § 1.]

Art. 1042b. Assessment and Collection of Taxes in Cities, Towns, Villages, Drainage Districts, and Other Districts

County Assessor and Collector as Assessor and Collector for City, Town, Etc.

Sec. 1. Any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district in the State of Texas is hereby authorized by ordinance or by proper resolution to authorize the county assessor of the county in which said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district is located to act as tax assessor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district or authorize the tax collector of the county in which said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district is situated to act as tax collector for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district.

Duties of Tax Assessor

Sec. 2. When an ordinance or proper resolution is passed, making available the services of the county tax assessor to such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, it shall be the duty of the said tax assessor of the county in which such incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district and perform the duties of tax assessor for said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district.

gation district or hospital district according to the ordinances and resolutions of said incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, and according to law.

Duties of Tax Collector

Sec. 3. When an ordinance or proper resolution is passed availing such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts of the services of the county tax collector, it shall be the duty of said tax collector of the county in which said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts are situated to collect the taxes and assessments for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts and turn over as soon as collected to the respective proper depository of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, or other authority authorized to receive such taxes or assessments, all taxes or moneys collected for said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts according to the ordinances or resolutions of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, and according to law, less his fees hereinafter provided for, and shall perform the duties of tax collector of said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts.

Valuation

Sec. 4. The property situated within and subject to taxation in said incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts taking advantage of this Act shall be assessed at the same value as it is assessed for county and state purposes.

Compensation of County Assessor and County Collector

Sec. 5. When the county assessor and county collector are required to assess and collect

the taxes in any incorporated city, town or village, drainage district, water control and improvement district, water improvement district, fresh water supply district, navigation district or hospital district, they shall respectively receive for such services an amount to be agreed upon by the governing body of such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts, and the commissioners court of the county in which such incorporated cities, towns or villages, drainage districts, water control and improvement districts, water improvement districts, fresh water supply districts, navigation districts or hospital districts are situated not to exceed one percent of the taxes so collected.

[Acts 1939, 46th Leg., p. 652; Acts 1941, 47th Leg., p. 404, ch. 235, § 1; Acts 1967, 60th Leg., p. 859, ch. 366, § 1, eff. Aug. 28, 1967.]

Art. 1043. Rendition, Fiscal Year

Each person, partnership and corporation owning property within the limits of the corporation shall, between January first and April first of each year, hand to the city assessor and collector a full and complete sworn inventory of the property possessed or controlled by him, her or them, within said limits on the first day of January of the current year. If the fiscal year of a municipal corporation runs otherwise than the calendar year, such corporation may by ordinance require said inventory to be made as of the first day of such fiscal year, in which case the inventory shall be handed to the city assessor and collector within the first three months of the fiscal year.

[Acts 1925, S.B. 84; Acts 1934, 43rd Leg., 3rd C.S., p. 50, ch. 27, § 1.]

Art. 1044. Assessor and Collector

The assessor and collector shall make up the assessment of all property taxed by the city, and make duplicate rolls thereof, and on completion of the rolls, shall deliver one of them to the city secretary. He shall collect all the taxes due the city, and in the event of the nonpayment of any taxes, shall proceed to sell the property to raise the amount of taxes so due; and shall in performance of his duties, observe the provisions of this title, and the ordinances of the city relating thereto. He shall give a good bond in such amount and form as the city council may prescribe. The council may require a new bond whenever they deem the existing bond insufficient; and when such bond is required, he shall perform no official act until said bond shall be given and approved. He shall at the end of every week, pay to the treasurer all money by him collected, and shall report to the city council at the first meeting in every month all money so collected and paid and perform all such other duties in such manner as the council may prescribe. The assessor and collector is authorized to require the owners of all property subject to taxation to render a correct account of the same under oath, to be

administered by him. He shall receive such compensation as may be allowed by the city ordinances.

[Acts 1925, S.B. 84.]

Art. 1044a. City Councils and Trustees of Independent School Districts Authorized to Fix Compensation of Tax Assessors and Collectors in Counties of 43,030 to 43,040 Population

Sec. 1. The City Councils of all cities and towns within this State may at their option increase the compensation of city tax assessors and collectors in any sum not to exceed Three Hundred Dollars (\$300) per annum in addition to the amount that is now allowed as compensation to tax assessors and collectors of said cities and towns.

Sec. 2. The trustees of any independent school district within said counties may at their option increase the compensation of tax assessors and collectors of taxes of said independent school districts in addition to the amount now paid not to exceed the sum of Three Hundred Dollars (\$300) per annum in all counties with a population of not less than forty-three thousand and thirty (43,030) and not more than forty-three thousand and forty (43,040), according to the last Federal Census.

[Acts 1937, 45th Leg., 2nd C.S., p. 1994, ch. 66.]

Art. 1045. List of Personal Property

The assessor and collector shall make out a list of all personal property which has not been given in for assessment according to the provisions of this title, and assess the same in the name of the owner, if he be known; if not, then it shall be assessed by description of the property and as unknown owner. The value of such property shall be determined by the board of equalization. The same may be sold as in other cases, if the tax be not paid in the time prescribed by law.

[Acts 1925, S.B. 84.]

Art. 1046. Unrendered Property

The assessor and collector, at the expiration of the time fixed by ordinance for the rendition of property shall ascertain such property in the city subject to taxation as has not been rendered; and the same shall be by him presented to the board of equalization for valuation by said board; and the same shall be by him entered in a supplement to the assessment roll as unknown, specifying the year for which said tax is not paid within the time prescribed by law; said property shall be sold at the same time and with like effect as other property.

[Acts 1925, S.B. 84.]

Art. 1047. Back Taxes

Whenever the assessor and collector shall ascertain that any taxable property, real or personal, has not been assessed for any previous year, he shall assess the same in a supplement to his next assessment roll, at the same rate under which such property should have been

assessed for such year, stating the year for which such property should have been assessed; and the taxes thereon shall be collected in the same manner as other assessments. In any case where any party has omitted to render property for taxation for any former year or years, and such taxes have not been paid, such party shall give such property in for assessment for the years thus omitted and pay such taxes; and the assessor and collector shall enter all such property in a supplement to his next assessment roll, under the head of payments for former years.

[Acts 1925, S.B. 84.]

Art. 1048. Equalization Board

The councils of cities and towns incorporated under the General Laws shall within their discretion act as a Board of Equalization. Said councils of such cities and towns shall annually at their first meeting or as soon thereafter as practical exercise such discretion, and if they so determine they shall have the authority to appoint three (3) commissioners, each a qualified voter, a resident, and property owner of the city or town for which he is appointed who shall be styled the Board of Equalization. At the same meeting said council shall by ordinance fix the time for the meeting of such Board. Before said Board enters upon its duties, it shall be sworn to faithfully and impartially discharge all duties incumbent upon it by law as such Board.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., 2nd C.S., p. 1946, ch. 46, § 1.]

Art. 1049. Meetings of Board

The board of equalization shall convene annually, at the time so fixed to receive all the assessment lists or books of the assessor of their city, for examination, correction, equalization, appraisalment, and approval. At each meeting of said board the city secretary shall act as secretary therefor.

[Acts 1925, S.B. 84.]

Art. 1050. Shall Value Property

The board of equalization shall cause the assessor to bring before them, at the time so fixed all the assessment lists or books of the assessor of their city for their examination. Said board shall have power to send for persons and papers, to swear persons who testify, to ascertain the value of such property; and, if they are satisfied it is too high, they shall lower it to its proper value; and if too low, they shall raise the value of such property to a proper figure. Said board shall also have power to correct any errors that may appear on the assessor's lists or books.

[Acts 1925, S.B. 84.]

Art. 1051. Complaint

Any person may file with said board at any time before the final action of said board a complaint as to the assessment of his or any other person's property, and said board shall

hear said complaint. Said complainant shall have the right to have witnesses summoned in sustaining said complainant¹ as to the insurance on said property, or the rents and profits it may bring to the holder thereof.

[Acts 1925, S.B. 84.]

¹ Probably should read "complaint".

Art. 1052. Unrendered Property Appraisal

The city assessor, when he delivers to said board his lists and books, shall also furnish a certified list of the names of all persons who either refuse to swear or qualify or to sign the oath as required by law, together with a list of the property of such persons situated within the corporate limits of their city, as made by him through other information. The board shall examine said lists and appraise the property so listed by the assessor.

[Acts 1925, S.B. 84.]

Art. 1053. Notice to Owners

In all cases where the board of equalization shall raise the value of any property appearing on the lists or books of the assessor, they shall, after having examined such lists or books and corrected all errors appearing therein, adjourn to a day not less than ten nor more than fifteen days from the date of adjournment, such day to be fixed in the order of adjournment, and shall cause the secretary of said board to give written notice to the owner of such property or to the person rendering the same of the time to which said board has adjourned, and that such owner or person rendering said property may at that time appear and show cause why the value of said property should not be raised. Such notice may be served by depositing the same, properly addressed and postage paid, in the city post office.

[Acts 1925, S.B. 84.]

Art. 1054. Shall Lower Values

The board of equalization shall meet at the time fixed in said order of adjournment, and shall hear all persons the value of whose property has been raised. If said board is satisfied they have raised the value of such property too high, they shall lower the same to its proper value. The action of said board at said meeting shall be final, and shall not be subject to revision by said board or by any other tribunal.

[Acts 1925, S.B. 84.]

Art. 1055. Approval of Rolls

The board of equalization, after it has finally examined and equalized the value of all property on the assessor's lists or books, shall approve said lists or books and return them, together with the lists that he may make up therefrom his general rolls as required by law; and when said general rolls are so made up, the board shall meet again to examine and approve said rolls.

[Acts 1925, S.B. 84.]

Art. 1056. Compensation of Board

The members of the board of equalization and the city secretary, while acting as secretary of said board, shall receive such pay for their services, to be allowed by the city council, as said council may deem just.

[Acts 1925, S.B. 84.]

Art. 1057. Collection of Taxes

The assessor and collector, after the completion of the assessment roll, shall proceed to collect the taxes therein mentioned within the time, and give such notice as may be prescribed by the city council, and shall call once upon every person taxed, or on the agent or attorney of such person and demand the payment of the tax charged upon his or her person or property, if the person is to be found, and if not, then a written demand, specifying the amount of taxes due, left at the residence of some adult member of the family, shall be sufficient demand. If any person thus owing taxes has no residence, office or place of business, and no agent in the city or town known to the assessor and collector, then said demand shall not be necessary, and the ordinary published notice required by ordinance shall be sufficient.

[Acts 1925, S.B. 84.]

Art. 1058. Tax Sale

If any person shall fail to pay the taxes imposed on him and his property within the time prescribed by the ordinances of the city, the assessor and collector shall, by virtue of his tax list and assessment roll, levy upon so much of the property subject to taxation belonging to such person as may be sufficient to pay his taxes and shall give notice of the time and place of the sale by advertisement (if not unknown property), of the property and amount of taxes, costs and fees dues thereupon. Such notice shall be published in some newspaper published in said city. At the expiration of the time stated in such notice and on the day therein specified, the assessor and collector shall proceed to sell such property at public auction at some public place in said city designated in said notice. When real estate is offered for sale, the least amount of such real estate shall be sold as will be sufficient to bring the amount of the taxes, penalties and costs due by said delinquent. Should a less amount than the whole tract levied upon be sold, the assessor and collector shall, in making his deed to the purchaser, begin at a corner of said tract or parcel of land and designate the same as nearly as possible in a square so that the remaining portion will be affected to as little advantage as possible.

[Acts 1925, S.B. 84.]

Art. 1059. Effect of Deed

The assessor and collector shall, when any property has been sold for the payment of taxes, make, execute, and deliver a deed for said property to the person purchasing the same,

and such deed shall be prima facie evidence in all controversies and suits in relation to the right of the purchaser, his heirs and assigns, to the premises thereby conveyed of the following facts:

1. That the land or lot or portions thereof conveyed was subject to taxation or assessment at the time the same was advertised for sale, and had been listed or assessed in the time or manner required by law.

2. That the taxes or assessment were not paid at any time before the sale.

3. That the land, lot, or portion thereof conveyed had not been redeemed from the sale at the date of the deed, and shall be conclusive evidence of the following facts:

(a) That the land, lot or portion thereof sold was advertised for sale in the manner and for the length of time required by law.

(b) That the property was sold for taxes or assessments as stated in the deed.

(c) That the grantee in the deed was the purchaser.

(d) That the sale was conducted in the manner prescribed by law.

And in all controversies and suits involving the title to land claimed and held under and by virtue of such deed, the person claiming title adverse to the title conveyed by such deed shall be required to prove, in order to defeat said title, either that the land was not subject to taxation at the date of the sale, that the taxes or assessment had been paid, that the land had never been listed or assessed for taxation and assessment, as required by this title, or some ordinance of the city, or that the same had been redeemed according to the provisions of this title, and that such redemption was made for the use and benefit of the person having the right of redemption under the law; but no person shall be permitted to question the title acquired by the said deed without first showing that he, or the person under whom he claims title, had title to the land at the time of the sale, or that the title was obtained after the sale; provided, however, that the owner of such property shall have the right to redeem the same at any time within two years of the day and date of the sale thereof, upon payment to the purchaser of double the amount of taxes for which the same was sold, together with the costs of such sale and double the amount of all taxes paid by the purchaser since such sale.

[Acts 1925, S.B. 84.]

Art. 1060. Personal Property

The assessor and collector shall have power to levy upon any personal property to satisfy any tax imposed by this title. All taxes shall be a lien upon the property upon which they are assessed, and in case any property levied upon is about to be removed out of the city, the assessor and collector shall proceed to take

into his possession so much thereof as will pay the taxes assessed and the costs of collection. [Acts 1925, S.B. 84.]

Art. 1060a. Application of Title 122 to School Districts and Municipal Corporations

All of the provisions of Title 122,¹ of the Revised Civil Statutes of Texas of 1925, be, and the same are made available insofar as same may be applicable and necessary to all school districts and municipal corporations organized under any general or special law of this State and which have power and authority to levy and collect their own taxes, and that each of such school districts and such municipal corporations shall have the benefit of all liens and remedies for the security and collection of taxes due them as is provided in said Title in the case of taxes due the State and county, and as otherwise provided by the General Laws of this State in the case of taxes due incorporated cities and towns.

[Acts 1935, 44th Leg., p. 666, ch. 281, § 1; Acts 1963, 58th Leg., p. 969, ch. 392, § 1.]

¹ Article 7041 et seq.

Art. 1061. May Continue Sale

If, from any cause, the sale of property levied upon or seized for taxes shall not take place at the time first appointed, the assessor and collector shall appoint some other time, give like notice, and proceed to sell such property as prescribed in the first instance. If said property levied upon or seized for taxes cannot be sold on the day advertised, such sale may be postponed from day to day until completed, of which postponement the assessor and collector shall give verbal notice at the expiration of sale each day.

[Acts 1925, S.B. 84.]

Art. 1062. Failure to Sell

If, at any sale of real or personal property or estate for taxes, no bid shall be made for any parcel of land, or any goods and chattels, the same shall be struck off to the city, and the city shall receive, in the corporate name, a deed for said property, and shall be vested with the same right as other purchasers at such sale, and may sell and convey the same. [Acts 1925, S.B. 84.]

Art. 1063. Laws Applicable

The provisions of Chapter 8, Title 122,¹ in reference to the seizure and sale of real and personal property for taxes, penalties and costs due thereon, shall apply as well to tax collectors for towns and cities as for tax collectors for counties. Tax collectors for cities and towns shall be governed, in selling real and personal property, by the same rules and regulations in all respects as to time, place, manner and terms and making deeds as are provided for tax collectors for counties, except as in this chapter otherwise provided.

[Acts 1925, S.B. 84.]

¹ Articles 7245 to 7298.

³ West's Tex. Stats. & Codes—54

Art. 1064. One Year Redemptions

If the real estate of an infant or lunatic be sold under this title, the same may be redeemed at any time within one year after such disability be removed.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 739, ch. 309, § 3, eff. Jan. 1, 1968.]

Art. 1065. Two Year Redemptions

All lands sold under and by virtue of decree and judgment of court or as otherwise provided by law, for taxes due any incorporated city or town within this State, may be redeemed by the owner or owners thereof within two years from the date of deed, upon the payment to the purchaser, or his assigns, of double the amount so paid, including costs of court. The purchaser at such foreclosure sale, and his assigns, shall not be entitled to the possession of the property sold for taxes until the expiration of two years from the date of deed.

[Acts 1925, S.B. 84.]

Art. 1066. Payment of Taxes

Taxes levied to defray the current expenses of the city government, and all license and occupation tax levied, and all fines, forfeitures, penalties and other dues accruing to cities, shall be collectible only in current money.

[Acts 1925, S.B. 84.]

Art. 1066a. Taxes Levied by Counties and Other Political Subdivisions Not Included in Determining Power of Home Rule City or Town to Levy Taxes

Sec. 1. The taxes levied by any county, any political subdivision of a county, any number of adjoining counties, any political subdivision of the State, or any defined district under or by virtue of Article 3, Section 52 of the Constitution of the State of Texas, shall not be reckoned in determining the power of any city or town to levy city taxes, irrespective of whether such city or town is located wholly or partly within such county, number of adjoining counties, political subdivision, or defined district, or whether such political subdivision or defined district be included wholly or partly within such city.

Sec. 2. In case of conflict between this Act and any city charter or any special law constituting the charter of a city, the provisions of this Act shall prevail.

Sec. 3. Provided, however, that this Act shall not apply except as to cities and towns acting under a home rule charter and which has, prior to the effective date of this Act, attempted to amend its charter and which at the time of said Charter amendment election did not own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system or natural gas distribution system.

Sec. 4. Provided, however, that the provisions of this Act shall not in any manner validate any obligations issued by any such city or

town, the validity of which obligations is in litigation at the time this Act becomes effective. [Acts 1939, 46th Leg., p. 94.]

Art. 1066b. Assessor, Collector and Equalization Board Acting for Included Municipality or District

Ordinance or Resolution; Valuation; Board of Equalization

Sec. 1. Any incorporated city, town or village, independent school district, drainage district, water control and improvement district, water improvement district, navigation district, road district, or any other municipality or district in the State of Texas, located entirely or partly within the boundaries of another municipality or district, is hereby empowered, to authorize, by ordinance or resolution, the Tax Assessor, Board of Equalization and Tax Collector of the municipality in which it is located, entirely or partly, to act as Tax Assessor, Board of Equalization and Tax Collector respectively for the municipality or district so availing itself of the services of said officers and Board of Equalization.

The property in said municipality or district utilizing the services of such Assessor, Board of Equalization and Collector shall be assessed at not more than the value for which it is assessed for taxing purposes by the municipality or district the services of whose officers and Board of Equalization are being utilized.

When the ordinance or resolution is passed making available their services, said Assessor shall assess the taxes for and perform the duties of Tax Assessor for the municipality or district so availing itself of his services; the said Board of Equalization shall act as and perform the duties of a Board of Equalization for said municipality or district so availing itself of its services, and said Collector shall collect the taxes and assessments for, and turn over as soon as collected to the depository of said municipality or district or to such other authority as is authorized to receive such taxes and assessments, all taxes or money, so collected, and shall perform the duties of Tax Collector of said municipality or district so availing itself of his services.

In all matters pertaining to such assessments and collections the said Tax Assessor, Board of Equalization and Tax Collector shall be, and hereby are, authorized to act as and shall perform respectively the duties of Tax Assessor, Board of Equalization and Tax Collector of, and according to the ordinances and resolutions of the municipality or district so availing itself of their services, and according to law.

Adoptions of Laws, Ordinances and Provisions
Applicable to Taxes

Sec. 1a. Whenever the governing body of any municipality or district taking advantage of this Act shall deem it necessary or expedient, said governing body may, by ordinance or resolution, adopt all or any part of the laws of

the State of Texas, charters, ordinances, liens and other provisions applicable to the levying, assessing and collecting of taxes by the district or municipality rendering the tax service. All said laws, charters, ordinances, liens and other provisions are hereby conferred on and made available to any municipality or district taking advantage of this Act in order that the district or municipality rendering the service and its Tax Assessor, Board of Equalization and Tax Collector may levy, assess and collect said municipality's or district's taxes and may assess and collect the taxes of the municipality or district for which it is rendering the services, in a uniform and economical manner.

Payments in Installments; Penalties and Interest

Sec. 1b. Any city which is acting as Tax Assessor, Board of Equalization, and Tax Collector of other districts or municipalities as provided for in this Act may by ordinance provide for payment in installments and for payment of penalties and interest at the time and in the manner prescribed by Article 7255, Revised Civil Statutes of Texas, 1925, as last amended by Section 1, Chapter 14, page 651, General Laws, Acts of the 46th Legislature, 1939 (Article 7255, Vernon's Texas Civil Statutes), and Article 7336, Revised Civil Statutes of Texas, 1925, as last amended by Section 3, Chapter 16, page 654, General Laws, Acts of the 46th Legislature, 1939 (Article 7336, Vernon's Texas Civil Statutes), or the city may by ordinance provide that all taxes collected by the city and districts and municipalities for which it is collecting taxes shall be payable on October 1 of the year for which an assessment is made, and that if such taxes are not paid in full on or before January 31 of the succeeding year, the following penalties and interest shall be payable: During the month of February, one percent; during the month of March, two percent; during the month of April, three percent; during the month of May, four percent; during the month of June, five percent; and on and after the first day of July, eight percent; and all delinquent taxes shall bear interest at the rate of six percent per annum from the date of their delinquency until paid.

Compensation

Sec. 2. When the Tax Assessor, Board of Equalization, and Tax Collector of any municipality or district have been authorized by ordinance or resolution to act as and perform the duties, respectively, of Tax Assessor, Board of Equalization and Tax Collector of another municipality or district located entirely or partly within its boundaries, such included municipality or district shall pay the municipality or district, the services of whose officers and Board of Equalization are being utilized, for said services and for such other incidental expenses as are necessarily incurred in connection with the rendering of such services, such an amount as may be agreed upon by the governing bodies of said two municipalities or districts.

Validation of Ordinances, Resolutions and Acts

Sec. 2a. All ordinances, resolutions and acts of the Governing Board, Tax Assessor, Board of Equalization and Tax Collector of any incorporated city, town or village, independent school district, drainage district, water control and improvement district, water improvement district, navigation district, road district, or any other municipality or district in the State of Texas operating under and by virtue of the power and authority granted under Chapter 351, Acts of the 49th Legislature, Regular Session, 1945, as amended, in the levying, assessing and collecting of taxes, are hereby in all things validated. All taxes levied, assessed and/or collected and all liens for said taxes arising and accruing out of the laws of the State of Texas or any charter, ordinance or resolution of any of the above-named municipalities and districts are hereby in all things validated.

Revocation of Authority

Sec. 3. Whenever any municipality or district shall have authorized the Tax Assessor, Board of Equalization and Tax Collector of another municipality or district to act as its Tax Assessor, Board of Equalization and Tax Collector, respectively, it may thereafter revoke and withdraw said authority by ordinance or proper resolution in the same manner in which such authority was conferred, and thereafter the municipality or district so revoking such authority shall assess, equalize and collect its taxes in the manner in which same were assessed, equalized and collected before said authority was granted.

Attorney to Collect Delinquent Taxes

Sec. 4. Whenever the governing body of any municipality or district taking advantage of this Act, shall deem it necessary or expedient, said governing body may contract with any competent attorney to enforce or assist in the enforcement of the collection of any of its delinquent taxes and the attorney with whom such contract has been made is hereby fully empowered and authorized to file and push to a speedy conclusion all suits for collection of delinquent taxes, under any contract as herein above specified, and such attorney is hereby fully empowered and authorized to proceed in such suits without the joinder and assistance of the regular attorney or attorneys of said municipality or district.

Act as Cumulative; Partial Invalidity

Sec. 5. The provisions of this Act shall be cumulative of and in addition to all other rights and remedies to which any such municipalities and districts may be entitled, but as to any proceedings under this Act, if any part or portion of this Act be in conflict with any part or portion of any law of the State, the terms and provisions of this Act shall govern as to such proceedings.

[Acts 1945, 49th Leg., p. 610, ch. 351; Acts 1951, 52nd Leg., p. 275, ch. 159, §§ 1 to 3; Acts 1959, 56th Leg.,

p. 222, ch. 131, §§ 1 to 3; Acts 1963, 58th Leg., p. 1130, ch. 435, §§ 1, 2; Acts 1967, 60th Leg., p. 1079, ch. 473, § 1, eff. June 12, 1967.]

Art. 1066c. Local Sales and Use Tax Act

Title of Act; Definitions

Sec. 1. This Act is known and may be cited as the "Local Sales and Use Tax Act," and the following words shall have the following meanings unless a different meaning clearly appears from the context:

A. Comptroller. "Comptroller" shall mean the Comptroller of Public Accounts of the State of Texas.

B. City. "City" shall mean any incorporated city, town, or village in the State of Texas.

C. Title 122A. "Title 122A" shall mean Title 122A, Taxation—General of the Revised Civil Statutes of Texas, 1925, and as heretofore or hereafter amended.

Authority to Adopt Tax; Imposition and Rate; Election and Ballots; Canvass of Returns; Results of Election; City Boundaries; Tax Schedule and Bracket System Formula for Joint Collection of Taxes; Standards

Sec. 2. A. Any city may, by a majority vote of the qualified voters of said city voting at an election held for that purpose, adopt a local sales and use tax for the benefit of such city in accordance with the provisions of this Act.

B. The sales tax portion of any local sales and use tax adopted under this Section is hereby imposed at the rate of one percent (1%) on the receipts from the sale at retail of all taxable items within any city adopting such tax which items are subject to taxation by the State of Texas under the provisions of the Limited Sales, Excise and Use Tax Act, as enacted, and as heretofore or hereafter amended.

C. The governing body of any city may, by a majority vote of its members qualified and serving, or shall, upon petition of qualified voters of said city equal in number to at least twenty percent (20%) of the total number of votes cast in the last preceding regular city election, provide by ordinance for the calling and holding of an election on such question.

D. If such election is initiated by petition of qualified voters, the governing body of the city shall have thirty (30) days after receipt of such petition to determine the sufficiency thereof and, if such petition is sufficient, shall within sixty (60) days after receipt of such petition pass the ordinance calling such election.

E. The ordinance calling such election shall provide for the submission of such question at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular city election is to be held during such period, the submission of such question shall be at such election; otherwise, a special election shall be called for the purpose.

F. Notice of said election shall be given by causing a substantial copy of the ordinance

calling the election to be published on the same day of two successive weeks in a newspaper of general circulation published within said city, the date of the first publication to be at least twenty-one (21) days prior to the date set for such election. If there be no newspaper published within the city, such ordinance may be published in some newspaper having general circulation within the city. The provisions of this Section shall prevail over any city charter provision to the contrary.

G. The ballot at such election shall have printed on it the following:

"FOR adoption of a one percent (1%) local sales and use tax within the city."

"AGAINST adoption of a one percent (1%) local sales and use tax within the city."

The election shall be conducted in the manner provided by law for other municipal elections unless otherwise specified herein. If a majority of the votes cast at such an election be in favor of the adoption of a local sales and use tax, the same shall be effective in such city as follows: In order to allow time for the Comptroller's administrative duties under this Act, there shall elapse one whole calendar quarter after the Comptroller receives notice of adoption of such tax provided for in this Act, after which such local sales and use tax shall be effective in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

H. In any city in which a local sales and use tax has been imposed in the manner provided for herein, in the same manner and by the same procedure such city may by majority vote of the qualified voters of said city voting at an election held for that purpose abolish such tax. The ballot for any such election shall have printed on it the following:

"FOR abolition of the local sales and use tax within the city."

"AGAINST abolition of the local sales and use tax within the city."

If a majority of the votes cast at any such election be in favor of the abolition of such tax, such local sales and use tax shall be thereby abolished effective in such city as follows: There shall elapse one whole calendar quarter after the Comptroller receives the notice of abolition of such tax, after which such local sales and use tax shall be abolished in such city beginning on the first day of the calendar quarter next succeeding such elapsed quarter.

I. Within ten (10) days after any election held under the provisions of this Section at which a majority of the qualified voters voting at such election in any city shall vote in favor of the adoption or the abolition of a local sales and use tax within such city, the governing body of such city shall canvass the returns of such election and by ordinance or resolution entered in the minutes declare the results of such election. Thereafter, the City Secretary shall forward to the Comptroller by United States Registered Mail or Certified Mail a cer-

tified copy of the ordinance or resolution of the governing body canvassing the returns and declaring the result of such election. Such ordinance or resolution shall reflect the date of the election in such city, the proposition voted on, the total number of votes cast for and against the proposition, and the number of votes by which the proposition was approved, and shall be accompanied by a map of the city clearly showing the boundaries thereof. If a majority of votes be found to be against any proposition, so that the tax status of such city under this Act is not changed, no notice of the results of the election shall be filed with the Comptroller.

J. If any city in which a local sales and use tax has been imposed in the manner provided for herein shall thereafter change or alter its boundaries, the City Secretary of such city shall forward to the Comptroller by United States Registered Mail or Certified Mail a certified copy of the ordinance adding or detaching territory from such city. Such ordinance shall reflect the effective date thereof, and shall be accompanied by a map of the city clearly showing the territory added thereto or detached therefrom. Upon receipt of such ordinance and map, the tax imposed by this Act shall be effective in such added territory or abolished in such detached territory on the first day of the next succeeding quarter; provided that if the Comptroller shall notify the City Secretary in writing within ten (10) days after receipt of such ordinance and map that he requires more time, the Comptroller shall be entitled to the elapsed calendar quarter referred to in Subsection G of this Section before such tax shall be imposed in such added territory or abolished in such detached territory.

K. (1) In each city in which a local sales and use tax has been imposed in the manner provided by this Act, every retailer shall add the tax imposed by the Limited Sales, Excise and Use Tax Act of the State of Texas and the tax imposed by this Act to his sale price, and when added, the combined tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price. When the sale price in such city shall involve a fraction of a dollar, the two combined taxes shall be added to the sale price upon the schedule and bracket system formula set forth in Paragraphs (2) and (3) of this subsection.

(2) When such Limited Sales, Excise and Use Tax imposed by the State of Texas shall be at the rate of four percent (4%) on the receipts from the sale at retail of all taxable items within this State which is subject to such tax, and the Local Sales and Use Tax imposed in any city under authority of this Act shall be at the rate of one percent (1%) on the receipts from the sale of all taxable items within such city which is subject to such tax, the total gross rate of such combined taxes in such city shall be at the rate of five percent

(5%) on combined taxes in such city on the receipts from the sale of all tangible personal property within such city which is subject to such taxes. When the sale price shall involve a fraction of a dollar, the taxes shall be added to the sale price upon the following schedule:

Amount of Sale	Tax
\$.01 to \$.09	No Tax
.10 to .29	\$.01
.30 to .49	.02
.50 to .69	.03
.70 to .89	.04
.90 to 1.09	.05

Provided, that for successive brackets for this schedule in this paragraph, the tax shall be computed by multiplying five percent (5%) times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected as a whole cent (\$.01) of tax.

Provided, however, that any retailer who can establish to the satisfaction of the Comptroller that fifty percent (50%) or more of his receipts from the sale of tangible personal property and taxable services arise from individual transactions where the total sales price is nine cents (\$.09) or less may exclude the receipts from such sales when reporting and paying the tax imposed under this Act and the Limited Sales, Excise and Use Tax imposed by the State of Texas. No retailer shall avail himself of this provision without prior written approval of the Comptroller. The Comptroller shall grant such approval when he is satisfied that the retailer qualifies on the basis set forth in this Section and when the retailer has submitted satisfactory evidence that he can and will maintain records adequate to substantiate the exclusion herein authorized. Any attempt on the part of any retailer to exercise this provision without prior written approval of the Comptroller shall be deemed to be a failure and refusal to pay the taxes imposed by this Act and the Limited Sales, Excise and Use Tax Act and the retailer shall be subject to assessment for both taxes, penalties and interest as provided for in this Act and the Limited Sales, Excise and Use Tax Act.

(3) In the event the Legislature shall either increase or decrease the rate of such State Limited Sales, Excise and Use Tax, the combined rate of the State Limited Sales, Excise and Use Tax and the Local Sales and Use Tax shall be the sum of the two rates, in which event the schedule for collection of such combined taxes shall be calculated by multiplying the combined tax rate times the amount of the sale. Any fraction of one cent (\$.01) which is less than one half of one cent (\$.005) of tax shall not be collected. Any fraction of one cent (\$.01) of tax equal to one half of one cent (\$.005) or more shall be collected by the retailer as a whole cent (\$.01) of tax. The Comptroller may publish a schedule based on the above formula for use in those cities which

have imposed a Local Sales and Use Tax under the authority of this Act, and which cities have a need for such schedule under the provisions of this paragraph.

Frequency of Elections

Sec. 3. No election upon a proposition to adopt a local sales and use tax in any city or to abolish such tax in such city shall be held within one (1) year from the date of the last preceding election in such city on any of such propositions.

Excise Tax; Combined Rate of Excise Tax; Imposition, Rate and Collection of Tax

Sec. 4. A. In every city where the local sales and use tax has been adopted pursuant to the provisions of this Act, there is hereby imposed an excise tax on the storage, use, or other consumption within such city of tangible personal property purchased, leased, or rented from any retailer on or after the effective date for collection of the sales tax portion of the local sales and use tax for storage, use or other consumption in such city at the rate of one percent (1%) of the sales price of the property or, in the case of leases or rentals, of said lease or rental price; provided, that if no excise tax on the storage, use or other consumption of any article or item of tangible personal property is owed to or collected by the State of Texas under the State Limited Sales, Excise and Use Tax Act, then the tax imposed by this Section shall not be owed to and shall not be collected by, for or in behalf of such city for storage or other consumption of such article or item of tangible personal property within such city.

B. In each city where the local sales and use tax has been imposed as provided in Section 2 of this Act, the excise tax imposed under the State Limited Sales, Excise and Use Tax Act on the storage, use, or other consumption of tangible personal property and the excise tax imposed by this Section of this Act shall be added together to form a combined rate of excise tax which is equal to the sum of the two taxes. The tax imposed by this Section of this Act shall be collected by the Comptroller on behalf of and for the benefit of such city. The bracket system formula prescribed in Subsection K of Section 2 of this Act shall be applicable to the collection of the excise tax imposed under this Section.

C. The provisions of Article 20.031, Title 122A, shall be applicable to the collection of the tax imposed by this Section, provided that the name of the city where the local sales and use tax has been adopted shall be substituted for that of the State where the words "this State" are used to designate the taxing authority or to delimit the tax imposed; and provided further that the effective date for commencing the collection of the sales tax portion of the tax imposed by this Act in any city shall be substituted for the phrase "the effective date of this Chapter."

Comptroller; Administration, Collection, Enforcement
and Operation of Tax; Reports

Sec. 5. (a) On and after the effective date of any tax imposed under the provisions of this Act, the Comptroller shall perform all functions incident to the administration, collection, enforcement, and operation of the tax, and the Comptroller shall collect, in addition to the Limited Sales, Excise and Use Tax for the State of Texas, an additional tax under the authority of this Act of one percent (1%) on the receipts from the sale at retail or on the sale price or lease or rental price on the storage, use, or other consumption of all taxable items within such city which property is subject to the State Limited Sales, Excise and Use Tax Act. The tax imposed hereunder and the tax imposed under the Limited Sales, Excise and Use Tax Act shall be collected together and reported upon such forms and under such administrative rules and regulations as may be prescribed by the Comptroller not inconsistent with the provisions of this Act. On and after the effective date of any proposition to abolish such local sales and use tax in any city, the Comptroller shall comply therewith as provided in this Act.

(b) The Comptroller shall make quarterly reports to a city that has adopted this Act and is imposing the tax if the city requests the reports. The report must contain the name, address and account number of each person, firm, or corporation doing business in the city and which has remitted a payment of the tax during the quarter covered by the report.

(c) The Comptroller shall make an additional quarterly report to a city that has adopted this Act and is imposing the tax if the city requests the additional report. The additional report must include the name, address, and account number of, if any, and the amount of the tax due by each person, firm, or corporation doing business in the city and which has failed to pay the tax imposed by the city or imposed under the Limited Sales, Excise and Use Tax Act. The report by the Comptroller shall also state whether there has been a partial payment of tax by the delinquent taxpayer, whether the taxpayer is delinquent in payment of sales and use taxes to the State, and what steps, if any, have been taken by the Comptroller in order to collect the delinquent taxes.

(d) If a city determines that any person, firm, or corporation doing business in the city is not included in a report from the Comptroller, the city shall report the name and address of the person, firm, or corporation to the Comptroller. On receiving a report from a city the Comptroller shall send, before the expiration of a ninety (90) day period following the day the Comptroller received a report from the city, an explanation to the city as to why the person, firm, or corporation is not obligated for the tax imposed by the city, a statement that the person, firm, or corporation is obligated to pay the tax and that the tax is delinquent, or a certification that the person, firm, or corporation is obligated to pay the tax and

that the full amount due under the tax has been credited to the account of the city.

Provisions Governing Collection of Tax

Sec. 6. The following provisions shall govern the collection by the Comptroller of the tax imposed by this Act:

A. All applicable provisions contained in Chapter 20 of Title 122A shall apply to the collection of the tax imposed by this Act, except as modified in this Act.

B. (1) For the purposes of the local sales tax imposed by this Act, all retail sales, leases and rentals, except sales of natural gas or electricity, are consummated at the place of business of the retailer unless the tangible personal property sold, leased, or rented is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination or the taxable service is to be performed at an out-of-state location. In the event the retailer has no permanent place of business in the State, the place or places at which the retail sales, leases, or rentals are consummated for the purposes of the tax imposed by this Act shall be determined under rules and regulations prescribed by the Comptroller. If the retailer has more than one place of business in the State, the place or places at which retail sales, leases, and rentals are consummated shall be the retailer's place or places where the purchaser or lessee takes possession and removes from the retailer's premises the articles of tangible personal property, or if the retailer delivers the tangible personal property to a point designated by the purchaser or lessee, then the sales, leases, or rentals are consummated at the retailer's place or places of business from which tangible personal property is delivered to the purchaser or lessee. The sale of natural gas or electricity is consummated at the point of delivery to the consumer.

(2) For the purpose of the excise tax imposed by this Act on any retailer holding tangible personal property purchased on a Resale Certificate, and which property becomes subject to such excise tax by reason of use or other consumption of such property, such use or other consumption of such property is consummated at the place of business of the retailer, unless the tangible personal property is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. If the retailer has more than one place of business in this State, the place at which such use or consumption is consummated shall be the last place of business of such retailer where such property is stored or kept at the time of or just prior to its use or consumption.

(3) For the purpose of the taxes imposed by this Act, any tangible personal

property owned by a consumer to whom a direct payment permit has been issued by the Comptroller under the provisions of Paragraph (K) of Article 20.05, Chapter 20, Title 122A, which property becomes subject to the taxes imposed by this Act by reason of use or consumption of such property in this State, such use or other consumption of such property is consummated at the last place of business in this State where such property is used or where such property is stored or kept at the time of or just prior to its use or consumption in this State.

C. (1) All exemptions granted to agencies of government, organizations, persons, and to the sale, storage, use, and other consumption of certain articles and items taxable under the provisions of Article 20.04, Chapter 20, Title 122A, are hereby made applicable to the imposition and collection of the tax imposed by this Act.

(2) The receipts from the sale, use or rental of and the storage, use or consumption in this State, of taxable items are exempt from the tax imposed by this Act, if:

(a) the items are used for the performance of a written contract entered into prior to the date this Act takes effect in any city which may affect the contract, if the contract is not subject to change or modification by reason of the tax; or

(b) the items are used pursuant to an obligation of a bid or bids submitted prior to the date this Act takes effect in any city which may affect the contract, if the bid or bids may not be withdrawn, modified, or changed by reason of the tax imposed by this Act; and

(c) if notice of a contract or bid on which an exemption is to be claimed is given by the taxpayer to the Comptroller within sixty (60) days from the date this Act takes effect in any city which may affect the bid or contract.

The exemption provided by this Subsection shall have no effect after three (3) years from the date this Act takes effect in any city.

D. The same sales tax permit, exemption certificate, and resale certificate required by Chapter 20 of Title 122A for the administration and collection of the State Limited Sales, Excise and Use Tax shall satisfy the requirements of this Act, and no additional permit or exemption certificate or resale certificate shall be required; except that the Comptroller may prescribe a form of exemption certificate for an exemption from the tax imposed by this Act as a result of a prior contract under Subsection C of this Section.

E. All discounts allowed the retailer under the provisions of the Limited Sales, Excise and Use Tax Act for the collection of and for payment of taxes under that

Act are hereby allowed and made applicable to any taxes collected under the provisions of this Act.

F. The penalties provided in Chapter 20 of Title 122A (Limited Sales, Excise and Use Tax Act) for violations of that Act are hereby made applicable to violations of this Act.

Deposit of Revenues; Suspense Accounts; Surety Bonds

Sec. 7. A. Any local sales and use tax collected by the Comptroller under this Act on behalf of any city shall be deposited with the State Treasurer in trust and shall be kept in a separate suspense account for each such city.

B. The Comptroller, and any of his deputies, assistants, and employees, who shall have any duties or responsibilities in connection with the collection, deposit, transfer, transmittal, disbursement, safekeeping, accounting, or recording of funds which come into the hands of the Comptroller under the provisions of this Act shall enter into a surety bond or bonds payable to any and all cities in whose behalf such funds have been collected under this Act in the amount of \$100,000; provided that the Comptroller may enter into a blanket bond or bonds covering himself and all such deputies, assistants, and employees. The cost of the premium or premiums for such surety bond or bonds shall be paid by the Comptroller from out of the share of such collections retained by the Comptroller for the benefit of the State. At any time when any premium or premiums on such bond or bonds are due and payable, the Comptroller shall pay the cost of same out of the State's share of such collection in his hands, and deposit the balance of the State's share as provided in Section 8 of this Act.

Transmission of Revenues; Deductions; Retention of Revenues; Refunds; Closing of Accounts

Sec. 8. Each city's share of all local sales and use tax collected under this Act by the Comptroller shall be transmitted to the Treasurer or the officer performing the functions of such office of such city by the Comptroller payable to the city periodically as promptly as feasible. Transmittals required under this Act shall be made at least twice in each State fiscal year. The funds so transmitted may be used by the city for any purpose for which the general funds of the city may be used. Before transmitting such funds, the Comptroller shall deduct two percent (2%) of the sum collected from each such city during such period as a charge by the State of Texas for its services specified in this Act, and the amounts so deducted, subject to the provisions of Section 7B of this Act, shall be deposited by the Comptroller in the State Treasury to the credit of the General Revenue Fund of the State. The Comptroller is authorized to retain in the suspense account of any city a portion of the city's share of the tax collected under this Act. Such balance so retained in the suspense account shall not exceed five percent (5%) of

the amount remitted to the city. The Comptroller is authorized to make refunds from the suspense account of any city for overpayments made to such accounts, and to redeem dishonored checks and drafts deposited to the credit of the suspense accounts of such cities. When any city shall adopt the Local Sales and Use Tax, and shall thereafter abolish such tax, the Comptroller may retain in the suspense account of such city for a period of one year five percent (5%) of the final remittance to each such city at the time of termination of collection of such tax in such city to cover possible refunds for overpayment of the tax and to redeem dishonored checks and drafts deposited to the credit of such accounts. After one year has elapsed after the effective date of abolition of such tax in such city, the Comptroller shall remit the balance in such account to the city and close the account.

Pledge of Anticipated Revenue

Sec. 9. Money collected under this Act is for the use and benefit of the cities of the state; but no city may pledge anticipated revenue from this source to secure the payment of bonds or other indebtedness.

Existing Powers of Taxation

Sec. 10. Nothing in this Act shall be construed to abolish or limit existing powers of taxation of any city.

Comptroller; Rules and Regulations

Sec. 11. The Comptroller may promulgate reasonable rules and regulations, not inconsistent with the provisions of this Act, to implement the enforcement, administration, and collection of the taxes authorized herein.

Delinquent Taxes; Collection Suits; Notice and Limitations; Parties; Seizure and Sale of Property

Sec. 12. A. In any city where the Local Sales and Use Tax has been imposed, if any person is delinquent in the payment of the amount required to be paid by him under this Act or in the event a determination has been made against him for taxes and penalty under this Act, the limitation for bringing suit for the collection of such delinquent tax and penalty shall be the same as that provided in Article 20.09, Chapter 20, Title 122A. Where the Comptroller has determined that suit must be filed against any person for the collection of delinquent taxes due the State under the Limited Sales, Excise and Use Tax Act, and where such person is also delinquent in payment of taxes under this Act, the Comptroller shall notify the Tax Collector of the city to which delinquent taxes are due under this Act by United States Registered Mail or Certified Mail at least ten (10) days before turning the case over to the Attorney General. The city, acting through its attorney, may join in such suit as a party plaintiff to seek a judgment for the delinquent taxes and penalty due such city.

B. Where property is seized by the Comptroller under the provisions of any law authorizing seizure of the property of a taxpayer who

is delinquent in payment of the tax imposed by the State Limited Sales, Excise and Use Tax Act, and where such taxpayer is also delinquent in payment of any tax imposed by this Act, the Comptroller shall sell sufficient property to pay the delinquent taxes and penalty due any city under this Act in addition to that required to pay any amount due the State under the Limited Sales, Excise and Use Tax Act. The proceeds from such sale shall first be applied to all sums due the State, and the remainder, if any, shall be applied to all sums due such city.

Election Contests; Notice

Sec. 13. A. If the validity of any election held under authority of this Act or the result of such election based on the returns thereof shall be contested, such election contest shall be filed and tried as provided in the Election Code of the State of Texas; provided that the contestant shall notify the Comptroller by United States Registered Mail or Certified Mail within ten (10) days after filing such contest by mailing a copy of such Notice of Contest to the Comptroller showing the style of the contest, the date filed, the case number, and the Court in which the same is pending; and provided further that no such contest shall be heard unless the Comptroller is timely notified as provided herein.

B. Upon receipt of a Notice of Contest, the date upon which such tax shall become effective in any city, or abolished in any city, as a result of such election shall be suspended. When a final judgment shall be entered in such election contest, the City Secretary shall notify the Comptroller by United States Registered Mail or Certified Mail, and shall enclose a certified copy of such final judgment. If the judgment sustains the validity of such election or the result of such election so that the tax status under this Act of such city is changed, the Comptroller shall place in effect such tax, or abolish the same, as the case may be, in such city, substituting the notice of final judgment and the date on which it is received for the notice of the result of such election elsewhere provided for in this Act.

Conflicting Laws

Sec. 14. All laws and parts of laws inconsistent or in conflict with the provisions of this Act are hereby repealed to the extent of such inconsistency or conflict only.

[Acts 1967, 60th Leg., p. 62, ch. 36, eff. Aug. 28, 1967; Acts 1968, 60th Leg., 1st C.S., p. 7, ch. 2, § 8, eff. Oct. 1, 1968; Acts 1969, 61st Leg., p. 158, ch. 57, § 1, eff. April 3, 1969; Acts 1969, 61st Leg., 2nd C.S., p. 5, ch. 1, art. 1, §§ 39 to 44, eff. Oct. 1, 1969; Acts 1971, 62nd Leg., p. 1195, ch. 292, art. 1, § 5, eff. July 1, 1971; Acts 1973, 63rd Leg., p. 1757, ch. 639, § 1, eff. Jan. 1, 1974.]

CHAPTER SIX. FIRE PREVENTION

Article

- 1067. Frame Building Regulations.
- 1068. Fire Regulations.
- 1069. Fire Department.

Article

1070. May Destroy Buildings.

1070.1 Liability of Volunteer Firemen for Property Damage.

1070a. Uniform Fire Hose Couplings and Hydrant Outlets.

1070b. Cities Bordering Mexico; Mutual Fire Protection Agreements.

Art. 1067. Frame Building Regulations

The city council may prohibit the erection, building, placing, moving or repairing of wooden buildings within such limits of the city as it may designate and prescribe, in order to guard against the calamities of fire; and may within said limits prohibit the moving or putting up of any wooden building from without said limits, and may also prohibit the removal of any wooden building from one place to another within said limits, and may direct that all buildings within the limits so designated as aforesaid, shall be made or constructed of fire-proof materials, and may prohibit the rebuilding or repairing of wooden buildings within the fire limits when the same shall have been damaged to the extent of fifty per cent of the value thereof, and may prescribe the manner of ascertaining such damage; and may declare any dilapidated building to be a nuisance and direct the same to be repaired, removed or abated in such manner as they shall direct; to declare all wooden buildings in the fire limits which they deem dangerous to contiguous buildings, or in causing or promoting fires, to be nuisances, and require and cause the same to be removed in such manner as they shall prescribe.

[Acts 1925, S.B. 84.]

Art. 1068. Fire Regulations

The city council shall have power:

1. To prevent and prohibit the dangerous condition of chimneys, flues, fireplaces, stove pipes, ovens or other apparatus used in or about any building or manufactory, and to cause the same to be removed or placed in a secure and safe condition.

2. To prevent the deposit of ashes where they would be liable to produce fire, or in any wooden box or barrel, or within any wooden building, and to appoint officers to enter into any building or inclosure to examine and discover whether the same are in a dangerous state, and to cause such as may be dangerous to be put in a safe condition.

3. To require the inhabitants to keep and provide as many fire buckets and ladders, or other means to reach the roof as they shall prescribe, and to regulate the use thereof in times of fire.

4. To compel the owners or occupants of houses or other buildings to have scuttles in the roofs and stairs or ladders leading to the same.

5. To regulate or prevent the carrying on of manufactories and works dangerous

in promoting or causing fires; to prohibit or regulate the building and erection of cotton presses and sheds.

6. To regulate or prevent and prohibit the use of fireworks and firearms.

7. To direct, control or prohibit the keeping and management of houses or any buildings for the storing of gun powder and other combustible, explosive or dangerous materials within the city; to regulate the keeping and conveying of the same.

8. To regulate and prescribe the manner and to order the building of parapet and party walls.

9. To authorize the mayor, officers of fire companies or any officer of said city to keep away from the vicinity of any fire all idle, disorderly or suspicious persons, and arrest and imprison the same, and compel all officers of the city and all other persons to aid in the extinguishment of fires and in the preservation of property exposed to danger thereat, and in preventing theft.

10. And generally to establish such regulations for the prevention and extinguishment of fires as the city council may deem expedient.

[Acts 1925, S.B. 84.]

Art. 1069. Fire Department

The city council may procure fire engines and other apparatus for the extinguishment of fires, and have control thereof, and provide engine houses for preserving the same; and shall have power to organize fire, hook and ladder, hose and ax companies and fire brigades. The companies so organized, the chief engineer and such assistant engineers as may be provided for, shall constitute the fire department. Each company may elect its own members and officers. The engineers shall be chosen as said department may determine, subject to the approval of the city council, who shall define the duties of said officers and pass such ordinances as they may deem proper for the welfare of said department. All officers so elected and approved shall be commissioned by the mayor. Said companies may adopt their own constitution and by-laws, not inconsistent with this title or the city ordinances. Said department shall take the care and management of the engines and other implements and apparatus provided and used for fighting fire, and their powers and duties shall be prescribed and defined by the city council.

[Acts 1925, S.B. 84.]

Art. 1070. May Destroy Buildings

When any building in the city is on fire, it shall be lawful for the chief or acting chief engineer, with the concurrence of the mayor, to direct such building, or any other building which they may deem hazardous and likely to take fire and communicate to other buildings, to be torn down or blown up or destroyed, and

no action shall be maintained against any person or against the city therefor. Any person interested in any such building so destroyed or injured may, within six months, and not thereafter, apply in writing to the city council to assess and pay the damage he has sustained, and, if the city council and the claimant cannot agree on the terms of adjustment, then the application of such claimant shall be referred to three commissioners, one to be appointed by the claimant, one by the city council and the third by both. Said commissioners shall be qualified voters and owners of real estate in the city. They shall be sworn faithfully to execute their duty according to the best of their ability, shall have power to subpoena and swear witnesses and shall give all parties a fair and impartial hearing, and give notice of the time and place of meeting. They shall take into account the probabilities of the building being destroyed by fire if it had not been so destroyed, and the loss of insurance upon said property, if any, caused by destroying the same, and may report that no damage should equitably be allowed to such claimant. Whenever a report shall be made and finally confirmed for the appraising of said damages, a compliance with the terms thereof by the city council shall be deemed a full satisfaction of said damages.

[Acts 1925, S.B. 84.]

Art. 1070.1. Liability of Volunteer Firemen for Property Damage

No volunteer fireman or volunteer fire department in this state shall be liable to any person for any damage done to his property resulting from the volunteer fireman's or volunteer fire department's reasonable and necessary action in fighting or extinguishing any fire on the property.

[Acts 1971, 62nd Leg., p. 1910, ch. 573, eff. June 1, 1971.]

Art. 1070a. Uniform Fire Hose Couplings and Hydrant Outlets

Sec. 1. That after this Act takes effect all fire department hose couplings and fire hydrant hose outlets now in service or which may hereafter be installed in this State, except those which are commonly known as the large steamer or pumper outlets shall be provided with an uniform thread conforming to the following specifications, to-wit:

Inside diameter of male thread 2.5 inches.

Outside diameter of finished male thread 3.0625 inches.

Diameter at root of finished male thread 2.8715 inches.

Pitch diameter of male thread 2.9670 inches.

Clearance between male and female thread .03 inches.

Total length of threaded male end one inch.

Flat at top and valley of thread .01 inch.

Pitch or number of threads per inch 7.5.
 Pattern—60 degree V thread. Female end cut $\frac{1}{8}$ inch shorter than male end for endwise clearance. Outer ends of male and female threads terminated by the "Higbee Cut," to avoid crossing and mutilation of otherwise finely drawn out thread. Outer end of male thread left blank $\frac{1}{4}$ inch.

Sec. 2. The State Fire Insurance Commission of Texas shall have full supervision over the work necessary to be done in carrying out the provisions of this Act, and that department shall employ competent mechanics and provide all necessary equipment, tools and appliances and proceed with said work, and complete it at the earliest date circumstances will permit.

Sec. 3. The State Fire Insurance Commission shall notify all property owners having equipment for fire protection purposes which it may be necessary for a fire department to use in putting out fire, of the changes necessary to meet the requirements of this Act, and shall render such assistance as may be available in converting their equipment to conform to said requirements.

Sec. 4. The sum of \$5,000 or such part thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1928, and \$5,000 or such part thereof as may be necessary, is hereby appropriated out of any money in the State Treasury not otherwise appropriated for the fiscal year ending August 31, 1929, to be used for the purchase of equipment, tools and appliances, and for salaries and traveling expenses and all other necessary expenses of mechanics, in carrying out the provisions of this Act.

[Acts 1927, 40th Leg., p. 380, ch. 257.]

Art. 1070b. Cities Bordering Mexico; Mutual Fire Protection Agreements

Section 1. Any Texas city bordering on the Republic of Mexico may enter into a mutual fire protection agreement with its corresponding border city in the Republic of Mexico.

Sec. 2. Any Texas fireman responding to a call for fire fighting assistance from the corresponding border city in the Republic of Mexico under the terms of an agreement authorized by Section 1 of this Act shall be deemed to be performing his "official duty" as that term is understood in Article III, Section 51-d, of the Texas Constitution.

[Acts 1973, 63rd Leg., p. 1081, ch. 415, eff. June 14, 1973.]

CHAPTER SEVEN. SANITARY DEPARTMENT

Article

- 1071. Health Officers.
- 1072. Regulation of Disease, etc.
- 1073. Public Conveyances.
- 1074. Shall Report Disease.
- 1075. Physician, Powers.
- 1076. Sewerage, etc.
- 1077. Plumbing Inspector.
- 1078 to 1081. Repealed.

Art. 1071. Health Officers

The city council shall appoint a health officer, and as many health inspectors as they may deem necessary, and shall prescribe, by ordinance, the powers and duties and compensation of the same.

[Acts 1925, S.B. 84.]

Art. 1072. Regulation of Disease, etc.

The city council may take such measures as they may deem effectual to prevent the entrance of any pestilence, contagious or infectious diseases into the city; to stop, detain and examine for that purpose any person coming from any place infected, or believed to be infected, with such disease; to establish, maintain and regulate pesthouses or hospitals at some place within or not exceeding five miles beyond the city limits; to cause any person who shall be suspected of being infected with any such disease to be sent to such pesthouse or hospital; to remove from the city or destroy any furniture, wearing apparel, or property of any kind which shall be suspected of being tainted or infected with pestilence, or which shall be likely to pass into such a state as to generate or propagate diseases; to abate all nuisances of every description which are or may become injurious to the public health, in any manner that they deem expedient; and from time to time to do all acts, which they deem expedient; to preserve health and suppress disease in the city.

[Acts 1925, S.B. 84.]

Art. 1073. Public Conveyances

The owner, driver, conductor or person in charge of any stage, railroad car or public conveyance which shall enter the city, knowingly having on board any person sick of a malignant fever, or pestilential, contagious or infectious disease, unless such person become¹ sick on the way and could not be left, shall, within three hours after the arrival of such sick person, report in writing the facts, with the name of such person and the house where he was put down in the city, to the health officer.

[Acts 1925, S.B. 84.]

¹ Probably should read "became."

Art. 1074. Shall Report Disease

Every keeper of a hotel, boarding or lodging house in the city, in which any inmate thereof shall be sick with any infectious or pestilential disease, shall upon such fact coming to his knowledge, forthwith report the same to the health officer. Every physician in the city shall report, under his hand, to the officer above named, the name, residence and disease of every patient whom he shall have sick of any infectious or pestilential disease, within six hours after he shall have visited such patient.

[Acts 1925, S.B. 84.]

Art. 1075. Physician, Powers

The health officer may be authorized by the council, when the public interest requires, to

exercise for the time being such of the powers and perform such of the duties of the chief of police as the city council may direct, and is authorized to enter all houses and other places, private or public, at all times, in the discharge of such duties, having first asked permission of the owners or occupants. The city council shall have power to punish, by fine, any neglect or refusal to observe the orders and regulations of the health officer.

[Acts 1925, S.B. 84.]

Art. 1076. Sewerage, etc.

Every city in this State, however organized, having underground sewers or cesspools, shall pass ordinances regulating the tapping of said sewers and cesspools, regulating house draining and plumbing.

[Acts 1925, S.B. 84.]

Art. 1077. Plumbing Inspector

In any such city where there is no city inspector of plumbing provided for by special charter, the governing body shall elect such inspector of plumbing, who shall hold office for such time as fixed by such board. Such inspector of plumbing may be the city engineer, if the board sees fit to elect him.

[Acts 1925, S.B. 84.]

Arts. 1078 to 1081. Repealed by Acts 1947, 50th Leg., p. 192, ch. 115, § 16

CHAPTER EIGHT. STREETS AND ALLEYS**Article**

- 1082. Powers of Council.
- 1083. Estimates of Cost.
- 1084. Execution on Property.
- 1085. Suit.
- 1085a. Freeways.
- 1085b. Private Purposes, Use of Streets and Sidewalks for.

Art. 1082. Powers of Council

The city council shall be invested with full power and authority to grade, gravel, repair, pave or otherwise improve any avenue, street or alley, or any portion thereof, within the limits of said city, whenever, by a vote of two-thirds of the aldermen present, they may deem such improvement for the public interest; provided, the city council pay one-third and the owner of the property two-thirds thereof, except at the intersection of streets, from lot to lot across the streets either way shall be paid for by the city alone. Said costs shall be assessed on the property fronting on said street so improved, to be collected in equal annual payments, not less than five in number. All moneys collected from these assessments shall be appropriated exclusively to the payment of the bonds issued for the payment of the cost of said improvement.

[Acts 1925, S.B. 84.]

Art. 1083. Estimates of Cost

Whenever the city council shall determine to make any such improvement, they shall cause

an estimate to be made of the probable cost thereof by the city engineer, or by some other officer of the city, or by a committee of three aldermen; and such engineer or other officer or committee shall also report a full list of all lots or fractional lots, giving number and size of the same, and the number of the block in which situated, and the names of the owners thereof, if known, and such other information as may be required by the city council; and if there be a lot or fractional lot the owner of which is not known, the same shall be entered on said list as unknown. The officer or committee aforesaid shall enter on said list, opposite each lot or fractional lot lying and being on each side of the street, avenue or alley so to be improved as aforesaid, one-third of the estimated expense for such work or improvement on such avenue, street or alley fronting, adjoining or opposite such lot or fractional lot; and, on the acceptance and approval of said report and list by the city council, said amount shall be imposed, levied and assessed as taxes, and shall be a lien upon the property until the payment of the same.

[Acts 1925, S.B. 84.]

Art. 1084. Execution on Property

After such action on the part of the city council, such officer or committee shall give such notice as may be required by ordinance, of said tax being due and within what time payable, and shall begin to collect the same. After the expiration of the period for payment of said tax, said officer or committee shall levy on so much of any property on said list on which said tax has not been paid as will be sufficient to pay the same, and the same notice of sale as is required in sales for other tax shall be given. If said tax is not paid before the day of sale, said officer or committee shall sell property in the name and under the circumstances, and to the extent and subject to the same conditions which may be provided by ordinance for the sale of real estate in the city, charged with the payment of taxes imposed by said corporation. Said officer or committee shall execute a deed to the purchaser at any such sale; and all other provisions of this title in reference to a deed drawn by the assessor and collector shall apply to the deed herein provided for.

[Acts 1925, S.B. 84.]

Art. 1085. Suit

In addition to the authority granted to the city council to collect said assessment of taxes, they shall have the additional remedy of instituting suit in the corporate name for the recovery against any owner of the property for the amount due for any such work so made as aforesaid. They shall provide by resolution or ordinance under the provision of this title, for carrying out and executing the powers in this chapter conferred, and may adopt necessary resolutions, ordinances and regulations.

[Acts 1925, S.B. 84.]

Art. 1085a. Freeways

Sec. 1. The State Highway Commission or the governing body of any incorporated city or town, within their respective jurisdictions may do any and all things necessary to lay out, acquire, construct, maintain and operate any section or portion of any State highway or city street as a freeway, and to make any highway or street within their respective jurisdictions a freeway, except that no existing State highway or city street shall be converted into a freeway except with the consent of the owners of abutting lands, or by the purchase or condemnation of their right of access thereto, providing, however, nothing herein shall be construed as requiring the consent of the owners of abutting lands where a State highway, or city street is constructed, established or located for the first time as a new way for the use of vehicular and pedestrian traffic.

Sec. 2. For the purposes of this Act, the State Highway Commission, County Commissioners Courts and the governing bodies of incorporated cities and towns, may acquire the necessary property and property rights by gift, devise, purchase, or condemnation, in the same manner as such governmental agencies are now or hereafter may be authorized by law to acquire such property for State highways and city streets.

Sec. 2a. The governmental agency which holds the title and property rights to land on which a freeway is located may lease for parking purposes the portions of land situated beneath the elevated sections of the freeway.

Sec. 3. "Freeway" means a State highway or city street in respect to which the right or easement of access to or from their abutting lands has been acquired in whole or in part from the owners thereof by the State Highway Commission or the governing body of an incorporated city or town as hereinabove provided.

Sec. 4. The State Highway Commission or the governing body of a city or town is authorized to close any highway or street within their respective jurisdictions at or near the point of its intersection with any freeway or to make provisions for carrying any highway or street over or under or to a connection with the freeway and may do any and all things on such highway or street as may be necessary therefor.

Sec. 5. If any section, subsection, sentence, clause or phrase of this Act is for any reason held unconstitutional, the unconstitutionality thereof shall not affect the validity of the remaining portion of this Act. The Legislature hereby declares that it would have passed the Act and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more of the sections, subsections, sentences, clauses or phrases be declared unconstitutional. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

[Acts 1943, 48th Leg., p. 27, ch. 24; Acts 1943, 48th Leg., p. 470, ch. 314, § 1; Acts 1945, 49th Leg., p.

420, ch. 266, § 1; Acts 1949, 51st Leg., p. 779, ch. 419, § 1; Acts 1951, 52nd Leg., p. 144, ch. 86, § 1; Acts 1965, 59th Leg., p. 780, ch. 370, § 1.]

Art. 1085b. Private Purposes, Use of Streets and Sidewalks for

Incorporated cities and towns in the State of Texas shall have the power and authority to grant the use of a portion of the streets and sidewalks of such cities and towns for private purposes, for such consideration and upon such terms as they may prescribe; provided such use shall not interfere with the public use of such streets and sidewalks, or create any hazardous or dangerous condition thereon.

[Acts 1947, 50th Leg., p. 715, ch. 353, § 1.]

CHAPTER NINE. STREET IMPROVEMENTS

Article

- 1086. Powers of City.
- 1087. Order for Improvements.
- 1088. Costs.
- 1089. Assessments, Railway.
- 1090. Assessment and Certificates.
- 1090a. Validating Assessment Ordinances and Liens in Certain Cities.
- 1091. Exempt Property.
- 1092. Enforcement of Lien.
- 1093. Notice of Hearing.
- 1094. Hearing.
- 1095. Reassessment.
- 1096. Owner May Sue.
- 1097. Special Reassessment.
- 1098. Notice, etc.
- 1099. Special Lien.
- 1100. Time Limit.
- 1101. Amount of Assessment.
- 1102. Enforcible When.
- 1103. Effect of Law.
- 1104. Adoption of Provisions.
- 1105. Provisions Cumulative.
- 1105a. Establishing Building Lines on Streets.
- 1105b. Street Improvements and Assessments in Cities Having More Than 1,000 Inhabitants.
- 1105b-1. Validating Special Assessments for Street Improvements.
- 1105b-2. Validation of Special Assessments and Reassessments for Street Improvements.
- 1105b-3. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements.
- 1105c. Cities of More Than 100,000; Elimination of Grade-Level Street Crossings by Railroad Lines.

Art. 1086. Powers of City

Towns, cities and villages, incorporated under either general or special law, which shall accept the benefits of this chapter as herein provided, shall have power to improve any highway within their limits, by filling, grading, raising, paving or repaving the same in a permanent manner, or by the construction or reconstruction of sidewalks, curbs and gutters, or by widening, narrowing or straightening the same, and to construct necessary appurtenances thereto, including sewers and drains, and cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, shall have the

power to construct and install sanitary sewers and all of the provisions and authority of this chapter pertaining to highway improvement shall likewise apply to the construction and installation of sanitary sewers. "City" when used herein (except when otherwise provided above) shall include all incorporated towns, cities and villages, and the term "highway" shall include any street, avenue, alley, highway, or public place or square, or portion thereof, dedicated to public use. Provided that before any proposal to construct sanitary sewers hereunder shall be put into effect the Governing Body of any city shall be presented by a petition signed by two-thirds ($\frac{2}{3}$) of the abutting property owners to be affected requesting the Governing Body of the city to make such improvements.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 317, ch. 232, § 1.]

Art. 1087. Order for Improvements

The Governing Body of any city shall have power to order the improvement of any highway therein, or part thereof, and in cities having a population of less than fifteen thousand (15,000) inhabitants according to the last preceding or any future Federal census and which have levied the maximum rate of tax permitted by law, to order the construction and installation of sanitary sewers, and to select the materials and methods of such improvement, and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of such improvements out of any available funds of the city.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 317, ch. 232, § 2.]

Art. 1088. Costs

The cost of making such improvements may be wholly paid by the city, or partly by the city and partly by the owners of the property abutting thereon. In no event shall more than three-fourths of the cost of any improvement, except sidewalks and curbs, be assessed against such property owners or their property. The whole cost of construction of sidewalks and curbs in front of any property may be assessed against the owner thereof or his property.

[Acts 1925, S.B. 84.]

Art. 1089. Assessments, Railway

Subject to the terms hereof, the governing body of any city shall have the power to assess against the owner of any railroad or street railroad occupying any highway ordered to be improved, the whole cost of the improvement between or under the rails or tracks of said railroad or street railroad and two feet on the outside thereof, and shall have power, by ordinance, to levy a special tax upon said railroad, or street railroad, and its roadbed, ties, rails, fixtures, rights and franchise, which tax shall constitute a lien thereon superior to any other lien or claim, except State, county and municipal taxes, and which may be enforced, either by sale of said property in the manner pro-

vided by law in the collection of ad valorem taxes by the city, or by suit against the owner. The ordinance levying said tax shall prescribe when same shall become due and delinquent, and the method of enforcing the same.

[Acts 1925, S.B. 84.]

Art. 1090. Assessment and Certificates

Subject to the terms hereof, the governing body shall have power by ordinance to assess the whole cost of constructing sidewalks or curbs, and not to exceed three-fourths of the cost of any other improvement, against the owners of property abutting on such improvement and against their abutting property benefited thereby, and to provide for the time and terms of payment of such assessments and the rate of interest payable upon deferred payments thereon, which rate shall not exceed eight per cent per annum, and to fix a lien upon the property and declare such assessments to be a personal liability of the owners of such abutting property; and such governing body shall have the power to cause to be issued in the name of the city, assignable certificates declaring the liability of such owners and their property for the payment of such assessments and to fix the terms and conditions for such certificate. If any such certificate shall recite that the proceedings with reference to making such improvements have been regularly had in compliance with law, and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and fixing the personal liability of the owner have been performed, such certificate shall be prima facie evidence of the facts so recited. The ordinance making such assessments shall provide for the collection thereof, with costs and reasonable attorney's fees, if incurred. Such assessments shall be secured by, and constitute a lien on said property, which shall be the first enforceable claim against the property against which it is assessed, superior to all other liens and claims, except State, county and municipal taxes.

[Acts 1925, S.B. 84.]

Art. 1090a. Validating Assessment Ordinances and Liens in Certain Cities

Sec. 1. This Act shall affect all cities in the State of Texas having a population of more than one hundred thousand (100,000) according to the last preceding United States Census.

Sec. 2. In every instance where a city, coming under the provisions of this Act, has attempted to fix a lien upon property by assessment ordinance for the improvement and paving of streets, highways and boulevards, where the State, County and Federal Governments have contributed to the cost of such improvement, requiring the impounding of funds by such city for the purpose of guaranteeing its portion of the cost of such paving and improvements, all actions, resolutions, order, ordinances and proceedings taken, made or passed in reference thereto, or pursuant thereto,

are hereby confirmed, ratified and validated, and the lien attempted to be fixed by said assessment ordinance is a valid and subsisting lien against the property assessed irrespective of any irregularities or defects in the proceeding and in like manner as if said assessment had been authorized in the first instance.

[Acts 1931, 42nd Leg., p. 802, ch. 327.]

Art. 1091. Exempt Property

Nothing herein shall be construed to empower any city to fix a lien by assessment against any property exempt by law from sale under execution; but the owner of such exempt property shall nevertheless be personally liable for the cost of improvements constructed in front of his property, which may be assessed against him. The fact that any improvement is omitted in front of exempt property shall not invalidate the lien of assessments made against other property on the highway improved, not so exempt.

[Acts 1925, S.B. 84.]

Art. 1092. Enforcement of Lien

The lien created against any property, or the personal liability of the owner thereof, may be enforced by suit or by sale of the property assessed in the same manner as may be provided by law for the sale of property for ad valorem city taxes. The recital in any deed made pursuant to such sale, that all legal prerequisites to said assessment and sale have been complied with, shall be prima facie evidence of the facts so recited and shall in all courts be accepted without further proof.

[Acts 1925, S.B. 84.]

Art. 1093. Notice of Hearing

No assessments of any part of the cost of such improvement shall be made against any property abutting thereon or its owner, until a full and fair hearing shall first have been given to the owners of such property, preceded by a reasonable notice thereof given to said owners, their agents, or attorneys. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city, town or village where such tax is sought to be levied, if there be such a paper there; if not, then in the nearest to said city, town or village, or general circulation in the county in which said city is located; and, in addition, if the owner of such abutting property is a railway or street railway, written notice of the assessment and hearing thereon shall be served by either delivering in person to the local agent or by depositing the same in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and such written notice, if required, shall be mailed or delivered, and the first publication shall be made, at least ten (10) days before the date of the hearing. The governing body may provide for additional

notice cumulative of that notice specified above.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1094. Hearing

Said hearing shall be before the governing body of such cities, at which such owners shall have the right to contest the said assessment and personal liability, and the regularity of the proceedings with reference to the improvement, and the benefit of said improvement to their property, and any other matter relating thereto. No assessment shall be made against any owner of abutting property or his property in any event in excess of the actual benefit to such owner in the enhanced value of his property, by means of such improvement, as ascertained at such hearing. The governing body of any city making improvements under the terms hereof shall, by ordinance, adopt rules and regulations providing for such hearings to property owners, and for giving reasonable notice thereof.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1095. Reassessment

The governing body of any city shall be empowered to correct any mistake or irregularity in any proceedings with reference to such improvement, or the assessment of the cost thereof against abutting property and its owners, and in case of any error or invalidity, to reassess against any abutting property and its owner the cost or part of the cost of improvements, subject to the terms hereof, not in excess of the benefits in enhanced value of such property from such improvement, and to make reasonable rules and regulations for a notice to and hearing of property owners before such reassessment.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1096. Owner May Sue

Any property owner, against whom or whose property any assessment or reassessment has been made, shall have the right within twenty days thereafter, to bring suit to set aside or correct the same, or any proceeding with reference thereto, on account of any error or invalidity therein. But thereafter such owner, his heirs, assigns or successors, shall be barred from any such action, or any defense of invalidity in such proceedings or assessments or reassessments in any action in which the same may be brought in question.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 346, ch. 130, § 1.]

Art. 1097. Special Reassessment

In any case in which the public funds of a city or town may have been or may hereafter be expended, or its vouchers or certificates issued to any contractor, or any contract made therewith, for the special improvement, raising or lowering the grade of, opening, straighten-

ing, widening, paving, constructing or grading of any street, avenue, alley, sidewalk, gutter or public way, or any part thereof, and if for any reason, no part of the cost of such improvement has been borne by the abutting property or paid by the owner or owners thereof, either because an attempted assessment and enforcement thereof for the same was erroneous or void, or was so declared in any judicial proceeding, the governing body shall have the power to proceed at any time to specially assess or reassess, such abutting property with such amount of the cost of such improvement as it deems proper, but in no event shall the amount exceed the special benefits such property receives therefrom by enhanced value thereto, the amount of such special benefits to be determined on a basis of the condition of such improvement as it exists at the time of such assessment or reassessment.

[Acts 1925, S.B. 84.]

Art. 1098. Notice, etc.

No such assessment or reassessment shall be made without at least ten (10) days written notice and an opportunity to be heard on such question of special benefits given to the owner or owners of such abutting property. Such notice may be served either personally or by publication in some newspaper of general circulation, published in said city or town; and, when any such abutting property is owned by a railway or street railway, notice shall be made both by such publication and by delivery of written notice, either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll, and the governing body of any such city or town shall have power, not inconsistent herewith, to provide for all procedure, rules, and regulations necessary or proper for such notice and hearing and to levy, assess, and collect such assessment or reassessment.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 348, ch. 132, § 1.]

Art. 1099. Special Lien

Such assessment, or reassessment shall constitute a lien upon such abutting property and a personal charge against the owner or owners thereof, which amount shall not be construed as becoming due, or having become due, before such assessment or reassessment is properly made in accordance with the provisions of this law.

[Acts 1925, S.B. 84.]

Art. 1100. Time Limit

Such assessment or reassessment as hereinbefore provided shall be begun within three years after the completion of improvements contiguous to the property against which assessment or reassessment is made, and not thereafter. In cases of reassessments where the question of validity of the original assessment may be, or may have been, in litigation,

the period of time during which it was in litigation shall not be considered in computing said period of limitation.

[Acts 1925, S.B. 84.]

Art. 1101. Amount of Assessment

Any such assessment or reassessment made by the governing body of any city or town with less than five thousand inhabitants may equal the entire cost of sidewalk, curb and gutter, and the cost of any street improvement, exclusive of street intersections, and such governing body of such town in making such assessment or reassessment, shall follow the procedure prescribed in articles 1082 and 1083 in so far as applicable, but no such assessment or reassessment shall be made in excess of the special benefits in enhanced value conferred thereby on the property abutting such improvement, or until the owner or owners of such property shall have had notice, as provided above, and opportunity to contest such issue before such governing body under such rules and regulations as it may, by ordinance, prescribe.

[Acts 1925, S.B. 84.]

Art. 1102. Enforcible When

Such assessment, or reassessment, shall be due and payable in equal annual installments not less than five in number; provided that the owner of such property shall have the right to appeal from the decision of the governing board to any court of competent jurisdiction within twenty days after such reassessment shall have been made, and upon failure to do so in said period, such assessment shall be final and conclusive upon such owner and property.

[Acts 1925, S.B. 84.]

Art. 1103. Effect of Law

The provisions of the six preceding articles relating to special assessments or reassessments are cumulative of all powers heretofore granted to any city or town either by general or special law; and all charter provisions of all cities and towns in this State heretofore adopted relative to the subject covered by this law are hereby validated.

[Acts 1925, S.B. 84.]

Art. 1104. Adoption of Provisions

The benefits of the provisions of this article and Articles 1086 to 1096, both inclusive, and Article 1105 shall apply to any city, and the terms thereof extend to the same, when the governing body thereof shall submit the question of the adoption or rejection hereof to a vote of the resident property taxpayers, who are qualified voters of said city, at a special election called for the purpose by said city. Said election shall be held as nearly as possible in compliance with the law with reference to regular city elections in said city, but said governing body is hereby empowered, and it shall be their duty on the written petition of one hundred qualified voters of said city, by

resolution, to order said election, and prescribe the time and manner of holding the same. Said body shall canvass and determine the results of such election. If a majority of the voters voting upon the question of the adoption of said article, at such election, shall vote to adopt the same, the result of the election shall be entered by said governing body upon their minutes, and thereupon all the terms of said articles shall be applicable to and govern such city adopting the same. A certified copy of said minutes shall be prima facie evidence of the result of such election and the regularity thereof. When the provisions of said articles have been adopted by any city, the governing body thereof shall have full power to pass all ordinances or resolutions necessary or proper to give full force and effect thereto and to every part thereof.

[Acts 1925, S.B. 84.]

Art. 1105. Provisions Cumulative

The provisions of Articles 1086 to 1096, both inclusive, and Article 1104 and of resolutions or ordinances passed pursuant thereto shall be cumulative of and in addition to existing laws pertaining to the making of such improvements. In any case in which a conflict may exist or arise between the provisions of said articles and the provisions of any law granting a special charter to any city in this State, the provisions of such special charter shall control.

[Acts 1925, S.B. 84.]

Art. 1105a. Establishing Building Lines on Streets

"Street" Defined

Sec. 1. The word "street" as used in this Act, means any public highway, boulevard, parkway, square or street, or any part or side of any of the same.

Building Lines Authorized

Sec. 2. It shall hereafter be lawful for any city, town, or village to establish building lines on any public street or highway, or part thereof in such city, town, or village.

Ordinance or Resolution; Effect

Sec. 3. The Legislative Body of any such city desiring to establish a building line may do so by adopting a resolution or ordinance describing the street, highway or part thereof to be affected, and the location of the building line or lines, and except as herein otherwise provided, by following the same procedure as that authorized by law in such city for the acquiring of land for the opening of streets. After the establishment of any such line, no building or other structures shall be erected, reconstructed or substantially repaired, and no new buildings or other structure, or part thereof, shall be erected or reerected within said lines so established.

Condemnation Proceedings

Sec. 4. The procedure for instituting and conducting the condemnation proceedings to

condemn the easements and interests necessary to be taken and acquired to establish a building line under the authority of this Act, and to assess and collect benefits against property owners and their property abutting on or the vicinity of said building line arising out of the establishment of said building line, shall be the same as that authorized by law in such city in connection with the opening of streets. In the condemnation of any tract where the ownership of or interests in said tract is in controversy or is unknown, the award may be made in bulk as to such tract, and paid into court for the use of the parties owning or interested therein, whoever they may be, as their interests may appear. The award and findings of the Special Commissioners when filed with the Judge of the County Court, or other court having jurisdiction over the condemnation proceedings, shall be final, and shall be made the judgment of said court. Compensation shall be due and payable upon rendition of the judgment by the court adopting the award.

**Time for Conformance; Removal of Structures
Within Line**

Sec. 5. Whenever and wherever a building line shall be established under authority of this Act, all structures extending within such building lines shall be required to conform to the new line within a period of not more than twenty-five (25) years from the time of establishing said lines; such time to be provided in the ordinance providing for the establishment of such line. At any time, however, before or after the expiration of the time so fixed, the proper municipal authorities shall have the power to proceed in the manner then provided by law relating to condemnation proceedings by such cities to remove all structures and to condemn any property then within such line, and to assess benefits against property owners and their property benefited thereby, provided, however, that all owners of property so affected shall receive due notice and hearing in the manner then provided by law in the determination of the additional damages then sustained by the removal of such structures or the taking of land then within the building line and in the determination of benefits to be assessed against property owners affected and their property affected.

Act as Cumulative

Sec. 6. This Act shall be in addition to and cumulative of any powers now or hereafter conferred by law on such cities.

[Acts 1927, 40th Leg., p. 415, ch. 276; Acts 1967, 60th Leg., p. 1094, ch. 483, § 1, eff. June 12, 1967.]

Art. 1105b. Street Improvements and Assessments in Cities Having More Than 1000 Inhabitants

Power to Make Improvements; Boundary Streets

Sec. 1. (a) That cities, towns and villages incorporated under either general or special law, including those operating under special charter, or amendments of charter adopted

pursuant to the Home Rule provisions of the Constitution, shall have power to cause to be improved, any highway, within their limits by filling, grading, raising, paving, repaving, and repairing in a permanent manner, and by constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and by widening, narrowing and straightening, and by constructing appurtenances and incidentals to any of such improvements, including drains and culverts, which power shall include that of causing to be made any one or more of the kinds or classes of improvements herein named or any combination thereof, or of parts thereof.

(b) Whenever a part of the boundary of any such city is upon or along any street or highway, which at that point lies wholly within, partly within and partly without or wholly outside of its limits, such city may improve such portion of such street and assess a part of the cost thereof against the abutting property lying on both sides of such street by the proceedings set forth in this Act, provided that if such street lies wholly or partly within the limits of any other such city the governing body thereof shall consent to the improvement and if assessments are levied against any property lying within the limits of any other city than the one (1) initiating the improvement, the governing body of such other city shall consent to such assessments as hereinafter provided. If assessments are finally levied as particularly provided by Section 9 of this Act against any abutting property lying within the limits of any other city than the one (1) initiating the improvements, such assessments shall not be valid unless the governing body of such other city shall by ordinance or resolution ratify and approve the assessments so levied, and any one owning or claiming any such abutting property, in addition to the right of appeal given by said Section of this Act, shall have the further right of appeal from any such assessment for fifteen (15) days after the passage of the ordinance or resolution by which the governing body of such other city so ratifies and approves such assessments; provided further that if the governing body of such other city does not ratify and approve such assessments within thirty (30) days after the date of the ordinance or resolution levying the same then the city which initiated the project may in the discretion of its governing body repeal and annul all of the proceedings relating thereto, including the contract, if any, for the work; and provided further that failure on the part of the governing body of such other city to so ratify and approve such assessments shall not affect the validity of the assessments which have been levied against any property lying within the limits of the city initiating the improvement.

(c) Whenever a part of the boundary between any two (2) such cities is upon and along any street or highway or is along the edge of any street or highway and the governing bodies of both cities determine the necessity for any such improvement of such portion of

said street or highway, then such two (2) cities may contract upon such terms as their respective governing bodies may approve to the effect that one (1) or the other of them shall by the proceedings provided for in this Act, improve such portion of said street and that the other of such two (2) cities shall pay a part of the cost thereof, such payment to be made at such time or times and subject to such conditions as they may so agree upon; and the use by either of such cities of its funds for such purpose shall be lawful whether the street to be improved lies wholly within, partly within and partly without, or wholly outside of its limits.

Cities Over 285,000; Improvements on Highway or Road Outside Limits

Sec. 1a. Any city mentioned in Section 1 and having a population in excess of two hundred and eighty-five thousand (285,000) inhabitants according to the last preceding or any future Federal Census may make the improvements named in Section 1 hereof on any highway or road without the limits of such city if such improvements do not extend more than one hundred and fifty (150) feet from the limits of such city.

Definitions

Sec. 2. That the term "city" whenever used herein shall include all incorporated cities, towns and villages; that the term "governing body" whenever used herein, includes the governing or legislative bodies of all incorporated towns, cities and villages, whether known as councils, commissions, boards of commissioners, common councils, boards of aldermen, city councils, or by whatever name such bodies may be known or designated under general or special laws or charters. That whenever the term "highway" is used herein it shall include any street, avenue, alley, highway, boulevard, drive, public place, square, or any portion or portions thereof, including any portion that may have or may be left wholly or partly unimproved in connection with other street improvements heretofore or hereafter made. The term "improve" or "improvements" when used herein shall include the kinds and classes of improvements, with incidents and appurtenances thereof, and any portions or combinations thereof, or of parts thereof, hereinabove mentioned, liberally construed. That whenever the term "cost" or "costs of improvements" or similar terms are used herein, same shall include expenses of engineering and other expenses incident to construction of improvements, in addition to the other costs of the improvements.

Powers of Governing Body

Sec. 3. That the governing body of any city shall have power to determine the necessity for, and to order, the improvement of any highway, highways, or parts thereof within such city, and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of such

improvements by the city, or partly by the city and partly by assessments as hereinafter provided.

Cost of Improvement; Estimate for Assessment in Part on Abutting Property

Sec. 4. That the cost of such improvements may be wholly paid by the city, or partly by the city and partly by property abutting upon the highway or portion thereof ordered to be improved, and the owners of such property, but if any part of the cost is to be paid by such abutting property and the owners, then before any such improvements are actually constructed, and before any hearing herein provided for is held, the governing body shall prepare, or cause to be prepared, an estimate of the cost of such improvements, and in no event shall more than all the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks, and nine-tenths of the remaining cost of such improvements as shown on such estimate be assessed against such abutting property and owners thereof.

Special Tax on Street Railways for Improvement of Area Occupied

Sec. 5. If improvements be ordered constructed in any part of the area between and under rails, tracks, double tracks, turn outs and switches, and two feet on each side thereof, of any railway, street railway, or interurban, using, occupying, or crossing any such highway, portion or portions thereof, ordered improved, then the governing body shall have power to assess the whole cost of the improvements in such area against such railway, street railway, or interurban, and shall have power, by ordinance, to levy a special tax upon such railway, street railway, or interurban, and its road-bed, ties, rails, fixtures, rights and franchises, which tax shall constitute a lien thereon superior to any other lien or claim except State, County, and City ad valorem taxes, and which may be enforced either by sale of said property in the manner provided by law for the collection of ad valorem taxes by the city, or by suit in any court having jurisdiction. The ordinance levying such tax shall prescribe the time, terms and conditions of payment thereof, and the rate of interest, not to exceed 8% per annum, and same, if not paid when due, shall be collectible, together with interest, expenses of collection and reasonable attorney's fees, if incurred. The Governing Body shall have power to cause to be issued assignable certificates in evidence of any such assessments as hereinafter provided.

Assessments on Abutting Property; Certificates

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess all the cost of constructing, reconstructing, repairing, and realigning, curbs, gutters, and sidewalks, and not exceeding nine-tenths of the estimated cost of such improvements, exclusive of curbs, gutters, and sidewalks, against property abutting upon the highway or portion thereof ordered to be im-

proved, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed eight (8) per cent per annum. Any assessment against abutting property shall be a first and prior lien thereon from the date improvements are ordered, and shall be a personal liability and charge against the true owners of such property at said date, whether named or not. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied declaring the lien upon the property and the liability of the true owner or owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceedings with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fee, if incurred, and shall be first and prior lien on the property assessed, superior to all other liens and claims except State, county, school district, and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

**Assessment Apportioned under Front Foot Plan
Unless Inequitable**

Sec. 7. The part of the cost of improvements on each portion of highway ordered improved which may be assessed against abutting property and owners thereof shall be apportioned among the parcels of abutting property and owners thereof, in accordance with the Front Foot Plan or Rule provided that if the application of this rule would, in the opinion of the Governing Body, in particular cases, result in injustice or inequality, it shall be the duty of said Body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such parcels of property and owners thereof, the equities of such owners, and the adjustment of such apportionment so as to produce a substan-

tial equality of benefits received and burdens imposed.

**No Lien on Property Exempt; Personal Liability of
Owner; Enforcing Lien**

Sec. 8. Nothing herein shall empower any city, or its governing body, to fix a lien against any interest in property exempt, at the time the improvements are ordered, from the lien of special assessment for street improvements, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such property: The fact that any improvement, though ordered, is omitted in front of property, any interest in which is so exempt, shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes.

Notice and Hearing; Contents of Notice

Sec. 9. No assessment herein provided for shall be made against any abutting property or its owners, nor against any railway, street railway or interurban, or owner, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any abutting property or owners thereof in excess of the special benefits of such property, and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three (3) times in some newspaper published in the city where such special assessment tax is to be imposed, if there be such a paper; if not, then the nearest to such city of general circulation in the county in which such city is located; the first publication of such notice of hearing to be made at least twenty-one (21) days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least fourteen (14) days before the date of the hearing, written notice of such hearing, postage prepaid, in an envelope addressed to the owners of the respective properties abutting such highway, highways or portion or portions thereof to be improved, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon; and, where a special tax is proposed to be levied against any railway or street railway using, occupying or crossing any highway, portion or portions thereof to be improved, such additional notice shall be given by depositing in the United

States mail, at least fourteen (14) days before the date of the hearing, a written notice of such hearing, postage prepaid, in an envelope addressed to the said railway or street railway as shown on the then current rendered tax rolls of such city, at the address so shown, or, if the name of such respective railways do not appear on such rendered rolls of the city, then addressed to such railways or street railways as the names are shown on the current unrendered rolls of the city, at the addresses shown thereon. If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the highway, highways, portion or portions thereof to be improved, shall state the estimated amount or amounts per front foot proposed to be assessed against the owner or owners of abutting property and such property on each highway or portion with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such highway, portion or portions thereof, and, if the improvements are to be constructed in any part of the area between and under rails and tracks, double tracks, turnouts, and switches, and two (2) feet on each side thereof of any railway, street railway or interurban, shall also state the amount proposed to be assessed therefor, and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such abutting property, or any interest therein, and upon all owning or claiming such railway, street railway, or interurban, or any interest therein. The notice to be mailed may consist of a copy of the published notice. In those cases in which an owner of property abutting a highway or portion thereof which is to be improved is listed as "unknown" on the then current city tax roll, or the name of an owner is shown on the city tax roll but no address for such owner is shown, no notice need be mailed. In those cases where the owner is shown to be an estate, the mailed notice may be addressed to such estate. Such hearing shall be by and before the governing body of such city and all owning any such abutting property, or any interest therein, and all owning any such railway, street railway or interurban, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the abutting property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and proposed assessments, and the governing body shall have power to correct any errors, inaccuracies, irregularities, and invalidities, and to supply any deficiencies, and to deter-

mine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, or any railway, street railway, or interurban assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction, within fifteen (15) days from the time such assessment is levied, and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity, and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvement for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not mailed as required or was not published or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Changes in Proceedings; Procedure

Sec. 10. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by two-thirds vote of the governing body that it is not practical to proceed with the improvement as theretofore provided for, and if any such substantial change be made after any hearing has been ordered or held then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notices and hearings. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has

been entered into, and in case of abandonment of any particular improvement an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied therefor, and all other proceedings relating thereto.

Assessments Against Parcels Owned Jointly

Sec. 11. Assessments against several parcels of property may be made in one assessment when owned by the same person, firm, corporation or estate, and property owned jointly by one or more persons, firms or corporations, may be assessed jointly.

Powers of Governing Body

Sec. 12. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Correction of Assessments; Reassessment Certificates

Sec. 13. In case any assessment shall for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and correct any mistake or irregularity in connection therewith, and at any time to make and levy reassessments after notice and hearing as nearly as possible in the manner herein provided for original assessments, and subject to the provisions hereof with reference to special benefits. Recitals in certificates issued in evidence of reassessments shall have the same force as provided for recitals in certificates relating to original assessments.

Appeal

Sec. 14. Anyone owning or claiming any property or interest in any property against which such reassessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within fifteen (15) days from the date of such reassessment, the provisions hereinabove made with reference to waiver, bar, estoppel, and defense shall apply to such reassessment.

[Acts 1927, 40th Leg., 1st C.S., p. 489, ch. 106; Acts 1937, 45th Leg., p. 904, ch. 439, § 1; Acts 1939, 46th Leg., p. 104, § 1; Acts 1951, 52nd Leg., p. 454, ch. 281, § 1; Acts 1963, 58th Leg., p. 140, ch. 83, § 1; Acts 1967, 60th Leg., p. 365, ch. 176, § 1, eff. May 12, 1967.]

Section 15 of Acts 1927, 40th Leg., 1st C.S., p. 489, ch. 106, provided that the act should not repeal articles 1086-1096, 1104, 1105, and should not repeal any charter or law, but should exist as alternative provisions and that any city which might adopt or amend its charter under the Home Rule provision might provide therein for any of the provisions thereof as part of or as alternative to any charter provision, and provided further that the act should not apply to cities not having more than one thousand inhabitants, and section 16 provided that if any

section or part was held invalid, such holding should not affect the remainder.

Acts 1967, 60th Leg., p. 364, ch. 176 amended section 9 of this article; sections 2 and 3 of the amendatory act provided:

"Sec. 2. Nothing in this Act shall be construed as invalidating any assessment for street improvements heretofore levied by any city pursuant to the provisions of Chapter 106, Acts of the Fortieth Legislature, First Called Session, 1927, as amended [this article].

"Sec. 3. If any word, phrase, clause, paragraph, sentence, part, portion, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the Legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, portion, or provision."

Art. 1105b-1. Validating Special Assessments for Street Improvements

Sec. 1. That where any city acting through its governing body has heretofore levied assessments for street improvements against property abutting upon the highway or portion thereof ordered to be improved and against the owners of such property, and where such city has purported to act under the authority of Chapter 106, page 489 et seq., Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as said Act read on the date said assessments were levied (which Act as amended appears as Article 1105b in Vernon's Texas Civil Statutes), and where not more than all of the cost of constructing, reconstructing, repairing and realigning curbs, gutters and sidewalks and not more than nine-tenths ($\frac{9}{10}$) of the remaining cost of such improvements as shown on the estimate of costs prepared or caused to be prepared by the governing body of said city, where assessed against the property abutting upon the highway or portion thereof ordered to be improved and against the owners thereof, and where the portion of the cost of the improvements which was assessed against abutting property and the owners thereof was in fact apportioned among the parcels of abutting property and the owners thereof in accordance with the front foot plan or rule, or, where the city, in addition to giving the published notice provided for by Section 9 of Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, as it then read, mailed or caused to be mailed by United States mail, postage prepaid, a reasonable time prior to the date of the hearing, notices containing the information required to be contained in the published notice, addressed to the owners of the respective properties abutting the highway, highways or portions thereof to be improved as such names of such owners were shown on the then current tax rolls of such city at the addresses so shown, all such assessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of said Chapter 106 of the Acts of the Fortieth Legislature, First Called Session, 1927, as amended, except that nothing herein shall be construed as validating or legalizing any lien against any interest in

property exempt at the time the improvements were ordered from the lien of special assessments for street improvements.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments hereby validated are hereby legalized, approved and validated according to their terms. Any city which has heretofore levied assessments validated hereby but has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificate shall be valid and legal.

[Acts 1967, 60th Leg., p. 367, ch. 177, eff. May 12, 1967.]

Art. 1105b-2. Validation of Special Assessments and Reassessments for Street Improvements

Sec. 1. All assessments and reassessments for street or highway improvements heretofore levied or purported to be levied by any and all cities in the state against properties abutting their streets or highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects validated and shall have the force and effect provided by the provisions of Chapter 106 of the Fortieth Legislature, First Called Session, 1927, as amended,¹ except that nothing herein shall be construed to validate or to legalize any assessment lien levied or attempted to be levied against any property or interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements.

Sec. 2. All assignable certificates of special assessment issued in evidence of such assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificates shall be valid and legal.

Sec. 3. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements or utility improvements (regardless whether said assessment or reassessment be in the form of zoning regulations, plat regulations, utility regulations, or direct money assessments), nor to any ordinances or resolutions of the governing bodies of such cities authorizing the issuance of any such certificates of special assessment, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this state in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

[Acts 1969, 61st Leg., p. 1588, ch. 483, eff. June 10, 1969.]

¹ Article 1105b.

Art. 1105b-3. Validation of Assessments and Reassessments for Street, Sewer and Water Improvements

Sec. 1. That where any city acting through its governing body has heretofore levied assessments or reassessments for street improvements against property abutting upon a highway or portion thereof ordered to be improved and against the owners of such property, and such city has acted or purported to act under the authority of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended (which Act as amended appears as Article 1105b in Vernon's Texas Civil Statutes), all such assessments and reassessments heretofore levied or purporting to be levied against properties abutting such streets and highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of said Chapter 106, pages 489 et seq., of the Acts of the 40th Legislature, First Called Session, 1927, as amended, and the liens thereof shall be effective from and after the times thereon so provided, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt, at the time the improvements were ordered from the lien of special assessment or reassessment for local improvements under the Constitution of the State of Texas.

Sec. 2. That where any city acting through its governing body has heretofore levied assessments or reassessments for improvements to a sanitary sewer system within its limits, or improvements to a water system within its limits, either or both, against benefited properties and the owners thereof, and the city has acted or purported to act under the authority of the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended (which Act as amended appears as Article 1110c in Vernon's Texas Civil Statutes), all such assessments and reassessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, and the lien thereof shall be effective from and after the times therein provided, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt from the lien of special assessment or reassessment for local improvements under the Constitution of the State of Texas.

Sec. 3. That where any city acting through its governing body has heretofore levied as-

assessments or reassessments for street improvements against property abutting upon the highway or portions thereof ordered to be improved and against the owners of such property, and where such city has acted or purported to act under the authority of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended, and has levied or purported to levy said assessments or reassessments for such street improvements in conjunction with a levy of assessments or reassessments against benefited properties and the owners thereof for improvements to a sanitary sewer system within its limits, or for improvements to a water system within its limits, either or both, pursuant to the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended (which Act as amended appears as Article 1110c in Vernon's Texas Civil Statutes) by one joint proceeding, as provided by Section 18 of the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, all such assessments and reassessments and all proceedings levying same are hereby legalized, approved and validated as of the respective times and dates of such assessments and reassessments and proceedings and according to their terms and shall have the force and effect provided by the provisions of Chapter 106, pages 489 et seq., Acts of the 40th Legislature, First Called Session, 1927, as amended, and by the provisions of Chapter 192, pages 512 et seq., Acts of the 58th Legislature, Regular Session, 1963, as amended, and the liens thereof shall be effective from and after the respective times so provided by said respective statutes, except that nothing herein shall be construed as validating or legalizing any lien against any interest in property exempt at the time the lien takes effect from the lien of special assessments or reassessments for local improvements under the Constitution of the State of Texas.

Sec. 4. That all assignable certificates of special assessment issued in evidence of any of such street, water or sanitary sewer assessment or any combination thereof, assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence any of such assessments may issue same and such certificates shall be valid and legal according to their terms.

Sec. 5. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements, nor to any certificates of special assessment or reassessment, nor to any ordinances or resolutions of the governing bodies of such cities authorizing the issuance of any such certificates of special assessment, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this state in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

[Acts 1973, 63rd Leg., p. 131, ch. 66, eff. Aug. 27, 1973.]

Art. 1105c. Cities of More Than 100,000; Elimination of Grade-Level Street Crossings by Railroad Lines

Application of Act; Power of Cities; Purposes

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) having a population of more than one hundred thousand (100,000) inhabitants according to the Federal Census last preceding the taking of any action by such city or town under the provisions of this Act. Every such city or town (referred to hereinafter as "city") is hereby empowered and authorized to purchase, build, construct, acquire, improve, enlarge, extend, maintain, repair, and replace any and all properties, improvements and facilities which the governing body thereof deems to be necessary for the elimination of grade-level crossings by railroad lines of the streets of such city and for the relocation of railroad lines within said city, so that the hazards to life and property will be decreased, public safety and convenience will be promoted, traffic conditions will be improved, and the orderly development of the city will be encouraged. Without in any way limiting the generalization of the foregoing, it is expressly provided that "properties, improvements and facilities" mentioned above shall include lands, properties, rights-of-way, elevated structures, grade separations, underpasses, overpasses, passenger stations or depots and other buildings, interchange yards, railroad tracks, removal and relocation of railway tracks, removal and relocation of utility lines or pipes or other improvements, removal or demolition of buildings or improvements, damages to other properties in connection with any of the foregoing, street improvements in connection with any of the foregoing, and any other properties, buildings, improvements, or facilities which the governing body deems to be necessary to accomplish the desired purposes. The "properties, improvements and facilities" mentioned in this Section 1 are hereinafter referred to as "the Facilities," or "Facilities."

Contracts; Leases; Conveyances and Other Agreements

Sec. 2. The governing body of the city shall have power and authority to make and enter all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, and any other agreements with respect to the Facilities which said governing body shall deem necessary or convenient to carry out the purposes and powers granted in and by this Act, upon such terms and conditions and for such length or period of time as may be prescribed therein. Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement may be entered into with any person, real or artificial, any corporation, municipal or public or private (including railroad or railway companies), any governmental agency or bureau (including the United States Government and the State of Texas and political subdivisions of said State), and the governing body

may make contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements with any such persons, corporations, or entities in connection with or incidental to the acquisition, financing, construction, or operation of any of the Facilities. Any and all contracts, leases, conveyances, contracts of sale, lease-purchase contracts, or other agreements herein authorized, to be effective, shall be authorized by ordinance or resolution of the governing board of the city, shall be executed by its mayor (or presiding officer) and attested by its city clerk (or city secretary). Any such contract, lease, conveyance, contract of sale, lease-purchase contract, or other agreement shall be binding upon the city and the governing body thereof, the powers and provisions set forth herein being complete within themselves, without reference to any other statute or statutes.

Tax Bonds or Revenue Bonds

Sec. 3. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue, from time to time, tax bonds or revenue bonds of said city, either or both; provided, however, that no tax bonds (except refunding bonds) shall be issued unless and until they have been authorized at an election at which a majority of the duly qualified resident electors of said city who own taxable property within said city and who have duly rendered the same for taxation, voting at said election, have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as the same is now or may hereafter be amended.

Pledge of Revenues

Sec. 4. Revenue bonds may be issued, secured solely by a pledge of and payable from the net revenues derived from the operation of or use made of all or any designated part or parts of the Facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the city to charge and collect fees, tolls, and other charges, so long as any of the revenue bonds or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the Facilities (the net revenues of which are pledged to the payment of the bonds), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the bond ordinance and other proceedings authorizing and relating to the issuance of such bonds. "Net revenues" as used herein shall mean the gross revenues derived from the operation or use made of the Facilities (the net revenues of which are pledged to the payment of the bonds) less the reasonable expenses of maintaining and operating said Facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said

Facilities. At the option of the governing body of the city, the proposition or propositions for the issuance of revenue bonds may be submitted at an election called and held as in the case of tax bonds, or such revenue bonds may be issued without the necessity of an election.

Ordinances; Interest and Sinking Funds; Reserve Funds

Sec. 5. In the ordinance adopted by the governing body authorizing the issuance of any revenue bonds and in the proceedings relating thereto, the governing body may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may provide where such funds shall be deposited, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of the Facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said Facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said ordinance and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in said ordinance or other proceedings. Such ordinance and other proceedings may contain such other provisions and covenants, as the governing body shall determine, not prohibited by the Constitution of the State of Texas or by this Act, and the governing body may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of said revenue bonds.

Revenue Bonds Secured by Pledge of Future Revenues

Sec. 6. For the purpose of providing funds for any of the Facilities provided in Section 1 hereof, the governing body of the city shall also have the power to issue, from time to time, revenue bonds payable from and secured by a pledge of the revenues, proceeds, or payments that will accrue to or be received by the city under any lease-purchase contract or contract of sale pertaining to any of the Facilities. Bonds may be issued secured solely by such pledge, and bonds may be issued secured not only by such pledge but also by pledges of net revenues as elsewhere provided in this Act. All the provisions of this Act relating to revenue bonds shall, insofar as the same may be made applicable, also apply to bonds issued by the city secured in the manner authorized by this Section 6. The power and authority granted by this Section 6 shall be in addition to other powers and authority granted to the city by this Act and shall not in any way limit such other powers and authority.

Form of Bonds; Maturity; Examination and Approval;
Registration

Sec. 7. All bonds of the city (tax bonds and revenue bonds) issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city clerk (or city secretary), and shall have the seal of the city impressed thereon; provided, that the ordinance authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said officers, either or both, and for the seal of the city on the bonds to be a printed facsimile seal; and provided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Said bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and may be sold either at public or private sale (no public advertisement for bids being necessary) at a price and under terms determined by the governing body to be most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard interest tables then currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be issued as non-option bonds, or may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the bonds. Such bonds may be made registerable as to principal, or as to both principal and interest.

After bonds have been authorized by the city, such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts made between the city and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

Proceeds of Sale

Sec. 8. From the proceeds of sale of any bonds issued under the provisions of this Act, the governing body may appropriate or set aside out of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds, and, (iii) in the case of revenue bonds, such amount or amounts as may be prescribed by the bond ordinance to be deposited into the reserve fund or funds and into any other funds, as specified in said ordinance.

Additional Security; Mortgage of Physical Properties

Sec. 9. As additional security for the payment of any revenue bonds issued hereunder, the governing body of the city may in its discretion have executed in favor of the holders of such revenue bonds an indenture or deed of trust mortgaging and encumbering all or any part of the physical properties comprising the Facilities (the net revenues of which are pledged to the payment of such bonds), including the lands upon which said Facilities are located, and may provide in such mortgage or encumbrance for a grant to any purchaser or purchasers at foreclosure sale of a franchise to operate such Facilities and properties for a term of not over forty (40) years from the date of such purchase, subject to all laws regulating same then in force. Any such indenture or deed of trust may contain such terms and provisions as the governing body shall deem proper and shall be enforceable in the manner provided by the laws of the State of Texas for the enforcement of other mortgages or encumbrances. Under any such sale ordered pursuant to the provisions of such mortgage or encumbrance, the purchaser or purchasers at such sale, and his or their successors or assigns, shall be vested with a permit or franchise conforming to the provisions stipulated in the indenture or deed of trust to maintain the Facilities and properties purchased at such sale with like powers and privileges as may theretofore have been enjoyed by the city in the operation of said Facilities and properties. The purchaser or purchasers of such Facilities and properties at any such sale, and his or their successors and assigns, may operate the same as provided in the last above sentence or may at their option remove all or any part or parts of said Facilities and properties for division to other purposes. The laws of the State of Texas (other than this Act) shall not be applicable to the authorization or execution of any mortgage or encumbrance entered into pursuant to the provisions of this Act, nor to the granting of any franchise hereunder.

Management and Control of Facilities

Sec. 10. While any revenue bonds issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, and whether or not there is an indenture or deed of trust mortgaging and encumbering the physical

properties comprising the Facilities (the net revenues of which are pledged), as provided in Section 9 hereof, the management and control of such Facilities (and the physical properties comprising the same), by the terms of the ordinance authorizing the issuance of such bonds, may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city. The compensation of such trustees shall be fixed in the bond ordinance, but shall never exceed five per cent (5%) of the gross revenues of such Facilities. The terms of office of the members of such board of trustees, their powers and duties, the manner of exercising same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance. In all matters where such ordinance is silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

Refunding Bonds

Sec. 11. (a) The governing body of the city shall have the power and authority to issue tax bonds for the purpose of refunding any outstanding bonds (original or refunding) issued by the city under the provisions of this Act and accrued interest thereon, and no election therefor shall be necessary. Such refunding bonds may be issued to refund bonds of more than one series or issues of outstanding tax bonds. Such refunding bonds shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(b) The governing body of the city shall have the power and authority to issue revenue bonds for the purpose of refunding any outstanding revenue bonds (original or refunding) issued by the city under the provisions of this Act, and accrued interest thereon, and no election therefor shall be necessary. Revenue refunding bonds, at the option of the governing body, may be combined with new or original revenue bonds into one series or issue of bonds. Such revenue refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such revenue refunding bonds may be secured by pledges of other net revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue bonds which are not to be refunded. Revenue refunding bonds may bear interest at a rate higher than that borne by the bonds refunded; provided, that such interest rate shall not exceed the rate specified in Section 7 of this Act.

(c) Refunding bonds (both tax refunding bonds and revenue refunding bonds) shall be

authorized by ordinance of the governing body of the city, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General of the State of Texas as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded; but in lieu thereof, the ordinance authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient, not only to pay the principal of the underlying bonds, but also to pay the interest on the underlying bonds to their option or maturity dates, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. In those situations where the proceeds of revenue refunding bonds are deposited in the place or places where the underlying bonds are payable, they shall be so deposited under an escrow agreement so that such proceeds will be available for the payment of the interest on and principal of said underlying bonds as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments shall be considered as revenues of the Facilities.

(d) When any refunding bonds (both tax refunding bonds and revenue refunding bonds) have been approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original bonds, insofar as the same may be made applicable, shall also apply to refunding bonds issued hereunder (both tax refunding bonds and revenue refunding bonds).

Applicability of Statutes

Sec. 12. Insofar as the same may be applicable, the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions thereto, shall apply to revenue bonds issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue bonds issued hereunder, all the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

Legal and Authorized Investments

Sec. 13. All bonds issued under the provisions of this Act (tax bonds and revenue bonds, and original bonds and refunding bonds) shall be, and are hereby declared to be,

and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Eminent Domain

Sec. 14. The right of eminent domain is hereby expressly conferred upon any city operating under the provisions of this Act, for the purpose of enabling such city to acquire the fee simple title, easement or right-of-way to, over and through any and all lands, water, lands under water, or any other property or properties of any nature whatsoever, private or public (except land and property used for cemetery purposes), which the governing body of the city deems to be necessary for the accomplishment of any of the purposes provided in Section 1 hereof. In the event of the condemnation, or the taking, damaging or destroying of any property for such purposes, the city shall pay to the owner thereof adequate compensation for the property taken, damaged, or destroyed. Compensation and damages adjudicated in any condemnation proceedings, and damages which may be done to the property of any person or corporation in the accomplishment of such purposes may be paid out of funds derived from the sale of any bonds (tax bonds or revenue bonds) issued pursuant to this Act or from any other available funds of the city. All procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending the appeal, etc., shall be in conformity with the procedure prescribed in Title 52, Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and any amendments thereto.

Cumulative Effect

Sec. 15. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when a city acts under the provisions of this Act, to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Moreover, the provisions of this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

Validation of Proceedings and Contracts

Sec. 16. All proceedings heretofore had and all actions heretofore taken and all contracts heretofore entered into by any city relating to any of the matters covered by, or power or authority granted by, the provisions of this Act are hereby in all things validated. It is provided, however, that the validation provisions of this Section 16 shall have no application to litigation pending upon the effective date hereof questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 743, ch. 346.]

CHAPTER TEN. PUBLIC UTILITIES

1. CITY OWNED UTILITIES

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1. CITY OWNED UTILITIES

Art. 1106. Appropriation of Revenue

The governing body of any city or town in this State, whether operating under special charter or under general law, may appropriate and apply the net revenues of its water works system or other public utility system, service or enterprise to the payment of the sinking fund and interest due by said city or town on the bonded indebtedness incurred on account of said system, service or enterprise, producing such revenues in the following manner:

- 1. Whenever said governing body desires to take advantage of the provisions

of this article it shall at the end of its fiscal year, and before the passage of any ordinance levying taxes for that year, appropriate and set aside out of the net revenues such sums for such purpose only as such governing body shall deem to the best interest of the city or town.

2. Where the sums so set aside and appropriated shall be sufficient to pay in full the amounts needed for such sinking fund and interest for the fiscal year in which said revenues are produced, it shall not be thereafter necessary for the governing body to levy any tax for such sinking fund or interest for which this appropriation is made; but when said sums so appropriated shall not be sufficient to meet the required amounts for such sinking fund and interest, then the governing body shall include in the general tax ordinance for that year a tax sufficient to meet the deficiency in such sinking fund and interest allowance for that year. Nothing herein shall authorize said city or town to exceed the authorized tax limit.

[Acts 1925, S.B. 84.]

Art. 1107. Condemnation of Property

An incorporated city or town shall have the right of eminent domain to condemn private property for either of the following purposes:

1. To open, change or widen any public street, avenue, or alley.

2. To construct water mains, or supply reservoirs, or standpipes for water works or sewers.

3. To establish thereon one or more hospitals or pesthouses, within or without the limits of such city or town.

4. To construct and maintain sewer pipes, mains and laterals and connections and also private property upon which to maintain vats, filtration pipes and other pipes, and which to use and occupy as a place for ultimate disposition of sewage in or out of the town or city limits, whenever it be made to appear that the use of any such private property is necessary for successful operation of such sewer system, and when it also be made to appear that such sewer system is beneficial to the public use, health, and convenience.

5. Construct, maintain, and operate municipal airports within or without the limits of such city or town.

6. To dig or drill water wells or well upon or produce water from or construct pump stations or reservoirs thereon, whether within or without the city limits.

7. To open and lengthen streets and alleys; to secure space for the erection of public buildings or space to relieve crowded conditions, within or without the limits of such city or town; provided, however, that the provision of this sub-section 7 shall apply only to incorporated cities or

towns having a population of less than two thousand (2,000) inhabitants as shown by the last preceding or any future Federal Census.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 417, ch. 250, § 1; Acts 1941, 47th Leg., p. 267, ch. 181, § 1; Acts 1945, 49th Leg., p. 255, ch. 189, § 1.]

Art. 1108. Public Utilities

Any town or city in this State which has or may be chartered or organized under the general laws of Texas, or by special Act or charter, and which owns or operates waterworks, sewers, gas or electric lights, shall have the power and right:

1. To own land for such purposes within or without the limits of such town or city.

2. To purchase, construct and operate water, sewer and gas and electric light systems inside or outside of such towns or city limits, and regulate and control same in a manner to protect the interests of such town or city.

3. To extend the lines of such systems outside of the limits of such towns or cities and to sell water, sewer, gas, and electric light and power privileges or service to any person or corporation outside of the limits of such towns or cities, or permit them to connect therewith under contract with such town or city under such terms and conditions as may appear to be for the best interest of such town or city; provided that no electric lines shall, for the purposes stated in this section, be extended into the corporate limits of another incorporated town or city.

4. To prescribe the kind of water or gas mains or sewer pipes and electric appliances within or beyond the limits of such town or city, and to inspect the same and require them to be kept in good order and condition at all times and to make such rules and regulations and prescribe penalties concerning same, as shall be necessary and proper.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 496, ch. 207, § 1; Acts 1937, 45th Leg., p. 806, ch. 397, § 1.]

Art. 1108a. Electric Properties Partly in Texas and Partly in New Mexico

Sec. 1. Where any city in Texas is now or hereafter being supplied with electricity by means of a privately owned electric plant and system, part of which, including facilities for the generation and transmission of electricity distributed in part to the inhabitants of said city, is located in the State of New Mexico, such city is hereby authorized to acquire, own and operate such electric plant and system in whole or in part, and in order to pay for the cost of such acquisition to issue the revenue bonds of such city in the manner now provided for the issuance of revenue bonds by cities under the general laws of Texas, and the revenue bonds so issued shall be fully negotiable instruments for all purposes.

Sec. 2. Any city so acquiring an electric plant and system is authorized to sell electricity either at retail or wholesale for distribution in the State of New Mexico and to enter into such contracts and agreements in that connection as may be provided by the governing body thereof.

Sec. 3. The provisions of this Act are severable, and if any of its provisions shall be held to be invalid by any court of competent jurisdiction, the remaining provisions shall remain fully effective, it being hereby expressly declared to be the legislative intent that this Act would have been adopted had any such invalid provision not been included therein.

[Acts 1943, 48th Leg., p. 301, ch. 195.]

Art. 1109. Waterworks

These rules shall govern incorporated cities having more than one thousand inhabitants according to its preceding Federal census and owning and operating their own waterworks systems for the purpose of supplying the inhabitants thereof with water for fire protection or domestic consumption and the users of the city:

1. They may proceed in accordance with the provisions of this article independently of and without reference to any other applicable law or charter provision, present or future, except as hereinafter provided, which said law or charter provisions shall remain in force as alternate methods.

2. Subject to the terms hereof, any such city may by purchase, gift or devise, or by the exercise of the right of eminent domain, acquire and own in fee simple or otherwise public or private lands and property including riparian rights, within or without the city limits or within any county in this State.

3. To furnish any such city an adequate and wholesome supply of water, any such city may exercise the right of eminent domain to acquire and condemn either public or private lands or property for the extension, improvement or enlargement of its waterworks system, including water supply reservoirs, riparian rights, stand pipes, water sheds, the construction of water supply reservoirs, wells or artesian wells and dams and the construction, building, erection or establishment of any necessary appurtenances or facilities which will furnish to the inhabitants of the city an abundant supply of wholesome water.

4. Any such city shall also have all the powers conferred upon water improvement districts or water control and preservation districts under the statutes now or hereafter existing providing for the exercise of the right of eminent domain, and shall have all the powers conferred by general law authorizing cities and towns to exercise the right of eminent domain.

5. Any such city may acquire the fee simple title to any land or property when

same is expressed in the resolution ordering said condemnation proceedings by the governing body.

6. The term "city" or "cities" as used herein shall include all incorporated towns and cities acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1109a. Mortgage of Water System; Extension or Enlargements

Power to Mortgage; Acquisition of Additions; Franchise to Foreclosure Purchaser

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

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

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

Operating Expense First Lien on Income; Rates; Priorities; Agreements as to Payment

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

Where bonds, notes or obligations are issued hereunder, and at the time of the authorization of such bonds or notes in the manner herein-

after prescribed, there are then outstanding other bonds, notes or obligations payable from the revenues of the water system, the additional bonds or notes may nevertheless be issued, but shall be issued in such manner that they are in all respects subordinate to each issue of bonds, notes or obligations then outstanding. Each series of bonds or notes issued hereunder shall, as to lien on the revenues and physical properties of the water system, be subordinate to each series of bonds, notes or obligations theretofore issued and remaining outstanding. Provided, however, in those instances where in the ordinance or Deed of Trust or indenture of trust provision has been or shall be made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or Deed of Trust or indenture of trust, any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues of the water system and secured by pledges and liens on a parity with and of equal dignity with the pledges and liens securing the bonds previously issued; and such additional bonds, notes or obligations when issued shall in all respects be on a parity with and of equal dignity with said previously issued bonds which are then outstanding, provided in the ordinance or Deed of Trust or indenture of trust authorizing or securing such additional bonds they are declared to be on a parity and of equal dignity with said previously issued bonds, but subject in all respects to the conditions imposed upon the issuance of additional bonds by the ordinance, Deed of Trust or indenture of trust issuing or securing the bonds which are outstanding. In the issuance of revenue bonds in the future for any such purposes any such city or town may prescribe in the ordinance or Deed of Trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, Deed of Trust or indenture of trust.

Subject to the terms and provisions hereof, the governing body of the city, in authorizing the issuance of bonds, notes or obligations hereunder, may enter into such agreements and covenants with respect to the manner of payment of such bonds, notes or obligations, and the application of the revenues of the water system as it may deem fit, provided, however, that no such bond, warrant or note shall ever be a general obligation of such city, and it shall be proper for the governing body to apply surplus revenues of the system not needed for the payment of principal of and interest on such bonds, notes or obligations, and not needed for the payment of operating and maintenance expenses, to the payment of any notes, warrants or other obligations the proceeds of which were used for the purpose of improving, repairing, adding to or extending the waterworks system.

Bonds as Charge on Property Encumbered

Sec. 3. All cities acquiring a water system, or any addition, improvement or extension thereto, under this Act, may borrow money on the security of the plant, or addition or extension, so acquired, or owned, for the purpose of paying the purchase price and for the addition, improvement and extension thereof, and may issue bonds, notes or other obligations to evidence the moneys so borrowed, which bonds, notes or other obligations shall have the characteristics of negotiable instruments under the law merchant. Every contract, bond, or note executed or issued under this Act shall contain this clause "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." No such obligation shall ever be a debt of such city, but solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law.

Management During Encumbrance

Sec. 4. The management and control of any such system or systems during the time same are encumbered, may by the terms of such encumbrance be placed in the hands of the city council of such city; but if deemed advisable may be placed in the hands of a board of trustees to be named in such encumbrance, consisting of not more than five (5) members, one of whom shall always be the mayor of such city; and the compensation of such trustees shall be fixed by such contract, but shall never exceed five per cent (5%) of the gross receipts of any such systems in any one year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matter pertaining to their organization and duties may be specified in such contract of encumbrance; but in all matters where such contract is silent, the laws and rules governing the council of such city shall govern said board of trustees so far as applicable. Said city council or board of trustees having such management and control shall have power to make rules and regulations governing the furnishing of service to patrons and for the payment for same, and providing for discontinuance of such service to those failing to pay therefor when due until payment is made; and such city council shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge thereof, and to provide penalties for all interference, trespassing or injury to any such systems, appliances or premises on which same may be located.

Default in Payments; Procedure

Sec. 5. Any contract of encumbrance under this Act may name, or provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract, and for the

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

Property Included in Encumbrance; Attorney General to Approve Bonds; Submission to Voters

Sec. 6. In the encumbrance of any properties under this Act such city may encumber any such water systems, or any extensions, additions or enlargements thereof, singly or together, and may or may not include in such encumbrance the franchise provided for, and may omit or include in said encumbrances the whole or any part of the properties mentioned in Section 1 of this Act; but no such system shall ever be sold until such sale is authorized by a majority vote of the qualified property taxpayers of such city, or under the terms of any such mortgage or encumbrance, such vote where necessary to be ascertained at an election, of which notice shall have been given in like manner as in cases of the issuance of municipal bonds by such cities.

All bonds and notes issued hereunder shall be submitted to the Attorney General for examination, and upon his approval thereof, shall be registered by the State Comptroller in a book kept for that purpose, and the Comptroller shall endorse his certificate of registration on each such bond or note. Any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Bonds or notes may be issued under the provisions hereof and the revenues or physical properties of the water system encumbered as security for the payment of such bonds and notes; such bonds or notes shall not be issued, however, until such issuance has been authorized by a majority vote of the qualified electors who own taxable property in the city where said election is being held, and who have duly rendered their property for taxation, such electors voting only in the precinct of

their residence, and voting on such proposition under the Constitution and Laws of Texas. Such election shall be called and held in the manner provided for the calling and holding of other bond elections in such city. No other notices need be published or opportunities for the filing of petitions granted despite the provisions of any other statute or of the charter of any such city.

Prior Proceedings Validated; Proviso as to Cities of 290,000

Sec. 7. All proceedings heretofore had by cities having more than one hundred and sixty thousand (160,000) inhabitants, in the acquisition of any water systems, and the encumbrance of same, within the authority given by this Act, be and the same are hereby approved and ratified.

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

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

Provided, further, that all bonds or notes of said last mentioned cities authorized under Section 1 of this Act shall be submitted to the Attorney General of Texas for his examination and when such bonds or notes have been examined and certified as legal obligations of such cities by said Attorney General they shall be registered by the Comptroller of Texas in a book kept for such purposes, and the Comptroller shall endorse his certificate of registration upon each of such bonds or notes; and any bonds or notes so approved by the Attorney General, registered by the Comptroller, and delivered to the purchaser or purchasers for not less than their par value plus accrued interest shall thereafter be incontestable.

Provided, further, that nothing in this Act, however, shall repeal or affect any other legislation pertaining to the same or similar sub-

jects but shall be cumulative of all Acts granting the power to all such cities and towns, including home rule cities, operating under Title 28 of the Revised Civil Statutes of 1925, and it is not intended to limit or impair any power given by any other of such Acts, nor shall any other Act be deemed to limit or impair the power of any city under this Act.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., 1st C.S., p. 113, ch. 36, § 1; Acts 1939, 46th Leg., p. 99, §§ 2, 3; Acts 1953, 53rd Leg., p. 419, ch. 121, § 1.]

Art. 1109a-1. Validation of Waterworks System Revenue Refunding Bonds and Sewer System Revenue Refunding Bonds

All Waterworks System Revenue Refunding Bonds and all Sewer System Revenue Refunding Bonds heretofore authorized, issued, exchanged, and delivered by cities in Texas operating under the provisions of Special Charters and which refunding bonds have been heretofore validated and confirmed by a final decree of a United States District Court in Texas, be, and the same are hereby in all things ratified, validated, and confirmed, and such refunding bonds so authorized, issued, exchanged, and delivered, shall hereafter be and constitute valid and binding obligations upon the revenues of such systems.

[Acts 1937, 45th Leg., 2nd C.S., p. 1999, ch. 69, § 1.]

Art. 1109a-2. Warrants for Completion of Waterworks Extensions and Improvements

Sec. 1. In each instance where a city heretofore has issued and sold bonds for the purpose of extending and improving its waterworks system, and the governing body thereof finds and determines that the proceeds from such bonds will not be sufficient to complete such extensions and improvements according to plans and specifications heretofore approved by the governing body, and that such extensions and improvements must be completed immediately in order to afford adequate fire protection and to protect the public health, the governing body is hereby authorized to issue interest-bearing time warrants to pay for the completion of the extensions and improvements. Such warrants may be issued without the prerequisite of an election and without giving notice of intention to issue warrants.

Sec. 2. In the event of conflict between any of the provisions of this Act and any provisions of a city charter, the provisions of this Act shall prevail. Provided, however, that no city shall issue warrants under this law to a greater amount than Thirty Thousand (\$30,000.00) Dollars, that such warrants shall bear not more than four (4%) per cent interest, and shall mature in not to exceed five (5) years from their date, and provided further that no ordinance, authorizing the issuance of such warrants, shall be passed after ninety (90) days after the effective date of this Act; but the limitations contained in this sentence shall not restrict the authority conferred by

any of the provisions of Section 6 of the Bond and Warrant Law of 1931.¹

[Acts 1941, 47th Leg., p. 550, ch. 347.]

¹ Article 2368a.

Art. 1109a-3. Acquisition of Property for Water Purification and Treatment Facilities

Authority of Certain Cities and Towns

Sec. 1. Cities and towns of this state incorporated under General or Special Law or operating under a Home Rule Charter and which are located within or which have contracted or which may hereafter contract with any Municipal Water Authority or other District organized under the provisions of Section 59 of Article XVI of the Texas Constitution, for a supply of untreated water shall have and are hereby granted the power separately or jointly, in combination with any one or more such cities or towns, to receive and acquire through gift or dedication, by purchase without condemnation or by condemnation, any property in this state located inside or outside the corporate limits of any such city or town for the purpose of building and acquiring water purification and treatment facilities, reservoirs, pipelines, and water transporting facilities of every kind deemed necessary for providing such cities or towns separately or jointly with a supply of fresh water for municipal, domestic and industrial purposes, and to build, construct or otherwise acquire any and all such facilities. The procedure to be followed in condemnation proceedings hereunder and authorized herein shall be in accordance with the provisions of state law with reference to eminent domain including particularly the provisions of Title 52 of the Revised Civil Statutes of Texas, 1925, as amended.¹

¹ Article 3264 et seq.

Acquisition and Construction of Improvements and Facilities

Sec. 2. Such cities and towns are hereby empowered separately or jointly to maintain, improve and operate all properties acquired and constructed hereunder and all improvements thereon and to sell or lease all or any part of such property and improvements and shall have full and ample power to separately or jointly manage, control and operate properties so owned jointly by two or more such cities and towns by entering into contract with each other on terms mutually agreeable.

Negotiable Bonds or Warrants; Taxes for Interest and Sinking Fund

Sec. 3. The governing body of any city which may provide water treatment facilities under the provisions of this Act may for such purpose issue negotiable bonds or warrants of such city and levy taxes to provide the interest and sinking fund therefor in the manner provided by law for the issuance of tax supported bonds and warrants of such cities and towns, or may issue bonds supported by the revenues of any one or all of its utilities in the manner

provided in Article 1111 et seq., Revised Civil Statutes of Texas, 1925, as amended.

Improvement, Maintenance and Operation of Facilities; Charges; Contracts for Services; Rules and Regulations

Sec. 4. Any city or town acquiring property and facilities separately or cities and towns acquiring property and facilities jointly under this Act are authorized and empowered to improve, maintain, operate and conduct same for the authorized purposes and to make and provide all necessary or useful improvements and facilities and to fix and make such reasonable charges for the use thereof as the governing body or governing bodies, by mutual agreement may determine. Any such city or town acting separately and any such cities and towns acting jointly may contract with any other city or town for supplying the latter with services to be afforded by the improvements and facilities acquired and constructed hereunder and such cities and towns are granted all necessary powers and authority to make and enforce rules and regulations pertaining to the use of improvements and facilities as the interested governing bodies may, by ordinance, determine.

Approval of Contract for Water Treatment

Sec. 5. No election shall be required of any city or town for approval of any contract pertaining to water treatment under this Act but any such contract may be entered into without the necessity of an election.

Taxes for Operation and Maintenance of Improvements and Facilities

Sec. 6. In addition to any taxes which may be levied by any city or town for the interest and sinking fund of any bonds issued hereunder any city or town acquiring improvements and facilities either separately or jointly pursuant to this Act are authorized and empowered to levy and collect taxes for the purpose of improving, operating and maintaining any such improvements and facilities; provided that nothing in this Act shall be construed as authorizing any city or town to exceed the limits of taxation placed upon it by the Constitution and Laws of this state or by their home rule charter.

Validation of Water Treatment Contracts

Sec. 7. All acts and proceedings of the governing bodies of cities and towns, eligible under the provisions of this Act, heretofore accomplished in the authorization and execution of water treatment contracts as herein contemplated as well as the terms and provisions of said water treatment contracts themselves are hereby ratified, approved, confirmed and validated and declared to be valid in all respects as of the respective dates thereof with the parties thereto bound accordingly until the terms and provisions of said contracts are lawfully changed by mutual consent of the parties thereto.

Cumulative Effect

Sec. 8. This Act is cumulative of all other laws and city charter provisions relating to the same subject and shall take precedence over any city charter provision in conflict but only to the extent of such conflict.

[Acts 1962, 57th Leg., 3rd C.S., p. 48, ch. 18, §§ 1 to 8.]

Art. 1109b. Eminent Domain

Incorporated cities and towns shall have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private property within or without the city limits for any of the following purposes, to wit:

To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary and to take any private property within or without the city limits for any of the following purposes, to wit: City halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanatoriums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands with¹ and without the city for any other municipal purposes that may be deemed advisable.

The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares, and pleasure grounds, public wharves and landing places for steamers and other crafts, and for the purpose of straightening or improving the channel of any stream, branch or drain, or the straightening or widening or extension of any street, alley, avenue or boulevard. That, in all cases where the city seeks to exercise the power of eminent domain, it shall be controlled, as nearly as practicable, by the law governing the condemnation of property of railroad corporations in this State, the city taking the position of the railroad corporations in any such case; that the power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority

shall include the right to condemn public property for such purposes.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 379, ch. 243, § 1.]

¹ Probably should read "within."

Art. 1109c. Repealed by Acts 1969, 61st Leg., p. 3042, ch. 889, § 2, eff. Sept. 1, 1969

Acts 1969, 61st Leg., p. 2735, ch. 889, repealing this Article, enacts Titles 1 and 2 of the Texas Education Code.

Art. 1109d. Cities and Towns Authorized to Contract with Water Improvement or Water Control and Improvement District for Water Supply

Duration of Contracts

Sec. 1. Any city or town in this state may contract with any Water Improvement District or Water Control and Improvement District deriving its powers from Article XVI, Section 59, of the Constitution of Texas and any such District may contract with any such City or Town, for supplying water to said City. Such contract may run for such length of time as may be agreed upon between the Board of Directors of said District and the governing body of said City, not to exceed 30 years from the date of the contract, but said contract may also provide that it shall run until all warrants, notes or bonds, issued by such District for the acquisition of facilities necessary or convenient to enable the District to supply the City with water, have been paid in full.

Payment for Water Out of Water System Revenues Exclusively

Sec. 2. Payment for water so supplied shall be made out of the water system revenues of such city or town, and the District shall never have the right to demand payment out of moneys raised or to be raised by taxation, and payments under the contracts herein authorized may be secured by a first lien on, and an irrevocable pledge of the revenues of said water system.

Election Approving Contract; Notice of Election; Ballots

Sec. 3. Provided, however, that no such contract shall become binding until approved by a majority vote of the qualified electors in such City or Town at an election held for that purpose. Such election may be called by the governing body of the city on its own motion. Notice of such election shall be published in a newspaper of general circulation published in such City or Town once each week for two consecutive weeks the first of which publications shall be at least ten full days prior to the day set for the election, provided, that if no newspaper is published in such City or Town, notice of said election shall be given by posting notice thereof in each of the voting precincts of such City or Town and one at the City Hall. The notice of election shall state the date upon which the same shall be held, and shall state the proposition to be voted upon in such form as the governing body shall prescribe, but the notice need not set out the contract at length,

or detail its provisions. For ten days next preceding the election the proposed contract shall be on file in the office of the City Secretary and may be examined by any person. The governing body of the City shall prescribe the form of the ballots.

General Election Law to Govern Elections; Qualification of Electors; Returns

Sec. 4. Except as otherwise provided in this Act, said election shall be conducted according to the general election law. Only qualified electors who own taxable property in the City and who have duly rendered the same for taxation, shall be qualified to vote. Returns of said election shall be made to the governing body of the city.

Canvass of Returns; Effect of Election

Sec. 5. The governing body shall canvass the returns of said election as soon as practicable. If a majority of the votes cast at such election are in favor of approving the contract, the contract shall at once become binding and effective; if a majority of the votes are against the contract, the contract shall not become effective.

Construction or Acquiring of Canals, Reservoirs, Basins, Pipelines, Filtration Plants, and Other Equipment and Supplies

Sec. 6. Any such district may construct, or otherwise acquire and equip, such canals, reservoirs, basins, pipelines, conduits, filtration, and aeration plants, and all other equipment and supplies, and may acquire by purchase, eminent domain, or otherwise all such property as is necessary or convenient for the purpose of supplying water to a city as provided herein.

Issuance of Warrants, Notes, or Bonds; Refunding or Reissuing Bonds

Sec. 7. Any such District may issue warrants, notes or bonds to provide for the acquisition of the facilities necessary or convenient for supplying water to such city or town, and to secure such warrants, notes or bonds by a pledge of the revenues to be derived under any such contract then in existence or thereafter to be made for supplying water to such city or town. Where tax supported bonds hereafter are voted for such purpose, such bonds may be issued, secured by the pledge of such tax levy and by the pledge of such revenues or by either of such pledges. In instances where tax supported bonds have been voted heretofore in any such district but all or part thereof have not yet been sold, such unsold bonds may be issued and sold and the proceeds or any part thereof may be used for such purpose without the necessity of another election, and in such instances the District may secure such bonds by a levy of such taxes and by a pledge of the revenues to be derived under any such contract for supplying water either then in existence or thereafter to be made, or may secure said bonds by either of such methods. Bonds of such Districts heretofore voted may be refunded or re-issued without an election and such

refunding or re-issued bonds may be secured as in this section provided.

Partial Invalidity

Sec. 8. In the event any provision of this Act shall be in conflict with any other law the provisions of this Act shall be effective.

[Acts 1937, 45th Leg., 2nd C.S., p. 1879, ch. 12.]

Art. 1109e. Contract with District Created to Supply Water to City

Contract Authorized; Provisions of Contract

Sec. 1. Any city or town within this State is hereby authorized to enter into a contract with any district or authority, hereinafter called "district," created under Article XVI, Section 59 of the Constitution for the purpose of supplying water to such city. Any such city may also by contract lease its water production, water supply, and water supply facilities to such district, or make a contract with such district for operation by the district of its water production, water supply, and water supply facilities, or the operation by the city of the district's water production, water supply, and water supply facilities. Any contract authorized by this Act may provide that the city shall not obtain water from any source other than the district except to the extent provided in such contract. Any such contract may be upon such terms and for such time as the parties may agree, and it may provide that it shall continue in effect until bonds specified therein and refunding bonds issued in lieu of such bonds are paid.

Rates

Sec. 2. Any water supply contract provided in the preceding section shall be subject to the statutory or the contractual duty of the district from time to time to revise the rate of compensation for water sold and services rendered by the district to the city under such contract so that the net revenues of the district will at all times be sufficient to enable the District to pay its operation and maintenance expense and to pay the principal and interest on bonds secured by such contract to the extent provided in the resolution authorizing said bonds. Money required to be paid by the city to the district under such contract shall constitute an operating expense of the waterworks system of the city.

Election

Sec. 3. (a) No city shall make any contract authorized by this Act unless authorized by a majority vote in an election held in such city. Such election shall be ordered by the governing body of the city and notice thereof shall be published once each week for two (2) consecutive weeks, the first of such publications to be at least fourteen (14) days prior to the election, in a newspaper of general circulation published within the city. If no newspaper is published in the city the notice shall be posted at the City Hall and at two (2) other public places in the city. The notice shall be sufficient if it states the time and place of holding

the election, and that the purpose of the election is to determine whether the governing body of the City shall be authorized to make the water supply contract, or make the lease or operating contract, or both as the case may be. Both questions may be submitted in the same proposition.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be permitted to vote at such election. Except as otherwise provided in this Act, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the lease or contract, or both, as the case may be, and directing the mayor or mayor pro tem to sign it. Such ordinance may be passed by vote of a majority of the members of the governing body on one (1) reading and at the same meeting at which it is introduced.

[Acts 1949, 51st Leg., p. 667, ch. 342; Acts 1971, 62nd Leg., p. 1625, ch. 452, § 1, eff. May 26, 1971.]

Art. 1109e-1. Contracts with Conservation and Reclamation Districts for Water Supply

Sec. 1. Incorporated cities having a population of more than 900,000 according to the next preceding Federal Census which own and operate a municipal water system shall be authorized to enter into contracts and joint enterprises with conservation and reclamation districts created under Article XVI, Section 59 of the Constitution of Texas for the conveyance, transportation and distribution of water for and on behalf of such cities or may contract to sell water to such districts and to repurchase all or part thereof at a designated point or points on the district's conveyance, transportation and distribution system. Such contracts may be for such period of time, not exceeding forty (40) years, as may be prescribed therein, and may provide that they shall continue in effect until bonds issued by such districts to finance the cost of such conveyance, transportation and distribution facilities and extensions, enlargements and improvements thereto, and refunding bonds issued in lieu of such bonds, are paid.

Sec. 2. Such contracts may provide that money required to be paid by the city to the district thereunder shall constitute an operating expense of the waterworks system of the city or shall be payable from surplus or other funds of the city's waterworks system or from the revenues of specified water sales contracts or from other sources; provided that if such contract involves an obligation by the city to pay all or any part of the consideration out of funds raised or to be raised by taxation, such contract shall not become effective until an election shall have been called, held and carried, in the manner required for bond elections of such city, on the proposition of authorizing

the governing body to execute such a contract; otherwise no election shall be required.

Sec. 3. Such cities may enter into contracts for the sale of water to industrial and commercial customers and to municipal corporations and political subdivisions upon such terms and for such periods, not to exceed forty (40) years, as may be prescribed by ordinance.

Sec. 4. This Act shall be cumulative of other legislation pertaining to the same or similar subjects; provided, that cities electing to make contracts under this Act shall be governed solely by the provisions of this Act, any other Statute, charter provision or ordinance to the contrary notwithstanding.

[Acts 1967, 60th Leg., p. 1281, ch. 571, eff. June 16, 1967.]

Art. 1109e-2. Validation of Proceedings and Contracts with Districts to Supply Water

Sec. 1. Where any city or town within this State has heretofore submitted to the qualified resident electors of such city or town who own taxable property within such city or town and who had duly rendered the same for taxation a proposition or propositions to authorize the governing body of such city or town to enter into a contract with any district or authority created under Article XVI, Section 59 of the Texas Constitution for the purpose of supplying water to such city or town, pursuant to the provisions of Chapter 342, Acts of the 51st Legislature, 1949,¹ and such water supply contract was approved by a majority vote of the said property taxpaying voters voting at such election, all such election proceedings, the results thereof, and proceedings of the governing body and officials of such city or town relating to such contracts and the authorization, execution, and delivery thereof are hereby validated, ratified, and confirmed, and any such contract heretofore entered into by any such city or town pursuant to such election is hereby validated, ratified, and confirmed, notwithstanding the fact that only qualified electors of such city or town who owned taxable property therein and who had duly rendered the same for taxation participated in such election.

Sec. 2. The provisions hereof shall not be construed as validating any contract where (i) such contract was required by law to be approved at an election, unless such contract was approved by a majority of the participating resident qualified electors owning taxable property within such city or town who had duly rendered same for taxation and the statutory election contest period has expired prior to the effective date of this Act, or (ii) such contract or election proceedings are involved in litigation questioning the validity thereof on the effective date of this Act.

[Acts 1971, 62nd Leg., p. 31, ch. 14, eff. March 9, 1971.]
¹ Article 1109e.

Art. 1109f. Validation of Contracts for Water Supply

Sec. 1. This Act shall be applicable to any contract heretofore executed by and between

an "Eligible City" and an "Eligible District" as the terms are defined in this Act. An "Eligible City" is a city having a population in excess of two hundred thousand (200,000) according to the latest Federal Census. An "Eligible District" is one created under Article XVI, Section 59 of the Constitution, which has contracted to furnish water supply service to a city or cities.

Sec. 2. Any water supply contract heretofore executed by and between an Eligible City and an Eligible District obligating the district to convey and make available for delivery water which the city will have the right to use as a supplemental supply, and for which service the city is obligated to make payments from the revenues of its waterworks system and which imposes no obligation on the tax resources of the city, is hereby validated in all things whether or not an election has been held in the city on the question of authorizing or approving such contract.

Sec. 2a. This law shall not apply to any contract by and between an Eligible City and an Eligible District as referenced above, which is now involved in litigation in any District Court of this State, Court of Civil Appeals, or the Supreme Court of Texas in which litigation the validity of any Eligible District or the validity of any contract to furnish water by and between the above referenced parties is attacked.

[Acts 1954, 53rd Leg., 1st C.S., p. 68, ch. 29.]

Art. 1109f-1. Validation of Contracts Between Districts and Cities and Towns for Water Supply

Sec. 1. All contracts between districts or authorities heretofore created under the provisions of Article 16, Section 59, of the Constitution of Texas and cities, towns or villages heretofore created under the General Laws of the State of Texas, whereby the district or authority has agreed and contracted to furnish a water supply to such cities, towns or villages, are hereby validated.

Sec. 2. The provisions of this Act shall not apply to validate any agreement or contract which imposes any obligation upon the tax resources of any such city, town or village, but shall apply only to those contracts whereby payments for a water supply are to be made from the revenues of the purchasers' water distribution system; nor shall this Act apply to any contract now involved in litigation questioning the validity of its provisions, if the question is ultimately determined against the validity thereof.

[Acts 1959, 56th Leg., p. 770, ch. 349.]

Art. 1109g. Water Supply Contracts with Persons, Firms or Corporations

Sec. 1. Any city or town whether operating under the general law or under its special or home rule charter, which owns and operates its water distribution system, is authorized to en-

ter into a contract for such period of time, with such renewal and extension privileges as may be prescribed therein, with any person, firm or corporation (when operating without profit) under the terms of which such supplier will make available for delivery to and use by the municipality all or part of the raw or treated water to be used in or for the distribution system of such municipality.

Sec. 2. If any such contract which is to be effective for a longer period than one (1) year involves an obligation by the municipality to pay all or any part of the consideration for such service out of funds raised or to be raised by taxation, or if it involves the leasing to the supplier or the right to operate a major part of any existing water production or supply facilities belonging to the municipality, or if the contract restricts the municipality from obtaining water from any other supplier, such contract shall not become effective unless and until an election shall have been called, held and carried on the proposition to approve or authorize such contract. In instances where such contract shall be payable solely from the revenues of the municipality's water system, not involving any obligation against its taxing power and not conferring on the supplier the right to lease or to operate a major part of the municipality's existing water production or supply facilities, and if the contracts do not restrict the municipality from obtaining water from any other supplier, no election shall be necessary. However, within its discretion the governing body of the municipality may order an election on the question before approving any such contract. Any election under this Act shall be held in accordance with the provisions of Chapter 2 of Title 22 of the Revised Civil Statutes of Texas insofar as such provisions are applicable.

Sec. 3. When any contract made under this law provides for payments solely out of water system revenues of such municipality the money thus required to be paid by the municipality shall constitute an operating expense of the City's water system, and such municipality shall fix and maintain rates and charges for services rendered by such water system as will be sufficient to pay the maintenance and operation expenses thereof as contemplated by Article 1113, Revised Civil Statutes, as amended, and provide for the payment of principal of and interest on any revenue bonds of such municipality which shall be payable from its water revenues.

Sec. 4. As is customary under water supply contracts made between cities and towns on the one part and districts and authorities on the other part under Chapter 342, Acts of the Regular Session of the Fifty-first Legislature,¹ the service to be rendered by the supplier may include among other items the holding of water available for and the readiness to serve the water needs of such municipality, and the

charge to be effective under such contract may include compensation for such item of service. [Acts 1954, 53rd Leg., 1st C.S., p. 91, ch. 41.]

¹ Article 1109e.

Art. 1109h. Eligible City Authorized to Issue Revenue Bonds; Construction and Equipment of Water Supply Project

Eligible City Defined

Sec. 1. An "eligible" city under this Act is one having a population of more than 275,000 under the last preceding federal census, in which a majority of the resident qualified voters who shall have duly rendered their property for taxation, participating in an election, have voted to authorize such city to enter into a contract to acquire a water supply from a River Authority (hereinafter called an "Authority") created by the Legislature under Article XVI, Section 59 of the Constitution, and which shall have obtained a permit from the State Board of Water Engineers to utilize the water from such source of supply.

Alternative Financing Procedure

Sec. 2. The right of an eligible city and of an Authority to proceed with the financing of the entire cost or the portion of such cost which is not to be provided by such city of the water supply project under law through the issuance by the Authority of its revenue bonds based on the voted contract with an eligible city is not affected by the passage of this Act. But as an alternative procedure an eligible city and an Authority may amend the voted contract so as to implement the provisions of this Act, including, but without limiting the extent of such amendments, provisions defining the extent of the city's rights in such water supply project, and the procedures under which the city will make available to the Authority the proceeds of revenue bonds issued under authority of this Act, as needed for payment of construction costs including such city's intake structures, pumping and filtration equipment, or such portion thereof as Authority is not required under such contract to provide through the issuance of its revenue bonds, and arrangements for auditing the funds and accounts to be used in the construction program. Such eligible city may proceed with the issuance and sale of its revenue bonds, payable from the revenues of its waterworks system or, if combined in such city, its waterworks and sanitary sewer system (hereinafter called the "city revenue bonds") and the use of the proceeds as provided in succeeding sections of this Act.

Ordinance Authorizing Bond Issue; Notice; Petition; Bond Election

Sec. 3. Before passage of an ordinance authorizing the issuance of bonds under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two issues thereof, the date of the

first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the city secretary, signed by not less than 10% of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes, with an election on the question, and such bonds shall not be issued unless a majority of the voters, voting at such election, vote favorably on the question. The governing body within its discretion may call an election for the issuance of the bonds without awaiting the filing of a petition requesting a referendum election.

Extent of Water Supply Projects; Passage of Bond Issue Ordinance; Amount of Bonds; Operation of Project

Sec. 4. The water supply project of the Authority may consist of a dam, reservoir, related outlet facilities, or any or all of such elements, including but without limiting the meaning of the term, lands, easements, flowage rights and interest during construction. When the designs, plans and specifications for the water supply project of the Authority shall have been completed to the extent that they have been approved by the governing body of the Authority, which will actually construct the water supply project, and likewise by the governing body of such city, such eligible city may pass an appropriate ordinance or ordinances authorizing the issuance of its revenue bonds in an amount estimated to cover the entire cost to be incurred by the Authority in constructing the water supply project, or such portion thereof as the city shall have contracted to provide. Within the discretion of the governing body of such eligible city such revenue bonds may be issued in an amount sufficient to cover the cost of providing all other facilities needed to deliver to the city treated water from the water supply project, including but without limiting the effect of this provision, the intake structure, pumping stations and equipment, pipelines, treatment and filtration plants and all intermediate and terminal reservoirs, intermediate reservoirs to be used wholly or in part for storing water from the water supply project and pumping and pipeline facilities for conveying water to and from such intermediate reservoirs, or any or all of such elements, including but without limiting the meaning of the term, lands, easements and rights-of-way needed for such purposes, and interest during construction. The construction and operation of the water supply project will remain the responsibility of the Authority, and except for such part of said property, if any, as may be owned by such city under the contract between the Authority and such city, such property and facilities shall be

owned by the Authority; and except for the water supply project and other facilities specified by contract, city will have the responsibility of constructing and operating, and shall own all of such facilities and property, including the intake, pumping stations, pipelines and equipment, treatment and filtration plants and all intermediate and terminal reservoirs. Within the discretion of such city the bonds may be authorized and sold at one time or in installments from time to time.

Bonds, Requisites and Provisions; Additional Bond Issues; Rates, Tolls and Charges; Refunding Bonds

Sec. 5. (a) Such eligible city may authorize such revenue bonds by ordinance. The bonds shall be signed by the Mayor and by another designated officer of the city and the seal of the city shall be impressed thereon; but within the discretion of the governing body evidenced in the ordinance, bonds may be issued bearing the facsimile signature of the Mayor and the seal of such city may be printed thereon, but the signature of the other designated officer in such cases must be manually affixed. Such bonds shall mature serially or otherwise within such period and at such times as may be prescribed in the ordinance but not exceeding a maximum of 40 years. The bonds may be sold at a price and under terms determined by the governing body of such city to be the most advantageous reasonably obtainable, provided that the interest cost to the city calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed 6% per annum. The bonds may be registrable as to principal only or as to both principal and interest. Appropriate provisions may be inserted in the ordinance authorizing the execution and delivery of bonds for the conversion of registered bonds into bearer of bonds and vice versa. Provision may be made in the bond ordinance for substitution of new bonds for those lost or mutilated.

(b) In the ordinance authorizing such revenue bonds, the right may be reserved under the conditions therein specified to issue additional revenue bonds which will be on a parity with or subordinate to the bonds when being issued.

(c) After such revenue bonds shall have been issued, it shall be the duty of the governing body of such city to fix and from time to time to revise the rates, tolls and charges for sales and services rendered by the city's waterworks system or waterworks and sanitary sewer system, as the case may be, to the end that such rates, tolls and charges will yield sufficient money to pay the expense of operating and maintaining such system or systems, the principal of and interest on said bonds as such principal and such interest mature, and to create and maintain the reserve funds and other funds as prescribed in the ordinance authorizing the bonds.

(d) It shall be the duty of such city to provide for such deposits into the interest and sinking fund, the reserve and other funds to

the extent and as prescribed in the ordinance authorizing such bonds. Such ordinance shall require all or any of such deposits to be made from the revenues of its waterworks system or, if combined in such city, its waterworks and sanitary sewer system; but within the discretion of the governing body of such city all or any part of the deposits necessary to pay interest during construction and for not exceeding two additional years, may be provided from the proceeds of the sale of the bonds. The proceeds from the sale of such bonds shall be deposited by such city in a fund which will be utilized solely to pay the expense of issuing and selling said bonds and to pay the construction cost of such portion of the water supply project as the city shall be obligated to provide under the contract with the Authority and to pay the construction cost of that part of the facilities to be constructed, owned and operated by the city as provided in Section 4 of said Chapter 35, Acts of the Regular Session of the 55th Legislature as amended.

(e) Pending the issuance of definitive bonds, such city may authorize the delivery of negotiable interim bonds, eligible to be exchanged for definitive bonds.

(f) Such city is authorized to issue refunding bonds for the purpose of refunding any outstanding bonds and interest thereon, authorized by this Act. The governing body, in its discretion, may inject additional security for the refunding issue. Refunding bonds shall be registrable by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu of such procedure the ordinance authorizing the issuance of the refunding bonds may provide that they shall be sold and the proceeds thereof deposited in the bank, or in one (1) or more of the banks where the original bonds are payable. In the latter case, the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their maturity date or to the date on which the bonds are to be redeemed, and the amount of the call premium, if any, as to bonds called for redemption prior to maturity, and in such event the Comptroller shall register the refunding bonds without the concurrent surrender and cancellation of the original bonds. No election shall be necessary in connection with the authorization and issuance of refunding bonds.

(g) No such bonds shall be issued by such city until they shall have been approved by the Attorney General of the State of Texas. After the bonds shall have been approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, they shall as well as such bonds as shall be issued by Authority be negotiable instruments and shall be incontestable, provided that when the bonds of an issue shall have been thus approved and registered, the bonds thereafter delivered by such city in lieu thereof, pursuant to subsection (a) of this Section, in connection with the exchange of registered for unregistered

ed bonds, or unregistered bonds for registered bonds, or in lieu of lost or mutilated bonds, need not be reapproved by the Attorney General or re-registered by the Comptroller of Public Accounts. Nevertheless, such bonds shall likewise be incontestable, and except for the limitations resulting from registration shall be negotiable.

(h) Proceeds from the sale of any such issue of bonds may be invested during the period of construction or prior to their use for construction purposes, in bonds or other direct obligations of the United States government, and such securities may be sold pursuant to the directions of the governing body of the city when needed for construction purposes.

Bonds as Legal Investments; Security for Deposits of Public Funds

Sec. 6. All such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Precedence Over Conflicting Provisions

Sec. 7. The provisions of this Act shall take precedence over conflicting and inconsistent provisions of other statutes and special and home rule charters.

Severability Provision

Sec. 8. The provisions of this Act are severable. If any provisions of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provisions to other persons or circumstances shall not be affected thereby.

[Acts 1957, 55th Leg., p. 73, ch. 35; Acts 1959, 56th Leg., p. 77, ch. 36, §§ 1, 2; Acts 1961, 57th Leg., 1st C.S., p. 151, ch. 38, § 1.]

Art. 1109i. Water Supply and Sewage Transportation and Disposal Contracts of Certain Cities with Trinity River Authority

Eligible City

Sec. 1. Each city or town which either is situated wholly or partly within the boundaries of Trinity River Authority of Texas, created by Chapter 518, Acts of the Regular Session of the 54th Legislature,¹ and any amendments thereto, (hereinafter called the "Authority"), or is situated wholly or partly within the watershed of the Trinity River, is an "Eligible City" within the meaning of this Act.

¹ Water Auxiliary Laws Table, art. 8280-188.

**Contracts Authorized; Revenues Received,
Disposition, Etc.**

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the Authority under which the Authority will make available to and provide for the Eligible City, sewage transportation and disposal (including treatment) services or any or all of such services, and when prescribed therein, provision for stand-by service. Such contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the Authority as mentioned therein and refunding bonds issued in lieu thereof, are paid. Such City shall have the right to the continued performance of such services after the amortization of the Authority's investment in such facilities during the useful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the Authority from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by Authority to finance such transportation, disposal (including treatment) facilities, and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such City and the Authority, may be expended by the Authority for enlargements and betterments of Authority's facilities which are used to serve, especially, such City.

In consideration of payments made by an Eligible City under such contract, and the services performed by the Authority the Authority shall become the owner of sewage accepted by it for transportation and treatment and shall be solely responsible for the proper treatment and disposal of such sewage and the effluent, and no participating Eligible City shall be entitled to any rights in, nor shall it be liable for any improper treatment or disposal of, such sewage or effluent.

No city shall be entitled to credit of any type either in the exchange of water, money or other consideration for any effluent delivered to the Authority, and no such exchange or sale can be made a condition to any contract hereunder.

**Payments by City to Authority; Source;
Operating Expense**

Sec. 3. Payments by such City to the Authority shall be made from the City's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such City and the Authority, and shall constitute an operating expense of the system or systems whose revenues are thus

pledged. Unless the alternative procedure prescribed in Section 4 is followed, neither the Authority nor the holder of any bonds of the Authority shall have the right to demand payment of the City's obligation out of any funds raised or to be raised by taxation.

Outstanding Bonds; Revenues

Sec. 3a. If any such city has revenue bonds outstanding at the time it executes such contract, secured by a pledge of the net revenues from the operation of a combined system comprising a waterworks system and a sanitary sewer system, and in addition thereto either a natural gas distribution system or an electric lighting and power system, that portion of the payments made by such city to the Authority which is used by the Authority for debt service on Authority's bonds may be treated by the city for its accounting purposes as a capital expenditure, provided that and so long as these conditions exist:

(1) The revenues from the city's gas system or electric lighting and power system, as the case may be, are adequate to satisfy the requirements of the bond ordinance or ordinances authorizing all revenue bonds outstanding at the time of making the contract and all such bonds thereafter authorized, for the provision of funds for operation, maintenance, and debt service; and

(2) The revenues from the city's sanitary sewer system and (if encumbered under the contract) the city's waterworks system, are ample to meet the requirements of the contract with the Authority.

Elections; Bond Issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by Cities, determining that the governing body of the City is authorized to execute the proposed contract for sewage transportation and disposal (including treatment) or for any of such services, and to levy ad valorem taxes to pay such obligation to the Authority, whether or not the City's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such City, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the City who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the general election laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the con-

tract, and directing the proper officers of the City to sign it.

Rates for Services

Sec. 5. Whenever any such City shall have executed a contract with the Authority involving the performance of such duties by the Authority, if the payments thereunder are to be made either wholly or partly from the revenues of the City's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such City and it is hereby authorized to establish and maintain and from time to time to adjust the rates charged by the City for the services of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and maintaining such system in accordance with current standards and requirements for preventing stream pollution; the City's obligations to Authority under such contract; and all of such City's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such City may charge the users of the system or systems whose revenues are to be used in paying the City's obligation under the contract rates sufficient to pay such obligation of the City. Any such contract may require the use of consulting engineers and financial experts to advise the City whether and when such service rates are to be adjusted.

Contract Provisions

Sec. 6. Any such contract between the Authority and such City may provide for services to be rendered concurrently by the Authority to more than one (1) City through the construction and operation of a multiple City system or plant, the cost for such services to be allocated among the several Cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the Authority by each such City and all such Cities will be available to the Authority as security for the bonds it will issue to provide necessary construction funds. Any such contract, if to be used by the Authority, as security for Authority's bonds, issued to finance its plant and facilities, must be submitted by Authority to the Attorney General for examination, and when such bonds and contract have been approved by the Attorney General, such contract thereafter shall be incontestable.

Validation of Contracts

Sec. 7. All contracts heretofore executed by and between Eligible Cities and the Authority, pursuant to ordinances passed respectively by the governing bodies thereof and pursuant to action of the Board of Directors of the Authority obligating the Authority to render service which includes transportation and disposal (including treatment) of sanitary sewage or any or all of such services, and obligating the City

to pay for such services out of its waterworks system revenues or sanitary sewer system revenues or a combination of its water and sanitary sewer system revenues, are hereby validated. Any such contract for which a tax was levied, when an election has been held resulting favorably to the execution of such contract, including the obligation to make payments from ad valorem taxes, is hereby validated.

[Acts 1957, 55th Leg., p. 1288, ch. 430; Acts 1959, 56th Leg., p. 771, ch. 350, §§ 1, 2.]

Art. 1109i-1. Contract with District for Sewage Transportation, Treatment and Disposal Services

Eligible City

Sec. 1. Any city or town, situated wholly or partially within a county containing a District which derives its powers from Article XVI, Section 59 of the Constitution and has statutory authority to make contracts with cities and towns for transportation and disposal of sewage (herein called "District") is an "Eligible City" within the meaning of this Act.

Contracts Authorized; Revenues Received; Disposition

Sec. 2. An Eligible City, pursuant to an ordinance passed by its governing body, is hereby authorized to make a contract with the District under which the District will make available to and provide for the Eligible City, sewage transportation, treatment and disposal services, or any or all of such services, and when prescribed therein, provision for stand-by service, such contract may also provide for use by the District of sewage transportation, treatment and disposal facilities owned by such city. Such contract may be upon such terms and for such period of time as the parties may agree, and may provide that it will remain in effect until the bonds issued by the District mentioned therein and refunding bonds issued in lieu thereof, are paid. Such a contract may contain such other provisions and requirements as the governing body of such Eligible City may find reasonably necessary to accomplish its purpose. Such city shall have the right to the continued performance of such services after the amortization of the District's investment in such facilities during the useful life thereof, upon payment of charges reduced to take into consideration such amortization.

The revenues received by the District from the participating Eligible Cities shall be used only (1) for payment of principal of and interest on, and to provide reserves created for, the bonds to be issued by District to finance such transportation, treatment and disposal facilities; and (2) to pay the operation and maintenance expenses (including within the meaning of the term, legal, administrative and management supervision fees and expenses) in connection therewith; provided that such part of any surplus accumulated for the benefit of a participating Eligible City, as may be prescribed in contract between such city and the District, may be expended by the District for enlarge-

ments and betterments of District's facilities which are used to serve such city.

Payments by City to District; Operating
Expense

Sec. 3. Payments by such city to the District shall be made from the city's waterworks system or its sanitary sewer system or of both systems or of its combined water and sanitary sewer system, as prescribed in the contract between such city and the District, and shall constitute an operating expense of the system or systems whose revenues are thus to be applied. Unless the alternative procedure prescribed in Section 4 is followed, neither the District nor the holder of any bonds of the District shall have the right to demand payment of the city's obligation out of any funds raised or to be raised by taxation.

Elections; Bond Issues

Sec. 4. (a) If an election is held and carried substantially according to the procedure prescribed in Chapter 1, Title 22 of the Revised Civil Statutes, as amended, in reference to the issuance of bonds by cities, determining that the governing body of the city is authorized to execute the proposed contract for sewage transportation, treatment and disposal or for any of such services, and to levy ad valorem taxes to pay such obligation to the District, whether or not the city's obligation is to be credited with application of certain revenues of such system or systems, the contract, in such an event, will constitute an obligation against the taxing power of such city, but may be payable both from taxes and such revenues, as may be prescribed in the contract.

(b) Only qualified electors of the city who own taxable property therein and who have duly rendered the same for taxation shall be entitled to vote at such election. Except as otherwise provided in this Section and in such Chapter 1, Title 22 of the Revised Civil Statutes as amended, the General Election Laws shall govern such election.

(c) If a majority of the votes cast at said election are in favor of the proposition the governing body shall pass an ordinance prescribing the form and substance of the contract, and directing the proper officers of the city to sign it.

Rates for Services

Sec. 5. Whenever any such city shall have executed a contract with the District involving the performance of such duties by the District, if the payments thereunder are to be made either wholly or partly from the revenues of the city's waterworks system or sanitary sewer system or from both systems or a combination of both systems, the duty is hereby imposed on such city and it is hereby authorized to establish and maintain and from time to time to adjust the rates charged by the city for the services of such system or systems, to the end that the revenues therefrom will be sufficient at all times to pay: the expense of operating and

maintaining such system in accordance with current standards and requirements for preventing stream pollution; the city's obligations to District under such contract; and all of such city's obligations under and in connection with revenue bonds theretofore issued, or which may be issued thereafter for such system or systems. Any such contract may require the use of consulting engineers and financial experts to advise the city whether and when such service rates are to be adjusted.

Contract Provisions

Sec. 6. Any such contract between the District and such city may provide for services to be rendered concurrently by the District to more than one city through the construction and operation of a multiple city system or plant, the cost for such services to be allocated among the several cities as determined in such contract or group of contracts. It is expressly provided and recognized that all of the compensation to be received by, and all of the security pledged to the District by each such city and all such cities will be available to the District as security for the bonds it will issue to provide necessary construction funds.

[Acts 1961, 57th Leg., p. 360, ch. 181.]

**Art. 1109j. Contracts with Water Districts or
Non-profit Corporations for Water, Sewer
or Drainage Services**

Authorization

Sec. 1. Any city or town, whether operating under the General Law or under its special or home rule charter, is authorized to enter into a contract with a district organized under the authority of Article XVI, Section 59 of the Constitution of Texas or any corporation or corporations organized to be operated without profit under the terms of which such district, corporation or corporations will acquire for the benefit of the city or town one or more water supply or treatment systems, water distribution systems, sanitary sewer collection or treatment systems or works or improvements necessary for the drainage of lands in city, either singularly or together, and in connection with such acquisitions make such improvements, enlargements and extensions of and additions to the existing facilities of such city or town as may be provided for in such contract.

Payments for Water, Sewer or Drainage Services;
Purchase of Systems; Pledge of Revenues

Sec. 2. When any such contract shall provide that the city or town shall become the owner of such water, sewer or drainage system or systems at such time as all debt incurred by such district or corporation in the acquisition, construction, improvement or extension of such system or systems is paid in full, such city or town shall be authorized to make payments to such district or corporation for water, sewer or drainage services to part or all of the inhabitants of such city or town. Such contract may provide for purchase by the city or town of such system or systems by periodic payments

to such district or corporation by the city or town in amounts which, together with the net income of the district or corporation, will be sufficient to pay the principal of and interest on the bonds of the district or corporation as they become due. Such contract may provide that any payments under this Section 2 shall be payable from and secured by a pledge of a specified portion of the revenues of the water system, the sewer system or the drainage system or systems of the city or town or may provide for the levying of a tax to make such payments.

Use of Streets and Public Ways by District or Corporation

Sec. 3. Any such contract may provide that such district or corporation shall have the right to use the streets, alleys and public ways and places of the city or town for water, sewer or drainage purposes for a period of time which shall terminate at the time all such indebtedness of such district or corporation is paid in full and the city or town acquires title to such system or systems in accordance with this Act.

Operation of Systems by City

Sec. 4. Any such contract may provide that the city shall operate the system or systems, and if such contract does so provide, the city or town shall be authorized to operate such system or systems.

Approval of Contract by Governing Body

Sec. 5. Any contract made by any city or town pursuant to this Act may be authorized by a majority vote of the governing body of such city or town.

[Acts 1959, 56th Leg., p. 511, ch. 224; Acts 1971, 62nd Leg., p. 3370, ch. 1032 § 1, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 491, ch. 215, § 1, eff. May 28, 1973.]

Art. 1109k. Soil Conservation Districts; Flood Control and Drainage; Contracts; Contribution and Expenditure of Funds

Sec. 1. All counties, cities, water control and improvement districts, drainage districts and other political subdivisions in the State of Texas are authorized to enter into contracts with soil conservation districts for the joint acquisition of right-of-ways or joint construction or maintenance of dams, flood detention structures, canals, drains, levees and other improvements for flood control and drainage as related to flood control, and for making the necessary outlets and maintaining them; and providing further that such contracts and agreements shall contain such terms, provisions and details as the governing bodies of the respective political subdivisions determine to be necessary under all facts and circumstances.

Sec. 2. (a) All counties, cities, water control and improvement districts, drainage districts and other political subdivisions in the State of Texas may contribute funds to soil conservation districts for construction or maintenance of canals, dams, flood detention struc-

tures, drains, levees and other improvements for flood control and drainage as related to flood control and for making the necessary outlets and maintaining them regardless of whether the title to such properties is vested in the State of Texas, or a soil conservation district, so long as the work to be accomplished is for the mutual benefit of the donor and the agency or political subdivision having title to such property on which the improvements are located.

(b) A county may contribute funds to a soil conservation district which the district may use to match all or part of funds received by the district from the state for use in soil conservation and flood control programs.

Sec. 3. All counties in the State of Texas are authorized to expend Permanent Improvement Funds for carrying out the purposes of this Act and in addition thereto such counties may also expend Flood Control Funds levied pursuant to Section 1a of Article VIII of the Constitution of Texas and Article 7048a of Vernon's Civil Statutes for the purposes of this Act; providing that cities, water control and improvement districts, drainage districts and other political subdivisions may expend the appropriate funds of the various cities and political subdivisions for carrying out the purposes of this Act.

[Acts 1959, 56th Leg., p. 686, ch. 313; Acts 1969, 61st Leg., p. 2586, ch. 860, § 1, eff. June 18, 1969.]

Art. 1110. Waterworks Right of Way

To acquire rights of way for digging or excavating canals, laying mains or pipe lines for the purpose of conducting water through the same into the cities or towns for the use of the public, incorporated cities and towns owning their own waterworks system shall have the right of eminent domain to condemn private property for public use in and outside of the city or town limits of such cities or towns.

[Acts 1925, S.B. 84.]

Art. 1110a. Issuance of Revenue Bonds Against Which Judgment is Entered

Sec. 1. This Act shall be applicable to any city or town against which a judgment shall have been entered or may be entered hereafter because of purchase or construction money expended or advanced, awarding the plaintiff any properties theretofore used by the city as if a part of the city's waterworks system, or requiring it to pay to plaintiff an amount of money equivalent to the value of, or in lieu of the surrender of such property, whether or not requiring it to pay a rental for use and detention of such property. Any such city or town, acting through its governing body, may, subject to compliance with the provisions of the Bond and Warrant Law of 1931¹ with reference to the publication of notice for a period of fourteen days and affording an opportunity to the qualified voters of such city or town to file a petition for a referendum election upon such question and the favorable outcome of such election

if thus required, repurchase from such plaintiff or plaintiff's successor in title, the properties involved, or pay the money judgment awarded against it or acquire needed property in lieu of such property, and may issue revenue bonds for such purposes, conditioned that the holder thereof shall never have the right to demand payment thereof out of moneys raised or to be raised by taxation, and payable out of the revenues of its system which shall include all properties and everything pertaining thereto then owned or thereafter acquired, hereinafter called the "system," and within the discretion of the governing body of such city, further secured by a lien upon the properties constituting the system and a lien upon and grant of a franchise to operate such system, in the event of sale of such system after default in the payment of such Revenue Bonds or interest thereon. The ordinance authorizing such Revenue Bonds may pledge all or any designated part of the net revenues of such system to the payment of such Revenue Bonds. Except as otherwise provided in this Act, such Revenue Bonds shall be issued in accordance with Article 1111 and Articles 1113 to 1118, both inclusive, of the Revised Civil Statutes of Texas as amended.

Sec. 2. After Revenue Bonds shall have been issued under Section 1 of this Act, so secured by the pledge of the revenues of such system, and whether or not secured by a lien upon the properties constituting the system and franchise, nevertheless the city may thereafter while all or a part of said bonds are still outstanding issue additional revenue bonds secured by a pledge of the net revenues of such system and by a lien similar to that, if any, securing the outstanding revenue bonds, for improvements, extensions, repairs, or replacements of and to the system, or for any or all of said purposes, to the extent and in the manner expressly permitted by the ordinance or ordinances authorizing such previously authorized and outstanding revenue bonds. Such additional revenue bonds shall be issued only after an authorizing election on the question shall have been held in the manner prescribed by Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925. If and when such revenue bonds are subsequently issued in accordance with the limitations contained in the ordinance or ordinances authorizing the revenue bonds previously issued under authority of Section 1 of this Act, they shall be secured by a pledge of the revenues of such system and lien upon the properties constituting the system and upon the franchise of equal dignity with the pledge and liens securing such outstanding revenue bonds.

Sec. 3. Within the discretion of the governing body of such city or town, revenue bonds issued either under Section 1 of Section 2 of this Act and which are made available for such purpose, may be refunded by the same issue or several issues of refunding bonds, provided that the interest cost to the city is not increased by the refunding of such bonds.

Sec. 4. Before any revenue bonds are delivered under the provisions of this Act they shall be submitted to and approved by the Attorney General, and shall be registered by the Comptroller of Public Accounts in the manner and with the effect provided in Articles 709 to 715, both inclusive, of the Revised Civil Statutes of Texas of 1925, pertaining to the issuance by cities of tax supported bonds.

[Acts 1945, 49th Leg., p. 605, ch. 349.]

¹ Article 2368a.

Art. 1110b. Separate City and Rural Systems of Home Rule Cities

Sec. 1. The acts of all home-rule cities whose charters authorize such cities to furnish electric light and power service both within and without corporate limits of such cities, and which cities now own and operate municipal electric systems and where, by such acts, such cities have heretofore set up and now own and operate rural electric systems as a unit separate and apart from the city system and as a separate utility, are hereby validated in all respects as though they had been duly and legally established as separate systems in the first instance. All the acts of municipal governing bodies of such municipalities setting up such systems as separate units and all bonds, mortgages, warrants and other evidence of indebtedness heretofore issued or heretofore voted or authorized to be issued, but not issued, are hereby validated; and such bonds, mortgages, warrants, and other evidences of indebtedness shall be an obligation of each unit separately. The encumbrances and obligations pertaining to one system shall in no way apply to or affect the other system. No such obligation heretofore or hereafter issued shall ever be a debt of such city but solely a charge upon the properties of the system, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. The expense of operation and maintenance of such system shall always be a first lien and charge against the income thereof. Included within such expense shall be all salaries, labor, repairs, cost of electrical energy, interest, repairs or extensions necessary to render efficient service, and every other proper operation and maintenance expense. The governing bodies of such cities mentioned in this Act shall charge and collect for such service a sufficient rate to pay all operation and maintenance expense, depreciation, replacement, betterment and interest charged, and to pay the principal of and interest on all obligations issued against each system separately, and to maintain such reserve or reserves, if any, as may be prescribed in the ordinance authorizing the issuance of such obligations. No part of the income of each of such systems shall ever be used to pay any other debt, expense or operation until the indebtedness so secured shall have been finally paid. Every evidence of indebtedness issued by the cities mentioned herein shall contain the clause: "The holder hereof shall never have the right to demand payment

of this obligation out of any funds raised or to be raised by taxation." All evidences of indebtedness hereafter issued by the cities mentioned herein shall be payable in not more than forty years from date and shall bear interest at not more than 5% per annum. Such evidences of indebtedness shall be signed by the mayor and countersigned by the city secretary; provided, however, that the facsimile signatures of such officers may be printed or lithographed on any interest coupons attached to any obligation issued by such cities. Such cities mentioned herein need not submit any obligation issued against either of such systems to any public official of this State, the only approval required or authorized under this Act being that of the governing body of the city. Any such obligations issued hereunder shall be non-contestable after issuance and delivery, except for fraud and forgery. Provided, however, no authority granted herein shall ever permit or authorize any such cities to construct facilities or furnish electric power and energy to any areas already being served with central station electric service.

Sec. 2. Any obligation issued hereunder shall be exempt from taxation by the State of Texas or by any municipal corporation, county, or other political subdivision or taxing district of the State.

Sec. 3. All acts of any such city and the governing body thereof in heretofore setting up and operating such systems are hereby in all things validated, and all encumbrances and mortgages pertaining to each such system and all obligations heretofore or hereafter issued, secured by a pledge of and/or payable from the revenues thereof, are hereby in all things validated; and such obligations shall be considered as obligations issued under this Act.

[Acts 1949, 51st Leg., p. 973, ch. 535.]

Art. 1110c. Improvements to Water and Sewer Systems

Constructing, Extending, Enlarging or Reconstructing Systems

Sec. 1. Cities, towns and villages as hereinafter defined shall have power under this Act to improve any water works system or sanitary sewer system within their limits by constructing, extending, enlarging or reconstructing such water or sanitary sewer systems, which power shall include that of making any one or more of the kinds or classes of improvements herein named or any combination thereof or parts thereof.

Definitions

Sec. 2. As used in this Act, unless the context otherwise requires, the term:

(A) "City" shall mean any incorporated city, town or village, including home rule cities, which has all or a major portion of its territory in a county which, at the time any action is taken under the powers herein granted, has a population in excess of

25,000 according to the last preceding Federal Census.

(B) "Improvements to the Sewer System" shall mean the laying of all mains, laterals and extensions, and all appliances and necessary adjuncts thereto necessary for the sanitary disposal of excreta and of-fal from the area in which such improvements are constructed hereunder, but shall not include such off-site mains, laterals and extensions, and appliances and necessary adjuncts thereto shall be necessary to connect such improvements to the existing sanitary sewer system operated by the city.

(C) "Improvements to the Water System" shall mean the laying of a water main or mains with gates, tees, crosses, taps, meter boxes, manholes or extensions and any and all other appurtenances necessary and required for the furnishing of water for domestic or commercial purposes to the area in which such improvements are constructed hereunder, but shall not include such off-site mains, gates, tees, crosses, taps, meter boxes, manholes or extensions, and other appurtenances as shall be necessary to connect such improvements to the existing water system operated by the city.

(D) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(E) "Construction of Improvement" when used herein shall mean the construction of improvements to the water or sewer system, either or both, as same are herein defined.

(F) "Improvements" when used alone herein shall mean improvements to the sewer or water system, either or both, as herein defined.

(G) "Governing Body" shall mean the city, town or village council or commission which serves as the legislative body of the city.

(H) "Benefited Property" shall mean any lot or tract to which water and sewer service, either or both, is made available under the terms of this Act.

Necessity of Improvements; Determination and Order

Sec. 3. The governing body of the city shall have power to determine the necessity for, and to order, the construction of improvements within said city and to contract for the construction of such improvements in the name of the city, and to provide for the payment of the cost of improvements by the city or partly by the city and partly by assessments as hereinafter provided.

Ordinance or Resolution; Costs; Assessments Against Benefited Property

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of such improvements, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The cost of improvements may be wholly paid by the city, or partly by the city and partly by the property benefited by the construction of improvements and the owners of such property, but if any part of the cost is to be paid by such benefited property and the owners thereof, then before any improvements are actually constructed, either before or after receipt of bids for the proposed construction are received by the city, but before any hearing herein provided for is held, the governing body shall prepare, or cause to be prepared, an estimate of the cost of such improvements; in no event shall more than nine-tenths of the cost of such improvements as shown on such estimate be assessed against such benefited property and the owners thereof.

Tax or Assessment Against Railway, Street Railway or Interurban Right-of-Way

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of the improvements to a city's water or sanitary sewer system.

Amount of Assessment Against Benefited Property; Payment and Default; Liens; Certificates of Special Assessment; Contents

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess nine-tenths of the estimated cost of improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed ten per cent per annum. Any assessment against benefited property shall be a first and prior lien thereon, and shall be a personal liability and charge against the true owners of such property at the date upon which said lien is fixed and becomes effective, whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have power to cause to be issued in the name of the city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal lia-

bility of the owner or owners thereof have been performed, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first and prior liens on the property assessed, superior to all other liens and claims except State, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of Assessments; Front Foot Plan

Sec. 7. That part of the cost of water and sewer improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof shall be apportioned among the tracts or parcels of benefited property and the owners thereof in accordance with the front foot plan or rule, provided that if the application of this rule would, in the opinion of the governing body, in particular cases, result in injustice or inequality, it shall be the duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made under such front foot plan or rule, each parcel of benefited property shall be assessed according to the number of lineal feet of each such parcel abutting upon a public street irrespective of the location of improvements constructed hereunder relative to such parcel so long as such improvements provide water and sewer service, either or both, to the parcel to be assessed; provided, however, that corner lots shall be assessed only for the shorter side of same abutting upon a public street.

Notice of Improvement, Assessment and Lien

Sec. 8. Whenever the governing body of any city shall, pursuant to this Act, determine it to be necessary that any sewer or water system be improved in any manner, then if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city, by its clerk, secretary or mayor or other officer performing the duties of such. Such notice shall meet all requirements of the act when it shows substantially that the governing

body of such city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall describe the location and limits between which same is to be or has been improved or shall otherwise identify or designate such system and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property benefited thereby, and shall describe such property. It is specially provided that one notice may embrace and include any number of such systems or improvements.

Contents of Notice; Filing

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of trust and shall index same in the name of the city and in the name of other designation of the water or sewer system or systems to the improvement of which the notice relates.

Effective Date of Lien

Sec. 10. In all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before.

Exemptions; Personal Liability for Assessments; Enforcement of Liability

Sec. 11. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of the assessment made against such property or an amount equal to that amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt, shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city

taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

Hearing on Assessment; Notice; Contents Contesting Assessment; Appeal; Defenses

Sec. 12. No assessment herein provided for shall be made against any benefited property of¹ its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by writing mailed to the address of the owner of such property or the person who last paid taxes on such property as determined from the tax rolls of the city, such written notice to be mailed at least ten days prior to the date set for the hearing, and by advertisement inserted at least three times in some newspaper of general circulation in the city where such special assessment tax is to be imposed, the first publication to be at least ten days before the date of the hearing. Proof of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates, shall state the water or sanitary sewer system, portion or portions thereof to be improved, shall state the estimated amount or amounts per front foot proposed to be assessed against benefited property or the owners thereof and describe the property benefited by each system or portion, with reference to which hearing mentioned in the notice is to be held, and shall state the estimated total cost of the improvements on each such system, portion or portions thereof, and shall state the time and the place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property, or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract in connection with such improvements and pro-

posed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction or¹ such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements for which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within fifteen days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the substance of one or more of the requisites therefor herein prescribed, or that the assessments exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

¹ So in enrolled bill.

Changes or Abandonment in Plans, Methods or Contracts

Sec. 13. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by two-thirds vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been ordered or held then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notice and hearings. Changes in or abandonment of improvements must be with the

consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into, and in case of abandonment of any particular improvement an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied therefor, and all other proceedings relating thereto.

Assessment Against Parcels Owned by Same Person

Sec. 14. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person firm, corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Exercise of Powers

Sec. 15. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding such hearings, and the giving of notices thereof.

Invalid or Unenforceable Assessments; Correction of Irregularities; Re-assessments

Sec. 16. In case any assessment shall for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and correct any mistake or irregularity in connection therewith, and at any time to make and levy re-assessments after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits. Recitals in certificates issued in evidence of re-assessments shall have the same force as provided for recitals in certificates relating to original assessments.

Right of Appeal from Re-assessment

Sec. 17. Anyone owning or claiming any property interest in any property against which such re-assessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within fifteen days from the date of hearing relative to such re-assessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such re-assessment.

Assessments in Conjunction With Street Improvements; Joint Proceeding; Single Assessment Certificate

Sec. 18. Should any city so desire, it may make the improvements and assessments provided for hereunder in connection with street improvements and assessments provided for in Article 1105b, V.A.T.C.S. by one joint proceed-

ing and only one hearing shall be necessary, and in such event the procedure herein provided shall govern. A single assessment certificate may be issued against any tract or parcel of benefited property and the owners thereof in evidence of the total assessment made for all or any improvements, including street improvements made in a joint proceeding as provided in the preceding sentence, made under this Act, provided that the amount assessed for each class of said improvements is shown separately and distinctly in the ordinance by which any assessment is made hereunder.

Assessment of Subdivided or Platted Property; Cities of Less Than 700,000

Sec. 19. In cities located in counties with a population of less than 700,000 inhabitants according to the last preceding Federal Census no assessment or other charge for the construction of improvements to any water or sewer system shall be made against any property or property owners, regardless of who initiates the request for said construction, unless such property is in an area which has been subdivided or platted for a period of at least ten years next preceding the date of assessment. For purposes of determining property or areas to which this Act shall apply, "subdivided or platted property" shall mean such property as has been duly platted under the terms of Article 974-a, Vernon's Texas Civil Statutes or any property which has been subdivided or platted by map or plat filed for record in the office of any county clerk, by the terms of which map or plat there has been made any dedication of the property to the public use for a street or alley right-of-way or for public utility easements.

Duty to Furnish Water or Sewer Service

Sec. 19-A. It is the intention of the Legislature, due to the emergency nature of this Act, that nothing contained herein shall be construed to effect any change in any way in the law of this state, whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both.

Certificates as Legal and Authorized Investments

Sec. 20. Certificates of special assessment issued under the provisions of this Act, including certificates issued in joint proceedings as hereinabove set out, shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas and for all other public funds of the state or its agencies.

Cumulative Effect

Sec. 21. The provisions of this Act shall be cumulative of existing laws. The provisions of this Act shall be liberally construed to effec-

uate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Home Rule Cities; Plans and Specifications for Improvements; Payment of Contractor; Reimbursement; Assessments

Sec. 22. A home rule city to which this Act applies shall have the power and authority to adopt plans and specifications for improvements in accordance with the provisions hereof and shall have the power to pay to the contractor, the successful bidder, that part of the cost that may be assessed against the owners and their benefited property in cash and the city may reimburse itself for the amount by levying an assessment against benefited property and the owners thereof, after hearing and notice, as in this Act provided, up to the amount of the enhancement in value represented by the benefits and permitted by this Statute, and issue assignable certificates in favor of such city for the assessment. The certificates shall be enforceable in the same manner as herein provided. The city shall likewise have the power to do the improvement or improvements by its own forces if the work can be done more expeditiously and economically.

Partial Invalidity

Sec. 23. Should any Section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

[Acts 1963, 58th Leg., p. 512, ch. 192; Acts 1967, 60th Leg., p. 2068, ch. 769, §§ 1, 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1681, ch. 542, § 1, eff. June 11, 1969; Acts 1971, 62nd Leg., pp. 2820, 2821, ch. 920, §§ 1, 2, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 425, ch. 190, § 2, eff. Aug. 27, 1973.]

Section 3 of the 1967 amendatory act provided: "If any provisions of this Act or the application thereof to any person or circumstance is held invalid such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provisions or applications, and to this end the provisions of this Act are declared to be severable."

The 1971 act, which by sections 1 and 2 amended sections 2(H), 6 and 19 of this article, provided in section 3: "Sec. 3. As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general State and Local governmental purposes."

Art. 1110d. Improvements to Water and Sewer Systems; Purchase of Properties of Water Control and Improvement Districts

Application of Act

Sec. 1. This Act shall apply to any city having a population in excess of 275,000 and whose water and sewer system are operated by a board of trustees or a public service board, and water control and improvement district where all or part of the district is contained within the city and where the district's properties are being separately operated under a contract between the city and the district by a board of trustees or public service board established by the city charter or by ordinance.

Definitions

Sec. 2. Words and terms used in this Act shall have the following meanings:

(a) "city" and "district" mean a city or a district to which this Act is applicable;

(b) "improvement bonds" means bonds issued under this Act where the proceeds thereof are to be used for the purchase of district properties as herein authorized;

(c) "district properties" means the water and sewer properties owned by the District or the portion of such properties which could constitute or be used as improvements, extensions or betterments to the City's water and sewer system.

Issuance of Improvement Bonds; Use of Proceeds;
Pledge of Revenues

Sec. 3. A city is authorized to issue its negotiable improvement bonds for the purpose of improving, extending or bettering the city's water and sewer system and to use the proceeds from the sale of the improvement bonds for the purchase of district properties, if the amount to be paid by the City to the District, together with other applicable funds of the District, is adequate to make provision for the payment of all outstanding bonds of the District. The Improvement Bonds shall be secured by and payable from a pledge of net revenues of the water and sewer system of the City including the District Properties.

Notice; Petition for Election

Sec. 4. Before the issuance of Improvement Bonds the Mayor of the City shall issue a notice of the City's intent to issue such bonds stating the maximum amount thereof, the maximum interest rate and the maximum maturity, and cause such notice to be published in a newspaper having general circulation in the City once each week for two consecutive weeks, the first such publication shall be not less than fourteen days prior to the date upon which the governing body of the city intends to pass the ordinance directing the issuance of the Improvement Bonds. If, by the date specified for the passage of such ordinance, a petition signed by at least ten per cent of the voters qualified to vote in bond elections and requesting an election on the question of the issuance of such Bonds is filed with the City Secretary or City Clerk, the Improvement Bonds shall not be issued unless such election is held and results in a majority vote in favor of the Bonds. If such petition is not filed, no election is required, and the governing body may, on the date specified in the notice or on a later date pass the ordinance directing the issuance of the Improvement Bonds. If an election is called, it shall be called and held and notice thereof given as provided in Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended. The Improvement Bonds shall be approved by the Attorney General of Texas, or may be validated by suit under Chapter 316, Acts of the

56th Legislature,¹ or both, and when so approved or validated they shall be incontestable.

¹ Article 717m.

Sale of District Properties; Amount

Sec. 5. The District is authorized to sell District Properties to the City upon payment by the City to the District of an amount of money which, together with other applicable funds of the District, will be sufficient to provide for the payment of all of the outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date to be fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium, and the fees of the bank of payment.

Interest and Sinking Fund; Investment and
Deposit

Sec. 6. Money thus paid by the City to the District, together with other applicable funds of the District, shall be promptly deposited in the interest and sinking fund of the District which fund shall be permanently maintained in the bank where the District's bonds are payable. Said fund shall be invested immediately in direct obligations of the United States Government, or deposited in banks or in savings and loan associations to the extent that such deposits are insured by an agency of the United States Government, or in any combination of such investments and deposits. Money and investments deposited with such bank of payment under this Act shall be held by said bank in trust for the benefit of the holders of the outstanding bonds of the District.

Payment of Interest and Principal on District Bonds

Sec. 7. The investments made of the District's interest and sinking fund shall be in obligations or deposits which will mature and produce income, without reinvestment, at times and in amounts which will pay the interest on the District's bonds as it becomes due and pay the principal as it becomes due or on the date fixed by the District for prior redemption, and any redemption premium on the redemption date, and the fees of the bank of payment.

Other Indebtedness

Sec. 8. If the District owes any indebtedness other than bonds and the amount paid by the City to the District is in excess of the amount required for bond requirements as specified in Section 7 hereof, such excess shall be applied to the payment of the other indebtedness.

Passage of Title to City; Abolishment of District;
Operation and Management of Properties

Sec. 9. Upon payment of the money by the City to the District and the investment thereof as provided in this Act, the governing body of the City shall pass an ordinance specifying the date as of which title to the District Properties was or shall be vested in the City. The date so specified may, in the discretion of the governing body of the City, be the first day of the

then fiscal year of the City. Title to the District Properties shall, for all purposes, be deemed vested in the City on the date specified in said ordinance. The governing body of the City shall also abolish the District by a provision in the ordinance above described or by a subsequent ordinance. Thereafter, the District Properties shall be operated and managed by the board of trustees or the public service board in which the management and operation of the other water and sewer properties of the City is vested.

Integration or Segregation of Properties

Sec. 10. After title to the District Properties is vested in the City and the District is abolished as provided in this Act, the board of trustees or public service board is authorized to integrate the District Properties with the water and sewer system of the City either completely or to the extent provided by the board. It is provided, however, that the payment and security of the outstanding bonds of the District shall not be impaired, and if money is not available at the bank where the bonds of the District are payable sufficient to pay interest on and principal of said bonds as they become due, said board shall segregate the District Properties with all replacements, renewals, improvements and betterments thereof from the remainder of the City's water and sewer system in such manner that the District Properties shall constitute a complete and operating system to serve substantially the same area as it served at the time title passed from the District to the City. Thereafter, said board shall maintain and operate the District system separately, comply with the terms and provisions of the resolutions authorizing the outstanding bonds of the District, and be vested with all of the powers, duties and obligations theretofore vested in the board of directors of the District insofar as maintenance and operation of the District system, the handling of its funds and the payment of outstanding bonds of the District are concerned. For that purpose the board shall constitute a body corporate and occupy the same position as the District and its board of directors.

Payment of Outstanding District Bonds; Interest and Prior Redemption Premiums

Sec. 11. After money has been deposited with the bank where the outstanding District bonds are payable as provided in this Act, the District or the City, as the case may be, may, at any time and from time to time, pay off any outstanding District bonds provided that the amount of money and investments then remaining to the credit of the interest and sinking fund will be sufficient to provide for the payment of all of the remaining outstanding bonds of the District and the interest thereon to the maturity dates of such bonds or to the date fixed by the District for prior redemption of its bonds, and to provide for the payment of any required prior redemption premium.

Excessive Cash and Investments in Interest and Sinking Fund; Payment to Board of Trustees

Sec. 12. If, at any time, the cash and investments in the interest and sinking fund are in excess of the amount required by Section 7 of this Act the bank in which said fund is invested shall, upon request of the board of trustees or public service board, pay such excess to said board.

[Acts 1965, 59th Leg., p. 283, ch. 122, eff. May 6, 1965.]

Art. 1110e. Waterworks and Sanitary Sewer Systems; "On-site" and "Off-site" Improvements; Assessments; Certificates; Procedure

Power to Make Off-site Improvements and Assessments

Sec. 1. Cities as defined herein shall have the power under this Act to make improvements of the kinds or classes herein named or any combination thereof or part thereof within certain designated or defined areas within their limits so as to enable water service or sanitary sewer service, either or both, to be furnished to property situated in such areas from "off-site" waterworks system or sanitary sewer systems, either or both, as herein defined hereafter constructed, purchased or otherwise acquired by such cities and to assess a portion of the cost of such improvements against the properties benefited thereby and against the owners thereof, regardless of whether or not said property is in an area which has been subdivided or platted preceding the effective date of this Act by a plat filed for record in the office of the county clerk of the county in which such city is situated or otherwise.

Definitions

Sec. 2. (a) "City" shall mean any city or town, including general law and home rule cities, and not included in whole or in part within the boundaries of any political subdivision functioning and with an outstanding bonded indebtedness having as one of its purposes the supplying of fresh water for domestic or commercial uses or the furnishing of sanitary sewer services, and which city or town does not have a municipally owned water or sanitary sewer service system at the effective date of this Act. The powers conferred in this Act shall terminate after a period of 5 years from the effective date of this Act.

(b) "On-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, adjuncts, appurtenances or improvements, or improvements to the sewer system or water system shall refer to such segments of a water or sanitary sewer system, or improvements in connection therewith, including mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances located within the "Defined Area" within which the benefited property lies. "On-site Improvements" do not include the wa-

ter and/or sanitary sewer plant proper even though situated within the area.

(c) "Off-site" when used in connection with the words sanitary sewer system, water system, mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts, appurtenances or improvements, or improvements to the sewer system or improvements to the water system shall refer to mains, gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts and other appurtenances or segments of a water or sanitary sewer system located outside of the "Defined Area" in which the benefited property lies. "Off-site Improvements" include the waterworks and/or sanitary sewer plant proper whether situated within such area or outside of such area.

(d) "Improvements to the Sanitary Sewer System" shall mean the laying of all mains, laterals and extensions, any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned, and other "on-site improvements" liberally construed, necessary or advisable for the sanitary disposal of excreta and offal from Benefited Properties situated within the "Defined Area" but shall not embrace any connection facilities leading from public mains into private property for service to such property.

(e) "Improvements to the Water System" shall mean the laying of all water mains with gates, tees, crosses, taps, meter boxes, manholes, laterals, extensions, appliances, adjuncts thereto and any and all other appliances or appurtenances or adjuncts thereto and any combinations thereof or of portions thereof above mentioned and other "on-site improvements" liberally construed, advisable or necessary for the furnishing of water for domestic or commercial purposes to the Benefited Properties in the "Defined Area" but shall not embrace any connection facilities leading from a meter into private property.

(f) "Cost of Improvement" with regard to the construction of improvements to the water system and sewer system, either or both, shall include expenses of engineering, fiscal fees, and other expenses incident to construction of improvements in addition to the other costs of the improvements.

(g) "Construction of Improvement" when used herein shall mean the construction of "on-site" improvements, as same are defined herein, to the water or sewer system, either or both, hereafter constructed, purchased or otherwise acquired by the city.

(h) "Improvements" when used alone herein shall mean "on-site" improvements within designated or defined areas of cities which will enable water service or sanitary sewer service, either or both, to be furnished to property situated in such area from "off-site" waterworks and sanitary sewer systems, either or both, hereafter constructed, purchased or otherwise acquired by such cities.

(i) "Governing Body" shall mean the city, or town council or commission which serves as the legislative body of the municipality.

(j) "Benefited Property" shall mean any lot or tract of land situated in a "Defined Area" and to which water and sewer service, either or both, is made available under the terms of this Act.

(k) "Defined Area or Areas" means any area or any areas within the limits of any city to which this Act applies which is served by neither a municipally owned sanitary sewer or water system the boundaries of which area or areas are defined by the governing body of the city in an ordinance or resolution declaring that a necessity exists for improvements as herein defined.

Power to Make On-site Improvements and Assessments

Sec. 3. The governing body of the city shall have at any time the power to determine the necessity for and to order the construction of "on-site" improvements within said city to a water system or to a sanitary sewer system, either or both, hereafter constructed, purchased or otherwise acquired by the city and to contract for the construction of such improvements by one or more contracts in the name of the city and to provide for the payment of the costs of such improvements by the city or partly by the city and partly by assessments levied against benefited property and the owners thereof as herein provided.

Ordinance; Cost Estimates; Payment of Cost by Assessment and by City

Sec. 4. By the ordinance or resolution declaring that the necessity exists for such improvements, the city shall state generally the nature and extent of the "on-site" improvements, shall define the area or areas in which the benefited property lies and in which the "on-site" improvements are to be constructed, and may direct that detailed plans, specifications and cost estimates therefor be prepared and submitted to the governing body. The costs of "on-site" improvements may be wholly paid by the city or partly by the city and partly by the property benefited by the construction of the improvements and the owners of such property, but if any part of such cost is to be paid by such benefited property and the owners thereof, then before any "on-site" improvements are actually constructed, either before or after bids for the proposed construction are received by the city, and before any hearing herein provided for is held, the governing body shall prepare or cause to be prepared an estimate of the cost of such "on-site" improvements; in no event shall more than nine-tenths of the costs of such "on-site" improvements as shown on such estimate be assessed against such benefited property and the owners thereof. The city shall pay all of the costs of "off-site" improvements.

Railway Assessment Exemption

Sec. 5. No special tax or assessment shall be levied against a railway, street railway or interurban right-of-way to defray a portion of the cost of improvements to a city's water or sanitary sewer system.

Assessments; Payment and Interest; Priority of Liens; Assignable Certificates; Suits; Collection Costs

Sec. 6. Subject to the terms hereof, the governing body of any city shall have power by ordinance to assess not exceeding nine-tenths of the estimated cost of "on-site" improvements against benefited property, and against the owners of such property, and to provide the time, terms, and conditions of payment and defaults of such assessments, and to prescribe the rate of interest thereon not to exceed 10 percent per annum. Any assessment against benefited property shall be a first and prior lien thereon, from the date improvements are ordered and shall be a personal liability and charge against the true owners of such property at such date whether named or not in any notice, instrument, certificate or ordinance provided for hereunder. The governing body shall have the power to cause to be issued in the name of city assignable certificates in evidence of assessments levied hereunder declaring the lien upon the property and liability of the true owners thereof whether correctly named or not and to fix the terms and conditions of such certificates. Such certificates may be signed by the mayor or mayor pro tem or other authorized officer and attested by the city secretary or city clerk, which signatures may be facsimile signatures in lieu of manual signatures and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. The city seal may likewise be placed in facsimile thereon.

If any such certificate shall recite substantially that the proceeding with reference to making the improvements therein referred to have been regularly had in compliance with the law and that all prerequisites to the fixing of the assessment lien against the property described in said certificate and the personal liability of the owner or owners thereof have been performed, and that the improvements have been completed in accordance with the plans and specifications and have been accepted by the city and the date of such acceptance, same shall be prima facie evidence of all the matters recited in said certificate, and no further proof thereof shall be required. In any suit upon any assessment or reassessment in evidence of which a certificate may be issued under the terms of this Act it shall be sufficient to allege the substance of the recitals in such certificate and that such recitals are in fact true, and further allegations with reference to the proceedings relating to such assessment or reassessment shall not be necessary.

Such assessments shall be collectable with interest, expense of collections, and reasonable attorney's fees, if incurred, and shall be first

and prior liens on the property assessed, superior to all other liens and claims except state, county, school district and city ad valorem taxes, and shall be a personal liability and charge against said owners of the property assessed.

Apportionment of Cost

Sec. 7. That part of the cost of water and sewer "on-site" improvements, either or both, but computed separately, which may be assessed against benefited property and the owners thereof in the Defined Area or Areas shall be apportioned among the tracts or parcels of property benefited by such water improvements or sewer improvements, or both, and against the owners thereof in accordance with the square footage of each tract or parcel of land as shown on a recorded plat if such property is platted and the square footage can be computed from the information shown on such plat, or if no such plat is recorded, then as such square footage may be estimated by the city's engineer from such information as is available, provided that if the application of this rule of apportionment would in the opinion of the governing body, in particular cases, result in injustice or inequality it shall be the duty of said body to apportion and assess said costs in such proportion as it may deem just and equitable, having in view the special benefits in enhanced value to be received by such owners, and the adjustment of such apportionment so as to produce a substantial equality of benefits received and burdens imposed. For purposes of computing the amount of the assessment to be made each parcel of benefited property shall be assessed according to the number of square feet of each such parcel irrespective of the location of "on-site" improvements constructed hereunder relative to such parcel so long as such improvements provide water or sanitary sewer service, or both, to the parcel to be assessed.

Notice of Assessment; Requisites; Filing

Sec. 8. Whenever the governing body of any city shall pursuant to this Act determine it to be necessary that any "on-site" improvements should be constructed, then if it is proposed that all or any part of the costs of the "on-site" improvements be levied or assessed and made a lien on property benefited thereby, there may be filed with the county clerk of the county or counties in which such property is situated a notice signed in the name of such city by the city clerk, secretary, mayor or mayor pro tem or other authorized officer, which signatures may be facsimile signatures in lieu of manual signatures, and such facsimile signatures may be printed, engraved, lithographed, stamped or otherwise placed in facsimile thereon. Such notice shall meet all requirements of the Act when it shows substantially that the governing body of such city has ordered, directed or otherwise provided or determined it to be necessary that such system be improved and shall define the outside boundaries of the area or areas in which the benefited property lies (the Defined Area or Areas), ei-

ther by metes and bounds or by reference to streets, highways, survey lines, city limits lines or lot and block or subdivision lines shown on recorded plats, or shall otherwise identify or designate the area within which the improvements are to be made; and shall state that a portion of the costs of the "on-site" improvements is to be or has been specially assessed as a lien upon the benefited property. It is specially provided that one notice may embrace and include any number of such systems or improvements, or designated areas. If there are lots or parcels of land within any Defined Area or Areas which it has been determined by the governing body or the city's engineer will not be Benefited Property as that term is defined herein, then in such notice or in a later notice filed as promptly as feasible after such fact has been so determined such non-benefited property shall be described as adequately as possible and the inchoate lien against same and liability of the owners thereof shall be declared released and cancelled.

**Necessity of Acknowledgment and Filing of
Assessment Notice**

Sec. 9. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged and same may be filed at any time and the county clerk with whom any such notice is filed shall record same and index same in the name of the city and in the name or other designation of the water or sewer system or systems to the improvement of which it relates. The lien and liability of the assessment shall not be invalidated should said notice not be filed or not be indexed or recorded as herein provided, or shall be otherwise defective.

**Exemptions From Assessment; Lien and Personal
Liability; Enforcement**

Sec. 10. No property of any kind, church, school or otherwise, shall be exempt from any tax or assessment or assessments authorized hereby for local improvements, provided, however, that nothing herein shall empower any city or its governing body to fix a lien against any interest in property which is exempt from the lien of special assessments for local improvements under the Constitution of Texas at the time the lien takes effect, but the owner or owners of such property shall nevertheless be personally liable for any assessment in connection with such improvement and the city shall have power and authority to refuse water or sewer service, either or both, to the owners of such property until the owner thereof pays to the city the amount of assessment made against such property or an amount equal to the amount assessed for such improvements against private property of equal or comparable size. The fact that any improvement, though ordered, is omitted as to any property, any interest in which is so exempt shall not invalidate the lien or liability of assessments made against other property.

The lien created against any property and the personal liability of the owner or owners thereof may be enforced by suit in any court having jurisdiction, or by sale of the property assessed in the same manner as may be provided by law or charter in force in the particular city for sale of property for ad valorem city taxes, and the city, as an aid to the enforcement of the liability imposed by the assessment, may refuse to connect or may disconnect sewer or water service to a tract or parcel of benefited property during the period on which there is a default in the payment of any amount assessed hereunder against such tract or parcel and the owners thereof.

**Notice and Opportunity for Hearing; Publication and
Mailing of Notices; Requisites; Powers of Gov-
erning Body; Appeal**

Sec. 11. No assessment herein provided for shall be made against any benefited property or its owners, until after notice and opportunity for hearing as herein provided, and no assessment shall be made against any benefited property or owners thereof in excess of the special benefits of such property and its owners in the enhanced value thereof by means of such improvements as determined at such hearing. Such notice shall be by advertisement inserted at least three times in some newspaper published in the city where such special assessment is to be imposed, if there be such a paper: if not, then in a newspaper published in the county wherein such city is situated with general circulation in such city; the first publication of such notice of hearing to be made at least 21 days before the date of the hearing; and, additional written notice of the hearing shall be given by depositing in the United States mail, at least 14 days before the date of the hearing, notice of such hearing, (which may consist of a copy of the published notice) postage prepaid, in envelopes addressed to the respective owners of the Benefited Properties, as the names of such owners are shown on the then current rendered tax rolls of such city and at the addresses so shown, or if the names of such respective owners do not appear on such rendered tax rolls, then addressed to such owners as their names are shown on the current unrendered rolls of the city at the addresses shown thereon. The certificate of the city clerk or city secretary of such mailing and such publication shall constitute proof that all notice requirements of this Act have been fully complied with.

If any such notice shall describe in general terms the nature of the improvements for which assessments are proposed to be levied and to which such notice relates; shall name the water or sanitary sewer system to be improved, shall state the estimated amount or amounts per square foot proposed to be assessed against benefited property or the owners thereof, showing separately the amount proposed to be assessed for water improvements and the amount proposed to be assessed for sanitary sewer improvements; shall define in the

manner provided by Section 8 of this Act the outside boundaries of the area or areas in which the benefited property lies or lie (the Defined Area or Areas), with reference to which the hearing mentioned in the notice is to be held; shall state the estimated total cost of the "on-site" improvements to the water system separately from the estimated total cost of the "on-site" improvements to the sewer system; and shall state the time and place at which such hearing shall be held, then such notice shall be sufficient, valid and binding upon all owning or claiming such benefited property or any interest therein. Such hearing shall be by and before the governing body of such city and all owning or claiming such benefited property, or any interest therein, shall have the right, at such hearing, to be heard on any matter as to which hearing is a constitutional prerequisite to the validity of any assessment authorized by this Act, and to contest the amounts of the proposed assessments, the lien and liability thereof, the special benefits to the benefited property and owners thereof by means of the improvements for which assessments are to be levied, the accuracy, sufficiency, regularity and validity of the proceedings and contract or contracts in connection with such improvements and proposed assessments, and the governing body shall have power to correct any deficiencies, and to determine the amounts of assessments and all other matters necessary, and by ordinance to close such hearing and levy such assessments before, during or after the construction of such improvements, but no part of any assessment shall be made to mature prior to acceptance by the city of the improvements or the portion of such improvements which make service available to the Benefited Property against which assessment is levied.

Anyone owning or claiming any property assessed, or any interest therein, who shall desire to contest any such assessment on account of the amount thereof, or any inaccuracy, irregularity, invalidity, or insufficiency of the proceedings or contract with reference thereto, or with reference to such improvements, or on account of any matter or thing not in the discretion of the governing body, shall have the right to appeal therefrom and from such hearing by instituting suit for that purpose in any court having jurisdiction within 15 days from the time such assessment is levied; and anyone who shall fail to institute such suit within such time shall be held to have waived every matter which might have been taken advantage of at such hearing, and shall be barred and estopped from in any manner contesting or questioning such assessment, the amount, accuracy, validity, regularity and sufficiency thereof, and of the proceedings and contract with reference thereto and with reference to such improvements for or on account of any matter whatsoever. And the only defense to any such assessment in any suit to enforce the same shall be that the notice of hearing was not published or mailed or did not contain the sub-

stance of one or more of the requisites therefor herein prescribed, or that the assessments substantially exceed the amount of the estimate, and no words or acts of any officer or employee of the city, or member of any governing body of the city, other than the action of the governing body shown in its written proceedings and records shall in any way affect the force and effect of the provisions of this Act.

Changes in Improvements

Sec. 12. The governing body of the city shall have power to provide for changes in plans, methods or contracts for improvements, or other proceedings relating thereto, but any change substantially affecting the nature or quality of any improvements shall only be made when it is determined by a majority vote of the governing body that it is not practical to proceed with the improvements as theretofore provided for, and if any such substantial change be made after any hearing has been held or after notice has been given of any such hearing, as herein required, then unless the improvement be abandoned altogether a new estimate of cost shall be made and a new hearing ordered, and held, and new notices given, all with like effect and in like manner as herein provided for original notice and hearings. The substitution of equivalents shall not be deemed a substantial change. The elimination or change of location of particular mains, laterals, adjuncts and other appurtenances shall not be deemed a substantial change if an ordinance shall be passed which shall have the effect of cancelling any assessments theretofore levied against properties and their owners will as a result of such elimination or change receive neither water nor sewer service and cancelling any assessment so levied for sewer improvements if sewer service is eliminated or for water improvements if water service is to be eliminated, as the case may be. Changes in or abandonment of improvements must be with the consent of such person, firm or corporation as may have contracted with the city for the construction thereof, if any such contract has been entered into.

Separate or Joint Assessments

Sec. 13. Assessments against several parcels of benefited property may be made in one assessment when owned by the same person, firm, corporation or estate, and benefited property owned jointly by one or more persons, firms or corporations may be assessed jointly.

Powers of Governing Body; Rules and Regulations

Sec. 14. Said governing body shall have power to carry out all the terms and provisions of this Act and to exercise all the powers thereof, either by resolution, motion, order or ordinance, except where ordinance is specifically prescribed, and such governing body shall have power to adopt, either by resolution or ordinance, any and all rules or regulations appropriate to the exercise of such powers, the method and manner of ordering and holding

such hearings, and the giving of notices thereof.

Invalid Assessments; Correction of Irregularities; Amendment of Assessment; Reassessments; Effect on Certificates

Sec. 15. In case any assessment for any reason whatsoever be held or determined to be invalid or unenforceable, then the governing body of such city is empowered to supply any deficiency in proceedings with reference thereto and at any time before or after suit is filed seeking to enforce such assessment or during the pendency of any such suit but in any event not later than two years after the maturity date of the last installment on the assessment involved extended by the period of time, if any, in which litigation involving such assessment or the certificate evidencing same was pending to make and levy reassessments after notice and hearing as nearly as possible in the manner herein provided for original assessments and subject to the provisions hereof with reference to special benefits; however, such city may at any time correct any mistake or irregularity by amending any assessment without the necessity of reassessment proceedings and without the necessity of new notice and hearing where the original notice to the property owners after the original hearing was published and mailed as required by this Act and contained, in substance, the information required to be contained therein by this Act and the irregularity or mistake can be corrected by the substitution of a correct property description for an incorrect one, or the making of a correction showing the true area of a particular tract where an incorrect area was originally shown, so long as such correction is insubstantial and does not go to the question of benefits, or where other similar irregularities exist and where such amendment does not require an increase in the square foot rate previously assessed against the benefited property and the owner thereof nor go to the question of benefits to such property. Recitals in certificates issued in evidence of reassessments or amended assessments shall have the same force as provided for in recitals in certificates relating to the original assessment, and such certificate shall be dated as of the date of the original certificate and shall bear interest as therein provided. Such certificates may be signed by the mayor, mayor pro tem or other authorized officer and attested by the city clerk or city secretary in office at the date of their issuance. Such signatures and the seal of the city may be placed on said reassessment certificates in facsimile in the manner herein provided for assessment certificates.

Reassessments; Appeal

Sec. 16. Anyone owning or claiming any property interest in any property against which such reassessment is levied shall have the same right of appeal as herein provided in connection with original assessments, and in the event of failure to appeal within 15 days

from the date of hearing relative to such reassessment, the provisions hereinabove made with reference to waiver, bar, estoppel and defense shall apply to such reassessment.

Construction of Act

Sec. 17. The powers conferred by this Act shall not be construed as precedent beyond the powers specifically granted herein, and nothing contained herein shall be construed to affect in any way the law of this State whether promulgated by Statute or court decision, either or both, relating to the duty of a city in its proprietary capacity to furnish water and sewer service, either or both. Nor shall the legislative history of this Act be construed to affect in any way the law of this State.

Certificates of Assessment; Legal Investments

Sec. 18. Certificates of special assessment issued under the provisions of this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, and sinking funds of cities, towns and villages, counties, school districts or other political subdivisions of the State of Texas and for all other public funds of the State or its agencies.

Certificates of Assessment; Purchase from Contractor; Payment

Sec. 19. Any city to which this Act applies may purchase at not more than face value and accrued interest from the contractor constructing the improvements any certificates of special assessment which may be issued to him pursuant to the provisions of this Act out of the proceeds of any bond funds voted and issued for making such improvements (whether such bond funds be proceeds from the sale of general obligation tax bonds or revenue bonds issued by the city), or out of any other available funds; provided that the amount of the assessment evidenced by any such certificate levied for water improvements, if paid out of bond funds, is paid out of bond funds issued for such improvements and the amount of the assessment evidenced by any such certificates levied for sewer improvements, if paid out of bond funds, is paid out of the proceeds of bond funds voted and issued for such sewer improvements, and further provided that the proceeds from such certificates, both principal and interest, when collected shall be paid into the fund from which the money was obtained to purchase the certificates.

Cumulative Effect

Sec. 20. The provisions of this Act shall be cumulative of existing laws, except that the provisions of this Act shall be controlling as to cities acting under its provisions, over any irreconcilable conflicting provisions of any Act enacted contemporaneously herewith at this session. The provisions of this Act shall be liberally construed to effectuate its purposes and substantial compliance with the provisions hereof shall be sufficient.

Repealer

Sec. 21. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of conflict only.

Severability

Sec. 22. Should any section, provision, word, phrase, or clause of this Act or the application thereof to any person or circumstance be held invalid, unconstitutional or ineffective, the remainder of the Act, and the application of such provisions to other persons or circumstances shall not be affected thereby.

[Acts 1969, 61st Leg., p. 2442, ch. 818, eff. June 14, 1969.]

2. ENCUMBERED CITY SYSTEM

Art. 1111. Powers

All cities and towns including Home Rule Cities operating under this title shall have power to build and purchase, to mortgage and encumber their light systems, water systems, sewer systems, or sanitary disposal equipment and appliances, or natural gas systems, parks and/or swimming pools, either, or all, and the franchise and income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair such systems, or any one of them, including the purchase of equipment and appliances for the sanitary disposal of excreta and offal, and as additional security therefor, by the terms of such encumbrance, may grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the systems and properties so purchased for a term of not over twenty (20) years after purchase, subject to all laws regulating same then in force. No such obligation of any such systems shall ever be a debt of such city or town, but solely a charge upon the properties of the system so encumbered, and shall never be reckoned in determining the power of any such city or town to issue any bonds for any purpose authorized by law.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1111a. Additional Bonds and Refunding Bonds; Water or Sewer Systems

Additional Bonds While Prior Bonds Outstanding

Sec. 1. Any city or town including any Home Rule city which heretofore has issued or hereafter may issue bonds payable from and secured by a pledge of the net revenues derived or to be derived from the operation of its water system or sewer system or both in the manner provided by Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, or under any other law applicable to such city or town and while all or part of such bonds remain outstanding shall have the power

on one or more occasions to issue bonds or other obligations for the purpose of improving or extending, or both for improving and extending such water system or sewer system, or both, payable from the revenues of such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or the indenture of trust securing their payment; provided further, in those instances where in the ordinance or deed of trust or indenture of trust provision was made for the subsequent issuance of additional bonds on a parity with the bonds issued pursuant to the provisions of such ordinance or deed of trust or indenture of trust any such city or town shall have the power to authorize, issue and sell additional bonds payable from the revenues pledged to such bonds previously issued and secured by pledges and liens on a parity with and of equal dignity with the pledge securing the bonds previously issued. In the issuance of revenue bonds in the future for such purposes, any such city or town may prescribe in the ordinance or deed of trust or indenture of trust for the issuance later of additional issues or series of bonds on a parity with the bonds being issued pursuant to and subject to the restrictions, covenants and limitations contained in such ordinance, deed of trust or indenture of trust.

Refunding Bonds

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

Approval and Issuance of Bonds

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

Partial Invalidity

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein.

[Acts 1949, 51st Leg., p. 463, ch. 249.]

Art. 1111b. Additional Bonds and Refunding Bonds; Light and Power Systems

Additional Bonds While Prior Bonds Outstanding

Sec. 1. Any city or town, including any Home Rule City, which has heretofore issued or hereafter may issue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two (2) or more of such systems, in the manner provided by Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, as amended, or under any similar law, and while all or part of such bonds remain outstanding, shall have the power from time to time and on one or more occasions to issue bonds or other obligations for the purpose of extending or improving, or both, such system or systems, and such bonds shall constitute a lien upon the revenues thereof in the order of their issuance inferior to the lien securing the payment of any or all issues and series of bonds previously issued. As to any such revenue bonds issued and outstanding prior to the effective date of this Act the power herein conferred shall not be exercised unless expressly permitted in and shall be subject to any restrictions, covenants or limitations contained in the ordinance authorizing their issuance or in the deed of trust or in the trust indenture securing their payment; provided further that in instances in which the ordinance or deed of trust or trust indenture authorizing or securing such revenue bonds (whether such bonds have been issued prior to the passage of this Act or may be hereafter issued), provide for

the subsequent issuance of additional bonds on a parity with or of equal dignity to the previously issued revenue bonds (whether an original issue or a refunding issue), such city or town shall have the power to authorize, issue and sell additional bonds from time to time and in different series payable from the entire revenues of such system or systems on a parity with bonds previously issued and secured by liens on such system or systems on a parity with and of equal dignity with the lien securing the bonds previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such issue of original bonds or refunding bonds.

Refunding Bonds

Sec. 2. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds the lien of all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

Approval and Issuance of Bonds

Sec. 3. Before any such bonds are sold or exchanged as the case may be, they shall be submitted to and approved by the Attorney General of the State of Texas in the manner and with the effect provided in Articles 709 to 715, both inclusive, Revised Civil Statutes of 1925, as amended, and except as otherwise provided by this law, such bonds shall be authorized and issued in accordance with Articles 1111-1118, inclusive, of the Revised Civil Statutes of Texas, 1925, as amended, and to the extent of any conflict herewith, this law shall take precedence over such conflicting or inconsistent provisions.

Partial Invalidity

Sec. 4. In case any one or more of the sections or provisions of this Act or the application of such sections or provisions to any situation or circumstance shall for any reason be held to be unconstitutional, such unconstitutionality shall not affect any other sections or provisions of this Act or the application of

such sections or provisions to any other situation or circumstance, and it is intended that this law shall be construed and applied as if such unconstitutional section or provision had not been included herein.

[Acts 1949, 51st Leg., p. 465, ch. 250; Acts 1951, 52nd Leg., p. 30, ch. 23, § 1.]

Art. 1111c. Issuance of Bonds in Two Series with Different Security

Sec. 1. In the issuance of revenue bonds under Articles 1111-1118, Revised Civil Statutes as amended, for the purpose of improving, enlarging and extending a waterworks system, cities are authorized to issue such bonds in two series, one of which shall be payable from and secured by a pledge of all or any part of the proceeds of a contract between the city and a private corporation whereby the city agrees to sell water to such corporation for the payments therein specified, and the other series shall be payable from and secured by a pledge of the net revenues of the waterworks system or waterworks and sewer systems other than the proceeds of such contract. The ordinances directing the issuance of the bonds may provide that the entire cost of operation, maintenance and repair of the system or systems shall be paid from the revenues thereof other than the proceeds of such water supply contract. Cities are authorized to enter into contracts for the sale of water to private corporations and upon such terms as their governing bodies may prescribe for a period of not exceeding forty (40) years.

Sec. 2. Such bonds and a copy of the proceedings relating to their issuance shall be submitted to the Attorney General for his examination, and if they have been lawfully issued, he shall approve them. The bonds thereupon shall be registered by the Comptroller of Public Accounts and thereafter they shall be incontestable.

[Acts 1951, 52nd Leg., p. 776, ch. 428.]

Art. 1112. Vote, Etc.

No such light, water, sewer or natural gas systems, parks and/or swimming pools, shall be sold without authorization by a majority vote of the qualified voters of such city or town; nor shall same be encumbered for more than Ten Thousand Dollars (\$10,000) unless authorized in like manner, except for money for acquisitions, extensions, construction, improvement, or repair of such systems and facilities, or to refund any existing indebtedness lawfully created for such purposes. Such vote to sell or encumber such systems or facilities shall be ascertained at an election, which shall be held in accordance with the laws applicable to the issuance of municipal bonds by such cities and towns. The encumbrances authorized herein shall be applicable only to bonds payable from revenues derived from said system.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122; Acts 1953, 53rd Leg., p. 776, ch. 307, § 1; Acts 1973, 63rd Leg., p. 232, ch. 108, § 1, eff. May 18, 1973.]

Art. 1113. Income; Expenses a Lien; Rates; Records; Reports; Penalty

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

It shall be the duty of the Mayor of such city or town to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free service rendered, and the value thereof, and showing separately the amounts expended and/or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, interest, and the creation of a sinking fund to pay off such bonds and indebtedness.

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

Failure or refusal on the part of the Mayor to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such plant, or on the part of such superintendent or manager, to file or cause to

be filed such report, shall constitute a misdemeanor and, on conviction thereof, such Mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100), nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city or town shall have the right, by appropriate civil action in the District Court of the County in which such city or town is located, to enforce the provisions of this Act as amended.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 276, ch. 194; Acts 1932, 42nd Leg., 3rd C.S., p. 96, ch. 32; Acts 1933, 43rd Leg., p. 320, ch. 122; Acts 1943, 48th Leg., p. 220, ch. 139, § 1.]

Repealed in Part

Section 6 of Acts 1941, 47th Leg., p. 421, ch. 251, authorizing the issuance of refunding bonds by cities of 525,000 or over, read as follows: "All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, 'No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid,' is hereby specially repealed."

Art. 1113a. Transfer of Revenues to General Fund

Incorporated cities, towns, and villages of the State of Texas, and their officials and utility trustees, are hereby authorized to transfer to the general fund of the city, town, or village and use for general or special purposes revenues (now on hand or hereafter received) of any municipally owned utility system in the amount and to the extent that may be authorized or permitted in the indenture, deed of trust, or ordinance providing for and securing payment of revenue bonds issued under Articles 1111-1118, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws, notwithstanding any prohibition contained in Article 1113, Revised Civil Statutes of Texas, 1925, as amended, or other similar laws.

[Acts 1949, 51st Leg., p. 940, ch. 513, § 1; Acts 1953, 53rd Leg., p. 422, ch. 122, § 1; Acts 1965, 59th Leg., p. 341, ch. 159, § 1.]

Art. 1114. Notes, Etc.

Every contract, bond, note or other evidence of indebtedness issued or included under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by such cities or towns. In such case, the bonds shall be registered by

the State Comptroller as in the case of other municipal bonds.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114a. Self-liquidating

Projects financed in accordance with this law are hereby declared to be self liquidating in character and supported by charge other than by taxation.

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114b. Conflicting Laws Repealed

All laws and parts thereof, in conflict herewith, are hereby repealed to the extent of the conflict, and this law shall take precedence over all conflicting city charter provisions.

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114c. Ordinances, Resolutions, and Securities Validated

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

[Acts 1933, 43rd Leg., p. 320, ch. 122.]

Art. 1114d. Validation of Bonds for Swimming Pools

Sec. 1. All bonds heretofore voted and issued or heretofore voted and not yet issued by any city or town in this State for the purpose of constructing swimming pools in said city or town, are hereby in all things validated, confirmed, and ratified as though they had been legally authorized in the first instance.

Sec. 2. The provisions of this Act shall not operate to validate any bonds or bond elections which, at the time of the effective date of this Act, are involved in litigation, or the validity of which said bonds or bond elections may be attacked in any suit or litigation instituted within thirty (30) days after the effective date of this Act.

[Acts 1937, 45th Leg., 2nd C.S., p. 1968, ch. 56.]

Art. 1115. Control

The management and control of any such system or systems during the time they are encumbered, may by the terms of such encumbrance, be placed in the hands of the city council of such town, or may be placed in the hands of a board of trustees to be named in such encumbrance, consisting of not more than five members, one of whom shall be the mayor of such city or town. The compensation of such trustees shall be fixed by such contract, but shall never exceed five per cent of the gross receipts of such systems in any one year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all

matters pertaining to their organization and duties may be specified in such contract of encumbrance. In all matters where such contract is silent, the laws and rules governing the council of such city or town shall govern said board of trustees so far as applicable.

[Acts 1925, S.B. 84.]

Art. 1116. Rules

The city council or board of trustees having such management and control shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of the same, and providing for the discontinuance of such service failing to pay therefor when due until payment is made. The city council shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge thereof, and to provide penalties for all interference, trespassing or injury to any such systems, appliances or premises on which same may be located.

[Acts 1925, S.B. 84.]

Art. 1117. Default

A contract of encumbrance may provide for the selection of a trustee to make sale upon default in the payment of the principal or interest according to the terms of such contract, and for the selection of his successor if disqualified or failing to act, and for collection fees not exceeding five per cent of the principal.

[Acts 1925, S.B. 84.]

Art. 1118. Notice

No collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation because of default in payment of any installment of principal or interest shall be exercised until ninety days written notice shall be given to each member of the city council of such city or town and to each member of such board of trustees, if any, that payment has been demanded and default made, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city or town. If the installments of principal and interest then due shall be paid before the expiration of said ninety days, together with the interest prescribed in such contract, not exceeding ten per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date the same was originally due.

[Acts 1925, S.B. 84.]

Art. 1118a. Mortgage of Gas, Water, Light or Sewer Systems by Cities and Towns

Power to Encumber; Obligation Not a Debt

Sec. 1. All cities and towns owning and operating their light systems and gas systems or water systems and gas systems or sewer and

gas systems shall have power to mortgage and encumber any one or more of its gas, water, light or sewer systems and the franchise and income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase any one of same or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems or any one of said systems and as additional security therefor by the terms of such encumbrance may grant to the purchaser under sale or foreclosure thereunder a franchise to operate the system and properties so encumbered for a term not over twenty years after such purchase, subject to all laws regulating same then in force. No such obligation shall ever be a debt of such city or town, but solely a charge upon the properties so encumbered and shall never be reckoned in determining the power of such city or town to issue any bonds for any purpose authorized by law. Nothing herein shall be construed as prohibiting any such city or town from mortgaging and encumbering any one or more of said systems for the purpose of purchasing, building, improving, enlarging, extending, repairing or reconstructing another one or more of said systems and purchasing necessary land and other properties in connection therewith in the discretion of the governing body thereof.

Vote Required for Sale or Mortgage

Sec. 2. No such system or systems shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such city; nor shall same be encumbered for more than Five Thousand (\$5,000.00) Dollars except for purchase money or to refund any existing indebtedness or for repair or reconstruction, unless authorized in like manner. Such vote where required shall be ascertained at an election of which notice shall be given in like manner as and which shall be held in like manner as in the cases of the issuance of municipal bonds by such city.

Prior Act Inapplicable Until June 1, 1934

Sec. 2a. That notwithstanding any of the provisions of House Bill No. 312, Chapter 163, Acts of the 42nd Legislature, 1931,¹ the requirements of said House Bill No. 312, Acts 42nd Legislature, 1931, Chapter 163, with reference to notice, competitive bids, and the right to referendum, shall not apply to cities and towns acting under the authority conferred in this Act, until after June 1, 1934, instead of until after June 1, 1932, as provided in House Bill No. 312, Chapter 163, Acts 42nd Legislature, 1931.

¹ Article 2368a.

Operating Expenses as First Lien on Income; Rates

Sec. 3. Whenever the income of any system or systems shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repair and extensions necessary to render effi-

cient service and every proper item of expense shall always be a first lien and charge against such incomes. The rates charged for services furnished for any such system shall be equal and uniform and no free service shall be allowed except for city public schools or buildings and institutions operated by such city. There shall be charged and collected for such service a sufficient rate to pay for all operating, maintenance, depreciation, replacement, betterment and interest charges and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such systems or of any outstanding indebtedness against same.

Bond Recital

Sec. 4. Every contract, bond or note issued or executed under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Management Pending Encumbrance

Sec. 5. The management and control of any such system or systems during the time they are encumbered shall by the terms of such encumbrance be placed in the city council or other governing body of said city. Such city council or other governing body shall have the power to make rules and regulations governing the furnishing of service to patrons and for the payment of same and providing for the discontinuance of such service, failing to pay therefor when due until payment is made. Such governing bodies shall have power to provide penalties for the violation of such rules and regulations and for the use of such service without the consent or knowledge of the authorities in charge therefor and to provide penalties for all interference, trespassing or injury to any such system or systems, appliances or premises on which same may be located.

Default in Payment; Procedure

Sec. 6. A contract of encumbrance may provide for the selection of a trustee to make sale upon default in the payment or ¹ the principal or interest according to the terms of such contract and for the selection of his successor if disqualified or failing to act and for collection fees not exceeding five (5%) per cent of the principal. Such encumbrance shall provide that in the event of default and sale under foreclosure and the granting of a franchise to operate the system or systems and properties so purchased for a term of not over twenty years, as hereinbefore provided, that said city at any time during any stipulated time during said franchise, not to exceed periods of five (5) years during said time, shall have the right and privilege to repurchase said system or systems upon reasonable terms and at reasonable prices, to be set forth together with said optional periods of redemption in said encumbrance agreement and in said franchise.

¹ So in enrolled bill. Session Laws read "of."

Notice of Default

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any court or through any trustee, and no option to mature any part of such obligation because of default in payment of any installment of principal or interest shall be exercised until ninety days written notice shall be given to each member of the city council of such city or town that payment has been demanded and default made, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city or town. If the installments of principal and interest then due shall be paid before the expiration of said ninety days, together with the interest prescribed in such contract, not exceeding ten (10%) per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date the same was originally due.

Property Included in Encumbrance

Sec. 8. In the encumbrance of any properties under this Act such city may encumber any such systems singly or together for the benefit and to secure funds for any one or more of said systems and may omit or include in said encumbrance the whole or any part of the properties mentioned in Section 1 of this Act.

Income Applied to Encumbrance

Sec. 9. No part of the income of any such system or systems so encumbered shall ever be used to pay any other debt, expense or obligation of such city except a debt, expense or obligation of the system or systems encumbered or the system or systems for which said encumbered system or systems was so encumbered until the indebtedness so secured shall have been finally paid.

[Acts 1931, 42nd Leg., p. 783, ch. 314; Acts 1932, 42nd Leg., 3rd C.S., p. 46, ch. 20; Acts 1933, 43rd Leg., p. 106, ch. 53.]

Art. 1118a-1. Moneys in Lieu of School Taxes; Payment from Current Revenue of Existing Public Utility Acquired and Financed Through Revenue Bonds

Sec. 1. Whenever any city or town, including home rule cities, is situated wholly or partially in a school district, or in which there is situated wholly or partially a school district, after the effective date of this law, shall acquire a public utility or utilities then existing, and finances the purchase thereof through the issuance of revenue bonds, and such public utility property, within its territorial limits is at the time subject to taxation for the benefit of any school district, the governing body of any such city or town in issuing revenue bonds for the purchase price thereof, may expressly provide in any indenture of trust, mortgage or other lien instrument evidencing the obligation of such city or town in respect of the purchase price of such utility or utilities, for the pay-

ment annually from the income of such utility or utilities, a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town; provided, however, that by mutual agreement of the board of trustees of such school district and the governing body of such city or town, provision may be made for the payment annually of a sum in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district. The obligation thus assured by any such city or town, including home rule cities, to make such payment to a school district in lieu of ad valorem property school taxes shall constitute a proper item of operating expense, which together with other operating expenses shall always be a first lien and charge against the income of such encumbered utility or utilities.

Sec. 2. The obligation of any such city or town to pay any such school district moneys in lieu of taxes as provided in the encumbrance agreement shall be and constitute an "expense or obligation" of such system or systems as such terms are used in statutes authorizing the acquisition of such public utilities and the issuance of revenue bonds for the purchase thereof, and such obligations shall extend to and bind any and all cities or towns, including home rule cities, purchasing or otherwise acquiring any such then existing public utility or utilities, in accordance with the provisions of such encumbrance agreements or mutual agreements as authorized in Section 1 of this Act.

Sec. 3. The obligation of any such city or town, including home rule cities, as fixed in such indenture or encumbrance, shall not be impaired or affected, modified or released, by the release or discharge of such encumbrance, and such city or town, including home rule cities, shall continue while such city or town shall own and operate any such public utility to pay to any such school district annually from the revenues thereof such amount as a sum in amount equivalent to the average annual taxes assessed in behalf of such school district upon the properties of such utility or utilities for the five (5) years immediately preceding the year in which such utility or utilities shall be acquired by such city or town, including home rule cities; provided, however, that from and after the date of release or discharge of such encumbrance the board of trustees of any such school district and the governing body of such city or town may by mutual agreement from time to time provide for the payment annually from the revenues of such utility or utilities owned and operated by such city or town of such sum or sums in lieu of school taxes as shall be deemed adequate and just under all the circumstances of the case, due consideration being given to the needs of such school district.

Sec. 4. This Act shall apply solely to purchases or acquisitions, subsequent to the effective date hereof, of then existing public utilities made by any city or town of this state, including home rule cities, and shall not apply to or in any wise affect any purchase or acquisition of a public utility or utilities of whatsoever character acquired by any such city or town prior to the effective date of this Act. Cities and towns, including home rule cities, shall be authorized to operate under the provisions of this Act in acquiring existing public utilities under any and all laws of the state permitting the acquisition of existing public utilities through the issuance of revenue bonds, including Articles 1111 to 1113, inclusive, of the 1925 Revised Civil Statutes of the State of Texas and amendments thereto, and including Chapter 314, Acts of the Regular Session of the 42nd Legislature and amendments thereto.¹

[Acts 1943, 48th Leg., p. 398, ch. 269.]

¹ Article 1118a.

Art. 1118b. Bonds and Proceedings Validated

Bonds Issued in Connection with Public Utilities Validated

Sec. 1. That where the governing body of any city or town, owning and operating its light system and gas system, or water system and gas system, or sewer system and gas system, has authorized and/or issued bonds to purchase any one of such systems or to purchase additional water powers, riparian rights, or to build, improve, enlarge, extend or repair said systems, or any one of said systems, under authority of Chapter 314, of the General Laws passed by the 42nd Legislature, at its Regular Session in 1931,¹ and as security therefor has mortgaged and encumbered any one or more of its gas, water, light or sewer systems and the franchise and income thereof, and everything pertaining thereto, acquired or to be acquired, the ordinance or ordinances of such governing body, prescribing the date and maturity of such bonds, the rate of interest the same were to bear, the place of payment of principal and interest, and appropriating revenues of any such system or systems to pay the interest on such bonds and to produce a sinking fund sufficient to pay the bonds at maturity, having been recorded in the minutes or records of such governing body, and where the mortgage or indenture on the properties comprising such system or systems, to secure payment of said bonds, has been duly executed by the proper officers of said city, and the trustee therein named, and recorded in the proper deed of trust and mortgage records of the county or counties in which are situated the properties of such system or systems so mortgaged and encumbered, and such bonds having been heretofore approved by the Legal Department of the Reconstruction Finance Corporation in Washington, D. C., both as to legality and as being eligible for loan under the Act of Congress authorizing loans to municipalities to aid in financing projects which are self-liquidating in character, known as "Emergency Relief and

Construction Act of 1932,"² all acts and proceedings had and done in connection therewith by the governing body and/or the mayor, city secretary, city treasurer or any other officers of such city or town, and the trustee named in such mortgage or indenture in respect of such bonds, the appropriation and pledge of revenues of any such system or systems, and/or the mortgage or indenture on the properties of any such system or systems to secure payment of such bonds are hereby ratified, confirmed, legalized, approved and validated.

Sale of Bonds Validated

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

Issuance of Bonds Not Previously Delivered

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

[Acts 1933, 43rd Leg., p. 517, ch. 167.]

¹ Article 1118a.

² Act of July 21, 1932, ch. 520, 47 Stat. 709.

Art. 1118c. Order of Appropriation of Revenues of Municipal Public Utility Systems

Application

Sec. 1. In making up the annual appropriation of the income and revenue of any waterworks system, electric light plant or system, sewer system, or other public utility system, service, or enterprise now or that may be hereafter owned and operated by any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system in this State, the governing body thereof shall first make provision for the maintenance and operating expenses of such system, service, or enterprise, and shall then make provision for payment of principal and interest of any indebtedness outstanding against such system, service, or enterprise, and may then make such appropriations as the remaining income and

revenue of such system, service, or enterprise may justify, to be appropriated among the respective departments of the municipal government, or otherwise appropriated for public uses, as such governing body may deem best; provided this Act shall not apply to municipally owned utilities or enterprises, the income from which has heretofore been pledged to secure payment of bonds or other indebtedness.

No Restrictions on Bonds Payable From Other Than Taxation

Sec. 2. Nothing in this Act shall restrict the power and authority of any such city or town to issue bonds, notes, or warrants, payable from revenues other than taxation, for the purposes, in the manner, and under the restrictions and limitations provided by the laws of this State relative to the issuance of such obligations; and all the provisions of such laws shall apply to and govern such city or town and the governing authorities thereof, except as herein otherwise provided.

Application to Cities of 12,410 or Less

Sec. 3. The benefits of this Act shall apply to any city or town having a population of twelve thousand, four hundred and ten (12,410) inhabitants or less, according to the last preceding Federal Census, and owning and operating its municipal light system and municipal waterworks system and the terms thereof extend to the same, when the governing body thereof shall submit the question of the adoption or rejection hereof, to a vote of the resident property taxpayers who are qualified voters of said city or town at a special election called for the purpose by the governing body of said city or town. And said election shall be held as nearly as possible in compliance with the laws with reference to regular municipal elections in said city or town; but said governing authority is hereby empowered by resolution to order said election and prescribe the time and manner of holding the same. Said body shall canvass and determine the result of such election and if a majority of the voters voting upon the question of the adoption of this Act at such election, shall vote to adopt the same, the result of the election shall by said governing body be entered upon their minutes, and thereupon all the terms hereof shall be applicable to and govern such city or town adopting the same; provided, that nothing in this Act shall ever be construed to repeal or modify any of the provisions of Article 1112, of the Revised Civil Statutes of Texas, of 1925. [Acts 1934, 43rd Leg., 4th C.S., p. 49, ch. 18; Acts 1937, 45th Leg., 2nd C.S., p. 2008, ch. 74.]

Art. 1118d. Bonds Validated

Sec. 1. All bonds heretofore issued, authorized by ordinance to be issued and/or attempted to be issued under authority of Articles 1111 to 1118, both inclusive, of the Texas Revised Civil Statutes of 1925, as amended by Acts 1933, Forty-third Legislature, Page 320, Chapter 122, for the purpose of improving and

extending an existing municipal sewer system by any and all cities operating under charters adopted or amended under the provisions of Article 11, Section 5, of the Constitution of the State of Texas, having a population in excess of one hundred thousand (100,000) inhabitants according to the last preceding United States Census, and which bonds are payable exclusively out of revenues of such sewer system, and are secured only by a pledge of such revenues, and which bonds are to be issued, delivered and sold to the United States of America under existing contracts, are in all respects validated.

Sec. 2. All orders, ordinances and resolutions of the governing bodies of such cities authorizing or attempting to authorize the issuance of such bonds, or any of the same, are in all respects validated.

[Acts 1934, 43rd Leg., 4th C.S., p. 69, ch. 27.]

Art. 1118e. Bonds, Notes and Warrants Validated

Sec. 1. That any provision of any other law to the contrary notwithstanding, all bonds, notes or warrants heretofore issued, or which have been authorized but not yet issued, or which may be hereafter issued under the provisions of Articles 1111 to 1118, inclusive, of the Revised Civil Statutes of Texas for 1925, including all Amendments thereto to aid in financing any undertaking or project for which a loan or grant has been made by the United States through the Federal Emergency Administration of Public Works, are hereby declared to be negotiable instruments and they shall be fully negotiable within the meaning of and for all the purposes of the Uniform Negotiable Instruments Act of this State.

Sec. 2. Provided, however, that the provisions of this Act shall not be construed as validating any proceedings authorizing the issuance of any such bonds, notes or warrants, or any bonds, notes or warrants issued by virtue thereof where the validity of such proceedings, and bonds, notes or warrants issued thereunder has been contested or attacked in any pending suit or litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1559, ch. 383.]

Art. 1118f. Validating Revenue Bonds

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including home rule cities, in the State of Texas, in the issuance and sale of revenue bonds, notes or warrants issued under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas of 1925, as amended, to aid in financing any undertaking, for which a loan or grant has been made by the United States through the Federal Emergency Administrator of Public Works, or any other agency or department of the Government of the United States, are hereby in all things fully validated, confirmed, approved and legalized, and any such bonds, notes or warrants heretofore sold, or heretofore authorized but not yet delivered, are in all things fully validated, confirmed and

approved, and such bonds, notes or warrants are hereby declared to be the valid and binding special obligations of such cities or towns payable from sources other than taxation. All orders, resolutions and ordinances authorizing the issuance of any such revenue bonds and setting aside and pledging the revenues of any light system, water system, sewer system or sanitary disposal equipment system, natural gas system, parks or swimming pools, either or all are hereby in all things validated, confirmed and approved, and the fact that any city or town in the issuance and sale of any such obligations or in the pledging of the revenue of any of said systems to the payment of such obligations failed or neglected or lacked the power to do all things necessary to make said obligations legal shall in nowise impair such obligations nor the pledge of such revenues but same are in all things validated, confirmed and approved.

Sec. 2. Provided however, that the provisions of this Act shall not apply to any such proceedings, or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1562, ch. 385.]

Art. 1118g. Validating Bonds for Public Works

Sec. 1. That all proceedings heretofore had by the governing bodies of all cities and towns, including home rule cities, in the State of Texas in the issuance and sale of bonds, to aid in financing any undertaking for which a loan or grant has been made by the United States through the Federal Emergency Administrator of Public Works, or any other agency, department or division of the Government of the United States of America are hereby in all things fully validated, confirmed, approved and legalized and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities or towns, and all bonds which have been heretofore authorized for said purpose but not yet issued shall, when delivered and paid for, constitute valid and binding obligations of such city or town. All tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds, notes or warrants are hereby in all things validated, confirmed, approved and legalized.

Sec. 2. Provided however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereunder, where the validity thereof has been contested or attacked in any suit or pending litigation.

[Acts 1935, 44th Leg., 1st C.S., p. 1564, ch. 386.]

Art. 1118h. Validating Bonds of Cities of Over 15,000 Population

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than fifteen thousand (15,000) population according to the last preceding Federal Census and all bond elections held in such

cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such election shall be held not more than thirty (30) days from the time of such election order are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation, or in any suit or litigation which may be instituted within sixty (60) days after the effective date of this Act.

[Acts 1937, 45th Leg., p. 5, ch. 5.]

Art. 1118i. Validating Bonds of Cities in Counties of Less Than 80,000 and More Than 70,000

In all cases where any city in the State of Texas which operates under the General Laws of Texas and which city is located in any county having a population of less than 80,000 and more than 70,000 according to the last preceding United States Census and is not operating pursuant to a home rule charter and which such city has heretofore and subsequent to the enactment of Chapter 382,¹ Acts of the First Called Session of the Forty-fourth Legislature of Texas, 1935, submitted to the qualified electors of said city the question of the issuance of the bonds of such city pursuant to the provisions of Articles 1111 et seq., of the Revised Civil Statutes of the State of Texas, said bonds to be payable solely from the revenues derived from operation of the city's waterworks system, and where a majority of the qualified voters of said city voting at said election on said proposition has voted in favor of the issuance of such bonds and in favor of pledging the revenues of said system for the payment of such bonds, said election and all proceedings heretofore had in connection with the calling and holding of said election and in connection with the authorization and sale of such bonds are hereby validated, ratified and confirmed, despite any irregularity which may have occurred therein or despite any failure to observe any of the pertinent laws of the State of Texas, and said city is hereby authorized to complete its proceedings for the authorization and delivery of such bonds and to deliver such bonds upon receipt of the purchase price thereof, and such bonds when approved by the Attorney General, registered by the State Comptroller of Public

Accounts, sold at not less than par and accrued interest and delivered are hereby declared to be and shall be the valid and legal obligations of said city in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of the waterworks system of said city in accordance with the provisions of the proceedings so authorizing the bonds. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued there under, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law.

[Acts 1937, 45th Leg., p. 14, ch. 13, § 1.]

¹ Article 704.

Art. 1118j. Validating Bonds and Proceedings for Loans or Grants from Federal Government in Cities and Towns of Not Over 3,000 Population

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns, having a population of not more than three thousand (3,000), according to the preceding Federal Census, in the issuance and sale of Revenue bonds, notes or warrants issued under the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, as amended, to aid in financing any undertaking, for which a loan or grant has been made by the United States through the Public Works Administration, or any other agency or department of the Government of the United States, in which the only objection to the validity of said bonds is that such election was ordered and notice thereof given under the provisions of Article 704, Revised Civil Statutes of 1925 prior to the amendment of October 1935, are hereby in that respectively¹ validated, confirmed, approved and legalized, and any such bonds, notes or warrants heretofore sold, or heretofore authorized but not yet delivered, are in all things fully validated, confirmed and approved, and such bonds, notes or warrants are hereby declared to be the valid and binding special obligations of such cities and towns of said population payable from sources other than taxation. All orders, resolutions and ordinances authorizing the issuance of any such revenue bonds by said cities and towns of said population, and setting aside and pledging the revenues of any light system, water system, sewer system or sanitary disposal equipment system, either or all are hereby in all things validated, confirmed and approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereon, where the validity thereof has been contested or attacked in any suit or pending litigation.

[Acts 1937, 45th Leg., p. 595, ch. 298.]

¹ Probably should read "respect."

Art. 1118j-1. Validation of Bond Proceedings in Cities or Towns Over 5,000 to Help Finance Improvements for Which Loan or Grant from Federal Government was Made

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns in the State of Texas operating under the provisions of the General Laws of Texas and having a population of more than five thousand (5,000), and wherein it has become necessary to supplement funds providing for the erection of certain public improvements for which a loan or grant has been made by any agent or agency of the United States Government, by the issuance and sale of additional bonds to aid in the financing of such certain public improvements, including the orders and notices of elections, the conduct and returns of elections, and the canvassing of such returns of such elections, are hereby in all things fully validated, confirmed, approved, and legalized, including among others, instances wherein there have been irregularities in the giving of notice of elections, notwithstanding the fact that the notice of election was not published on the same day in each of two successive weeks, and all bonds issued thereunder are hereby declared to be the valid and binding obligations of such cities or towns, and all tax levies made by such governing bodies for the purpose of paying the principal of and interest on such bonds are hereby in all things validated, confirmed, approved, and legalized.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or obligations issued thereunder, where the validity thereof has been contested or attacked in any suit or pending litigation. [Acts 1941, 47th Leg., p. 602, ch. 370.]

Art. 1118j-2. Validation of Sewer System Bond Proceedings in Cities and Towns of Not Over 3,000

Sec. 1. All proceedings heretofore had by the governing bodies of all cities and towns having a population of not more than three thousand (3,000), according to the preceding Federal Census, in submitting to the qualified electors, during the year 1941, the question of the issuance of the bonds of any such cities and towns pursuant to the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, said bonds to be payable solely from the revenues derived from the operation of the sanitary sewer system, and where a majority of the qualified voters of any such city or town voting at said election on said proposition has voted in favor of the issuance of any such bonds and in favor of pledging the revenues of said system, or the mortgaging of said system, or by both pledging of the revenues and the mortgaging of said system, for the payment of such bonds, said election or elections and all proceedings heretofore had in connection with the calling and holding of said election or elections and the canvassing of the returns thereof, are hereby validated,

ratified and confirmed, despite any irregularity which may have occurred therein, and said cities or towns are hereby authorized to complete the proceedings for the authorization, issuance and delivery of such bonds upon receipt of the purchase price thereof, and such bonds when approved by the Attorney General, registered by the State Comptroller of Public Accounts, sold at not less than par and accrued interest and delivered are hereby declared to be and shall be the valid and legal obligations of any such city or town in accordance with the terms thereof, and shall be paid as to both principal and interest from the revenues of such sanitary sewer system in accordance with the provisions of the proceedings so authorizing the bonds.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or obligations issued thereon, where the validity thereof has been contested or attacked in any suit or litigation which is pending at the time this Act takes effect.

[Acts 1943, 48th Leg., p. 417, ch. 284.]

Art. 1118k. Validating Bonds in Cities of Over 160,000 Population

All bonds heretofore authorized by the necessary vote of the qualified voters of all cities of more than one hundred sixty thousand (160,000) population according to the last preceding Federal Census and all bond elections held in such cities for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof are hereby validated insofar as any irregularities in following the requirements of the provisions of the General Law that such election shall be held not more than thirty (30) days from the time of such election order and that notice of such election shall be published on the same day of each of two (2) successive weeks in a newspaper, the date of the first publication to be not less than fourteen (14) days prior to the date set for the election, are concerned; and irregularities in following the requirements of city charters as to time in the calling and holding of such elections shall not in any manner affect the validity of said bonds, but same shall, if otherwise valid, when approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, be a valid subsisting indebtedness of said cities.

[Acts 1937, 45th Leg., 1st C.S., p. 1749, ch. 5, § 1.]

Art. 1118l. Validating Bonds and Bond Elections in Cities and Towns of 2,601 to 2,632 Population

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities and towns having less than two thousand six hundred thirty-two (2632) population and more than two thousand six hundred one (2601) population according to the last preceding Federal Census, and all elections held in such cities and towns for the purpose of voting such bonds wherein the necessary majority of

the voters voted in favor thereof are hereby validated, ratified, confirmed and legalized insofar as any irregularities in following the requirements of the provisions of the general law governing the form of election order, notice, ballot and canvassing of returns of such elections are concerned; and, if such bonds are valid in other respects, when same are approved by the Attorney General and registered by the Comptroller of Public Accounts and sold for not less than par and accrued interest, shall constitute valid and binding obligations of said cities and towns.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings or to any bonds issued thereunder the validity of which is being contested or attacked in any suit pending at the time this Act takes effect.

[Acts 1937, 45th Leg., 1st C.S., p. 1755, ch. 10.]

Art. 1118m. Validating Waterworks Revenue Bond Elections and Bonds in Cities and Towns of 989 to 1,039 in Counties of 98,650 to 98,750

In all instances wherein cities and towns having a population of not more than one thousand and thirty-nine (1,039), and not less than nine hundred and eighty-nine (989), according to the last preceding Federal Census, located in counties having a population of not more than ninety-eight thousand, seven hundred and fifty (98,750) and not less than ninety-eight thousand, six hundred and fifty (98,650), according to the last preceding Federal Census, have heretofore held elections, attempting to comply with the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas of 1925, as amended, for the issuance of waterworks revenue bonds, and have failed to comply with the requirements as to publication and posting of notice of such election, and where such elections have been held resulting in a vote sufficient under the law to authorize the issuance of said bonds, such elections are hereby validated and the bonds thus authorized, when duly approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, shall constitute valid and binding special obligations of such cities; provided that the provisions of this Section shall not have the effect of validating any elections or the bonds to be issued pursuant thereto which are in litigation at the time of the passage of this Act, or which may be brought into litigation within ninety (90) days after the effective date of this Act.

[Acts 1939, 46th Leg., Spec.Laws, p. 1004, § 1.]

Art. 1118m-1. Validation of Election Proceedings on Issuance of Bonds for Waterworks in Certain Home-rule Cities

Sec. 1. In all instances where a home-rule city has heretofore (i) issued and delivered revenue bonds payable from the net revenues of its waterworks and sanitary sewer system and (ii) by ordinance called an election to

authorize the issuance of further revenue bonds, having found in the ordinance that the bond election should be called for the purpose of expanding its water system, including bond expenses, engineering, and right-of-way expense, and all other expenses incidental to the expansion of the city's water system; all proceedings relating to the calling of the election and canvass of its returns are hereby validated, ratified, and confirmed, notwithstanding the fact that the purpose for which the bonds were voted was not set forth in the proposition (though elsewhere in the ordinance calling the election) and notwithstanding the fact that the proposition merely provided for the creation of a sinking fund without specifying the net revenue of such utility systems were to be pledged to the payment of the principal of and interest on such revenue bonds.

The bonds may be issued and delivered for the purpose expressed in the ordinance calling the election and may be payable from the net revenue of the waterworks and sanitary sewer system, either or both, which may have been owned by the city at the time of such election. The bonds so issued shall, insofar as such pledged revenues are concerned, be on a parity with or subordinate to the revenue bonds of the city as are outstanding, all in accordance with Chapter 10 of Title 28, Revised Civil Statutes of Texas, 1925.

Sec. 2. The provisions of this Act shall not be operative so as to validate any revenue bonds unless (i) a majority of those who participated in the election voted in favor of the issuance of such bonds and (ii) there is no litigation pending on the effective date of this Act questioning the validity of the election, and (iii) no court of competent jurisdiction has, before the effective date of the Act, declared the election to be invalid.

[Acts 1973, 63rd Leg., p. 142, ch. 73, eff. Aug. 27, 1973.]

Art. 1118n. Bonds Authorized by Elections During 1938 in Cities or Towns Not Owning Certain Utilities

Sec. 1. All bonds heretofore authorized by the necessary vote of the qualified voters of all cities or towns and all bond elections held in such cities or towns for the purpose of voting such bonds wherein the necessary majority of the voters voted in favor thereof, and all orders, resolutions, and ordinances passed or attempted to be passed by the governing body of such cities or towns as shown by the minutes of such governing body, are hereby validated.

Sec. 2. Provided, however, that this Act shall not apply except as to bonds authorized by elections held during the year 1938 in cities or towns which at the time of the holding of such election did not own any of the following utilities from which it could derive revenue: water system, sanitary sewer system, electric light system, or natural gas distribution system.

Sec. 3. Provided further, however, that provisions of this Act shall not apply to any such proceedings or any bonds issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1939, 46th Leg., p. 698.]

Art. 1118n-1. Validating Bonds for Waterworks and Sewer Systems in Cities Operating Under General Law

Sec. 1. Where any city in this State which operated under the general law and does not have a home-rule charter has heretofore submitted to the qualified electors thereof propositions for the issuance of the bonds of such city for the purpose of constructing a waterworks system and a sewer system, such bonds to be payable only from the net revenues of such waterworks system and sewer system and secured by a joint mortgage on the properties of such systems, and such propositions have been declared to have carried, and such city has through ordinances adopted by its governing body authorized the issuance of such bonds and prescribed the details thereof and has thereafter reduced the amount of bonds to be so issued and has submitted to the qualified electors thereof propositions for the issuance of the bonds of such city payable from ad valorem taxes for the purpose of constructing a waterworks system and a sewer system, the amount of tax bonds to be so issued being equal to the amount of revenue bonds originally authorized and theretofore determined not to be issued, and such propositions have been declared to have carried, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election on the revenue bonds, the proceedings of the governing body authorizing the issuance of such bonds, the indenture authorized and executed to secure such bonds, the ordinance authorizing the issuance of such bonds, the proceedings had reducing the amount of the revenue bonds, the supplemental indenture authorized or executed for the purpose of reducing the amount of such issue, and the proceedings had in connection with the calling and holding of the election on the question of the issuance of the ad valorem tax bonds, despite any failure or failures in such proceedings to comply with the provisions of the pertinent statutes, are hereby ratified, validated and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, to make such changes as it may consider desirable in the existing proceedings and in the details of the bonds as they have been authorized by the existing proceedings, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized and to secure the revenue bonds by mortgage on the properties of the water and sewer systems, in

all respects as provided by the statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, as such proceedings may hereafter be altered or amended, shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. All proceedings heretofore had in connection with the incorporation of any such city are hereby validated, ratified and confirmed and every such city is hereby declared to be a legally incorporated and subsisting municipal corporation of the State of Texas operating under the provisions of Title 28 of the Revised Civil Statutes of 1925.

Sec. 5. Where any such city has not yet levied taxes on the taxable property in such city, but where the City Tax Assessor has prepared an unrendered roll for any year, using as the basis for such roll the valuation of the taxable property in said city as taken from state, county or school district rolls for such year, and where the governing body of the city has approved such roll and has fixed the percentage basis of assessed valuation to actual valuation, the assessed valuation of taxable property in such city as so determined is hereby declared to be the true and correct assessed valuation of taxable property in such city for such year and such assessment roll is declared to be and is authorized to be used as the basis for the imposition of taxes in such city until the assessed valuation of taxable property in such city for the succeeding year has been determined.

[Acts 1939, 46th Leg., p. 691.]

Art. 1118n-2. Validating Revenue and Ad Valorem Tax Bonds and Proceedings for Waterworks and Sewer Systems in Other Than Home-rule Cities

Sec. 1. Where any city in this State which operates under the General Law and does not have a home-rule charter has heretofore submitted to the qualified electors thereof propositions for the issuance of the bonds of such city for the purpose of constructing a waterworks system and a sewer system, such bonds to be payable only from the net revenues of such waterworks system and sewer system and secured by a joint mortgage on the properties of such systems, and such propositions have been declared to have carried, and such city has through ordinances adopted by its governing body authorized the issuance of such bonds and prescribed the details thereof and has thereafter reduced the amount of bonds to be so issued and has submitted to the qualified electors thereof propositions for the issuance of the bonds of such city payable from ad valorem taxes for the purpose of constructing a waterworks system and a sewer system, the amount of tax bonds to be so issued being equal to the amount of revenue bonds originally authorized and theretofore determined not to

be issued, and such propositions have been declared to have carried, all of the proceedings heretofore had by such city, including all proceedings had and acts done in connection with the calling and holding of the election on the revenue bonds, the proceedings of the governing body authorizing the issuance of such bonds, the indenture authorized and executed to secure such bonds, the ordinance authorizing the issuance of such bonds, the proceedings had reducing the amount of the revenue bonds, the supplemental indenture authorized or executed for the purpose of reducing the amount of such issue, and the proceedings had in connection with the calling and holding of the election on the question of the issuance of the ad valorem tax bonds, despite any failure or failures in such proceedings to comply with the provisions of the pertinent Statutes, are hereby ratified, validated, and confirmed.

Sec. 2. The governing body of each such city is authorized to adopt all proceedings necessary or desirable to complete the issuance of the revenue bonds and the ad valorem tax bonds so authorized, to make such changes as it may consider desirable in the existing proceedings and in the details of the bonds as they have been authorized by the existing proceedings, and to do everything necessary to the issuance of revenue bonds and ad valorem tax bonds in the amounts so authorized and to secure the revenue bonds by mortgage on the properties of the water and sewer systems, in all respects as provided by the Statutes relating to the issuance of such bonds.

Sec. 3. The revenue bonds and ad valorem tax bonds of any such city when delivered and paid for pursuant to such existing proceedings, as such proceedings may hereafter be altered or amended, shall be and are hereby declared to be valid and binding obligations of such city in accordance with the terms thereof.

Sec. 4. All proceedings heretofore had in connection with the incorporation of any such city are hereby validated, ratified, and confirmed and every such city is hereby declared to be a legally incorporated and subsisting municipal corporation of the State of Texas operating under the provisions of Title 28 of the Revised Civil Statutes of 1925.

Sec. 5. Where any such city has not yet levied taxes on the taxable property in such city, but where the City Tax Assessor has prepared an unrendered roll for any year, using as the basis for such roll the valuation of the taxable property in said city as taken from State, county, or school district rolls for such year, and where the governing body of the city has approved such roll and has fixed the percentage basis of assessed valuation to actual valuation, the assessed valuation of taxable property in such city as so determined is hereby declared to be the true and correct assessed valuation of taxable property in such city for such year and such assessment roll is declared to be and is authorized to be used as the basis for the imposition of taxes in such city until

the assessed valuation of taxable property in such city for the succeeding year has been determined. Provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law, or which may be filed within thirty (30) days after this Act becomes a law.

[Acts 1939, 46th Leg., p. 695.]

Art. 1118n-3. Refunding Bonds, Issuance by Cities Operating Under General Law and Owning Waterworks or Sewer System

Eligible Cities

Sec. 1. This Act shall be applicable to any city or town operating under the General Law relating to cities and towns, and which does not operate under a special or home rule charter, and which owns and operates either its waterworks or its sanitary sewer system, or both, and the principal amount of whose bond and time warrant indebtedness is in an aggregate amount exceeding thirty (30) per cent of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purpose of this Act shall be an "eligible" city.

Refunding Bonds Authorized; Prerequisites; Utility Rates

Sec. 2. Any eligible city is authorized to issue refunding bonds to be supported by an ad valorem tax and by a pledge to the payment of the principal and interest thereof, of all or a stipulated part of the net income from the operation of its waterworks system or its sewer system, or both. No such city shall be authorized to exercise the additional powers conferred by this Act unless it obtains a reduction in the principal amount of its indebtedness to the extent of not less than twenty-five (25) per cent. Such city shall not be permitted to deliver such refunding bonds unless and until it shall have obtained consent to such refunding by the holders of at least sixty-six and two-thirds (66 $\frac{2}{3}$) per cent of aggregate principal amount of its outstanding indebtedness which sixty-six and two-thirds (66 $\frac{2}{3}$) per cent shall include not less than one hundred (100) per cent of the revenue bonds, if any, outstanding against said system or systems, or unless such refinancing plan shall have been made effective in Composition proceedings instituted by such city under Title 11, Chapter 9 of the United States Code and Amendments thereto.¹

Before any income from such utility or utilities shall be used to pay the principal and interest of said refunding bonds the expenses of operation and maintenance shall have first been provided substantially in accordance with the provisions of Article 1113 of the Revised Civil Statutes of Texas, 1925, as amended, which is applicable to the income of encumbered utility systems. When such city issues refunding bonds under the provisions of this law it shall

be the duty of the city after making said pledge of such utility income to establish and maintain utility rates, which, together with taxes levied for the payment of such bonds, will be adequate to yield revenues sufficient to operate and maintain said utility system or systems and to fulfill the city's pledge of such income.

Revenue Bonds, Refunding Of

Sec. 3. Such city also shall refund par for par, all of its outstanding revenue bonds which are secured by a pledge of the revenues of either or both of such systems, if any such revenue bonds are outstanding, and bonds issued to refund such revenue bonds may be included in any such refunding issue, authorized by this Act.

Negotiability; Registration; Approval

Sec. 4. The refunding bonds issued under this Act shall be fully negotiable and shall be issued in the same manner as refunding bonds for the purpose of taking up outstanding bonds issued under the provisions of Title 22² and Title 28³ of the 1925 Revised Civil Statutes of Texas and amendments thereto. No notice of intention to issue refunding bonds and no election for the issuance of such bonds shall be required. No such refunding bonds shall be registered in the office of the Comptroller and delivered by him unless and until he shall have received and cancelled in lieu thereof bonds or time warrants in the proportion prescribed in the ordinances authorizing the issuance of such refunding bonds, and in accordance with this Act. The procedure prescribed in Articles 709 to 715 of the Revised Civil Statutes of Texas, 1925, in reference to examination and approval of the bonds by the Attorney General shall be applicable to bonds issued under this Act.

Act as Cumulative; Conflicting Laws

Sec. 5. This Act shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with the provisions of any other law, general or special, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1941, 47th Leg., p. 388, ch. 729.]

¹ 11 U.S.C.A. § 401 et seq.

² Article 701 et seq.

³ Article 961 et seq.

Art. 1118n-4. Redemption of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds

Eligible Cities

Sec. 1. This Act shall be applicable to any city having a charter, adopted or amended by a vote of the people, with power to levy an ad valorem tax of Two Dollars and Fifty Cents (\$2.50) on the One Hundred Dollars (\$100) of assessed valuation, which city has outstanding tax-supported indebtedness equal to fifteen per cent (15%) or more of its assessed valuation, and has outstanding bonds payable from its

waterworks revenues all of which will become subject to redemption within two (2) years after passage of the ordinance authorizing additional bonds as hereinafter provided. Any such city is hereinafter sometimes called an "eligible city."

Deposit in State Treasury of Amount of Outstanding Waterworks Revenue Bonds

Sec. 2. An eligible city shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its said outstanding and unpaid waterworks revenue bonds plus the amount of interest which will accrue on each of said bonds calculated to the date on which it may be redeemed and the amount of contract premium if any, and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-eighth ($\frac{1}{8}$) of one per cent (1%) of the principal amount of said bonds and one fourth ($\frac{1}{4}$) of one per cent (1%) of the interest to accrue on all of said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

State Treasurer to Forward Money to Bank Where Bonds are Payable

Sec. 3. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes redeemable, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest and premium if any, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus cancelled, and after he

shall have made a record of their payment and cancellation shall forward such cancelled bonds and coupons to such city.

Additional Revenue Bonds

Sec. 4. When an eligible city shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 2 it shall have authority to issue additional revenue bonds, securing them by a pledge of the revenue from the operation of its waterworks system or of its waterworks and sewer systems, in such manner as is authorized by Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, and for the purposes authorized in said Articles, and for the purpose of providing money to enable the city to comply with Section 2 of this Act. The deposit authorized by Section 1 hereof to be made with the State Treasurer shall be made prior to or concurrently with the sale and delivery of the new bonds authorized by this Act, but all other proceedings relating to the authorization and issuance of such bonds may be had prior to the making of such deposit. No revenue bonds shall be issued under authority of this Section 5 unless they shall have been authorized at an election held in such city in accordance with the provisions of Article 704 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 382, Acts of the First Called Session of the Forty-fourth Legislature. It is especially provided that regardless of any provisions to the contrary contained in the law under which such new revenue bonds are to be issued, they shall constitute a first charge on the income of the waterworks system or waterworks and sewer systems, after the payment of the expense of maintenance and operation of such system or systems subject only to any payments which must be made to the State Treasurer from such income to prevent any default in principal of or interest on such outstanding revenue bonds, for the benefit of which such deposit shall have been made with the State Treasurer. The right of the holders of said outstanding revenue bonds to have any deficiency paid out of such income shall remain unimpaired.

Additional or Subsequent Waterworks Revenue Bonds

Sec. 5. Regardless of any provisions to the contrary contained in the law or laws under which such new revenue bonds shall be issued, so long as any of said new revenue bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance authorizing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent waterworks revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance.

Withdrawal of Deposits from State Treasury

Sec. 6. After an eligible city has made the deposits and payments required under Section 2, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Rights of Holders of Bonds to Surrender Bonds

Sec. 7. At any time after an eligible city shall have made the deposits and payments required under Section 2, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond. Whereupon such bond shall be duly cancelled by the State Treasurer, and delivered or forwarded to such city.

Approval of Record and Bonds by Attorney General

Sec. 8. When an eligible city shall have duly authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 2 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bond of State Treasurer

Sec. 9. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Act Cumulative

Sec. 10. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

Partial Invalidity

Sec. 11. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the appli-

cation thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. [Acts 1947, 50th Leg., p. 1032, ch. 446.]

Art. 1118n-5. Redemption of Outstanding Revenue Bonds and Issuance of New Bonds

Eligible Cities

Sec. 1. This Act shall be applicable to any city which has outstanding waterworks or waterworks and sewer systems revenue bonds and which has on hand sufficient money to pay said bonds together with the interest thereon to the date when they become due or optional for prior payment and the contract premium if any. Any such city is hereinafter sometimes called "eligible city".

Refunding Bonds to Pay Outstanding Revenue Bonds

Sec. 1a. To provide sufficient money for the purposes stated in Section 1 of the Act hereby amended, a city is authorized to issue refunding bonds and sell them for cash, in which event a certified copy of the ordinance so providing shall be transmitted to the Comptroller of Public Accounts and he shall register such refunding bonds without cancellation of the underlying bonds and deliver them as provided in the ordinance. Such refunding bonds shall bear interest at a rate not to exceed five per cent (5%) per annum, evidenced by coupons, mature serially in not to exceed forty (40) years and be signed as other city bonds. If the bonds thus to be refunded are secured by a deed of trust or other encumbrance in which a trustee is named, the money for the payment of the underlying bonds, interest, stipulated premium, if any, and payment charges, may, in the discretion of the governing body of the city, be deposited with such trustee. Such refunding bonds and any additional bonds may be combined into a single issue. Refunding bonds and any additional bonds may be secured in any manner authorized by Article 1111, Revised Civil Statutes, as amended. Such refunding bonds may be issued without an election. Refunding bonds shall not be sold for cash in lieu of being exchanged unless all of the bonds to be paid therefrom become due or optional for redemption within three (3) years from the date of the proposed refunding bonds. If the underlying bonds are optional for redemption within said period of time, the city shall call them in the manner therein provided.

Deposits with State Treasurer

Sec. 2. An eligible city shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its said outstanding and unpaid revenue bonds plus the amount of interest which will accrue on each of said bonds calculated to the date on which it is to become due or on which it may be redeemed

and the amount of contract premium if any, and concurrently with such deposit shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-twentieth (1/20) of one (1%) per cent of the principal amount of said bonds and one-eighth (1/8) of one (1%) per cent of the interest to accrue on all of said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest of said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing said revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal becomes subject to redemption, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments, and instruments, and safely to keep and use such money for the purposes set forth in this Act and for no other purpose, and no part of such money except that in payment for his services and to reimburse his expenses in performing such services shall be used by or for the State of Texas or for any creditor of the State of Texas, nor shall such money be commingled with any other money.

Duties of State Treasurer

Sec. 3. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes redeemable, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest, and premium if any, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus cancelled, and after he shall have made a record of their payment and cancellation shall forward such cancelled bonds and coupons to such city.

Issuance of New Bonds

Sec. 4. When an eligible city shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 2 it shall have authority to issue additional revenue bonds, securing them by a pledge of the revenue from the operation of its waterworks system or of its waterworks and sewer systems, in such manner as is authorized by Articles 1111 to 1118 of the Revised Civil Statutes of Texas, 1925, as amended, and for the purposes authorized in said Articles. The deposit authorized

by Section 1 hereof to be made with the State Treasurer shall be made prior to or concurrently with the sale and delivery of the new bonds authorized by this Act, but all other proceedings relating to the authorization and issuance of such bonds may be had prior to the making of such deposit. No revenue bonds shall be issued under authority of this Section 5 unless they shall have been authorized at an election held in such city in accordance with the provisions of Article 704 of the Revised Civil Statutes of Texas, 1925, as amended by Chapter 382, Acts of the First Called Session of the 44th Legislature. It is especially provided that regardless of any provisions to the contrary contained in the law under which such new revenue bonds are to be issued, they shall constitute a first charge on the income of the waterworks system or waterworks and sewer systems, after the payment of the expense of maintenance and operation of such system or systems subject only to any payments which must be made to the State Treasurer from such income to prevent any default in principal or interest on such outstanding revenue bonds, for the benefit of which such deposit shall have been made with the State Treasurer. The right of the holders of said outstanding revenue bonds to have any deficiency paid out of such income shall remain unimpaired.

Subsequent Issuance of Additional Bonds

Sec. 5. Regardless of any provisions to the contrary contained in the law or laws under which such new revenue bonds shall be issued, so long as any of said new revenue bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance authorizing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent waterworks revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance.

Withdrawal of Deposits

Sec. 6. After an eligible city has made the deposits and payments required under Section 2, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly cancelled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Surrender, Payment and Cancellation of Bonds

Sec. 7. At any time after an eligible city shall have made the deposits and payments required under Section 2, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on ac-

count of such surrendered bond. Whereupon such bond shall be duly cancelled by the State Treasurer, and delivered or forwarded to such city.

Approval of Record and Bonds; Registration

Sec. 8. When an eligible city shall have duly authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record, and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 2 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bonds of State Treasurer

Sec. 9. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer, shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Act Cumulative

Sec. 10. This Act is cumulative¹ of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, the provisions of this Act shall be controlling.

¹ Probably should read "cumulative".

Partial Invalidity

Sec. 11. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1949, 51st Leg., p. 1003, ch. 541; Acts 1955, 54th Leg., p. 972, § 1.]

Art. 1118n-6. Validating; Bonds, Bond Elections, and Proceedings for Utility Systems in any City or Town; Home-rule City Elections for Disposition of City Owned Plant, Utility or Business

Sec. 1. All bonds heretofore authorized by any incorporated city, town or village which pledge the revenues of water, sewer, electric, or gas system, or the revenues of parking meters, auditorium or auditoriums, swimming pool or pools, or any combination of the revenues of such systems or sources, and any and all pro-

ceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of statutory or general authority of such city, town or village or the governing body thereof to authorize such bonds and make such pledge of revenue or revenues, and notwithstanding the fact that the proposition as submitted to the voters might have been defective or insufficient or the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the statutes or General Laws, and irrespective of the sufficiency or existence of the pledge of the revenues in the voted proposition; and such bonds, when approved by the Attorney General and registered by the Comptroller of Public Accounts of the State of Texas, and sold and delivered, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and the bonds shall be uncontestable. Provided, however, that this Act shall apply only to such bonds as were authorized at an election or elections wherein a majority of the qualified property taxpaying voters who had duly rendered their property for taxation voted in favor of the issuance thereof.

Sec. 1-A. All elections heretofore called or held in any home rule city prior to the effective date of this Act, for the purpose of authorizing the lease, sale, or other disposition of any city owned plant, utility or business or any part thereof in attempted compliance with Article 1112 or Article 1268, Revised Civil Statutes of Texas, 1925, as amended, are hereby validated, ratified, confirmed and approved notwithstanding the fact that the proposition submitted to the voters might have been defective or insufficient, or the fact that the election might not have been ordered and held in all respects in accordance with the provisions of the Home Rule Charter of such city or the General Laws of this state, including those hereinabove particularly mentioned. Provided, however, that this Act shall only apply to those instances in which the lease, sale or other disposition of any city owned plant, utility or business, or any part thereof, were authorized at an election wherein a majority of the qualified voters of such city had voted in favor thereof.

Sec. 2. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings.

[Acts 1955, 54th Leg., p. 600, ch. 206.]

Art. 1118n-7. Redemption and Refunding of Outstanding Waterworks Revenue Bonds; Additional Revenue Bonds

Eligible Cities

Sec. 1. Any city, including any city operating under a Home Rule Charter, having out-

standing water revenue bonds payable from the net revenues of its waterworks system, the net revenues of which system for each of the two (2) fiscal years next preceding the date when it avails itself of this law are equal to two hundred per cent (200%) of the requirements for the payments of interest on and principal of such outstanding revenue bonds for the year when such requirements are the greatest shall, under the provisions of this Act, be considered hereinafter as an "Eligible City."

Negotiable Tax-Supported General Obligation Bonds, Issuance; Tax Levy to Pay

Sec. 2. An Eligible City, through its governing body may, for the express purpose of providing funds for the refunding or redemption of its outstanding water revenue bonds payable from the revenues of its waterworks system, issue negotiable tax-supported general obligation bonds, pledging therefor the full faith and credit of such city, in an aggregate amount not greater than the aggregate principal amount of such outstanding water revenue bonds, and the total interest thereon accrued to the final date of redemption of each such outstanding water revenue bond; provided, however, that if such Eligible City shall issue such negotiable tax-supported general obligation bonds under the authority of this Act, it shall make provision for the payment of such bonds by annual levies of ad valorem property taxes to pay the interest thereon and to provide a sinking fund to pay them at maturity; and provided, further, that no such bonds shall be issued under the authority of this Act unless the issuance thereof, and the levy of annual ad valorem property taxes to provide for the payment of the interest thereon and to create a sinking fund with which to pay them at maturity, shall have been authorized at an election called and conducted under the provisions of Chapter I, Title 22 of the Revised Civil Statutes of Texas, 1925, and laws amendatory thereof and supplementary thereto, which shall govern the issuance of all such bonds under the authority herein given.

Subrogation to Rights of Holders of Water Revenue Bonds Refunded

Sec. 3. Any Eligible City, which may provide funds for the refunding or redemption of its outstanding water revenue bonds in the manner prescribed in Section 2 hereof, shall thereupon become subrogated to the rights of the holders of the water revenue bonds refunded with funds thus provided, in so far as payments from the revenues of its waterworks system are concerned, and be entitled to have paid into its general fund from such revenues like amounts as would have been payable on the water revenue bonds thus refunded or redeemed, had the same remained outstanding; but such rights on the part of such Eligible City shall in nowise limit any encumbrance on the properties of its water system securing any other water revenue bonds secured by such encumbrance, nor shall such encumbrance in any-

wise inure to the benefit of such Eligible City or in anywise be enforceable by it, but shall remain in full force for the sole benefit of the holders of any unpaid water revenue bonds of such city, whose rights to enforce such encumbrance shall remain superior to the rights of such city to payment from the revenues of its water system as hereinabove prescribed; nor shall any of the provisions of this Section of this Act be deemed as affecting the right of any such Eligible City to payments from such revenues from its water system into its general fund as might be provided by the terms of any contract under which its water revenue bonds may be issued, and any such payments shall be in addition to payments hereinabove prescribed in this Section.

Refinancing or Redemption Agreements; Additional Water System Revenue Bonds; Referendum

Sec. 4. An Eligible City may also enter into such agreements with the holders of its outstanding water revenue bonds as may be necessary to effect a refunding or refinancing or redemption of such outstanding bonds, or any part thereof, and further in aid of such refunding or refinancing or redemption, may enter into agreements with such other persons, firms or corporations as may be deemed advisable by any such city. All water system revenue bonds issued pursuant to this Act, other than water system refunding revenue bonds, and an additional amount of new revenue bonds not exceeding the total amount of the then outstanding revenue bonds, shall be sold in accordance with the charter provisions of any such Eligible City. It may issue its water system refunding revenue bonds in the manner authorized by Chapter 250, Acts, 1949, Fifty-first Legislature, as amended by Chapter 23, Acts, 1951, Fifty-second Legislature,¹ and with or without an election, as such City shall determine. Such City may, from time to time, issue additional water system revenue bonds for the purpose of extending or improving said water system or for the purpose of acquiring privately or publicly owned water systems or water system facilities situated in or adjacent to such city, or for the purpose of acquiring an additional water supply by purchase or construction or by contribution to the construction of a reservoir by the Federal Government or any agency thereof and, except as otherwise provided in this Act, such bonds shall be issued in accordance with the provisions of Articles 1111 to 1118 of the Revised Civil Statutes of Texas, as amended, and said additional bonds, when issued, shall be on a parity and of equal dignity with any water system refunding bonds issued by such city and shall be secured by a first lien on and pledge of the net revenues of said system, and, in the discretion of such city, may be further secured by a first mortgage on the physical properties constituting said system; provided, however, that in the event that all of said outstanding water revenue bonds cannot be obtained for refunding or redemption, then such new revenue

bonds and any refunding bonds which may be authorized and issued hereunder shall constitute a first charge on the income and properties of the water system of said city, subject only to any payments which must be made from such income as required by the provisions of Sections 5, 6, 7 and 12, of this Act; provided, however, that before any additional water system revenue bonds, as herein authorized, are issued, they shall be authorized by a majority vote of the duly qualified taxpaying voters of such an Eligible City at an election ordered and held for that purpose, which election shall be ordered and held in the same manner as required by law for holding elections to authorize the issuance of tax-supported bonds. The right of the holders of any outstanding water revenue bonds not so refunded to have any deficiency paid out of such income shall remain unimpaired.

¹ Article 1111b.

Deposit in State Treasury of Outstanding Water System Revenue Bonds

Sec. 5. An Eligible City shall have the right to deposit in the office of the State Treasurer of the State of Texas a sum of money equal to the principal amount of its outstanding and unpaid water system revenue bonds that cannot be obtained for refunding or redemption plus the amount of interest which will accrue on each of said bonds calculated to the date on which it is to become due or the date on which it is to become optional for prior redemption, or on which it may be redeemed, and the contract premium, if any, and, concurrently with such deposit, shall pay to the State Treasurer for his services and to reimburse him for his expenses in performing his duties under this Act a sum of money equivalent to one-eighth ($\frac{1}{8}$) of one per cent (1%) of the principal amount of said bonds, and one-fourth ($\frac{1}{4}$) of one per cent (1%) of the interest to accrue on all said bonds, and an additional amount of money sufficient to pay the charges of the bank or trust company at which the principal and interest on said bonds are payable for its services in paying such principal and interest. The State Treasurer may rely on a certificate by such city as to the amount of the charges made by such bank or trust company. At the same time, such city shall deliver to the State Treasurer a certified copy of the ordinance authorizing such water system revenue bonds, or a certified excerpt therefrom, showing clearly the amounts and the date or dates on which interest is due on such bonds, the date when the principal matures, and the name and address of the bank or trust company at which such principal and interest must be paid. It shall be the duty of the State Treasurer to accept such deposits, payments and instruments, and safely to keep and use such money for the purposes set forth in this Act, and for no other purpose, and no part of such money, except that in payment for his services and to reimburse his expenses in performing such services, shall be used by or for the State of Texas, or

for any creditor of the State of Texas, nor shall such money be commingled with any other money.

State Treasurer's Duties

Sec. 6. It shall be the duty of the State Treasurer not less than fifteen (15) days before such interest is due according to the tenor and effect of said bonds, and the principal becomes due, to forward by registered mail to the bank or trust company where the principal of and interest on such bonds are payable, an amount sufficient to pay such principal and interest, and to pay the service charges of such bank or trust company. The State Treasurer shall notify such bank or trust company to forward to him bonds and coupons thus canceled, and after he shall have made a record of their payment and cancellation shall forward such canceled bonds and coupons to such city. When an Eligible City shall have deposited and paid into the office of the State Treasurer the money and shall have done the things required under Section 3 it shall have authority to issue additional revenue bonds and refunding bonds as permitted in Section 2 hereof.

Rights of Holders to Surrender Bonds

Sec. 7. At any time after an Eligible City shall have made the deposits and payments required under Section 5 of this Act, the holder of any such bond, irrespective of its maturity date, shall have the right to surrender such bond to the State Treasurer and shall receive therefor a sum equivalent to all money then remaining on deposit with the State Treasurer, made on account of such surrendered bond; whereupon such bond shall be duly canceled by the State Treasurer and delivered or forwarded to such city.

Subsequent Issuance of Additional Revenue Bonds

Sec. 8. Regardless of any provisions to the contrary contained in the law or laws under which such refunding bonds and new revenue bonds shall be issued, so long as any of said bonds are outstanding no additional revenue bonds secured by a pledge of the revenues of the system shall be issued thereafter except in accordance with limitations prescribed in the ordinance or deed of trust authorizing and securing the revenue bonds first to be issued by such city pursuant to this Act; but it shall be lawful for such city to authorize and issue additional or subsequent revenue bonds provided that they are issued in all respects in conformity with and subject to limitations contained in such ordinance or deed of trust.

Withdrawal of Deposits from State Treasury

Sec. 9. After an Eligible City has made the deposits and payments required under Section 5, at any time it may withdraw from the State Treasury the amount of money, both principal and interest, deposited on account of any bond by exhibiting to the State Treasurer said bond duly canceled, whereupon the State Treasurer shall make a proper record of the payment and cancellation of such bond.

Approval of Record and Bonds by Attorney General; Registration; Incontestability

Sec. 10. When an Eligible City shall have authorized the issuance of its revenue bonds, and the record pertaining thereto shall have been presented to the Attorney General of Texas, it shall be the duty of the Attorney General to approve such record and thereafter when such new revenue bonds are presented to him, to approve such bonds subject to the making of the deposit provided in Section 5 hereof. After such record and bonds have been approved by the Attorney General and after such bonds have been registered in the office of the Comptroller of Public Accounts, they shall be held for all purposes to be fully negotiable instruments and shall, according to their tenor and effect, be valid and binding revenue obligations of such city and shall be incontestable for any cause from and after such registration.

Bond of State Treasurer

Sec. 11. The bond or bonds given by the State Treasurer under Article 4368 to secure the faithful execution of the duties of his office (except such special bonds as may have been given to protect funds of the United States Government) and any and all other bonds which may have been given by the State Treasurer shall be construed as protecting all moneys and securities deposited or placed with the State Treasurer under this Act.

Cancellation of Bonds; Validation of Issuance and Sale of Canceled Bonds

Sec. 12. Whenever an Eligible City has purchased, from the holders thereof, any of its outstanding water system revenue bonds with money taken from its water system revenue bond interest and sinking fund, or from its Waterworks Bond and Interest Redemption Account, and whenever such bonds have been thereby canceled through error or otherwise, and whenever the governing body of any such city has adopted an ordinance authorizing the issuance or sale of any such canceled bonds, the proceedings authorizing the issuance or sale of such canceled bonds are hereby validated and confirmed, and any such canceled bonds shall constitute valid and legally binding obligations of any such city in accordance with their terms, and each such Eligible City is authorized to do all things necessary to refund or redeem any such canceled bonds, under the authority of this Act.

Act Cumulative

Sec. 13. This Act is cumulative of all other Acts on the subject, but to the extent that its provisions are inconsistent or in conflict with the provisions of other laws, or the provisions of the Charter of any Eligible City, the provisions of this Act shall be controlling. Chapter 541, Acts, 1949, Fifty-first Legislature,¹ shall remain unimpaired by the provisions of this Act.

¹ Article 1118n-5.

Partial Invalidity

Sec. 14. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. [Acts 1955, 54th Leg., p. 854, ch. 320.]

Art. 1118n-8. Refunding Bonds, Issuance by Certain Cities Operating Under General Law and Owning Waterworks, Natural Gas and Sewer Systems

Eligible City

Sec. 1. This Act shall be applicable to cities operating under general law, which own and operate waterworks, natural gas and sanitary sewer systems, and whose outstanding tax bond indebtedness, including accrued and unpaid interest thereon, exists in an aggregate amount of not less than twenty per cent (20%) of the assessed valuation of the property in such city according to the latest approved official tax rolls. Any such city for the purposes of this Act shall be an "eligible" city.

Refunding Bonds Authorized; Powers of Governing Body; Definition

Sec. 2. Any eligible city is authorized to issue refunding bonds for the purpose of taking up all or any part of its outstanding indebtedness, regardless of whether such indebtedness is in its original form or has been funded, or refunded, in whole or in part, such refunding bonds to bear interest at a rate or rates to be determined by the governing body of said city, not exceeding the average rate or rates of interest borne by the indebtedness to be refunded, and no election shall be required as a condition precedent to the issuance of the said refunding securities. The governing body of such eligible city, in addition to the levying of a tax to pay the principal and interest of said refunding bonds, is authorized to pledge to the payment of such principal and interest, a designated annual amount or a designated proportion of the net revenues from the operation of any one or more of the utility systems owned and operated by said city, which pledge shall remain in full force and effect so long as any part of the principal or interest of said refunding bonds is outstanding and unpaid. For the purposes of this Act the expression "net revenues" shall mean the gross revenues of such system or systems after the payment of the reasonable and necessary expenses of operation, maintenance, and collection of income and the payment of interest on and principal of any and all bonds theretofore issued, the payment of which is secured by a pledge of the revenues of any or all of said systems. When such city issues refunding bonds under the provisions of this law it shall be the duty of the city, after making said pledge of such utility revenues, to

establish and maintain said utility systems and to fulfill the city's pledge of said utility revenues.

Amount of Bond Issue; Procedure for Issuance; Registration

Sec. 3. The refunding bonds authorized in this Act may be issued in an amount not exceeding the combined amount of outstanding principal, matured interest coupons, and accrued interest on said original securities and shall mature at such time or times as the governing body may prescribe. The procedure for the issuance of said refunding bonds shall be that which is prescribed in the statutes for the issuance of refunding bonds to take up outstanding bonds.

Such refunding bonds shall be registered by the Comptroller of Public Accounts in exchange for and upon cancellation of such original indebtedness after they shall have been approved by the Attorney General, and when so registered shall have all of the elements of protections of bonds approved by the Attorney General of Texas under the provisions of Articles 709 to 715, both inclusive, of the Revised Civil Statutes of 1925.

Negotiability

Sec. 4. Refunding Bonds issued under this Act shall be fully negotiable coupon bonds payable to bearer, constituting general obligations of the issuing city, and the holders thereof shall succeed to all the privileges of the holders of the indebtedness constituting the basis of the refunding bonds except as modified and changed by the express terms of the proceedings employed in the refunding operation.

Act as Cumulative; Conflicting Laws

Sec. 5. This law shall be cumulative of all other laws on the subject. In the event that any provisions of this Act conflict with, or are inconsistent with, the provisions of any other law, general or special, or with the provision of the charter of any such eligible city, the provisions of this Act shall take precedence over such conflicting or inconsistent provisions and shall prevail.

[Acts 1957, 55th Leg., p. 1373, ch. 468.]

Art. 1118n-9. Validating City Tax Bonds for Waterworks and Sewage Systems

Sec. 1. All proceedings in connection with any tax bonds heretofore favorably voted in any city, including any Home Rule City, for the purpose of constructing, improving and extending the waterworks and sewage systems of such city, including the acquisition of property necessary therefor, are hereby in all things validated and said bonds may be issued and delivered by the governing body of any such city for the purpose or purposes so voted and in the manner provided by Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended, regardless of whether or not any such bonds so voted were submitted in only one proposition and regardless of the wording of

the language appearing on the ballots concerning any proposition so submitted.

Sec. 2. Provided, however, that the provisions of this Act shall not apply to any such proceedings, or any obligations issued thereunder, the validity of which has been contested or attacked in any pending suit or litigation.

[Acts 1961, 57th Leg., p. 714, ch. 337.]

Art. 1118n-10. Refunding Outstanding Waterworks and Sewer Revenue Bonds; Additional Refunding Bonds

Eligible City

Sec. 1. This Act shall be applicable to any city which has outstanding bonds secured by a pledge of net revenue of its sanitary sewer system and other bonds secured by a lien on its waterworks system and the revenues therefrom, and does not have the right to issue additional equal lien bonds payable from its waterworks revenues. As used herein "Eligible City" means a city to which this Act is applicable.

Refunding Bonds Secured by Pledge of Revenues; Issuance; Interest; Deposits in State Treasury

Sec. 2. An Eligible City is authorized to issue bonds, without the necessity of an election, for the purpose of refunding outstanding waterworks revenue bonds and sewer revenue bonds into an issue of refunding bonds which will be secured by and payable from a pledge of revenues of both the waterworks system and the sewer system. Such refunding bonds shall bear a rate of interest specified by the governing body of the City, but not to exceed six per cent (6%) per annum, and mature serially or otherwise in not to exceed forty (40) years. All or any part of such refunding bonds may, in lieu of being exchanged by the Comptroller of Public Accounts for outstanding bonds, be sold for cash, in which event, there shall be deposited with the State Treasurer an amount of money sufficient to pay the unexchanged portion thereof plus interest to maturity on bonds which are not optional for redemption prior to maturity, and to the option date on bonds which are optional. There shall also be deposited with the State Treasurer the additional amount required by Chapter 541, Acts of the Fifty-first Legislature as amended.¹ The State Treasurer shall hold and disburse such funds as provided in Chapter 541 except that he is not required to transmit money to the Trustee or the bank of payment until one business day before each interest payment date on the bonds being refunded.

¹ Article 1118n-5.

Elections Authorizing Bond Issue

Sec. 3. If, prior to such refunding, an Eligible City has had elections authorizing the issuance of bonds to be secured by a pledge of waterworks revenues and other bonds secured by sewer revenues, or either, such bonds may, after the issuance of such refunding bonds, be issued and secured by a pledge of net revenues

of both the waterworks system and sewer system without the necessity of an additional election.

Additional Revenue Bonds; Ordinances; Junior Lien Bonds

Sec. 4. An Eligible City may issue additional revenue bonds which will be on a parity with previously issued and outstanding revenue bonds at any time under the conditions specified in the ordinance or ordinances which authorized the issuance of the then outstanding bonds. Articles 1111 to 1118, both inclusive, Revised Civil Statutes of 1925, as amended, shall be applicable to bonds issued under this law, except as otherwise provided herein. An Eligible City may issue junior lien bonds unless prohibited by the ordinance authorizing outstanding bonds.

Approval of Bonds by Attorney General; Incontestability

Sec. 5. All bonds issued under this Act shall be submitted to the Attorney General of Texas for his approval, and when approved by him, shall be registered by the Comptroller of Public Accounts of the State of Texas, and thereafter such bonds shall be incontestable. [Acts 1963, 58th Leg., p. 321, ch. 119.]

Art. 1118n-11. Refunding Outstanding Interest Bearing Obligations; Cities Not Over 60,000

Issuer Defined

Sec. 1. The term "issuer," as used in this Act shall mean and include any city in the State of Texas which owns the water, sewer and electric utility systems serving such city and which had a population not exceeding 60,000 according to the last preceding federal census.

Issuing Refunding Bonds; Security; Election; Maturity and Interest; Negotiability

Sec. 2. Any issuer, by resolution, ordinance, order or other action of its governing body is authorized to issue refunding bonds to refund any outstanding interest bearing obligations, including but not limited to bonds, notes, warrants, certificates of obligation and certificates of indebtedness, and interest coupons appertaining thereto, heretofore or hereafter issued by or for or on behalf of said issuer, which obligations have stated maturity dates or are callable prior to maturity not more than 10 years after the date of delivery of such refunding bonds. One or more outstanding issues of obligations, and interest coupons appertaining thereto, may be refunded hereunder; provided that obligations will not be refunded hereunder by issuers unless such refunding results in the ability of the issuer to issue additional interest bearing obligations that could not have been issued but for such refunding due at least in part to provisions in the obligations being refunded or resolutions, ordinances or orders pertaining to such obliga-

tions being refunded which would have required a record of earnings or income in excess of that available to the issuer, and would have thus prevented the issuance of such additional interest bearing obligations; provided that when part of one or more of such issues is being refunded, the issuer must demonstrate to the satisfaction of the Attorney General of the State of Texas, prior to his approval of the refunding bonds as hereinafter required, that adequate pledged resources are estimated to be available, based on then current conditions, to provide for the payment when due of the unrefunded part of such issue or issues. Such refunding bonds may be secured by liens on, and made payable from, the same source as the obligations being refunded thereby, or may be secured by liens on, and payable from, taxes, revenues, property, any other or different source, or any combination of such sources, to the extent the issuer is otherwise authorized by the Texas Constitution or any statute to pledge, dedicate, or use any such source for the payment or security of any kind or type of interest bearing obligation; and the refunding bonds may be issued in combination with refunding bonds issued under other laws, new bonds, and with provision for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under such terms or conditions and with such security, as may be set forth in the proceedings authorizing the issuance of said refunding bonds, all as determined within the discretion of the issuer; provided, however, that no such bonds shall be issued contrary to the provisions of the Texas Constitution. All refunding bonds issued pursuant to this Act may be issued without any election in connection with the issuance thereof or the creation of any encumbrance in connection therewith; except that if the Texas Constitution would require an election or vote to permit any procedure, action, or matter pertaining to such refunding bonds, then an election to authorize any such procedure, action, or matter shall be held substantially in accordance with Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ to the extent practicable, applicable, and appropriate. Said bonds may be issued to mature serially or otherwise in not to exceed 50 years from their date, and may be issued to bear interest at any rate or rates within the discretion of the issuer. Said bonds and any interest coupons appurtenant thereto, shall be negotiable instruments within the meaning of the Uniform Commercial Code (except that such bonds may be made registrable as to principal alone or as to both principal and interest), and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be executed, as provided by the issuer in the proceedings authorizing the issuance of said refunding bonds.

¹ Article 701 et seq.

Submission of Bonds and Proceedings to Attorney General; Approval and Registration; Incontestability; Registration

Sec. 3. All bonds permitted to be issued under this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such bonds have been authorized in accordance with this Act, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration, such bonds shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. Such bonds shall be registered by the comptroller of public accounts after they are approved by the attorney general, without any surrender, exchange, or cancellation of the obligations being refunded.

Sale for Cash; Redemption

Sec. 4. The refunding bonds authorized by this Act shall be sold for cash in such manner and at such price (not less than par and accrued interest to date of delivery) as determined within the discretion of the governing body of the issuer, and may be sold in such principal amounts as are necessary to provide all or any part of the money required to pay the principal of and interest on any obligations being refunded, as the same mature and come due, or to provide all or any part of the money required to redeem any obligations being refunded, prior to maturity, on the date or dates upon which said obligations have been called for such redemption, including principal, any required premium, the interest to accrue on said obligations to said redemption date or dates, together with an amount sufficient to pay all expenses related to the issuance of the refunding bonds and the expenses of paying the obligations being refunded under this Act. If any of the obligations being refunded through the sale of refunding bonds under this Act are subject to redemption prior to maturity, they shall be duly called for such redemption on a date or dates upon which they are so redeemable, in accordance with the terms thereof, and the proceedings pertaining to such call, and any notice of redemption required in connection therewith, shall be submitted to the attorney general along with the proceedings authorizing the issuance of said refunding bonds. However, if the notice of redemption in connection with any such obligations being refunded is required by the terms thereof to be given or published at some future time after the date of the refunding bonds, such obligations shall not be considered as being then subject to redemption prior to maturity for the purposes of this Act, and in calculating the amount required to be deposited with the state treasurer under this Act, such amount shall be made sufficient to provide for the payment of the principal of and interest on said obliga-

tions being refunded as the same mature and come due, without being redeemed prior to maturity.

Investment of Proceeds

Sec. 5. The issuer may immediately invest all or any required part of the proceeds from the sale of the refunding bonds, and any other necessary available funds, in direct obligations of, or obligations the interest on and principal of which are unconditionally guaranteed by the United States of America, or in obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit, which will mature, bear interest, and be payable, at such times and in such amounts as will provide and produce, without any reinvestment, the money (together with any uninvested money) required for the payment of the principal of and interest on the obligations being refunded, as the same mature and come due, and for the payment of the redemption price of any obligations being refunded and redeemed prior to maturity, on the date or dates upon which said obligations being refunded have been called for redemption, plus the additional amount required to pay the service charges of the place or places of payment of said obligations for paying and redeeming same.

Deposits with Treasurer; Certification of Deposit Adequacy; Duties of Treasurer

Sec. 6. (a) The issuer shall immediately deposit with the state treasurer (1) the proceeds from the sale of the refunding bonds, to the extent such proceeds are not invested, and (2) all of said investments, and (3) an additional amount, if necessary, which shall be sufficient together with such other deposits to pay the principal of and interest on the obligations being refunded, to pay the state treasurer for his services and to reimburse him for his expenses in performing his duties under this Act, equal to one-twentieth of one percent of the principal or par amount of the obligations being refunded, and one-eighth of one percent of the interest to accrue thereon (but not to exceed a total of \$2,000 in connection with each issue of refunding bonds issued hereunder), plus an additional amount of money sufficient to pay the service charges of the place or places of payment of said obligations for paying and redeeming same. The treasurer shall certify to the issuer as to the adequacy of the investments (and money) deposited, giving due regard to the dates the principal and interest on the investments are scheduled to mature and come due. In calculating the adequacy of said investments required to be so deposited, the state treasurer may rely on receiving both the principal and the interest scheduled to mature and come due on said investments in accordance with their terms, respectively, and the amount which otherwise would be required to be so deposited, if no interest were scheduled to come due thereon, may be reduced ac-

cordingly. It shall be the duty of the state treasurer to accept said deposits of investments and to collect promptly, when due and payable, all principal of and interest on said investments, but he shall not reinvest the same. It is further provided that the aforesaid investments shall be made in such manner that the proceeds therefrom, without any reinvestment, will be available for deposit, and shall be deposited, by the state treasurer, in the place or places of payment, in current available funds, in the required amounts, not later than one business day before each scheduled maturity date, due date, or redemption date, respectively, of said obligations being refunded. The state treasurer may rely on a certificate by the secretary or the chief clerical officer of the governing body of the issuer as to the amount of such service charges of the place or places of payment.

(b) It shall be the duty of the state treasurer, in his official capacity of public office, to accept and keep safely all deposits of money and investments made with him under this Act, and all proceeds from said investments; and no part of such deposits of money and investments, or proceeds therefrom, (excepting the amount paid to him for his services and expenses) shall be used by or for the benefit of the State of Texas, or for the benefit of any creditor of the State of Texas, and shall not be commingled with the General Fund of the state, or any other special funds or accounts held by the state treasurer. Each such deposit of money and investments, and proceeds therefrom, (excepting the amount paid to him for his services and expenses) shall be kept and maintained separate and apart from all other money and investments, and shall be kept and held, in escrow, and in trust, by the state treasurer, and shall be charged with an irrevocable first lien and pledge in favor of the holders of the obligations to be paid therefrom, and said deposits of money and investments, and proceeds therefrom, shall be used only for the purposes provided in this Act. Each such deposit of money and investments, and proceeds therefrom, shall be regarded as public funds, and legal title thereto shall be in the state treasurer, in his official capacity as trustee, until paid out as herein provided, but equitable title thereto shall be in the issuer, until so paid out. The writ of mandamus, and all other legal remedies, shall be available to any bondholder, the issuer or any other party at interest to require the state treasurer to perform his functions and duties under this Act. The surety bond or bonds given by the state treasurer in connection with the proper performance of his duties of office (excepting any special bonds given to protect funds of the United States government) shall protect and be construed as protecting all said deposits of money and investments, and proceeds therefrom. The state treasurer shall not in any way invest or reinvest any money deposited with him or received by him from any investment under this Act. In the event that any surplus funds should remain

on hand with the state treasurer in connection with any deposit of money or investments, after he has finally performed all of his duties relating thereto under this Act, such surplus shall be returned to the issuer.

(c) When there is more than one place of payment for any such obligations being refunded, the state treasurer shall make all of the deposits required to be made by him under this Act at the one of said places of payment having the largest capital and surplus and located in the State of Texas, and if none of such places of payment is located in the State of Texas, then at the place of payment having the largest capital and surplus; and it shall be the duty of such place of payment, and the state treasurer shall so instruct it, to make the required current funds available, to the extent necessary, at the other place or places of payment, to pay or redeem said obligations under presentment therefor.

Alternative Place of Deposit; Duties of Places of Payment

Sec. 7. It is further provided, however, that in the alternative to making the deposit of said investments (together with any uninvested money) with the state treasurer, the issuer shall have the option of making such deposit with any place of payment for the obligations being refunded, if said place of payment is a bank or trust company located in the State of Texas, has trust powers, and is a member of the Federal Reserve System. In such case, such place of payment shall perform all applicable and pertinent functions and duties provided in this Act for the state treasurer, and shall be substituted hereunder for the state treasurer to the extent appropriate and practical, except as otherwise provided by this section. The deposits of such investments and money shall be held for safekeeping, in escrow, and in trust for and charged with an irrevocable first lien and pledge in favor of and for the benefit of the holders of the obligations being refunded, all pursuant to an appropriate trust or escrow agreement between the issuer and the place of payment, upon such further terms and conditions, and for such consideration as may be agreeable to the parties thereto. Further, all deposits of money with any such place of payment shall constitute public funds and shall be secured at all times by a pledge of direct obligations of the United States of America, obligations the payment of principal of and interest on which are unconditionally guaranteed by the United States of America, or obligations which, in the opinion of the Attorney General of the United States of America, are general obligations of the United States of America and backed by its full faith and credit. When there is more than one place of payment for any such obligations being refunded it shall be the duty of such place of payment, with which such deposit is made, to make the required current funds available, to the extent necessary, at the other place or places of payment, to pay

or redeem said obligations under presentment therefor.

Discharge and Final Payment or Redemption of Obligations; Subordination to Refunded Obligations

Sec. 8. When the initial deposit of investments (and any uninvested money) is made with the state treasurer or with a place of payment under this Act, such deposit shall constitute the making of firm banking and financial arrangements for the discharge and final payment or redemption of the obligations being refunded, and although such obligations being refunded shall continue to be obligations of the issuer, automatically they shall become obligations of the issuer secured solely by and payable solely from such deposit and the proceeds therefrom; and upon the making of such deposit, all previous encumbrances existing in connection with said obligations being refunded (whether in connection with taxes, revenues, real and personal property, or any other source of security or payment) automatically shall terminate and be finally discharged and released, as a matter of law, and said encumbrances shall be of no further force or effect; and although said obligations being so refunded will remain outstanding, they shall be regarded as being outstanding only for the purpose of receiving the funds provided by the issuer for their payment or redemption under this Act, and they shall not be regarded as being outstanding in ascertaining the power of the issuer to issue bonds, or in calculating any limitations in connection therewith, or for any other purpose. It is further provided, however, notwithstanding the foregoing language of this section, that the issuer may, in the alternative to the foregoing language of this section, provide in the proceedings authorizing the issuance of such refunding bonds that such refunding bonds shall be subordinate to the obligations being refunded, but only in the manner and to the extent provided in said authorizing proceedings; and, except for any such specific provisions to the contrary in said authorizing proceedings, the foregoing language of this section shall be fully applicable.

Rights of Holders of Obligations

Sec. 9. The holder or holders of any such obligations being refunded shall never have the right to demand or receive payment thereof prior to the scheduled date or dates of the maturities, due dates, or redemption date or dates, respectively, of said obligations being refunded, and said holder or holders shall not be paid therefor prior to such date or dates, unless the issuer shall have specifically and affirmatively provided for and authorized the earlier payment of said obligations in the proceedings authorizing said refunding bonds.

Bonds as Legal and Authorized Investments; Security for Deposits

Sec. 10. All bonds issued pursuant to this Act shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan

associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value, when accompanied by all unmatured coupons appurtenant thereto.

Cumulative and Prevailing Effects of Act; Use of Other Laws

Sec. 11. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized hereby, without reference to any other laws or any restrictions or limitations contained therein, except as herein specifically provided; and when any bonds are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law or charter, the provisions of this Act shall prevail and control; provided, however, that any issuer shall have the right to use the provisions of any other laws, not in conflict with the provisions hereof, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 12. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 1724, ch. 627, eff. Aug. 27, 1973.]

Art. 1118o-1. Validating Acts and Proceedings of Cities in Borrowing Money from Federal Agencies to Repair or Extend Dam for Waterworks System

In all cases where any city or town in this State has borrowed money from The Reconstruction Finance Corporation or any other agency of the United States Government, for the purpose of making repairs and extensions, or either, to a dam comprising a part of the waterworks system of said city or town, which the city or town has agreed to repay out of the revenues of said waterworks system, all acts

performed by the city officials and all proceedings had by the governing bodies of such cities or towns in connection therewith are hereby validated, and all money so borrowed by such city or town together with the interest thereon at the rate stipulated in such proceedings is hereby declared to be a legal obligation of such city or town, payable out of the revenues of its waterworks system. The fact that a vacancy existed in the office of Mayor during all or any part of such proceedings, or the fact that other revenue obligations were then and are now outstanding against such system shall not affect the obligations and proceedings hereby validated.

[Acts 1939, 46th Leg., p. 694, § 1.]

Art. 1118p. Refunding Bonds in Counties of 525,000 or More; Payment from Water or Sewer Revenues

Issuance of New Revenue Bonds; Franchise to Foreclosure Purchaser

Sec. 1. This Act shall apply only in counties that have a population of five hundred and twenty-five thousand (525,000) or more, according to the last Federal Census. Any city or town that has issued bonds, warrants, notes, or other obligations payable from the revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town, all or a portion of which bonds, warrants, notes, or other obligations are outstanding, may issue new bonds of such city or town payable from the net revenues of the water systems and/or sewer systems and/or sewage disposal plants of such city or town for the purpose of refunding such outstanding bonds, warrants, notes, or other obligations and for the purpose of further building, improving, enlarging, extending, and/or repairing such systems, or any one of them, and may pledge the net revenues thereof to pay the interest on and principal of such refunding and further construction bonds, and in the discretion of the governing body of such city or town, may mortgage and encumber the physical properties of such system or systems, as the case may be, for that purpose, and grant a franchise to the purchaser under foreclosure to operate such system or systems, as the case may be, for a period of not exceeding twenty (20) years after purchase, subject to all the laws regulating the same then in force.

Designation; Maturity; Interest

Sec. 2. Such new bonds may be called Refunding and Further Construction Bonds, and may be made to mature serially or otherwise as the governing body of such city or town may direct not more than thirty (30) years from their date, and may bear interest at not exceeding five (5) per cent per annum; provided such new bonds shall not bear a higher rate of interest than the bonds, warrants, notes, or other obligations that are refunded thereby.

Election

Sec. 3. Before the bonds herein authorized are issued, they shall be authorized by a majority vote of the duly qualified property taxpaying voters of such city or town at an election ordered and held for that purpose, which election shall be ordered and held in the same manner as required by law for holding elections to authorize the issuance of tax supported bonds.

Approval by Attorney General; Registration

Sec. 4. Such bonds and the record authorizing the same shall be submitted to the Attorney General of Texas and approved by him, substantially the same as is required in the issuance of tax supported bonds. When such bonds shall have been approved by the Attorney General, they shall be turned over to the Comptroller of the State of Texas and by him registered in the following order:

First, the portion of such new bonds equal in principal amount to the outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, shall be registered only upon surrender and cancellation of such outstanding bonds, warrants, notes, and other obligations that are being refunded thereby, until all of such outstanding bonds, warrants, notes, and other obligations shall have been surrendered and cancelled.

Second, after all such outstanding revenue bonds, warrants, notes, and other obligations of such city or town shall have been surrendered and cancelled, and an equal amount of such new bonds registered and delivered in lieu thereof, then the balance of such new bonds shall be registered by the Comptroller and delivered to the Mayor of such city or town, or upon his order, and may be sold by the governing body of such city or town and the proceeds thereof expended in further building, improving, enlarging, extending, and/or repairing such system or systems, as the case may be.

Act as Cumulative; Repeal of Conflicting Laws Only

Sec. 5. This Act is cumulative, and in addition to all other statutes authorizing the issuance of revenue bonds of cities and towns, and is intended to repeal only such laws and parts of laws as are in conflict herewith.

Repeal

Sec. 6. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict, and particularly that expression contained in Article 1113, Revised Civil Statutes of Texas which reads, "No part of the income of any such system shall ever be used to pay any other debt, expense or obligation of such city or town, until the indebtedness so secured shall have been finally paid," is hereby specially repealed.

[Acts 1941, 47th Leg., p. 421, ch. 251.]

Art. 1118q. Hydro-electric Generating Facilities, Acquisition of

Sec. 1. Any city in Texas which owns an electric distribution system, whether or not

such city also owns facilities for the generation of electricity, may acquire by purchase, and improve, maintain and operate any privately owned facilities for the generation of hydro-electric power having an installed capacity of not less than two thousand (2,000) kilowatts, which may exist within five (5) miles of the boundary of such city, including all lands, flowage rights and water rights and related generating and transmission equipment and lines, and for the purpose of paying the cost of such acquisition and improvement may issue the bonds of such city pursuant to the provisions of Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, as such Articles now exist or may be hereafter amended, which bonds representing purchase money shall be fully negotiable for all purposes. For the purpose of the issuance and payment of such bonds the hydro-electric generating facilities so acquired may be regarded as an independent electric system which, including the revenues thereof, may be pledged to the payment of such bonds without any pledge of the other electric facilities of such city or the revenues derived therefrom. Such acquisition may be effected through the purchase of such facilities or through the issuance of the bonds in exchange for such facilities, provided the same shall have been first authorized at an election held in accordance with the provisions of Article 1112 of the Revised Civil Statutes as amended.

Any city which shall so acquire hydro-electric generating facilities hereunder shall carry out the provisions of all contracts in existence at the time of such acquisition pursuant to which electric current generated by such facilities has been contracted to be sold, except as to any such contract which may be cancelled by voluntary agreement of the city and the party or parties entitled to purchase such electric current thereunder. Subject to the rights of the parties to any such existing contracts, any such city shall take for distribution by its distribution system such part of the output of the generating facilities so acquired as may be needed for that purpose, and may in the proceedings for the authorization of the bonds enter into such covenants for the use of and payment for such electric current from the revenues derived from the re-sale thereof as it may consider proper. Any electric current generated by such facilities which is not used by the city for distribution by its system to its consumers may be sold by the city to other purchasers and any such city is hereby empowered to enter into such short or long term contracts for such sale as it may deem advisable.

Sec. 2. The invalidity or ineffectiveness of any one or more provisions contained herein shall not affect the validity or enforceability of the remaining provisions hereof.

[Acts 1949, 51st Leg., p. 383, ch. 203.]

Art. 1118r. Electric Light and Power Systems; Validation of Bonds

All revenue bonds issued by any city or town of five thousand inhabitants, or less, for the

purpose of acquiring an electric light and power system for said city or town, which bonds were duly sold and delivered to the purchasers thereof at a price of not less than par and accrued interest, and the proceeds of which bonds were duly expended in the acquisition of such electric light and power system, are hereby in all things ratified, validated and confirmed, and such bonds shall constitute legal, binding and valid special obligations of said city or town and shall be payable in the manner provided in the ordinance authorizing their issuance.

[Acts 1951, 52nd Leg., p. 285, ch. 167, § 1.]

Art. 1118s. Revenue Bonds for Sewage Disposal Facilities; Cities Serving Territory Outside Boundaries

Sec. 1. This Act shall be applicable to any city which owns a sewer system and disposal plant serving territory, other cities, and military establishments outside the corporate boundaries thereof.

Sec. 2. For the purpose of purchasing or constructing additional sewage disposal facilities, any city to which this Act is applicable is hereby authorized to issue its negotiable bonds, and to secure the payment of such bonds by pledging the net revenues to be derived from sewer service rendered outside the corporate limits of the city. Such bonds may be additionally secured by a pledge of all or part of the net revenues to be derived from sewer service to be rendered within the city. In the issuance of bonds secured only by the net revenues from sewer service rendered outside of the boundaries of the city, the ordinance authorizing the issuance of the bonds may specify what items of expense or portions thereof shall be deducted in arriving at the net revenues, or may prescribe any other formula for that purpose deemed appropriate by the governing body. In the issuance of such bonds, the city may reserve the right to issue additional bonds to the extent and subject to the conditions to be stated in the ordinance authorizing the bonds.

Sec. 3. Any city to which this Act is applicable is authorized to enter into contracts with other cities, persons, corporations and the United States Government to furnish sewer service, and such other cities are authorized to enter into such contracts. Such contracts which have heretofore been entered into and which have not been questioned in litigation pending at the time this Act becomes effective, are hereby validated.

Sec. 4. Whenever a city issues bonds under this Act, it shall be the duty of the governing body thereof to fix rates for service in an amount to pay the maintenance and operation expense and sufficient to pay the bonds as they are scheduled to mature and the interest as it accrues, and to establish and maintain the funds as provided in the ordinance authorizing the bonds; provided, however, that where the consideration to be paid for sewer service is

fixed by contract, such consideration shall not be increased during the term of the contract except as provided therein or by agreement of both parties.

Sec. 5. Articles 1111 to 1118, inclusive, and Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended, shall be applicable to the issuance of bonds under this Act, except as otherwise provided in this Act, but no election shall be required for their issuance. When such bonds are approved by the Attorney General, they shall be incontestable.

[Acts 1951, 52nd Leg., p. 578, ch. 336.]

Art. 1118t. Additional Revenue Bonds; Issuance Without Election

Sec. 1. Any incorporated city or town, including any home rule city, which now has or shall hereafter have outstanding revenue bonds issued under Articles 1111 to 1118, inclusive, Revised Civil Statutes of Texas, 1925, as amended, or other similar statutes, for the purpose of acquiring its electric and gas systems or to refund bonds issued for such purpose, shall have the power to issue additional revenue bonds for the sole purpose of extending and improving said systems and payable from the net revenues of said systems on a parity with said outstanding bonds, in the manner and to the extent authorized by law and by the ordinances or trust indentures authorizing such outstanding acquisition bonds or refunding bonds, without holding any election on the issuance thereof, regardless of other statutory or charter provisions to the contrary; provided thirty (30) days notice of intention to issue such bonds shall be given. Said notice shall be given as provided in the "Bond and Warrant Law of 1931," as amended,¹ except that the first publication shall be at least thirty (30) days prior to the date set for authorizing the bonds and that said notice shall contain a description by name and amount outstanding of any bonds or other indebtedness payable from the net revenues of such systems. Unless said notice is given as prescribed by the terms of this Section 1, said notice will be null and void and of no effect, and another notice as provided herein shall be given prior to the authorization of bonds covered by this Act.

Sec. 2. If a petition is filed in accordance with the provisions of said law, the election shall be ordered and held (on the issuance of said bonds) in accordance with said law; provided, however, that the question whether said bonds shall be issued may be submitted in a single proposition and without the necessity of designating the amount of bond proceeds to be expended on each system.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid, it shall not affect any other word, phrase, clause, sentence, or part of this Act.

[Acts 1953, 53rd Leg., p. 43, ch. 35.]

¹ Article 2368a.

Art. 1118u. Additional Revenue Bonds; Waterworks, Sewers and Swimming Pool

Sec. 1. This Act shall be applicable to any city which has heretofore issued bonds payable from and secured by a pledge of revenues of its waterworks system, sewer system and swimming pool, retaining therein the right to issue additional parity bonds to be payable from and secured by such revenues, and which has held or hereafter holds an election resulting favorably to the issuance of additional bonds to be payable from and secured by a pledge of waterworks system, sewer system and swimming pool revenues.

Sec. 2. Any city to which this Act is applicable is authorized to issue the bonds authorized or to be authorized by such election and to secure them with a pledge of the net revenues of the waterworks and sewer system, and, in the discretion of the governing body of the city, the bonds may be additionally secured by a pledge of the net revenues of the swimming pool. Such bonds, when approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts, shall constitute valid and binding special obligations of such city.

[Acts 1953, 53rd Leg., p. 98, ch. 64; Acts 1955, 54th Leg., p. 794, ch. 287, § 1.]

Art. 1118v. Refunding Outstanding Revenue Bonds Issued for Certain Utilities or Combination of Utilities

Sec. 1. Any incorporated city or town, including any home rule city, which now has or hereafter may have outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of its electric light and power system, gas system, water system, sewer system, or any combination of two or more of such systems, and other outstanding revenue bonds payable from and secured by a pledge of revenues from the operation of another of any such system or systems, which bonds have been issued in the manner provided by Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, or under any similar law, may issue refunding bonds to refund such outstanding bonds and pledge the revenues derived from the operation of all the systems whose revenues are pledged for the payment of the bonds to be refunded (regardless of the fact one or more issues of outstanding bonds to be refunded are payable from the revenues of one or more particular systems, and another issue or issues of such outstanding bonds to be refunded are payable from the revenues of a different system or systems); provided, however, that no bonds payable from and secured by a pledge of revenues of a particular system or systems shall be refunded under this Act unless all bonds then outstanding which are so payable from the revenues of that system or systems are so refunded. Refunding bonds issued under this Act shall bear interest at the same or lower rate than borne by the bonds refunded unless it is shown mathematically that

a saving will result in the total amount of interest to be paid.

Sec. 2. The provisions of this Act shall be cumulative of other laws.

[Acts 1957, 55th Leg., p. 479, ch. 229.]

Art. 1118w. Mass Transportation Systems; Power to Own, Acquire, Construct, Operate, Etc.; Federal Grants and Loans; Revenue Bonds

Power to Own, Hold, Purchase, Construct, Operate, Etc.

Sec. 1. Any city or town, including any Home Rule City operating under Title 28, Revised Civil Statutes of the State of Texas of 1925, as amended (hereinafter referred to as "city" or "such city") shall have power to own, hold, purchase, construct, improve, extend and operate street transportation systems for the carrying of passengers for hire within such city, its suburbs and adjacent areas.

Mass Transportation Services

Sec. 1a. Any such city or town shall be authorized to accept grants and loans from the United States of America to finance all or a portion of the cost of the acquisition, construction, reconstruction, and improvement of facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such city, its suburbs and adjacent areas and in coordinating such service with highway and other transportation in such areas. Any such city or town shall be authorized, either individually or in cooperation with agencies of the United States of America, to undertake research, development and demonstration projects for mass transportation systems in such areas and to acquire, construct and reconstruct and improve facilities and equipment for use, by operation or lease or otherwise, in mass transportation service in such areas, on, under, over, along or across public streets and highways and on lands, easements and rights-of-way acquired for such purpose. Any such city or town shall be authorized to issue revenue bonds for such purposes and all of the provisions of the Act amended hereby shall apply to the additional powers and functions herein authorized.

Revenue Bonds or Notes; Power to Issue, Etc.

Sec. 2. Any such city shall have full power to issue bonds and notes from time to time and in such amounts as it shall consider necessary or appropriate for the acquisition, purchase, construction, improvement or extension of such street transportation systems. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing city, at such price or prices and under such terms and conditions as may be fixed by the issuing city in the ordinance authorizing such bonds or notes. Such bonds and notes shall be sold for such price as the governing body of the city shall consider to be for the best interest of such city, provided that no such sale shall be made at a price so low as

to require the payment of interest on the money received therefor at a rate of more than six per cent (6%) per annum, computed with relation to the absolute maturity of the bonds or notes in accordance with standard tables of bond values, excluding however, from such computations the amount of any premium to be paid on redemption of any bonds or notes prior to maturity. Subject to the restrictions contained in this Act each such governing board is given complete discretion in fixing the form, conditions and details of such bonds and notes.

Approval of Obligations by Attorney General;
Incontestability

Sec. 3. Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination and if he finds that they have been issued in accordance with the Constitution and this Act, and that they will be binding special obligations of the city issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration they shall be incontestable.

Notice of Bond Issue Ordinance; Petition for Election

Sec. 4. Before passage of an ordinance authorizing the issuance of bonds or notes under this Act, the governing body of such city shall give notice of the time when such ordinance is to be passed. Such notice shall be published in a newspaper of general circulation in such city, in at least two (2) issues thereof, the date of the first publication to be not less than fourteen (14) days prior to the date so fixed for passage of the ordinance. Unless prior to the scheduled time for passing the ordinance a petition is filed with the City Secretary, signed by not less than ten per cent (10%) of the qualified voters of the city who have duly rendered their property for taxation, requesting that an election be held on the question of issuing such bonds or notes, the governing body may proceed in the issuance thereof without an election. If such petition is duly filed, it shall be the duty of the governing body to proceed in the manner prescribed in Chapter I of Title 22 of the Revised Civil Statutes of Texas of 1925, with an election on the question, and such bonds or notes shall not be issued unless a majority of the voters, voting at such election, vote favorably on the question. The governing body within its discretion may call an election for the issuance of the bonds or notes without awaiting the filing of a petition requesting a referendum election.

Power to Encumber; Additional Security

Sec. 5. In order to secure the payment of such bonds or notes such cities shall have full power and authority to encumber all or any part of such street transportation systems, the properties thereof, the revenues therefrom, the franchise thereof, and everything pertain-

ing thereto acquired or to be acquired, including but not limited to properties, both real and personal, including motor buses or other vehicles, machinery and other equipment of any nature used in the operation thereof. As additional security for the payment of any such bonds or notes, any such city may, by the terms of the instrument evidencing such encumbrance, grant to the purchaser under the power of sale in such instrument, a franchise to operate any such transportation system, and the properties thereof so purchased, for a term of not over twenty-five (25) years after purchase, subject to all laws regulating same then in force. No such obligation of any such system shall ever be a debt of such city, but solely a charge upon the properties, including the pledged revenues, of the system so encumbered and shall never be reckoned in determining the power of any such city to issue any bonds or notes for any purpose authorized by law. But no such city shall be prohibited from making payment of such bonds or notes out of any other funds which may be lawfully used for the purpose. Any such city shall have full power and authority to encumber separately any item of real estate or personalty, including motor buses or other vehicles, machinery or other equipment of any nature, or to acquire, use, hold, contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including but not limited to transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such city from encumbering any one or more transportation systems for the purpose of purchasing, building, constructing, mortgaging, enlarging, extending, repairing, or reconstructing another one or more of said systems and purchasing necessary property, both real and person in connection therewith.

Additional Bond Issues; Extension or Improvement of
System; Lien of Bonds

Sec. 6. Any city issuing bonds or notes payable from and secured by a pledge of revenue from the operation of a street transportation system and while all or part of such bonds remain outstanding, shall have the power, from time to time, and on one or more occasions to issue bonds or notes for the purpose of extending or improving, or both, any such transportation system, or to acquire another or other such transportation system or systems, and such bonds or notes shall constitute a lien upon the revenues, in the order of their issuance, inferior to the liens securing the payment of any or all issues and series of bonds or notes previously issued; provided, however, the foregoing provisions shall not be construed to prevent the passage of an ordinance or execution and issuance of any deed of trust, trust indenture, or similar instrument, providing therein for the subsequent issuance of additional bonds or notes on a parity with or of equal dignity with the previously issued revenue bonds or notes, and where any such ordi-

nance, deed of trust, trust indenture or similar instrument may so provide, any such city shall have the power to authorize, issue, and sell additional bonds or notes, from time to time and in different series, payable from the revenues of such transportation system, and the revenues to be derived from such added sources, on a parity with bonds or notes previously issued and secured by liens on such transportation system, on a parity with and of equal dignity with the lien securing bonds or notes previously issued, subject to such conditions as may be contained in the ordinance, deed of trust or trust indenture providing for or securing such issue of original bonds or notes.

Refunding Bonds or Notes

Sec. 7. Refunding bonds or notes may be issued for the purpose of refunding the bonds or notes of a single series or issue or two (2) or more issues or series of bonds or notes and such refunding bonds or notes shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds or notes refunded, provided that when two (2) or more series or issues of bonds or notes are refunded in a single issue of refunding bonds or notes the lien of all such refunding bonds or notes shall be equal if all of the outstanding bonds or notes of the several series or issues of bonds or notes to be refunded are thus refunded. No refunding bonds or notes shall attain any degree or priority of lien greater than that enjoyed by the series or issues then to be refunded having the highest priority of lien. Such refunding bonds or notes shall bear interest at the same or lower rate than borne by the bonds or notes refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds or notes, if any, enjoying a prior or inferior lien. Any such bonds or notes may be so refunded by the issuance of refunding bonds or notes, either to be exchanged for the bonds or notes being refunded and cancelled, or to be sold, with the proceeds thereof to be used for the redemption and cancellation of the bonds or notes being refunded. Such city may provide in any refunding bond or note issue such money as may be needed for paying any call premium and for payment of interest to the date fixed for calling for redemption the outstanding bonds or notes.

Operating Expenses as First Lien on Income; Priorities of Liens; Rates

Sec. 8. Whenever the revenues of any street transportation system shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues. Provided, that only such extensions, as in the

judgment of the governing body of such city, are necessary to keep the system in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some condition which would otherwise impair the original securities shall be a charge prior to any existing lien. The fares charged for transportation of passengers by any transportation system may be based on a zone system of determining fares or other fare classification determined by such city to be reasonable. There shall be charged and collected for such service a sufficient rate to pay all operating, maintenance, depreciation, replacement charges (and to provide for extensions to the extent permitted and limited hereby) and to provide and maintain in the manner and at the times prescribed in such ordinances, deeds of trust and indentures, money sufficient for debt service and reserves for the security and orderly payment of such bonds or notes, unless otherwise deemed necessary by the governing body of the city in order to maintain the level and quality of service desired. Except as may be otherwise permitted under the ordinance authorizing or the deed of trust or indenture securing the bonds or notes, no part of the revenues of any such system shall ever be used to pay any other debt, expense, or obligation of such city, except that any such city may receive payments from any such system in lieu of ad valorem taxes previously paid by the owners of an acquired system until the indebtedness so secured shall have been finally paid.

Obligations as Legal Investments

Sec. 9. All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, saving and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

Records and Accounts; Annual Reports; Penalties

Sec. 10. It shall be the duty of the mayor of such city to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the revenues collected and showing separately the amount either expended or set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, extensions, and for debt service as to such bonds or notes. It shall likewise be the duty of the superintendent or manager of such system to file with the mayor of such city, not later than February 1st, a detailed report of the operations for the year ending January 1st preceding, show-

ing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as the result of operation of such system during such calendar year. Failure or refusal on the part of the mayor to install and maintain, or cause to be installed and maintained, such system or records and accounts within ninety (90) days after the completion of such system, or on the part of such superintendent or manager, to file or cause to be filed such report, shall constitute a misdemeanor and, on conviction thereof, such mayor or superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) nor more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city shall have the right, by appropriate civil action in the District Court of the County in which such city is located, to enforce the provisions of this Act.

Management Pending Encumbrance; Lease of System

Sec. 11. During the time any such system is encumbered either as to its revenues or as to both its physical properties and revenues, the management and control of such system may by the terms of the instrument evidencing such encumbrance, be placed with the governing body of such city, or may be placed with a board of trustees to be named in such instrument, consisting of not more than five (5) members, one (1) of whom shall be the mayor of such city. The compensation of such trustees shall be fixed by such instrument, but shall never exceed two per cent (2%) of the gross receipts of such system in any one (1) year. The terms of office of such board of trustees, their powers and duties, the manner of exercising same, the election of their successors, and all matters pertaining to their organization and duties may be specified in such instrument. In all matters where such instrument is silent, the laws and rules controlling the governing body, of such city shall govern said board of trustees so far as applicable. The governing body of any such city or any board of trustees in whose management and control any such system may be placed, with the approval of the governing body of such city, evidenced by adoption of a resolution, in lieu of operating any such system, shall have power and authority to enter into any lease or other contractual arrangement for the operation of same by any privately owned and operated corporation in consideration of such rentals either guaranteed or contingent, based on revenues or gross profits or net profits, or any other basis of compensation, which may be determined to be reasonable by such governing body or such board as the case may be; providing however, that any such lease or contractual arrangement between such city and private corporation, shall be preceded by a public notice and request for the submission of bids in the manner required by law for the taking of bids for public construction contracts, and said city shall accept the best bid submitted, taking into consideration

the rental to be paid, the experience and financial responsibility of the corporations submitting such bids.

[Acts 1957, 55th Leg., p. 1471, ch. 505; Acts 1969, 61st Leg., p. 1876, ch. 630, § 1, eff. June 11, 1969; Acts 1973, 63rd Leg., p. 1234, ch. 446, § 1, eff. Aug. 27, 1973.]

Art. 1118x. Metropolitan Rapid Transit Authorities

Findings

Sec. 1. The legislature finds that:

(a) A dominant part of the state's population is located in its rapidly expanding metropolitan areas which generally cross the boundary lines of local jurisdictions and often extend into two or more counties;

(b) The concentration of population in such areas is accompanied by a corresponding concentration of motor vehicles which are generally powered by internal combustion engines that emit pollutants into the air, which emissions result in increasing dangers to the public health and welfare, including damage to and deterioration of property as well as harm to persons, and hazards to air and ground transportation;

(c) Such concentration of motor vehicles places an undue burden on existing streets, freeways and other traffic ways, resulting in serious vehicular traffic congestion that retards mobility of persons and property and adversely affects the health and welfare of the citizens and the economic life of the areas;

(d) The proliferation of the use of motor vehicles for passenger transportation in such areas is caused in substantial part by the absence or inefficiency and high cost of mass transit services available to the citizens of such areas, and it is in the public interest to encourage and provide for efficient and economical local mass rapid transit systems in such areas for the benefit and convenience of the people and for the purpose of improving the quality of the ambient air therein and reducing vehicular traffic congestion; and

(e) The inalienable right of all natural persons to use the air for natural purposes does not vest in any person the right to pollute the air by artificial means, but such artificial use is subject to regulation and control by the state.

Definitions

Sec. 2. The following words and terms, wherever used and referred to in this Act, have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Metropolitan area" means any area within the State of Texas having a population density of not less than 250 persons per square mile and containing

not less than 51 percent of the incorporated territory comprising a city having a population of not less than 1,200,000 inhabitants according to the last preceding or any future federal census, and in which there may be situated other incorporated cities, towns and villages and the suburban areas and environs thereof.

(b) "Principal city" means the city of largest population in a metropolitan area.

(c) "Authority" means a rapid transit authority created pursuant to the provisions of this Act.

(d) "Board" means the governing body of an authority.

(e) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of said passengers by means of motorbus, trolley coach, street railway, rail, suspended overhead rail, elevated railways, subways, or any other surface, overhead or underground transportation (except taxicabs), or by any combination of the foregoing.

(f) "System" means all real and personal property of every kind and nature whatsoever, owned or held at any time by an authority for mass transit purposes, including (without limiting the generality of the foregoing), land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment and facilities (including vehicle parking areas and facilities and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses), control houses, signals and land, facilities and equipment for the protection and environmental enhancement of all such facilities.

(g) "Motor vehicle" means a vehicle self-propelled on two or more wheels by an internal combustion engine or motor over roadways other than fixed rails and tracks.

Creation of Rapid Transit Authority

Sec. 3. The governing body of a principal city in a metropolitan area may, on its own motion, and shall, upon being presented with a petition so requesting signed by not less than 5,000 qualified voters residing within such metropolitan area, institute proceedings to create a rapid transit authority in the following manner:

(a) Such governing body shall by ordinance or resolution fix a time and place for holding a public hearing on the proposal to create such an authority, which ordinance or resolution shall define the boundaries of the area proposed to be included in such authority. If it is proposed to make the boundaries of the authority coterminous with the boundaries of the county in which the principal city is located,

such resolution or ordinance shall so state and it shall not be necessary otherwise to describe the territory proposed to be included.

(b) Notice of the time and place of such public hearing, including a description of the area proposed to be included in such authority, shall be published once a week for two consecutive weeks in a newspaper of general circulation in such metropolitan area, the first publication to be not less than 15 days prior to the date fixed for such hearing.

(c) The governing body of the principal city shall conduct said hearing at the time and place specified in such notice, and may continue such hearing from day to day and from time to time until completed. Any interested person may appear and offer evidence for or against the creation of the proposed authority, and may present evidence as to whether or not the creation of such proposed authority and the construction and operation of a mass transit system in such metropolitan area

(1) would be of benefit to persons and property situated within the boundaries of the proposed authority,

(2) would be of public utility, and

(3) would be in the public interest, as well as any other facts bearing upon the creation of such an authority and the construction and operation of such system.

(d) If, after hearing the evidence adduced at such hearing, the governing body of the principal city finds that the creation of such an authority, and the construction and operation of such a system, would be of benefit to persons and property situated within the boundaries of the proposed authority, would be of public utility, and would be in the public interest, such governing body shall adopt an ordinance creating such authority and prescribing the boundaries thereof. Such boundaries may include all or any part of the area described in such notice but shall not contain additional territory without further notice and hearing in the manner herein provided. The authority shall bear the name of the principal city and shall be known as "_____ Rapid Transit Authority," and when so created and confirmed at an election held for that purpose, shall have and may exercise the powers authorized by this Act.

(e) After such hearing by the governing body of such authority, the said authority shall submit the proposed plan to the governor's interagency transportation council for their review and comment.

Transit Authority Board

Sec. 4. The management, control and operation of an authority and its properties shall be vested in a board composed of nine members,

five of whom shall be appointed by the governing body of the principal city, two of whom shall be appointed by the commissioners court of the county with the largest population of all counties situated in whole or in part within the boundaries of the authority, and two of whom shall be appointed by the mayors of all incorporated cities, towns and villages (except the principal city) situated in whole or in part within the boundaries of the authority. Three of the members appointed by the governing body of the principal city, one of the members appointed by the commissioners court, and one of the members appointed by the incorporated cities, towns and villages (except the principal city) shall serve for an original term of one year and all other members shall serve for an original term of two years. Thereafter, all members shall serve for a term of two years.

The mayor of the city of largest population (other than the principal city) within the authority shall serve as chairman of an appointment board composed of all mayors of cities, towns and villages situated wholly or partially within the authority (excluding the principal city) and shall, by notice in writing to all members, call such meetings of the appointment board as may be deemed necessary to appoint a member to the board. Initial appointments shall be made within 60 days after the creation of an authority. Failure to make such appointments shall not impair the authority of the board to organize and conduct its business so long as a majority has been appointed and qualified. All vacancies on the board, whether by death, resignation or termination of the term of office, shall be filled for the remainder of the term in the manner provided for the original appointment of the member whose office becomes vacant.

Each member of the board shall be entitled to the sum of \$50 for each meeting of the board which he attends, not to exceed five meetings in any calendar month; and shall be reimbursed for his necessary and reasonable expenses incurred in the discharge of his duties.

The members of the board, who shall be resident citizens and qualified voters of the authority, shall elect from among their number a chairman, a vice-chairman and a secretary. The board may appoint such assistant secretaries, either members or nonmembers of the board, as it deems necessary. The secretary and assistant secretaries shall, in addition to keeping the permanent records of all proceedings and transactions of the authority, perform such other duties as may be assigned to them by the board. No member of the board or officer of the authority shall be pecuniarily interested and/or benefitted, directly or indirectly, in any contract or agreement to which the authority is a party.

Any member of the board may be removed from office by a majority vote of the remaining members of the board for inefficiency, neglect of duty or malfeasance in office; provided,

however, that the board shall furnish to such member a statement in writing of the nature of the charges as grounds for such removal which shall become final unless the member, within 10 days, requests a hearing before the board and opportunity to be heard in person or through counsel. After any such hearing, if the board by a majority vote finds that the charges are true, then its decision shall be final.

The board shall hold at least one regular meeting during each month for the purpose of transacting the business of the authority. Upon written notice, the chairman or the general manager may call special meetings as may be necessary. The board, when organized, shall by resolution spread upon the minutes, set the time, place and day of the regular meetings, and shall likewise adopt rules and regulations and such bylaws as it may deem necessary for the conduct of its official meetings. Five members shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and action may be taken by the authority upon a vote of a majority of the board members present unless the bylaws require a larger number for a particular action.

Confirmation and Emission Tax Election

Sec. 5. After the original board is organized, it shall call an election at which the following proposition shall be submitted to the qualified voters within the authority:

"Shall the creation of the _____ Rapid Transit Authority be confirmed and shall the board of such authority be authorized to levy and collect motor vehicle emission taxes?"

Notice of such election shall state the day and place or places for holding the election, the maximum vehicle emission taxes, by category, that may be authorized, and the proposition to be voted on and shall be published once a week for two consecutive weeks in a newspaper of general circulation within the authority. The first publication shall be at least 15 days before the date set for the election. The election shall be conducted in accordance with the provisions of the Texas Election Code, as amended.

Immediately after such election, the presiding judge of each election precinct shall return the results to the board, which shall canvass the returns and declare the results at the earliest practicable time. If a majority of the votes cast at the election is in favor of confirmation of the creation of the authority and the levy and collection of motor vehicle emission taxes, then the board shall enter the results on its minutes and adopt an order declaring that the authority is created and that the board is authorized to levy and collect motor vehicle emission taxes, which order shall contain a description of the boundaries of the authority, and a certified copy of which shall be filed with the Texas Mass Transportation Commission and in the

deed records of the county or counties in which the authority is located.

If a majority of the votes cast at the election is against confirmation of the creation of the authority and the levy and collection of motor vehicle emission taxes, the board shall enter the results on its minutes and adopt an order declaring that confirmation of the creation of the authority was defeated, and file a certified copy of such order with the Texas Mass Transportation Commission, whereupon the authority shall be dissolved.

Such election may be held separately or in conjunction with other elections, and the cost thereof shall be paid by the principal city.

Powers of the Authority

Sec. 6. The authority, when created and confirmed, shall constitute a public body corporate and politic, exercising public and essential governmental functions, having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including, but not limited to, the following powers herein granted:

(a) The authority shall have perpetual succession.

(b) The authority may sue and be sued in all courts of competent jurisdiction and may institute and prosecute suits without giving security for costs and may appeal from a judgment or judgments without giving supersedeas or cost bond.

(c) The authority may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease or dispose of, real and personal property of every kind and nature whatsoever, and licenses, patents, rights and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to the provisions of this Act.

(d) The authority shall have the power to acquire, construct, complete, develop, own, operate and maintain a system or systems within its boundaries, and both within and without the boundaries of incorporated cities, towns and villages and political subdivisions, and for such purposes shall have the right to use the streets, alleys, roads, highways and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other properties, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance and operation of the system, or to cause each and all of said things to be done at the authority's sole expense. The authority shall not proceed with any action to change, alter or damage the property or facilities of the

state, its municipal corporations, agencies or political subdivisions or of owners rendering public services, or which shall disrupt such services being provided by others, or to otherwise inconvenience the owners of such property or facilities, without having first obtained the written consent of such owners or unless the authority shall have first obtained the right to take such action under its power of eminent domain as herein specified. In the event the owners of such property or facilities desire to handle any such relocation, raising, change in the grade of, or alteration in the construction of such property or facilities with their own forces, or to cause the same to be done by contractors of their own choosing, the authority shall have the power to enter into agreements with such owners providing for the necessary relocations, changes or alterations of such property or facilities by the owners and/or such contractors and the reimbursement by the authority to such owners of the costs incurred by such owners in making such relocations, changes or alterations and/or in causing the same to be accomplished by such contractors.

In the event the authority, in exercising any of the powers conferred by this Act, makes necessary the relocation, adjustment, raising, lowering, rerouting or changing the grade of or altering the construction of any street, alley, highway or road, any railroad track, bridge or other facilities or properties, any electric lines, conduits or other facilities or properties, any telephone or telegraph lines, conduits or other facilities or properties, any gas transmission or distribution pipes, pipelines, mains or other facilities or properties, any water, sanitary sewer or storm sewer pipes, pipelines, mains or other facilities or properties, any cable television lines, cables, conduits or other facilities or properties, or any other pipelines and any facilities or properties relating thereto, any and all such relocations, adjustments, raising, lowering, rerouting or changing of grade or altering of construction shall be accomplished at the sole cost and expense of the authority, and all damages which may be suffered by the owners of such property or facilities shall be borne by the authority.

(e) The authority shall have the right of eminent domain to acquire lands in fee simple and any interest less than fee simple in, on, under and above lands, including, without limitation, easements, rights-of-way, rights of use of air space or subsurface space, or any combination thereof; provided that such right shall not be exercised in a manner which would unduly interfere with interstate commerce or which would authorize the authority to run its

vehicles on railroad tracks which are used to transport property.

Eminent domain proceedings brought by the authority shall be governed by the provisions of Title 52, Eminent Domain, Revised Civil Statutes of Texas, 1925, as they now exist or hereafter may be amended,¹ insofar as such provisions are not inconsistent with this Act. Proceedings for the exercise of the power of eminent domain shall be commenced by the adoption by the board of a resolution declaring the public necessity for the acquisition by the authority of the property or interest therein described in the resolution, and that such acquisition is necessary and proper for the construction, extension, improvement or development of the system and is in the public interest. The resolution of the authority shall be conclusive evidence of the public necessity of such proposed acquisition and that such real or personal property or interest therein is necessary for public use.

(f) The authority shall have the power to enter into agreements with any other public utility, private utility, communication system, common carrier, or transportation system for the joint use of their respective facilities, installations and properties of whatever kind and character within the authority and to establish through routes, joint fares or transfer of passengers.

(g) The authority shall establish and maintain rates, fares, tolls, charges, rents or other compensation for the use of the facilities of the system acquired, constructed, operated or maintained by the authority which shall be reasonable and nondiscriminatory and which, together with receipts from motor vehicle emission taxes collected by the authority, shall be sufficient to produce revenues adequate:

(1) to pay all expenses necessary to the operation and maintenance of the properties and facilities of the authority;

(2) to pay the interest on and principal of all bonds issued by the authority under this Act which are payable in whole or in part from such revenues, when and as the same shall become due and payable;

(3) to pay all sinking fund and reserve fund payments agreed to be made in respect of any such bonds, and payable out of such taxes and revenues, when and as the same shall become due and payable; and

(4) to fulfill the terms of any agreements made with the holders of such bonds or with any person in their behalf.

It is the intention of this Act that the motor vehicle emission taxes and the rates,

fares, tolls, charges, rents and other compensation for the use of the facilities of the system shall not be in excess of what may be necessary to fulfill the obligations imposed upon the authority by this Act. Nothing herein shall be construed as depriving the State of Texas of its power to regulate and control such taxes, rates, fares, tolls, charges, rents and other compensation, provided that the State of Texas does hereby pledge to and agree with the purchasers and successive holders of the bonds issued hereunder that the state will not limit or alter the powers hereby vested in the authority to establish and collect such motor vehicle emission taxes, rates, fares, tolls, charges, rents and other compensation as will produce revenues sufficient to pay the items specified in Subparagraphs (1), (2), (3) and (4), of this subsection next above, or in any way to impair the rights or remedies of the holders of the bonds, or of any person in their behalf, until the bonds, together with the interest thereon, with interest on unpaid installments of interest, and all costs and expenses in connection with any action or proceedings by or on behalf of the bondholders and all other obligations of the authority in connection with such bonds, are fully met and discharged.

(h) The authority may make contracts, leases and agreements with, and accept grants and loans from, the United States of America, its departments and agencies, the State of Texas, its agencies, counties, municipalities and political subdivisions, and public or private corporations and persons, and may generally perform all acts necessary for the full exercise of the powers vested in it. The authority may acquire rolling stock or other property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement. Any revenue bond indenture may provide limitations upon the exercise of the powers stated in this section and such limitations shall apply so long as any of the revenue bonds issued pursuant to such indenture are outstanding and unpaid.

(i) The authority may sell, lease, convey or otherwise dispose of any of its rights, interests or properties which are not needed for, or, in the case of leases, which are not inconsistent with, the efficient operation and maintenance of the system. It may sell, lease, or otherwise dispose of, at any time, any surplus materials or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(j) The authority shall by resolution make all rules and regulations governing the use, operation and maintenance of the system and shall determine all routings

and change the same whenever it is deemed advisable by the authority.

(k) The authority shall have power to lease the system or any part thereof to, or contract for the use or operation of the system or any part thereof by, any operator; provided, however, that a lease of the entire system shall be subject to the written consent and approval of the governing body of the principal city.

(l) The acquisition of any land or interest therein pursuant to this Act, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, protection, and policing of the authority's system and facilities, and the exercise of any other powers herein granted an authority, are hereby declared to be public and governmental functions, exercised for a public purpose, and matters of public necessity.

¹ Article 3264 et seq.

Bonds and Notes

Sec. 7. (a) The authority shall have no power to assess, levy or collect any ad valorem taxes on property, nor to issue any bonds or notes secured by ad valorem tax revenues. The authority, however, shall have the full power to issue bonds and notes, from time to time and in such amounts as it shall consider necessary or appropriate, for the acquisition, purchase, construction, reconstruction, repair, equipping, improvement or extension of such rapid transit system or systems and all properties thereof whether real, personal or mixed. All such bonds and notes shall be fully negotiable and may be made redeemable before maturity, at the option of the issuing authority, at such price or prices and under such terms and conditions as may be fixed by the issuing authority in the resolution authorizing such bonds or notes, and may be sold at public or private sale whichever the board may deem more advantageous.

(b) Prior to delivery thereof, all bonds and notes authorized to be issued hereunder and the records relating to their issuance shall be submitted to the Attorney General of Texas for examination, and if he finds that they have been issued in accordance with the constitution and this Act, and that they will be binding obligations of the authority issuing same, he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas, and after such approval and registration and the sale and delivery of the bonds to the purchaser, they shall be incontestable.

(c) In order to secure the payment of such bonds or notes, such authority shall have full power and authority to encumber and pledge all or any part of the receipts from motor vehicle emission taxes and all or any part of the revenues of its rapid transit system or systems, and to mortgage and encumber all or any part

of the properties thereof, and everything pertaining thereto acquired or to be acquired and to prescribe the terms and provisions of such bonds and notes in any manner not inconsistent with the provisions of this Act. As additional security for the payment of any such bonds or notes, any such authority may, by the terms of the instrument evidencing such encumbrance, grant to the purchaser under the power of sale in such instrument, a franchise to operate any such rapid transit system or systems, and the properties thereof, for a term not to exceed 25 years after purchase, subject to all laws regulating same then in force. If not prohibited by the resolution or indenture relating to outstanding bonds or notes, any such authority shall have full power and authority to encumber separately any item or items of real estate or personalty, including motorbuses, transit cars and other vehicles, machinery and other equipment of any nature, and to acquire, use, hold or contract for any such property under any lease arrangement, chattel mortgage or conditional sale, including, but not limited to, transactions commonly known as equipment trust transactions. Nothing herein shall be construed as prohibiting any such authority from encumbering any one or more rapid transit systems for the purpose of purchasing, building, constructing, enlarging, extending, repairing or reconstructing, another one or more of said systems and purchasing necessary property, both real, personal and mixed, in connection therewith.

(d) Refunding bonds or notes may be issued for the purposes and in the manner provided by general law, including, without limitation, Chapter 503, Acts of the 54th Legislature, Regular Session, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), as presently enacted or hereafter amended.

(e) Whenever the revenues of any rapid transit system shall be encumbered under this Act, the expense of operation and maintenance, including all salaries, labor, materials and repairs necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such revenues. The fares charged for transportation of passengers by any rapid transit system may be based on a zone system of determining fares or other fare classification determined by such authority to be reasonable.

(f) All such bonds and notes shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations and insurance companies. Such bonds and notes shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and

such bonds and notes shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

(g) If revenue bonds are to be issued by an authority to acquire any existing transportation system, or any part thereof, and the owner thereof is willing to accept said revenue bonds in lieu of cash, then in that event the revenue bonds may be exchanged for the property or for the stock of a corporation owning the property to be dissolved simultaneously.

Motor Vehicle Emission Taxes

Sec. 8. (a) The board of an authority shall be authorized to levy and cause to be collected motor vehicle emission taxes as herein provided. Such taxes shall be collected by the county tax assessor-collector of each county, situated in whole or in part within the authority from each motor vehicle owner whose residence is within such county and within the authority. Not later than November 1 of each year, the board shall certify to the county tax assessor-collector of each county situated in whole or in part within the authority's boundaries the rate of tax prescribed for each class of motor vehicles for the ensuing tax year. At the time the owner of a motor vehicle applies each year to the State Highway Department through the county tax assessor-collector of the county in which he resides for the registration of each such vehicle owned or controlled by him for the ensuing or current motor vehicle registration year or unexpired portion thereof, such owner shall pay to the county tax assessor-collector the motor vehicle emission taxes due or to become due to such authority on such motor vehicle for the ensuing or current tax year at the applicable rate prescribed by the board. The county tax assessor-collector shall refuse to issue a registration license for a motor vehicle until the emission tax thereon for the period covered by such registration license has been paid.

(b) The tax year for motor vehicle emission taxes shall consist of calendar quarters, the first quarter to commence on April 1 of each year. Each application so filed during the second quarter, the third quarter, or the fourth quarter shall be accompanied by three-fourths, one-half, or one-quarter, respectively, of the annual tax; and each application for re-registration filed subsequent to June 30th shall be accompanied by an affidavit that such vehicle has not been previously operated within the boundaries of the authority during any quarter of the current tax year, failing which the tax for the entire tax year shall be paid in full.

(c) The authority shall furnish to the tax assessor-collector of each county situated in whole or in part within the boundaries of the authority, motor vehicle emission tax receipts in triplicate each of which shall, when issued, bear a number or other identifying symbol of

the motor vehicle for which issued. The tax assessor-collector shall retain one copy and deliver the original to the taxpayer.

(d) Each tax assessor-collector shall receive a uniform fee of 45 cents for each tax receipt issued by him each tax year pursuant to this Act. Such fees shall be used to pay expenses reasonably incurred in collecting such taxes and issuing all tax receipts pursuant hereto.

(e) Each tax assessor-collector shall remit to the authority on or before the 15th day of each month, or at such other intervals of time as may be agreed upon by the authority and each tax assessor-collector, all taxes, penalties and interest collected on behalf of the authority for the preceding calendar month, or other agreed time interval, after deducting the collection fees and mailing charges described in the next preceding paragraph.

Rate of Tax

Sec. 9. Motor vehicles shall be classified by groups based upon the number of cubic inches of cylinder displacement of their motors or engines and the maximum emissions tax which may be levied by any authority shall not exceed the respective annual sums shown in the following table:

Cubic Inches of Cylinder Displacement	Annual Tax Per Vehicle
0-50	\$ 4
51-100	6
101-200	7
201-300	8
301-900	10
901 or more	15

The board of an authority shall each year fix the rate of tax for each group by fixing the percentage (not more than 100) of the foregoing respective maximum rates, which percentage shall apply equally and uniformly to all groups and to all members of each group.

Exempt Vehicles

Sec. 10. The owners of motor vehicles listed below shall be exempt from the payment of emission taxes on such vehicles, as follows:

(a) Those vehicles which are the property of and used exclusively in the service of the United States government, the State of Texas, or any county, city, school district or rapid transit authority thereof.

(b) Those used exclusively for fire-fighting; and

(c) Those owned by any person, association, corporation or partnership residing within the boundaries of an authority and doing business both within and without or wholly without such boundaries, which motor vehicles are not stationed or customarily kept within the boundaries of the authority and which are not regularly operated within such boundaries. "Regularly operated" means an average of two days per calendar week in a tax year or portion thereof for which such tax accrues. Resi-

dents of an authority claiming an exemption under this Subparagraph (c) shall file an affidavit with the county tax assessor-collector specifying the vehicles claimed to be exempted.

Payments and Penalties

Sec. 11. Motor vehicle emission taxes shall be due and payable on February 1 of each year for which levied and shall become delinquent if not paid by April 1 of such year; provided that taxes on vehicles becoming subject to such taxes after April 1 of any tax year shall be due and payable on the date such taxes accrue and shall become delinquent if not paid within 60 days thereafter.

The following penalties shall be payable on delinquent emission taxes, to wit: During the first month after delinquency, one percent; during the second month, two percent; during the third month, three percent; during the fourth month, four percent; during the fifth month, five percent; and during or after the sixth month, eight percent.

All delinquent emission taxes shall bear interest at the rate of six percent per annum from the date of their delinquency until paid.

Neither the levy, collection nor payment of a motor vehicle emissions tax shall be construed to authorize any act prohibited by law or by any rule or regulation lawfully promulgated.

Management

Sec. 12. The responsibility for the management, operation and control of the properties belonging to an authority shall be vested in its board. The board may:

(a) employ all persons, firms, partnerships or corporations deemed necessary by the board for the conduct of the affairs of the authority, including, but not limited to, a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers and operating or management companies, and prescribe the duties, tenure and compensation of each. All employees may be removed by the board;

(b) become a subscriber under the Texas Workmen's Compensation Act with any old-line legal-reserve insurance company authorized to write policies in the State of Texas;

(c) adopt a seal for the authority;

(d) invest funds of the authority in direct or indirect obligations of the United States, the state, or any county, city, school district or other political subdivision of the state; funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the state provided that they are secured in the manner provided for the security of the funds of counties of the State of Texas; the board, by resolution, may provide that an authorized representative of the authority may invest and

reinvest the funds of the authority and provide for money to be withdrawn from the appropriate accounts of the authority for the investments on such terms as the board considers advisable;

(e) fix the fiscal year for the authority;

(f) establish a complete system of accounts for the authority and each year shall have prepared an audit of its affairs by an independent certified public accountant or a firm of independent certified public accountants which shall be open to public inspection; and

(g) designate one or more banks to serve as the depository for the funds of the authority.

All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds or notes.

To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the authority's funds.

Rules and Regulations

Sec. 13. The board may adopt and enforce reasonable rules and regulations:

(a) to secure and maintain safety and efficiency in the operation and maintenance of its facilities;

(b) governing the use of the authority's facilities and services by the public and the payment of fares, tolls and charges;

(c) regulating privileges on any land, easement, right-of-way, rolling stock or other property owned or controlled by the authority; and

(d) regulating the collection and payment of emission taxes levied by the board.

A condensed substantive statement of the rules and regulations and the penalty for their violation shall be published after adoption once a week for two consecutive weeks in a newspaper with general circulation in the area in which the authority is located, which notice shall advise that breach of the rules and regulations will subject the violator to a penalty and that the full text of the rules and regulations is on file in the principal office of the authority where it may be read by any interested person. Such rules and regulations shall become effective 10 days after the second publication.

The board may set reasonable penalties for the breach of any rule or regulation of the authority which shall not exceed fines of more than \$200 or imprisonment for more than 30

days or both. Such penalties shall be in addition to any other penalties provided by the laws of the state and may be enforced by complaint filed in the appropriate court of jurisdiction in the county in which the authority's principal office is located.

An authority may employ its own peace officers with power to make arrests when necessary to prevent or abate the commission of an offense against the rules and regulations of the authority and against the laws of the state when the offense or threatened offense occurs on any land, easement, right-of-way, rolling stock or other property owned and controlled by the authority and to make arrests in cases of an offense involving injury or detriment to any property owned or controlled by the authority.

Competitive Bids

Sec. 14. Contracts for more than \$2,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies and all other property except real property, shall be let on competitive bids after notice published once a week for two consecutive weeks, the first publication to be at least 15 days before the date fixed for receiving bids, in a newspaper of general circulation in the area in which the authority is located. The board may adopt rules governing the taking of bids and the awarding of such contracts. This section shall not apply to personal and professional services or to the acquisition of existing transit systems.

Exemption of Bicounty Metropolitan Areas

Sec. 15. It is specifically provided that there shall not be included within the metropolitan area, as herein defined, any part of the territory situated within a bicounty metropolitan area. For the purpose of this exclusion, a "bicounty metropolitan area" is defined as an area comprised of two contiguous counties in each of which is located a city having a population of 350,000 or more according to the last preceding or any future federal census.

Right to Enter Land

Sec. 16. Engineers, employees, and representatives of an authority may go on any land within the authority boundaries to make surveys and examine the land with reference to the location of works, improvements, plants, facilities, equipment or appliances and to attend to any business of the authority; provided that two weeks' notice be given to the owners in possession and that if any of the authority's activities cause damage to the land or property, the land or property shall be restored as nearly as possible to the original state at the sole expense of the authority.

Exemptions from Taxes

Sec. 17. The property, revenues and income of the authority and the interest on bonds and notes issued by the authority shall be exempt from all taxes levied or to be levied by the

State of Texas, its political subdivisions, counties or municipal corporations.

Severability Clause

Sec. 18. If any word, phrase, clause, paragraph, sentence, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act shall nevertheless be valid, and the legislature hereby declares that this Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, part, or provision.

Construction of Act

Sec. 19. This Act shall be liberally construed to carry out the purpose of its adoption. This Act shall be cumulative of other laws on the subject but insofar as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1973, 63rd Leg., p. 302, ch. 141, eff. May 21, 1973.]

3. CITY REGULATION

Art. 1119. Rates Prescribed, Etc.

The governing body of all incorporated cities and towns in this State incorporated under the General Laws thereof shall have the power to regulate, by ordinance, the rates and compensation to be charged by all persons, companies, or corporations using the streets and public grounds of said city or town, and engaged in furnishing water, gas, telephone, light, power, or sewerage service to the public, and also to prescribe rules and regulations under which such commodities shall be furnished, and service rendered, and to fix penalties to enforce such charges, rules, and regulations. The governing body shall not prescribe any rate or compensation which will yield more than a fair return upon the fair value of the property used and useful in rendering its service to the public, but which return in no event shall ever exceed eight (8) per cent per annum.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 380, ch. 226, § 1; Acts 1937, 45th Leg., p. 274, ch. 144, § 1.]

Art. 1120. Protective Ordinances, Etc.

The governing body shall have power to pass such ordinances as they may deem proper to protect any said company, corporation or person, in the free enjoyment of all their rights and franchises, to protect any interference with their property or privileges, and to prevent the free or unauthorized use or waste of the water or other commodity or service furnished.

[Acts 1925, S.B. 84.]

Art. 1121. Reports

Any such company, corporation or person who may be engaged in furnishing to the inhabitants of any such city or town any water, light, gas or sewerage service, shall, on or before the first day of March of each year, file

with the mayor of such city or town a written report sworn to by the manager, secretary or president of such corporation, by a member of such company, and by any such person, which shall show:

1. The amount of any lien or mortgage upon the properties composing such plant;

2. All other indebtedness pertaining to such enterprise and the consideration therefor;

3. The actual cost of the visible physical properties, date when installed and the present value thereof, and herein the lands, machinery, buildings, pipes, poles, circuits, mains shall each be treated separately;

4. The annual cost of operating such plant, showing separate items, the amount paid for actual salaries, amount paid for labor of all kinds, fixed charges, including interest, taxes and insurance, giving each separately, amount paid for fuel, for extension and repairs, giving each separately, and particularizing the extension and repairs, the cost of maintenance, amount paid for damages, claim or suits for damages, identifying each claim or suit, amount paid for miscellaneous expenses, and, if any machinery or equipment is abandoned, worn out or its use discontinued within the preceding year, the same shall be stated, the original cost, and the present value thereof shall be given;

5. The report shall give the gross earnings from any such plant, including revenues from every source whatever, stating items separately, amount received by each department.

[Acts 1925, S.B. 84.]

Art. 1122. Penalties

Any such corporation, or any member of such company, or any such person mentioned in this chapter, who shall for thirty days wilfully refuse or fail to report in the manner provided by this chapter, shall forfeit and pay to any such city or town the sum of one hundred dollars per day for each and every day during which it shall continue in default; or, if any such corporation, or company, or person, shall file any report, knowing that the same does not truly report the facts about the matters mentioned therein, it shall forfeit and pay to such city or town the sum of two hundred and fifty dollars for each such wilfully false report. Such forfeitures and penalties shall be recovered at the suit of such city or town brought in the county where such city or town is located.

[Acts 1925, S.B. 84.]

Art. 1123. City Owned Plants

The governing body of any city or town incorporated under the general laws shall have the power where such city or town owns the plant, to regulate by ordinance, the rates and

compensation to be charged the public by such city or town for water, sewerage, gas, electricity or other fluid or substance used for lights, heat or power, to establish and operate necessary plants for the manufacture, generation or production thereof, and to sell and distribute the same to the public within the corporate limits.

[Acts 1925, S.B. 84.]

Art. 1124. Rates in Certain Cities

Any city having a special charter or a charter adopted or amended under the provisions of chapter 13 of this title,¹ and having authority under its charter to determine, fix and regulate the charges, fares or rates of compensation to be charged by any person, firm or corporation enjoying a franchise in said city, shall in determining, fixing and regulating such charges, fares or rates of compensation, base the same upon the fair value of the property of such person, firm or corporation devoted to furnishing service to such city, or the inhabitants thereof, and not upon any stocks or bonds issued or authorized to be issued, by, or any other indebtedness of, such person, firm or corporation. No city shall be responsible for, concerned with, authorize, approve or have jurisdiction over, the issuance or sale of any stocks or bonds by any such person, firm or corporation, but the issuance and sale thereof shall be governed solely by the Constitution and laws of this State applicable thereto.

[Acts 1925, S.B. 84.]

¹ Articles 1165 to 1182f.

Art. 1124a. Official Reading of Meters

Sec. 1. That hereafter any consumer or user of electric power, current, natural or artificial gas furnished by any private concern in any city, town or village in this State on complaint made to the city Commissioner or city council of any city, town or village within this State, shall have the right to have any meter which measures the amount of electricity or gas installed by the person furnishing said electrical current or gas for the purpose of ascertaining what amount to charge him for the use thereof, examined, read and tested by the agents, servants and employees of the city commissioners or city council, as the case may be; said agents, servants and employees being hereby given the right to break the seal, and examine, read and test the various meters and similar devices, in company with an agent of the furnisher of said electrical power, current and gas, if said furnisher desire its representative to be present, if not, then such examination to be had without him but three days' notice shall be given to all persons, firms or corporations furnishing said electricity or gas of said test.

Sec. 2. The word "meter" as used in this Act applies to any instrument, apparatus or machine used for measuring electric currents or gas and recording the results obtained.

Sec. 3. The words "person" and "furnisher" used in this Act refer to any corporation, association, partnership or individual engaged in furnishing electricity, electric current, electrical power or gas for consumption for hire in cities.

Sec. 4. That on demand of¹ said city council or city commissioners shall furnish the complaining consumer with a detailed report of the result of their reading, examination and testing of said meters or other said measuring devices for electrical current, or gas as hereinbefore referred to, said report to state whether or not said meter or measuring device is functioning properly, is in good condition, and the amount of electrical current, power or gas used by the consumer for any period of time preceding of not more than one year, such period to be designated by the consumer in his complaint hereinbefore mentioned.

Sec. 5. Any person or furnisher of electrical power and current or gas who fails or refuses to allow the agents of city commissioners or city council of any cities, towns or villages of the class hereinbefore mentioned to examine the meters and measuring devices hereinbefore referred to, shall be guilty of a misdemeanor, and be punished by a fine not to exceed two hundred (\$200.00) dollars, each and every day of such refusal to constitute a separate offense.

[Acts 1927, 40th Leg., p. 71, ch. 47.]

¹ So in enrolled bill. Word "of" probably should be omitted.

4. JUDICIAL REGULATION

Art. 1125. Excessive Rates

All extortionate and unreasonable rates charged by public utility corporations, as hereinafter defined, are hereby declared to be unlawful; and the district courts of this State are hereby vested with jurisdiction and full power and authority to regulate, prevent and abolish the same; and said courts are given the power and authority whenever the public interest may require, to fix and establish rates for the service and products of all public utility corporations, and whenever the public interest may require and to carry out the provisions herein conferred, said courts are hereby expressly authorized to issue injunctions, quo warranto, and all other writs for the purpose of carrying out and making effective the purposes of this chapter, and said writs shall be governed by the rules and regulations now prescribed by law. No proceeding shall be begun in the district court having for its purpose the fixing or¹ rates of public utility corporations until and unless the city council of the city or town desiring to invoke the power herein conferred upon the district courts shall comply with the provisions of the succeeding article.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Probably should read "of".

Art. 1126. Complaint

If the city council of any city or town incorporated under the general laws of this State,

shall desire to invoke the power of the district court granted in the preceding article, such council shall, by a two-thirds vote of all the members elected to said council, pass a resolution setting forth the matters complained of, naming the corporation against which the complaint is made, and in a general way the reasons for such complaint, and shall cause a copy of the same to be delivered to the president, vice president or secretary of said corporation, or cause to be left a copy of said resolution at the principal office of such corporation.

[Acts 1925, S.B. 84.]

Art. 1127. Suit

If, within twenty days after the said corporation has been furnished with a copy of the resolution of the city council, the wrongs complained of shall not be corrected to the satisfaction of the city council, a petition setting forth the wrongs and grievances complained of, and stating the relief sought, may be filed in the name of the city or town as plaintiff against the corporation as defendant in any district court of the county in which such city or town may be situated. Process shall be issued upon said petition, and be served upon such corporation as now provided by law in civil cases. The case shall be set for trial in the same manner as other civil cases, except that it shall have precedence over all cases of a different character filed in such court as to the time of trial. Process shall issue in said cause in the same manner as process may issue in civil cases. The right of trial by jury of the issues involved shall also be given upon the demand of either party.

[Acts 1925, S.B. 84.]

Art. 1128. Trial

Upon the trial of the cause, the court or jury, in arriving at a decision as to whether or not the rates complained of are reasonable or extortionate, and in fixing the rates, shall consider the cost of construction of the plant of the public utility corporation against which the petition is filed, the cost of the operation of such plant, its maintenance and repairs, the fixed charges that may be against the corporation, amount invested in such plant, and such other matters as may be material to the issues. The court trying the same shall have the power to order the corporation to make profert of its books and records for inspection in court in determining the question in issue. After a full hearing of all the evidence adduced, the court or jury shall have power, and it shall be their duty to fix the rates which may be charged by such public utility corporation; provided, that the rates fixed must be sufficient to yield such public utility company not less than ten per cent upon the investment, and the same shall continue in force for a period of three years. The rates fixed shall be entered of record upon the minutes of the court, and shall be held conclusive, as reasonable, fair and just, and shall remain for three years as the rates to be charged by such corporation, unless changed or

modified by the judgment of said district court, or by the appellate courts to which either of the parties to said suit may appeal, or have writ of error.

[Acts 1925, S.B. 84.]

Art. 1129. Appeal

If either party to the suit shall be dissatisfied with the decision of the court and the rate thereby established, an appeal may be taken by either party to the proper court of civil appeals, and said appeal shall be at once returnable to said court of civil appeals, and shall have precedence in such court of all cases of a different character therein pending. The parties to said suit may apply to the Supreme Court for a writ of error.

[Acts 1925, S.B. 84.]

Art. 1130. Enforcement

When the final judgment is rendered in any cause fixing the rates to be charged by said corporation, the court rendering such judgment shall order in its decree the enforcement of the same; and is authorized and empowered to provide in its decree that, if the same is not obeyed according to the terms thereof, the said corporation shall forfeit its charter if the same be a domestic corporation, or its permit to do business in this State if the corporation be a foreign corporation. If said order or decree be violated, it shall be the duty of the Attorney General, or county or district attorney, under the direction of the Attorney General, to institute suit in the district court of the county in which such corporation may have its principal office, or in Travis County, for the forfeiture of the charter of such corporation, or the cancellation of its permit, as the case may be, and, if said charter be forfeited or permit canceled, the offending corporation shall thereafter be prohibited from carrying on its business within this State.

[Acts 1925, S.B. 84.]

Art. 1131. Corporations Affected

The public utilities included within the meaning of this subdivision are defined to be water companies furnishing water to the public; gas companies furnishing gas to the public; electric light or power companies furnishing light or power to the public; telephone companies furnishing telephones to the public; sewerage companies conducting sewerage for the public, whether said companies are incorporated under the laws of this or a foreign State.

[Acts 1925, S.B. 84.]

Art. 1132. Cities Affected

Any city within this State, incorporated under a special law, may at its option, avail itself of the provisions of this subdivision, but the same shall be cumulative of any other method which may now be provided in such special charter, and this law shall not repeal any provisions of such special charters.

[Acts 1925, S.B. 84.]

CHAPTER ELEVEN. TOWNS AND VILLAGES

Article

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Art. 1133. May be Incorporated

When a town or village contains more than two hundred (200) and less than ten thousand (10,000) inhabitants, it may be incorporated as a town or village in the manner prescribed in Chapter 11, Title 28, of the Revised Civil Statutes of Texas, 1925, and all amendments thereto.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 68, ch. 55.]

Art. 1134. Mode of Incorporation

If the inhabitants of such town or village desire to be so incorporated, at least twenty residents thereof, who would be qualified voters under the provisions of this chapter, shall file an application for that purpose in the office of the county judge of the county in which the town or village is situated, stating the boundaries of the proposed town or village, the name by which it is to be known when incorporated, and accompany the same with a plat of the proposed town or village including therein no territory except that which is intended to be used for strictly town purposes. If any town or village be situated on both sides of a line dividing two counties, application may be made to the county judge of either county in which a portion of said town or village is located, in manner and form as herein provided. A new election shall not be ordered in less than one year.

[Acts 1925, S.B. 84.]

Art. 1134a. Incorporation of Cities and Towns Validated

Irregularities Not Invalidating Incorporation

Sec. 1. All cities and towns in Texas of five thousand (5000) inhabitants or less, heretofore

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

Governmental Proceedings Validated

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

Inapplicable to City or Town in Litigation

Sec. 3. The provisions of this bill shall affect no city or town now in litigation.

[Acts 1933, 43rd Leg., p. 125, ch. 58.]

Art. 1134b. Validating Incorporation of Cities of 600 or Over

All cities and towns of six hundred inhabitants or more which have heretofore attempted to accept the provisions of Title XXVIII and to become incorporated cities and towns of six hundred inhabitants or more under the General Laws of Texas, and have failed to comply with all the requirements of said General Laws, or which are not included within the literal meaning of those cities which are authorized to accept the provisions of said general laws, and all towns and villages incorporated under Chapter 14 or Chapter 11 of Title XXVIII of the Revised Civil Statutes of 1925, and which now have six hundred inhabitants or more, and which have heretofore attempted to accept the provisions of Title XXVIII and to become incorporated cities of six hundred inhabitants or more, but which said cities have from and after the dates of their several attempted incorporations and their several efforts to accept the provisions of said Title XXVIII, have exercised the functions of cities of the class named, and were by the State of Texas recognized as such cities, are hereby declared to be cities of six hundred inhabitants; and the several acts whereby they attempted to accept the provisions of said law are hereby in all things validated; and that all subsequent acts of said cities and towns done and performed as a city of six hundred inhabitants or more, after they had attempted to accept the provisions of said law, as aforesaid, are hereby validated and declared to be as binding as if said cities had been duly

and legally incorporated; provided, that nothing herein shall be construed as validating any act of said cities or the councils thereof, unless the same were authorized by the General Laws of the State under which they were attempting to act at the several dates when said acts were done; and provided, further, that the provisions of this article shall not validate the act of any town or city in adding additional territory to such city or town without the consent of such inhabitants so added to such city or town.

[Acts 1927, 40th Leg., p. 79, ch. 55, § 1.]

Art. 1134c. Validation of Incorporation of Cities and Towns between 200 and 10,000

Sec. 1. All cities and towns in Texas of more than two hundred (200) and less than ten thousand (10,000) inhabitants heretofore incorporated or attempted to be incorporated under the General Laws of Texas, Title 28, Revised Civil Statutes of Texas, 1925, and Senate Bill 144, passed by the Forty-seventh Legislature, Regular Session, 1941,¹ whether under the aldermanic form of government or the commission form of government, and which have functioned as incorporated cities and towns since the date of such incorporation, are hereby in all respects validated as of the date of such incorporation or attempted incorporation; and the incorporation of such cities and towns shall not be held invalid by reason of the fact that the election may have been ordered by the Commissioners Court instead of the County Judge, nor shall such incorporation be held invalid on account of irregularities in the petition for election, order of election, notice of election, returns of election, order declaring result of election, or other incorporation proceedings.

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

Sec. 3. The provisions of this Act shall affect no city or town now in litigation.

[Acts 1943, 48th Leg., p. 688, ch. 381.]

¹ Article 1133.

Art. 1135. Adjoining Territory Added

Whenever a majority of the inhabitants, who are qualified voters of any territory adjoining the limits of any town or village incorporated hereunder, shall vote in favor of becoming a part of said town or village, any three of them may make affidavit to such fact and file such affidavit with the mayor of said town or village, and such mayor shall certify the same to the council of said town or village. Thereupon, such council may, by ordinance, receive such inhabitants as a part of said town or village. Thenceforth the territory so received shall be a part of said town or village and the inhabi-

tants shall be entitled to all the rights and privileges of other citizens and bound by all the acts and ordinances made in conformity thereto and passed in pursuance of this chapter; provided, that the area of no town or village shall ever exceed that of cities or towns, as provided for in chapter one of this title.¹

[Acts 1925, S.B. 84.]

¹ Article 961 et seq.

Art. 1136. Election Order

If satisfactory proof is made that the town or village contains the requisite number of inhabitants, the county judge shall make an order for holding an election on a day therein stated and at a place designated within the town or village for the purpose of submitting the question to a vote of the people. He shall appoint an officer to preside at the election, who shall select two judges and two clerks to assist in holding it. After a previous notice of ten days, by posting advertisement thereof at three public places in the town or village, the election shall be held in the manner prescribed for holding elections in other cases.

[Acts 1925, S.B. 84.]

Art. 1137. Qualifications of Electors

Every person who has attained the age of twenty-one years and who has resided within the limits of the proposed town for the six months next preceding and is a qualified elector under the laws of this State, shall be entitled to vote at the election.

[Acts 1925, S.B. 84.]

Art. 1138. Ballots

On each ticket the voter must write or cause to be written or printed, "corporation" or "no corporation."

[Acts 1925, S.B. 84.]

Art. 1139. Returns

If a majority of the votes are cast in favor of incorporation the officers holding the election shall make return thereof to the county judge within ten days after the same was held. The county judge shall, within twenty days after the receipt thereof make an entry upon the records of the commissioners court that the inhabitants of the town or village are incorporated within the boundaries thereof; which boundaries shall also be designated in the entry. A certified copy of such entry, together with the plat of the town or village, shall thereupon be recorded in the proper record of deeds of such county.

[Acts 1925, S.B. 84.]

Art. 1139a. Validating the Incorporation of Certain Cities and Towns

Where, in any city or town heretofore incorporated or attempted to be incorporated under the General Laws of Texas, the petition calling for an election for the purpose of incorporating any such city or town, the order of the County Judge ordering such election, the no-

tice, or notices of such election, the order of the County Judge declaring the result of such election, by inadvertence, oversight, or mistake, contained an incorrect description by metes and bounds of the territory incorporated or here attempted to be incorporated as such city or town, or where any other such irregularity in the proceedings for such incorporation was had; and where the governing body of such city or town has entered an ordinance correcting and setting forth the true field notes of the territory so incorporated or attempted to be incorporated, or where such ordinance has been entered correcting any other such irregularity in the proceedings for the incorporation of such city or town, and where such city or town has been acting or operating as an incorporated city or town, such incorporation, and any and all ordinances correcting the field notes, or any other irregularity of the proceedings has¹ for incorporation, are hereby in all things ratified, confirmed and validated and such cities or towns are hereby declared to be legally and validly incorporated.

[Acts 1931, 42nd Leg., 1st C.S., p. 79, ch. 36, § 1.]

¹ Probably should be "had".

Art. 1140. Powers of Corporation

When the entry mentioned in the preceding article has been made, the town shall be invested with all the rights incident to such corporation under this chapter, and shall have power to sue and be sued, plead and be impleaded, and to hold and dispose of real and personal property, provided such real property is situated within the limits of the corporation.

[Acts 1925, S.B. 84.]

Art. 1141. Election of Officers

The county judge shall immediately order an election for a mayor, a marshal and five aldermen. No person shall be eligible to any of said offices unless he possess the requisites provided by this chapter for persons qualified to vote hereunder.

[Acts 1925, S.B. 84.]

Art. 1142. Commission

The county judge shall, immediately after the returns have been made, commission the candidate who received the highest number of votes for the office of mayor, and shall deliver certificates of election to the other officers elected.

[Acts 1925, S.B. 84.]

Art. 1143. Term of Office

(a) The mayor, alderman and all other officers elected at the first election under this chapter, regardless of the time of such first election, shall hold their offices until their successors shall have been duly elected and qualified at the next succeeding annual election, according to the provisions of the succeeding article.

(b) In lieu of one year terms of office, the board of aldermen may provide by ordinance

for two year staggered terms of office for the mayor and aldermen. If such an ordinance is adopted, the mayor and two aldermen, determined by lot at the first meeting of the board of aldermen following the next annual election after the adoption of the ordinance, shall serve two year terms. The remaining aldermen hold office for an initial term of one year. Thereafter, all members of the board of aldermen hold office for terms of two years and until their successors have qualified.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1011, ch. 441, § 1, eff. Aug. 28, 1967.]

Art. 1144. Annual Election

The annual election of officers of all towns and villages incorporated under the provisions of this chapter shall be held on the first Saturday in April of each year. The mayor, or in case of his inability or refusal to act, any two aldermen, shall order such annual election by notices posted for at least twenty days at three public places within the corporate limits. The returns of such election shall be made to the town or village council, and certificates of election given by the mayor or person acting as such to the persons elected to the various offices of such corporation.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1931, ch. 723, § 75, eff. Aug. 28, 1967.]

Art. 1145. Quorum May Pass By-laws

The mayor shall be the president of the board of aldermen and shall, with three of the aldermen, constitute a quorum for the transaction of business; and the quorum shall have power to enact such by-laws and ordinances not inconsistent with the laws and constitution of this State as shall be deemed proper for the government of the corporation.

[Acts 1925, S.B. 84.]

Art. 1146. Powers of Aldermen

The board of aldermen shall:

1. Have power to levy and collect an occupation tax of not more than one-half of the amount levied by the State; also to levy taxes on persons and property, real and personal, within the corporation, subject to taxation by the laws of this State; but the tax on persons and property shall not, in any one year, exceed the rate of one-fourth of one per cent on the one hundred dollars valuation.

2. Have and exercise exclusive control over the streets, alleys and other public places within the corporate limits; provided, that, with the consent of the board of aldermen, where streets are continuations of public roads, the commissioners court shall have power to construct bridges and other improvements thereon which facilitate the practicability of travel on said streets.

3. Have the power to cause the male inhabitants between the ages of twenty-one and forty-five years, except ministers of the

gospel actually engaged in the discharge of their duties, to work on the streets and public alleys not to exceed five days in any one year, or furnish a substitute, or a sum of money, not to exceed one dollar for each day's work demanded, to employ such substitute.

4. Prevent, as far as practicable, any nuisances within the limits of the corporation, and cause such as exist to be removed at the expense of the person by whom they were occasioned or upon whose property they may be found.

5. Have power to prescribe the fine to be imposed by the mayor for the violation of any by-laws or ordinance, which shall in no case exceed one hundred dollars; but no fine shall be imposed except upon the verdict of a jury, should the defendant demand a trial by jury.

6. Fill, for the unexpired term, any vacancy which may occur in any office created by this chapter or by the board of aldermen under its provisions, such vacancy to be filled by the acting aldermen.

7. Have power to appoint such officers, other than those mentioned in this chapter, as shall be deemed necessary to carry out the provisions of the same, to prescribe their duties and to fix their compensation; and shall also have power to dismiss them at any time and appoint others in their stead.

8. Prescribe the bonds and security which the marshal and such other officers as may be appointed shall give, which shall be executed and approved by the mayor, before the marshal or other officer shall enter upon the discharge of his duties, said bond to be payable to the corporation.

9. Have power to appoint another marshal or officer in the place of the one so elected or appointed if the bond required in the preceding paragraph is not given within five days after the marshal is elected or appointed.

10. The board of aldermen may establish markets and may do whatever else may be necessary to give effect to the provisions of this chapter.

[Acts 1925, S.B. 84.]

Art. 1147. Powers of Marshal

The marshal shall have the same power within the town that constables shall have within their precincts, and shall be entitled to the same fees. He shall discharge all other duties that may be prescribed by the by-laws and ordinances, not inconsistent with the laws of this State, and shall receive therefor such fees as may be fixed by the board. He shall assess and collect the corporation tax, and if the same be not voluntarily paid, he shall have power to make the collection in the same manner and with like effect as is prescribed in chapter 5 of

this title for collection of taxes in cities, so far as applicable.

[Acts 1925, S.B. 84.]

Art. 1148. Tax Sales

When any property shall be liable to assessment for corporation taxes, and the owner is unknown, such property shall be valued by the marshal and assessed by its description, stating that the owner of the property is unknown; unless the taxes are paid, the property shall be sold for the payment thereof, as nearly as may be in the manner in which such property when duly rendered is required to be sold, and the sale shall be equally valid. Real estate sold for taxes due the corporation may be redeemed as provided in chapter 5 of this title. Where the purchaser does not reside within the limits of the corporation, the estate may be redeemed by making the payment into the treasury of the corporation for the benefit of the purchaser.

[Acts 1925, S.B. 84.]

Art. 1149. Condemnation for Highways

Any town or village in this State, incorporated under this chapter or by special charter, shall have the right, and they are hereby empowered, to condemn the right of way and roadbed of any railway company whose roadbed runs within the corporate limits of such town or village, when deemed necessary and so declared, by a majority vote of the board of aldermen, for the purpose of opening, widening or extending the streets of such town or village; provided, there are less than four railroad tracks. Failing to agree on the damages to be paid therefor, the mayor shall prepare a statement in writing showing the point on said railroad right of way where said street is desired to be opened, widened or extended, giving the width and length of that portion of the right of way of the railroad sought to be condemned, and describing it so that it can be clearly identified, the object for which it is sought to be condemned, the name and style of the railway company, and file the same with the county judge of the county in which such town or village is situated, whereupon proceedings shall be had to condemn said right of way.

[Acts 1925, S.B. 84.]

Art. 1150. Commissioners Court May Condemn

County commissioners shall have the right, upon petition of twenty freeholders of any community, or unincorporated town or city, to condemn roadbed of railroads for the same purpose mentioned in the preceding article.

[Acts 1925, S.B. 84.]

Art. 1151. Crossings: Duty of Railroad

Every railroad company in this State shall place and keep that portion of its roadbed and right of way over or across which any public street of any incorporated town or village may run, in proper condition for the use of the traveling public; and in case of its failure to do so for thirty days after written notice given to the section boss of the section where such

work or repairs are needed, by the town marshal of such town or village, it shall be liable to a penalty of twenty-five dollars for each week such railroad may fail or neglect to comply with the requirements of this article, recoverable in any court having jurisdiction of the amount involved, in a suit in the name of such town or village.

[Acts 1925, S.B. 84.]

Art. 1152. Publication of Ordinances

Sec. 1. No ordinance or by-law shall be enforced until it has been published at least ten days in three public places in the town, or in a newspaper if one be published in the corporation. If no newspaper is published in the corporation, such ordinance or by-law may be published in some newspaper having general circulation in the town. If such newspaper be published weekly, the publication shall be made in one issue thereof.

Sec. 2. In lieu of the publication required in Section 1 of this Article, the governing body may in its discretion provide for the publication of a descriptive caption or title, stating in summary the purpose of the ordinance or by-law and the penalty for violation thereof.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 468, ch. 212, § 1, eff. May 19, 1967.]

Art. 1153. Amendment of Charter

Towns and villages heretofore incorporated by the Congress of the Republic or the Legislature of this State may, by a resolution of the board of aldermen and a two-thirds vote of the voters at an election held therefor, amend their charters in any particular not in conflict with the constitution of this State or the Revised Statutes. In order to amend the charter of any town or village, it shall be necessary, before said amendment shall go into effect, for the board of aldermen to adopt a resolution setting forth the amendment; and a certified copy of the same shall be approved by the Attorney General and recorded in the office of the Secretary of State before the same shall take effect.

[Acts 1925, S.B. 84.]

Art. 1153a. Change in Designation from Town to City

Sec. 1. Any town in this state which has been duly and legally created under the laws relating to cities and towns, and which has heretofore adopted or may hereafter adopt the provisions of Title 28, Revised Civil Statutes of Texas, as amended, may by ordinance passed by the governing body of such town, change its designation from town to city; provided, however, the change in the designation of such town shall in no wise affect its corporate existence or powers:

Sec. 2. Any bonds which have been voted by such town and which bonds are unissued prior to the change of such designation from town to city may be issued in the name of such city as designated in the ordinance changing its designation.

[Acts 1961, 57th Leg., p. 331, ch. 177.]

**CHAPTER TWELVE. COMMISSION
FORM OF GOVERNMENT**

Article

- 1154. Petition for Election; Change to Aldermanic Form.
- 1155. Unincorporated Towns.
- 1156. Ballot.
- 1157. Election.
- 1158. Officers.
- 1159. Vacancies.
- 1160. Shall Supersede Council.
- 1161. Officers Appointed.
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- 1163. Commissioners, Duties, etc.
- 1164. Meetings and Salary.
- 1164a. Incorporations Validated.
- 1164b. Special Elections Changing Form of Government Validated.
- 1164c. Validation of Incorporation, Boundary Lines and Governmental Proceedings.

Art. 1154. Petition for Election; Change to Aldermanic Form

Sec. 1. Whenever ten (10%) per cent of the qualified voters of any incorporated city or town having a population of over five hundred (500) and less than five thousand (5,000) inhabitants incorporated under the provisions of this title or any previous General Law, or hereafter incorporated under any General Law, or of any incorporated town or village having a population of more than five hundred (500) and less than one thousand (1,000) inhabitants incorporated under Chapter 11, of this Title or any previous General Law, or hereafter incorporated under any General Law, shall petition in writing the Mayor of said city, town or village requesting that an election be ordered to determine whether such city, town or village shall adopt the Commission form of government, the Mayor shall order an election in such city, town or village, to determine whether or not the Commission form of government shall be adopted. Thirty (30) days notice of such election shall be given by publishing such notice in some newspaper therein if there be one, and if none, then by posting notices of same at three (3) public places in such town, city or village. Provided, that any city or town now or hereafter operating under the Commission form of government may adopt the Aldermanic form of government as provided in Article 977, Revised Civil Statutes of Texas, 1925, or other lawful form of government for such city or town when authorized to do so by a majority vote at an election called and held for the purpose. Such election shall be called and held under the same procedure provided for the adoption of the Commission form of government.

Sec. 1a. Provided however, that in the event of such election where a city changes from a Commission form to an Aldermanic form of government, the Mayor and two Commissioners shall continue in office as Mayor and Aldermen respectively for the remainder of their respective terms.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 791, ch. 425.]

Art. 1155. Unincorporated Towns

If any unincorporated city or town in this State, having a population of over five hundred and less than five thousand inhabitants, or any unincorporated town or village in this State having a population of more than two hundred and less than one thousand inhabitants, shall desire to be incorporated under the commission form of government as herein provided, an election to determine whether such incorporation may be had shall be called by the county judge of the county under the provisions herein governing incorporated cities and towns, and incorporated towns and villages, and notice of such election shall be given as herein provided, and if satisfactory proof is made that the city or town or village contains the requisite number of inhabitants, the county judge shall make an order for holding an election on a day therein stated, and at a place designated within the city or town or village, for the purpose of submitting the question to a vote of the people.

[Acts 1925, S.B. 84.]

Art. 1156. Ballot

The ballots to be used in said election shall have written or printed thereon "For Commission" or "Against Commission."

[Acts 1925, S.B. 84.]

Art. 1157. Election

The mayor or county judge, as the case may be, shall appoint two judges of election, one of which shall be designated as the presiding judge, and two clerks, to hold said election. The election shall be held and governed by the general laws of this State except as herein otherwise provided, and the returns shall be made to the mayor or the county judge, as the case may be within five days after said election shall have been held. If a majority of the votes cast are "For Commission," then the mayor or county judge shall enter an order to that effect upon the minutes of the city council, or board of aldermen, or of the commissioners court, and after the entry of said order said incorporated city or town or village shall be under the commission form of government, and said unincorporated city or town, or unincorporated town or village, shall be incorporated and under the commission form of government.

[Acts 1925, S.B. 84.]

Art. 1158. Officers

At such election there shall be elected two commissioners, who shall serve until the first Saturday in April following, and in said unincorporated cities and towns, and unincorporated towns and villages, there shall at such elections be elected a mayor and two commissioners, who shall serve until the first Saturday in April following. The mayor of the incorporated cities and towns, and incorporated towns and villages, adopting the commission form of government shall continue to hold his office

for the term for which he was elected. The term of office of the mayor and commissioners, except the first elected under the provisions hereof, shall be two years, and they shall be elected on the first Saturday in April every two years.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1932, ch. 723, § 75, eff. Aug. 28, 1967.]

Art. 1159. Vacancies

In case of the death or the resignation of the mayor or commissioners, the others shall fill the place by appointment, provided, that shall a vacancy occur from death, resignation, or failure to qualify, or any other cause, of the mayor and one commissioner at the same time, or of two commissioners at the same time, the vacancy shall be filled by special election called by the county judge of the county, upon notice for the time, and subject to all the regulations herein for the original election; the result of said election shall be certified by the county judge to the clerk of said commission, and shall be entered upon the minutes.

[Acts 1925, S.B. 84.]

Art. 1160. Shall Supersede Council

In incorporated cities and towns and incorporated towns and villages, adopting the commission form of government under the provisions hereof, the members of the city council, and board of aldermen shall hold their offices until the commissioners elected hereunder shall have qualified, and after such qualification, the officers of the city council, and board of aldermen shall be abolished, and the mayor and commissioners herein provided for shall constitute the "Board of Commissioners" of said city or town, or town or village.

[Acts 1925, S.B. 84.]

Art. 1161. Officers Appointed

Said "Board of Commissioners" shall appoint a competent person to be Clerk, who shall also be Assessor and Collector of Taxes of such city or town, or town or village. He shall before entering upon the duties of his office, enter into a good and sufficient bond, to be executed by a surety company authorized to do business in the State of Texas, in an amount sufficient to adequately protect the funds of such city or town, but in no event less than twice the largest amount collected at any one time in the preceding fiscal or calendar year, to be determined by the Board of Commissioners, and said bond to be approved by the Board and filed and recorded in the minutes thereof. Said Clerk shall be invested and charged with and shall exercise all the power, rights and duties conferred upon and imposed by the General Laws, upon the Clerk, Treasurer, Assessor and Collector of Taxes, of cities and towns, or towns and villages, as the case may be. The Board shall also have the authority to appoint a City Attorney and such police force and such other officers as they may deem necessary, and fix the salary or other compensation to be received by such Clerk, and by such officers, and

define their duties, and at any time may abolish any office which it creates, and may discharge any officer, clerk or employee which it appoints.

[Acts 1925, S.B. 84; Acts 1953, 53rd Leg., p. 565, ch. 210, § 1.]

Art. 1162. Bond of Officers

The mayor and each commissioner shall enter into a bond in the sum of three thousand dollars each, conditioned for the faithful performance of the duties of their office; said bond of the officers, first elected hereunder, shall be approved within twenty days after the entry upon the minutes of the city council, or board of aldermen or the commissioners court, as the case may be, by the county judge of the county in which such city or town, or town or village is located, and to be payable to said city or town or town or village for its use and benefit. All subsequent bonds of officers elected hereunder shall be approved by the "Board of Commissioners."

[Acts 1925, S.B. 84.]

Art. 1163. Commissioners, Duties, etc.

The "Board of Commissioners" of all incorporated and unincorporated cities or towns or towns and villages of over five hundred and less than five thousand inhabitants incorporated under or adopting the commission form of government under the provisions of this chapter, shall have all of the authority and powers, and be subject to all of the duties granted and conferred under Chapters 1 to 10 both inclusive of this title, except where same may conflict with some provision of this chapter. In incorporated and unincorporated towns and villages of more than two hundred and not more than five hundred inhabitants, adopted or incorporated under the commission form of government hereunder, the "Board of Commissioners" shall have all authority and powers conferred under Chapter 11 of this title except where the same may be in conflict with some provision contained herein.

[Acts 1925, S.B. 84.]

Art. 1164. Meetings and Salary

Said Board shall hold at least one regular monthly meeting; and the mayor or two (2) commissioners may call as many special meetings as may be necessary to attend to the municipal business. Each commissioner and said mayor shall receive for his service Five Dollars (\$5) per day for each regular meeting, and Three Dollars (\$3) per day for each special meeting. The mayor or any commissioner shall not receive pay for more than five (5) special meetings in any one month. In lieu of such per diem said "Board of Commissioners" of any such town or city with not less than two thousand (2,000) population, may fix the salary to be received by the mayor and commissioners, not to exceed the sum of Twelve Hundred Dollars (\$1200) per year for said mayor and Six Hundred Dollars (\$600) per year for each commissioner.

In lieu of such per diem said "Board of Commissioners" of any such town or city containing less than two thousand (2,000) population, according to the last preceding Federal Census, may fix salary to be received by the mayor not to exceed the sum of Six Hundred Dollars (\$600) per year.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 658, ch. 326, § 1.]

Art. 1164a. Incorporations Validated

In all cities and towns heretofore incorporated, or attempted to be incorporated, under the provisions of Chapter 12, Title 28, Revised Civil Statutes of Texas, 1925, which have functioned as incorporated cities and towns since the date of incorporation, or attempted incorporation, and the boundaries of which have been defined by the Board of Commissioners of such cities and towns, by ordinance duly adopted and placed in the Minutes of such Board of Commissioners, the incorporation of such cities and towns to include the exact territory described in said ordinance so adopted, be and the same is hereby validated, ratified, approved, and confirmed; and the boundaries of said cities and towns as defined in such ordinance shall control and prevail over the boundaries set forth in the incorporation proceedings of such cities and towns.

[Acts 1945, 49th Leg., p. 540, ch. 326, § 1.]

Art. 1164b. Special Elections Changing Form of Government Validated

Sec. 1. In each instance where, prior to January 1, 1971, a special election has been held in a city or town operating under the general laws for the purpose of changing the form of government of such city or town from the aldermanic form to the commission form, or for the purpose of changing the form of government of such city or town from the commission form to the aldermanic form, as authorized by Article 1154, Revised Civil Statutes of Texas, 1925, as amended, and such special election was held on the same day that a primary election was held throughout the state as prescribed in the Election Code of the State of Texas, as amended, such special election for the purpose of changing the form of government in such city or town, and the election of city officials under the new form of government so adopted by the voters at such special election, shall not be held invalid by reason of the fact that such special election was held on the same day as a primary election day. Such special election to change the form of government in any such city or town is hereby in all things ratified, validated, and confirmed, and the election of city officials under the new form of government so adopted by the voters at such election is hereby ratified, validated, and confirmed.

Sec. 2. All governmental proceedings performed by the governing bodies of such cities and towns and all offices thereof since such election changing the form of government of all such cities and towns are hereby in all re-

spects validated as of the respective date of such proceedings.

Sec. 3. The provisions of this Act shall not apply to any city or town now involved in litigation questioning the legality of an election changing the form of government under Article 1154, Revised Civil Statutes of Texas, 1925, as amended, or the election of city officials under the new form of government so adopted at such election, if such litigation is ultimately determined against the legality thereof; nor shall this Act be construed as validating any proceeding which may have been nullified by a final judgment of a court of competent jurisdiction.

[Acts 1971, 62nd Leg., p. 906, ch. 132, eff. May 10, 1971.]

Art. 1164c. Validation of Incorporation, Boundary Lines and Governmental Proceedings

Sec. 1. All towns heretofore incorporated or attempted to be incorporated under the commission form of government (as provided by Chapter 12 of Title 28, Revised Civil Statutes of Texas, 1925, as amended), which are now functioning or attempting to function as an incorporated municipality are hereby in all respects validated, ratified, and confirmed as of the date of the canvass of the returns and declaration of the result of the incorporation election; and the incorporation of such towns shall not be held invalid by reason of the fact the election or other proceedings may not have been in accordance with law, provided the election order was entered by the county judge or the person purporting to act as mayor of an unincorporated municipality at least 10 days prior to the election on incorporation, and a majority of the voters at the election approved such incorporation.

Sec. 2. The area and boundary lines of all such towns included by the original incorporation proceedings are in all things hereby validated, ratified, approved, and confirmed.

Sec. 3. All governmental proceedings and acts performed by the governing bodies of such towns, except such governmental proceedings that relate to any boundary changes subsequent to the date of incorporation or attempted incorporation, and all actions of officers thereof since their incorporation or attempted incorporation are hereby in all respects validated, ratified, approved, and confirmed as of the respective date of such proceedings and acts.

Sec. 4. The provisions of this Act shall not apply to any city or town now involved in litigation which constitutes a direct attack on the legality of the proceedings pursuant to which the incorporation or attempted incorporation was accomplished or to any of the acts or proceedings hereby validated, if such litigation is ultimately determined against the legality thereof.

[Acts 1973, 63rd Leg., p. 364, ch. 161, eff. May 23, 1973.]

CHAPTER TWELVE A. CITY-MANAGER PLAN

Article

- 1164a-1. Adoption of City-Manager Plan.
- 1164a-2. Definition.
- 1164a-3. Adoption of Act; Election; Petition.
- 1164a-4. Appointment of City Manager; Salary.
- 1164a-5. Powers and Term of Manager.
- 1164a-6. Qualifications of Manager.
- 1164a-7. All Officers to be Appointive.
- 1164a-8. Abandonment of City-Manager Plan; Petition; Election.
- 1164a-9. Duties of Governing Body Upon Abandonment of City-Manager Plan.
- 1164a-10. Conduct of Elections.

Art. 1164a-1. Adoption of City-Manager Plan

Any incorporated city, town or village in this State incorporated under the General Laws, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census, may vote upon the question of adopting a city-manager plan of government as in this Act provided.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 1.]

Art. 1164a-2. Definition

The word "city" where used in this Act shall mean any city, town or village incorporated under the General Laws of this State, having a population of less than five thousand (5,000) inhabitants according to the last preceding or any future Federal Census.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 2.]

Art. 1164a-3. Adoption of Act; Election; Petition

Before the provisions of this Act shall apply to and become operative in any city of this State, it shall be submitted to a vote of the legally qualified electors of such city for adoption, and shall receive a majority of all the votes cast thereon at such election. Provided, however, that upon the filing of a petition with the city clerk, signed by not less than twenty (20) per cent of the total number of legally qualified electors voting for mayor at the last preceding city election, requesting the mayor to call a special election for the adoption of this Act, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit this Act for adoption, and shall be signed by the mayor and attested by the city clerk, and shall be published in some newspaper of general circulation within the city for one time not less than ten (10) days preceding said election. Such proclamation shall be posted in at least five (5) conspicuous places within such city not less than ten (10) days preceding such election.

The ballots used for the submission of such question shall be substantially as follows:

FOR the governing body of the city of (naming the city) appointing a city man-

ager and fixing by ordinance the salary of such manager.

AGAINST the governing body of the city of (naming the city) appointing a city manager and fixing by ordinance the salary of such manager.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 3.]

Art. 1164a-4. Appointment of City Manager; Salary

If a majority of all votes cast at such election shall be in favor of the appointment of a city manager, then the governing body of such city shall within sixty (60) days after such election appoint a city manager and by ordinance shall fix his salary.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 4.]

Art. 1164a-5. Powers and Term of Manager

If such city has authorized by vote, as in this Act provided, the appointment of a city manager, then after the appointment of such city manager as herein provided, the administration of the city's business shall be in the hands of such manager. The manager shall be appointed by the governing body and shall hold office at the pleasure of the governing body. The governing body shall be responsible for the manager's efficient administration of the city's business. The governing body by ordinance may delegate to and confer upon such manager such additional powers and duties as in their judgment may be proper for the efficient administration of the city affairs.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 5.]

Art. 1164a-6. Qualifications of Manager

The manager shall be chosen solely upon the basis of administrative ability. Choice shall not be limited by any resident qualifications. The manager shall give bond for the faithful performance of his duties, in such amount as may be provided by ordinance.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 6.]

Art. 1164a-7. All Officers to be Appointive

When a majority of the voters have adopted the provisions of this Act as set out in Section 3,¹ thereafter all officers of such city except members of the governing body shall be appointed as may be provided by ordinance; provided that any officer who has been elected by a vote of the people shall be allowed to serve until the expiration of his term of office.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 6a.]

¹ Article 1164a-3.

Art. 1164a-8. Abandonment of City-Manager Plan; Petition; Election

Any such city which has authorized the appointment of a city manager as in this Act provided may abandon such city-manager plan at any time after any such city has elected to come under the provisions of this Act, and on the filing of a petition with the city clerk signed by not less than twenty (20) per cent of the total number of legally qualified electors

voting for mayor at the last preceding city election, requesting the mayor to call a special election for the abandonment of the city-manager form of government, it shall be the duty of the mayor within ten (10) days after the filing of such petition, to issue a proclamation calling a special election for such purpose, and such election shall be held within thirty (30) days after the filing of such petition. Such proclamation shall state that the election is called in order to submit the question of the abandonment of the city-manager plan of government as previously adopted by such city, and such proclamation shall be published as provided in Section 3 of this Act.¹

The ballots used for the submission of such question shall be substantially as follows:

FOR abandoning the city-manager plan of government in the city of (naming the city).

AGAINST abandoning the city-manager plan of government in the city of (naming the city).

[Acts 1943, 48th Leg., p. 615, ch. 356, § 7.]

¹ Article 1164a-3.

Art. 1164a-9. Duties of Governing Body Upon Abandonment of City-Manager Plan

If a majority of all the votes cast at such election shall be in favor of the abandonment of the city-manager plan, then the governing body of such city shall within sixty (60) days after such election discharge the city manager, and shall then assume the powers and duties delegated to such governing body under the existing laws, in the same manner and to the same extent as though the provisions of this Act had never been adopted.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 8.]

Art. 1164a-10. Conduct of Elections

Such elections as may be provided for or authorized by this Act¹ shall be called, held and conducted as near as practical the same as other city elections except as otherwise provided in this Act.

[Acts 1943, 48th Leg., p. 615, ch. 356, § 9.]

¹ Articles 1164a-1 to 1164a-10.

CHAPTER THIRTEEN. HOME RULE

Article

- 1165. May Change Charter.
- 1166. Requisites of Submission.
- 1167. Submission of Charter.
- 1168. First Election.
- 1169. Adoption of Charter.
- 1170. Amendments.
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- 1174. Registration.
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Article

- 1174a-3. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards.
- 1174a-4. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers.
- 1174a-5. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards.
- 1174a-6. Validation of Adoption of Charter of Home Rule Cities with Population in Excess of 10,000; Elections.
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- 1174a-8. Validation of Adoption of Charter; Elections; Governmental Proceedings.
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- 1182c-5. Cities Which Have Annexed Territory Within Water Control and Improvement, Fresh Water Supply or Municipal Utility Districts.
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Article

- 1182e. Exposition or Convention Halls in Cities of 290,000 or More.
 1182f. Validating Certain Tax Proceedings.
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Art. 1165. May Change Charter

Cities having more than five thousand inhabitants may, by a majority vote of the qualified voters of said city, at an election held for that purpose, adopt or amend their charters, subject to such limitations as may be prescribed by the Legislature. No charter or any ordinances passed under said charter shall contain any provision inconsistent with the Constitution or general laws of this State; said cities may levy, assess and collect such taxes as may be authorized by law, or by their charters; but no tax for any purpose shall ever be lawful for any one year which shall exceed two and one-half per cent of the taxable property of such city, and no debt shall ever be created by any city unless at the same time provision be made to assess and collect annually a sufficient sum to pay the interest thereon and create a sinking fund of at least two per cent thereon. No city charter shall be altered, amended or repealed oftener than every two years. The governing body of such city may, by two-thirds votes of its members, or upon petition of ten per cent of the qualified voters of said city, shall provide by ordinance for the submission of the question, "shall a commission be chosen to frame a new charter."

[Acts 1925, S.B. 84.]

Art. 1166. Requisites of Submission

The ordinance providing for the submission of such question shall require that it be submitted at the next regular municipal election, if one should be held, not less than thirty nor more than ninety days after the passage of said ordinance; otherwise it shall provide for the submission of the question at a special election to be called and held not less than thirty days nor more than ninety days after the passage of said ordinance and the publication thereof in some newspaper published in said city. The ballot containing such question shall bear no party designation, and provision shall be made thereon for the election from the city at large of a charter commission of not less than fifteen members, nor more than one member for each three thousand inhabitants, provided, that a majority of the qualified voters, voting on said question shall have voted in the affirmative.

[Acts 1925, S.B. 84.]

Art. 1167. Submission of Charter

The charter so framed by said commission shall be submitted to the qualified voters of said city at an election to be held at a time

fixed by the charter commission not less than forty nor more than ninety days after the completion of the work of the charter commission; provision for which shall be made by the governing body of the city in so far as not prescribed by the general law. Not less than thirty days prior to such election, the governing body shall cause the city clerk or city secretary to mail a copy of the proposed charter to each qualified voter in said city as appears from the tax collector's rolls for the year ending January 31st, preceding said election. In preparing the charter the commission shall, as far as practicable, segregate each subject so that the voter may vote "Yes" or "No" on the same.

[Acts 1925, S.B. 84.]

Art. 1168. First Election

Where the legislative or governing authority of any city, or where any mass meeting has selected a charter committee or charter commission, or where the mayor of any city has appointed a charter committee which has proceeded with the formation of a charter for said city, the provisions hereof as to the selection of the charter commission shall not apply to the first charter election to be held in said city under the terms of this law.

[Acts 1925, S.B. 84.]

Art. 1169. Adoption of Charter

If such proposed charter is approved by a majority of the qualified voters, voting at said election, it shall become the charter of said city until amended or repealed. No charter shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted.

[Acts 1925, S.B. 84.]

Art. 1170. Amendments

When the governing body desires to submit amendments to any existing charter, said body may on its own motion, in the absence of a petition, and shall, upon receiving a petition signed by qualified voters in such city, town or political subdivision in number not less than five per cent (5%) thereof or 20,000 signatures, whichever is less, submit any proposed amendment or amendments to such charter. The ordinance providing for the submission of such amendment or amendments shall require the submission thereof at an election to be held not less than thirty (30) days nor more than ninety (90) days after the passage of said ordinance. If the next regular municipal election is to be held during said period, the submission of said amendment or amendments shall be at such election. Otherwise, a special election shall be called for the purpose. Notice of the election for the submission of said amendment or amendments shall be given by publication thereof, in some newspaper of general circulation published in said city, on the same day in each of two (2) successive weeks; the date of the first publication to be not less than fourteen (14) days prior to the date set for said

election. The form of such notice shall be as prescribed by the governing body or as may be otherwise prescribed by law, and shall include a substantial copy of the proposed amendment or amendments. Every amendment submitted must contain only one subject, and in preparing the ballot for such amendment, it shall be done in such manner that the voter may vote "Yes" or "No" on any amendment or amendments without voting "Yes" or "No" on all of said amendments. Each such proposed amendment, if approved by the majority of the qualified voters voting at said election, shall become a part of the charter of said city. No amendment shall be considered adopted until an official order has been entered upon the records of said city by the governing body thereof declaring the same adopted.

[Acts 1925, S.B. 84; Acts 1961, 57th Leg., p. 1108, ch. 500, § 1; Acts 1973, 63rd Leg., p. 146, ch. 77, § 1, eff. Aug. 27, 1973.]

Art. 1170a. Validation of Proceedings to Amend Charter; Ordinance Not Published as Required

In any instance where the charter of a home rule city requires ordinances to be published in full in a newspaper once each week for three (3) consecutive weeks prior to passage and which city has heretofore held an election for the purpose of amending its charter and such election was called and held in all things in accordance with the applicable general laws of the State of Texas, and such election resulted favorably to the adoption of the amendment submitted as shown by resolution adopted by the governing body of any such city, all of the proceedings relating to the calling of such election, irrespective of whether such ordinance was published as required by its charter, the notice given precedent to or subsequent to the passage of the ordinance calling such election and the resolution adopted canvassing the returns and declaring the result of such election are hereby validated, and the charter of any such city as thus amended shall constitute the charter of such city under the Constitution and laws of the State of Texas.

[Acts 1951, 52nd Leg., p. 383, ch. 246, § 1.]

Art. 1171. Repealed by Acts 1961, 57th Leg., p. 1108, ch. 500, § 2, eff. August 28, 1961

Art. 1172. Other Issues

Nothing in this chapter shall prevent the qualified voters of any city of over five thousand inhabitants from adopting any charter or amendment thereto, and at the same time electing officers under such charter or amendment.

[Acts 1925, S.B. 84.]

Art. 1173. Certification

Upon the adoption of any such charter or amendment to any existing charter as provided herein, the mayor or chief executive officer exercising like or similar powers, of any such city, as soon as practicable, after the adoption of any such charter or amendment, shall certi-

fy to the Secretary of State an authenticated copy under the seal of the city, showing the approval by the qualified voters of any such charter or amendment, and the Secretary of State shall thereupon file and record the same in a separate book to be kept in his office for such purpose.

[Acts 1925, S.B. 84.]

Art. 1174. Registration

The city secretary of any such city or officer exercising like or similar powers, upon the adoption and approval of any such charter or any amendment thereof by the qualified voters as herein provided, shall record at length upon the records of the city, in a separate book to be kept in his office for such purpose, any such charter, or amendment so adopted. When such charter or any amendment thereof shall be so recorded, it shall be deemed a public act and all courts shall take judicial notice of same and no proof shall be required of same. All cities may institute and prosecute suits without giving security for cost and may appeal from judgment without giving supersedeas or cost bond.

[Acts 1925, S.B. 84.]

Art. 1174a. Validating Charter or Charter Amendments

That each charter, and amendment to a charter adopted by any city or¹ more than five thousand inhabitants in this State, or where such city has amended or attempted to amend or adopt such charter, since the enactment of Chapter 147, Acts of the Regular Session of the Thirty-Third Legislature of the State of Texas, 1913, relating to home rule, as well as all amendments and proceedings had under the same and all bonds issued under any amendment where the said bonds have been approved by the Attorney General and registered with the Comptroller, are hereby fully validated, ratified and confirmed and are hereby declared to be in full force and effect as if adopted in strict compliance with all of the requirements of said Chapter 147, Acts of the Thirty-Third Legislature, and the General Laws of Texas relating thereto, and this act shall take effect and be in force from and after its passage.

[Acts 1925, 39th Leg., p. 187, ch. 50, § 1; Acts 1929, 41st Leg., p. 324, ch. 149, § 1.]

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

Art. 1174a-1. Validation of Adoption of Charter and Election and Assumption of Office

In each instance where an election has been held heretofore in a city for the purpose of voting upon the adoption of a home rule charter for such city, and where copies of the proposed charter with the date of the election shown thereon were mailed to all of the voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of the said election, and such news item did not state that

the voting would be limited to property owners or taxpayers in the city, and where the officers holding the election did not deny anyone the right to vote upon the ground that he was not a property owner or taxpayer, and such election resulted favorably to the adoption of the charter as shown by a resolution adopted by the governing body of the city either before or after the election of¹ assumption of office by new members of such governing body under the charter, all of the proceedings relating to the adoption of such charter and the election of and assumption of office by the new members of the governing body are hereby validated, and such charter shall constitute the charter of said city under the Constitution and laws of this State.

[Acts 1951, 52nd Leg., p. 64, ch. 38, § 1.]

¹ So in enrolled bill. Word "and" probably omitted.

Art. 1174a-2. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home rule charter for such city, where copies of the proposed charter with the date of the election shown thereon were mailed to all voters within said city as shown by the tax rolls thereof, and a news item showing the date and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of such election, and a majority of the qualified voters of said city voting at said election voted in favor of the adoption of such charter, all such proceedings relating to the adoption of said charter are hereby in all things validated, ratified, and confirmed, and said charter shall constitute the home rule charter of said city under the constitution and laws of this State. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State and such litigation is ultimately determined against the validity thereof.

Sec. 3. If any word, phrase, clause, sentence or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other phrase, word, clause, sentence, or part of this Act.

[Acts 1953, 53rd Leg., p. 362, ch. 88.]

Art. 1174a-3. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards

Sec. 1. In any instance where a home rule city has previously held an election for the purpose of adopting an amendment or amendments to an existing home rule charter, and copies of the proposed charter amendment or amendments were mailed to every qualified voter in the city as prescribed by law, and a majority of the qualified voters of said city voting at said election voted in favor of adopting such amendment or amendments, and such city did not publish the proposed amendment or amendments after calling said election as required by *Turner v. Lewie*, 201 S.W.2d 86, is, and such proceedings are, hereby in all things validated, ratified and confirmed as if such notice had been published. All elections held under the provisions of said charter, as amended, for the purpose of electing members of the governing body of the city and the assumption of office by those persons receiving the highest votes at such election and all elections thereafter called and/or held to authorize the issuance of bonds by such city, are hereby in all things validated. All acts of said officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter amendment, or the charter as so amended, if the validity of the charter amendment proceedings, or of the charter, are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State and such litigation is ultimately determined against the validity thereof.

Sec. 3. If any word, phrase, clause, sentence, or part of this Act shall be held by any court of competent jurisdiction to be invalid or unconstitutional, it shall not affect any other word, phrase, clause, sentence, or part of this Act.

[Acts 1955, 54th Leg., p. 28, ch. 20.]

Art. 1174a-4. Validation of Adoption of Charter; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home rule charter for such city, where copies of the proposed charter with the date of the election shown thereon were mailed to all voters within said city as shown by the tax roll thereof, and a news item showing the dates and purpose of said election was published in a newspaper published within such city at least thirty (30) days prior to the date of such election, and the proposed charter in its entirety was printed and published in a newspaper published within such city at least twenty (20) days prior to the date of such election, and a majority of the qualified voters of said city voting at said election voted in favor of

the adoption of such charter, all such proceedings relating to the adoption of said charter are hereby in all things validated, ratified, and confirmed, and said charter shall constitute the home rule charter of said city under the Constitution and Laws of this State. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this State, and such litigation is ultimately determined against the validity thereof.

[Acts 1959, 56th Leg., p. 984, ch. 459.]

Art. 1174a-5. Validation of Amendment of Charter; Elections and Assumption of Office; Acts of Governing Boards

Sec. 1. In any instance where a Home Rule City has previously held an election for the purpose of adopting an amendment or amendments to an existing Home Rule Charter, and the Notice of Intention had been published in the official newspaper published in the city one time at least eighteen days prior to the passage of the ordinance calling the election and that the ordinance calling the election was published in an "Extra Edition" of the official newspaper published in the city at least twenty-eight days prior to the date of the election, and copies of the proposed Charter amendment or amendments were mailed to every qualified voter in the city as prescribed by law, and a majority of the qualified voters of said city voted in favor of adopting such amendment or amendments is, and such proceedings are, hereby in all things validated, ratified and confirmed. All elections held under the provisions of said Charter as amended for the purpose of electing members of the governing body of the city and the assumption of office by those persons receiving the highest votes at such election and all elections thereafter and are held to authorize the issuance of bonds in such city are hereby in all things validated. All acts of said officers and officials in any such city are hereby in all things validated and the Charter of any such city as thus amended shall constitute the Charter of such city under the Constitution and Laws of the State of Texas.

Sec. 2. This Act shall not be construed as validating the adoption of any Charter amendment or the Charter as so amended if the validity of the Charter amendment proceedings or the Charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of the state and such litigation is

ultimately determined against the validity thereof.

[Acts 1961, 57th Leg., p. 192, ch. 102.]

Art. 1174a-6. Validation of Adoption of Charter of Home Rule Cities with Population in Excess of 10,000; Elections

Sec. 1. This Act shall apply to every Home Rule City in the State of Texas having a population in excess of ten thousand (10,000) persons according to the 1960 Federal Census, which has adopted or attempted to adopt a new Home Rule Charter. All proceedings had and actions taken in connection with the adoption of said new charter are hereby in all things validated. Without in any way limiting the generalization of the foregoing, it is expressly provided that all election proceedings relating to the adoption of said new charter, at which elections more than a majority of the qualified voters voting at said elections voted in favor of the proposition or propositions submitted at said elections, are hereby in all things validated.

Sec. 2. The validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act questioning the validity of any matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 448, ch. 221.]

Art. 1174a-7. Validation of Adoption of Charter of Home Rule City in Counties of 500,000 or More; Elections and Assumption of Office; Acts of Officers

Sec. 1. In each instance where an election has heretofore been held in an incorporated city in counties of five hundred thousand (500,000) or more according to the last preceding Federal Census for the purpose of voting upon the adoption of a home rule charter, where copies of the proposed charter with the date of election shown therein were mailed to each qualified voter in said city as appeared from the tax collector's roll for the year ending January 31 preceding such charter election, and a majority of the qualified voters of such city voting at said election voted in favor of the adoption of such charter as shown by the official canvass of election returns, all proceedings relating to the adoption of said charter are hereby in all things validated, ratified and confirmed, and said charter shall constitute the home rule charter of said city under the Constitution and laws of the State of Texas. All elections held under the provisions of said charter for the purpose of electing members of the governing body of the city and the assumption of office by such elected members are hereby in all things validated. All acts of the city officers and officials of any such city are hereby in all things validated, except to the extent that such acts have been heretofore invalidated by judgment of a court of competent jurisdiction or are hereafter so invalidated in litigation pending on the effective date of this Act.

Sec. 2. This Act shall not be construed as validating the adoption of any charter or the charter so adopted if the validity of the charter adoption proceedings or of the charter are involved in litigation on the effective date of this Act in a court of competent jurisdiction of this state and such litigation is ultimately determined against the validity thereof.

[Acts 1962, 57th Leg., 3rd C.S., p. 115, ch. 39, §§ 1, 2.]

Art. 1174a-8. Validation of Adoption of Charter; Elections; Governmental Proceedings

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a Home Rule Charter for such city, and in each instance where a home rule city has previously held an election for the purpose of voting upon the adoption of an amendment or amendments to an existing Home Rule Charter and a majority of the qualified voters (as shown by the canvass of the returns and declaration of the result of said election) participating at said election voted in favor of the adoption of such Charter, amendment or amendments, all of the proceedings relating to such election are hereby in all things ratified, confirmed and validated and said Charter or said Charter as so amended, as the case may be, shall constitute the Home Rule Charter of such city.

Sec. 2. All actions heretofore taken by the governing body of such city in the calling and holding of an election for the selection of members of the governing body of such city so the same shall consist of the number of persons specified in such Charter, amendment or amendments are hereby ratified and confirmed and the persons so elected and qualified are recognized as the governing body of such city.

Sec. 3. All governmental proceedings of home rule cities, save and except those relating to annexation of territory, are hereby ratified and confirmed and all actions of the governing bodies of home rule cities in calling and holding elections for bonds and in the authorization, issuance and delivery of bonds, warrants, scrip, and certificates of indebtedness or of assessment are hereby ratified and confirmed and said obligations shall have effect according to their purport and tenor.

Sec. 4. This Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1965, 59th Leg., p. 415, ch. 203, eff. May 18, 1965.]

Art. 1174a-9. Validation of Adoption of Charter; Elections; Governmental Proceedings

Sec. 1. In each instance where an election has heretofore been held in an incorporated city for the purpose of voting upon the adoption of a home-rule charter for the city, and in

each instance where a home-rule city has previously held an election for the purpose of voting upon the adoption of an amendment or amendments to an existing home-rule charter and a majority of the qualified voters (as shown by the canvass of the returns and declaration of the result of said election) participating at the election voted in favor of the adoption of such charter, amendment or amendments, all the proceedings relating to such election are hereby in all things ratified, confirmed, and validated, and the charter or the charter as so amended, as the case may be, shall constitute the home-rule charter of the city.

Sec. 2. All actions heretofore taken by the governing body of the city in the calling and holding of an election for the selection of members of the governing body of the city so the same shall consist of the number of persons specified in the charter, amendment or amendments are hereby ratified and confirmed and the persons so elected and qualified are recognized as the governing body of the city.

Sec. 3. All governmental proceedings of home-rule cities, save and except those relating to annexation of territory, are hereby ratified and confirmed and all actions of the governing bodies of home-rule cities in calling and holding elections for bonds and in the authorization, issuance, and delivery of bonds, warrants, scrip, and certificates of indebtedness or of assessment are hereby ratified and confirmed and the obligations shall have effect according to their purport and tenor.

Sec. 4. This Act shall not be construed as validating any proceedings or actions the validity of which is involved in litigation on the effective date of this Act and such litigation is ultimately determined against the validity thereof.

[Acts 1973, 63rd Leg., p. 1682, ch. 609, eff. June 15, 1973.]

Art. 1174b. Validation of Annexation Proceedings of Home Rule Cities

Sec. 1. All elections, election orders, election proceedings and city ordinances annexing adjacent territory to, or extending and prescribing the corporate limits of, any Home Rule City that has adopted a charter under Article Eleven (11), Section Five (5), of the Constitution of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, 1913, but which City did not in fact have a population of five thousand according to the 1920 Federal Census, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances of all Home Rule Cities in the class described in the foregoing Section fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated.

[Acts 1930, 41st Leg., 5th C.S., p. 139, ch. 16.]

Art. 1174c. Validating Annexation of Adjacent Territory

Sec. 1. All elections, election orders, election proceedings, city ordinances and amendments to charters annexing adjacent territory to, or extending and prescribing the corporate limitations of any home rule city that has adopted a charter under Article 11, Section 5, of the Constitution of the State of Texas, and the provisions of Chapter 147, Acts of the Regular Session of the Thirty-third Legislature of the State of Texas, 1913, and Article 1175 of Vernon's Annotated Texas Statutes, by which said city did not in fact have separate elections and separate election boxes for the city voters and the territory to be annexed, and did not comply with other requirements of the law, be and the same are hereby validated and confirmed.

Sec. 2. The city ordinances and charter amendments of all home rule cities in the class described in the foregoing section, fixing and prescribing the corporate limits extended by the annexation or attempted annexation of adjacent territory are hereby validated.

[Acts 1936, 44th Leg., 3rd C.S., p. 2102, ch. 506.]

Art. 1174d. Validation of Annexation Proceedings in Home Rule Cities of 8,920 to 9,580 Population

All ordinances and proceedings and all actions, proceedings, and contracts taken or made in pursuance thereof, heretofore undertaken by virtue of Article 1175, Revised Civil Statutes of Texas of 1925, providing for the extension of the corporate limits of Home Rule cities by any city which at such time was acting under a Home Rule charter, and which such ordinances, actions, proceedings, and contracts were undertaken prior to April 1, 1930, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory by extension shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given. The provisions of this Act shall apply only to cities having a population of not less than eight thousand, nine hundred and twenty (8,920) nor more than nine thousand, five hundred and eighty (9,580), according to the last preceding Federal Census.

[Acts 1937, 45th Leg., 2nd C.S., p. 1904, ch. 27, § 1.]

Art. 1174e. Validation of Annexation Proceedings of Certain Home Rule Cities Occurring Before March 1, 1961

Sec. 1. All ordinances, resolutions and proceedings passed and adopted and all contracts made pursuant thereto, prior to the 1st day of March, 1961, by a home rule city undertaking to annex adjacent and contiguous territory to its corporate limits by virtue of the provisions of Article 1175 of the Revised Civil Statutes of

1925 and the amendments thereto, or by virtue of the applicable provisions of its city charter, are hereby ratified and confirmed, and such extensions of the city limits of such cities so undertaken, as well as all proceedings and contracts taken or made in pursuance thereof and the exercise of dominion and governmental functions over such added territory, by annexation, shall be deemed and held valid in all respects and to the same extent as if done under legislative authority previously given.

Sec. 1(a). Nothing herein shall validate any annexation proceedings where no bonds have been voted or issued by the annexing municipality prior to March 1, 1961, and after the commencement of such annexation proceedings.

Sec. 2. The effective date of this Act shall be January 1, 1962, and the provisions of this Act shall not apply to any city if its annexation proceedings are involved in litigation at the time this law becomes effective.

[Acts 1961, 57th Leg., p. 1009, ch. 439.]

Art. 1175. Enumerated Powers

Cities adopting the charter or amendment hereunder shall have full power of local self-government, and among the other powers that may be exercised by any such city the following are hereby enumerated for greater certainty:

1. The creation of a commission, aldermanic or other form of government; the creation of offices, the manner and mode of selecting officers and prescribing their qualifications, duties, compensation and tenure of office.

2. The power to fix the boundary limits of said city, to provide for the extension of said boundary limits and the annexation of additional territory lying adjacent to said city, to provide for the disannexation of territory within such city and to provide for the exchange of territory with other cities or towns, according to such rules as may be provided by said charter not inconsistent with the procedural rules prescribed by the Municipal Annexation Act.¹

3. To hold by gift, deed, devise or otherwise any character of property, including any charitable or trust fund; to plead and be impleaded in all courts, and to act in perpetual succession as a body politic.

4. To provide that no public property or any other character of property owned or held by said city shall be subject to any execution of any kind or nature.

5. To provide that no fund of the city shall be subject to garnishment, and the city shall never be required to answer in any garnishment proceedings.

6. To provide for the exemption from liability on account of any claim for any damages to any person or property, or to fix such rules and regulations governing the city's liability as may be deemed advisable.

7. To provide for the levying of any general or special ad valorem tax for any purpose not inconsistent with the Constitution of this State.

8. To provide for the mode and method of assessing taxes, both real and personal, against any person and corporation, including the right to assess the franchise of any public corporation using and occupying the public streets or grounds of the city, separately from the tangible property of such corporation.

9. To provide for the collection of all taxes, including the right to impose penalties for delinquent taxes.

10. The power to control and manage the finances of any such city; to prescribe its fiscal year and fiscal arrangements; the power to issue bonds upon the credit of the city for the purpose of making permanent public improvements or for other public purposes in the amount and to the extent provided by such charter, and consistent with the Constitution of this State; provided, that said bonds shall have first been authorized by a majority vote by the duly qualified property tax-paying voters voting at an election held for that purpose. Thereafter all such bonds shall be submitted to the Attorney General for his approval, and the Comptroller for registration, as provided by law, provided that any such bonds after approval, may be issued by the city, either optional or serial or otherwise as may be deemed advisable by the governing authority. Whenever any city has heretofore been authorized, under any special charter, creating such city, to issue any bonds by the terms of such charter, the provisions of this chapter shall not be construed to interfere with the issuance of any such bonds under the provisions of any charter under which such bonds were authorized.

11. To have the exclusive right to own, erect, maintain and operate water works and water works system for the use of any city, and its inhabitants, to regulate the same and have power to prescribe rates for water furnished and to acquire by purchase, donation or otherwise, suitable grounds within and without the limits of the city on which to erect any such works and the necessary right of way, and to do and perform whatsoever may be necessary to operate and maintain the said water works or water works system and to compel the owners of all property and the agents of such owners or persons in control thereof to pay all charges for water furnished upon such property and to fix a lien upon such property for any such charges. To provide that all receipts from the water works may, in its discretion, constitute a separate or sacred fund which shall be used for no other purpose than the extension, improvement, operation, maintenance, repair and betterment of said water works system or water works supply, and to provide for the pledging of any such receipts and revenues for the purpose of making any of such improvements, and the payment of the principal and providing an interest and sinking fund for any bonds issued therefor under such regulations as may be provided by the charter adopted by such city.

12. To prohibit the use of any street, alley, highway or grounds of the city by any tele-

graph, telephone, electric light, street railway, interurban railway, steam railway, gas company, or any other character of public utility without first obtaining the consent of the governing authorities expressed by ordinance and upon paying such compensation as may be prescribed and upon such condition as may be provided by any such ordinance. To determine, fix and regulate the charges, fares or rates of any person, firm or corporation enjoying or that may enjoy the franchise or exercising any other public privilege in said city and to prescribe the kind of service to be furnished by such person, firm or corporation, and the manner in which it shall be rendered, and from time to time alter or change such rules, regulations and compensation; provided that in adopting such regulations and in fixing or changing such compensation, or determining the reasonableness thereof, no stock or bonds authorized or issued by any corporation enjoying the franchise shall be considered unless² proof that the same have been actually issued by the corporation for money paid and used for the development of the corporate property, labor done or property actually received in accordance with the laws and Constitution of this State applicable thereto. In order to ascertain all facts necessary for a proper understanding of what is or should be a reasonable rate or regulation, the governing authority shall have full power to inspect the books and compel the attendance of witnesses for such purpose.

13. To buy, own, construct within or without the city limits and to maintain and operate a system or systems, of gas, or electric lighting plant, telephone, street railways, sewerage plants, fertilizing plants, abattoir, municipal railway terminals, docks, wharfs, ferries, ferry landings, loading and unloading devices and shipping facilities, or any other public service or public utility, and to demand and receive compensation for service furnished for private purpose or otherwise, and to exercise the right of eminent domain as hereinafter provided for the appropriation of lands, rights of way or anything whatsoever that may be proper and necessary to efficiently carry out said objects. Any city shall have the power to condemn the property of any person, firm or corporation now conducting any such business and for the purpose of operating and maintaining any such public utilities and for the purpose of distributing such service throughout the city or any portion thereof; provided that any city may adopt by its charter any such rules and regulations as it may deem advisable for the acquiring and operation of any such public utilities.

14. To manufacture its own electricity, gas, or anything else that may be needed or used by the public; to purchase and make contracts with any person or corporation for the purchasing of gas, electricity, oil or any other commodity or article used by the public and to sell the same to the public upon such terms as may be provided by the charter.

15. To have the power to appropriate private property for public purposes whenever the governing authorities shall deem it necessary; to take any private property within or without the city limits for any of the following purposes; city halls, police stations, jails, calaboose, fire stations, libraries, school houses, high school buildings, academies, hospitals, sanitariums, auditoriums, market houses, reformatories, abattoirs, railroad terminals, docks, wharves, warehouses, ferries, ferry landings, elevators, loading and unloading devices, shipping facilities, piers, streets, alleys, parks, highways, boulevards, speedways, playgrounds, sewer systems, storm sewers, sewerage disposal plants, drains, filtering beds and emptying grounds for sewer systems, reservoirs, water sheds, water supply sources, wells, water and electric light systems, gas plants, cemeteries, crematories, prison farms, and to acquire lands within and without the city for any other municipal purposes that may be deemed advisable. The power herein granted for the purpose of acquiring private property shall include the power of the improvement and enlargement of the water works, including water supply, riparian rights, stand pipes, water sheds, the construction of supply reservoirs, parks, squares and pleasure grounds, public wharves, and landing places for steamers and other crafts, and for the purpose of straightening or improving the channels of any stream, branch or drain, or the straightening, widening or extension of any street, alley, avenue or boulevard. The power of eminent domain hereby conferred shall include the right of the governing authority, when so expressed, to take the fee in the lands so condemned and such power and authority shall include the right to condemn public property for such purposes.

16. To have exclusive dominion, control, and jurisdiction in, over and under the public streets, avenues, alleys, highways and boulevards, and public grounds of such city and to provide for the improvement of any public street, alleys, highways, avenues or boulevards by paving, raising, grading, filling or otherwise improving the same and to charge the cost of making such improvement against the abutting property, by fixing a lien against the same, and a personal charge against the owner thereof according to an assessment specially levied therefor in an amount not to exceed the special benefit any such property received in enhanced value by reason of making such improvement, and to provide for the issuance of assignable certificates covering the payments for said cost, provided that the charter shall apportion the cost to be paid by the property owners and the amount to be paid by the city, and provided further, that all street railways, steam railways, or other railways, shall pay the cost of improving the said street between the rails and tracks of any such railway companies and for two feet on each side thereof. The city shall have the power to provide for the construction and building of sidewalks and charge the entire cost of constructing of said sidewalks, including the

curb, against the owner of abutting property, and to make a special charge against the owner for such cost and to provide by special assessment a lien against such property for such cost; to have the power to provide for the improvement of any such sidewalk or the construction of any such curb by penal ordinance and to declare defective sidewalks to be a public nuisance. The power herein granted for making street improvements and assessing the cost by special assessment in the manner herein stated shall not be construed to prevent any city from adopting any other method or plan for the improvement of its streets, sidewalks, alleys, curbs, or boulevards, as it may deem advisable by its charter.

17. To open, extend, straighten, widen any public street, alley, avenue or boulevard and for such purpose to acquire the necessary lands and to appropriate the same under the power of eminent domain and to provide that the cost of improving any such street, alley, avenue or boulevard by opening, extending and widening the same shall be paid by the owners of property specially benefited whose property lies in the territory of such improvement and to provide that the cost shall be charged by special assessment and that a personal charge shall be made against any owner for the amount due by him and to provide for the appointment by the county judge or other officer exercising like or similar powers, of three special commissioners for the purpose of condemning the said lands and for the purpose of apportioning the said cost, which apportionment of said cost shall be specially assessed by the governing authorities against the owners and the property of the owners lying in the territory so found to be specially benefited in enhanced value by said special commissioners. The city shall pay such portion of such cost as may be determined by the said special commissioners, provided the same shall never exceed one third the cost, and the property owners and their property shall be liable for the balance of the same as may be apportioned by said commissioners. The city may issue assignable certificates for the payment of any such cost against such property owners and may provide for the payment of any such cost in deferred payments, to bear interest at such rate as may be prescribed by the charter not to exceed eight per cent. The city may adopt any other method for the opening, straightening, widening or extending of its streets as herein provided for as may be deemed advisable, and charge the cost of same against the property and the owner specially benefited in enhanced value and lying in the territory of said improvement, that its charter may provide. The authority to adopt any other method shall include the manner of appointing commissioners, the manner of giving notice and the manner of fixing assessments or providing for the payment of any such improvement.

18. To control, regulate and remove all obstructions or other encroachments or encumbrances on any public street, alley or ground, and to narrow, alter, widen or straighten any

such streets, alleys, avenues or boulevards, and to vacate and abandon and close any such streets, alleys, avenues or boulevards, and to regulate and control the moving of buildings or other structures over and upon the streets or avenues of such city.

19. Each city shall have the power to define all nuisances and prohibit the same within the city and outside the city limits for a distance of five thousand feet; to have power to police all parks or grounds, lakes and the land contiguous thereto and used in connection therewith, speedways, or boulevards owned by said city and lying outside of said city; to prohibit the pollution of any stream, drain or tributaries thereof, which may constitute the source of water supply of any city and to provide for policing the same as well as to provide for the protection of any water sheds and the policing of same; to inspect dairies, slaughter pens and slaughter houses inside or outside the limits of the city, from which meat or milk is furnished to the inhabitants of the city.

20. To license, operate and control the operation of all character of vehicles using the public streets, including motorcycles, automobiles or like vehicles, and to prescribe the speed of the same, the qualification of the operator of the same, and the lighting of the same by night and to provide for the giving bond or other security for the operation of the same.

21. To regulate, license and fix the charges or fares made by any person owning, operating or controlling any vehicle of any character used for the carrying of passengers for hire or the transportation of freight for hire on the public streets and alleys of the city.

22. To regulate the location and control the conduct of theaters, moving picture shows, ten pin alleys, vaudeville shows, and all places of public amusements.

23. To license any lawful business, occupation or calling that is susceptible to the control of the police power.

24. To license, regulate, control or prohibit the erection of signs or bill boards as may be provided by charter or ordinance.

25. To provide for the establishment and designation of fire limits and to prescribe the kind and character of buildings or structures or improvements to be erected therein, and to provide for the erection of fire proof buildings within certain limits, and to provide for the condemnation of dangerous structures or buildings or dilapidated buildings or buildings calculated to increase the fire hazard, and the manner of their removal or destruction.

26. To divide the city in zones or districts, and to regulate the location, size, height, bulk and use of buildings within such zones or districts, and to establish building lines within such zones or districts or otherwise, and make different regulations for different districts and thereafter alter the same. The governing authorities may be authorized by their charter to create a commission or board for the purpose

of carrying out the powers of this section, or may provide for the creation of a board of appeals or review for the purpose of hearing and deciding on appeals from and reviewing any order, requirement, decision or determination of the governing authorities in carrying out the powers and authority herein conferred; provided the authority and power herein conferred shall never be construed to be a limitation of any other power and authority conferred in this chapter.

27. To provide for police and fire departments.

28. To provide for a health department and the establishment of rules and regulations protecting the health of the city and the establishment of quarantine stations, and pest houses, emergency hospitals and hospitals, and to provide for the adoption of necessary quarantine laws to protect the inhabitants against contagious or infectious diseases.

29. To provide for a sanitary sewer system and to require property owners to make connections with such sewers with their premises and to provide for fixing a lien against any property owner's premises who fails or refuses to make sanitary sewer connections and to charge the cost against said owner and make it a personal liability. To provide for fixing penalties for a failure to make sanitary sewer connections.

30. The power to require water works corporations, gas companies, street car companies, telephone companies, telegraph companies, electric light companies or other companies or individuals enjoying a franchise now or hereafter from the city, to make and furnish extensions of their service to such territory as may be required by the charter.

31. Provided that in all cities of over twenty-five thousand inhabitants, the governing body of such city, when the public service of such city may require the same, shall have the right and power to compel any street railway or other public utility corporation to extend its lines of service into any section of said city not to exceed two miles, all told, in any one year.

32. To provide for the establishment of public schools and public school system in any such city, and to have exclusive control over same and to provide such regulations and rules governing the management of same as may be deemed advisable; to levy and collect the necessary taxes, general or special, for the support of such public schools and public school system.

33. Whenever any city may determine to acquire any public utility using and occupying its streets, alleys, and avenues as hereinbefore provided, and it shall be necessary to condemn the said public utility, the city may obtain funds for the purpose of acquiring the said public utility and paying the compensation, therefor, by issuing bonds, notes or other evidence of indebtedness and shall secure the same by fixing a lien upon the said properties constituting the said public utility so acquired by

condemnation or purchase or otherwise; said security shall apply alone to said properties so pledged; and such further regulations may be provided by any charter for the proper financing or raising the revenue necessary for obtaining any public utilities and providing for the fixing of said security.

34. To enforce all ordinances necessary to protect health, life and property, and to prevent and summarily abate and remove all nuisances and to preserve and enforce the good government, order and security of the city and its inhabitants.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 447, ch. 160, art. II; Acts 1967, 60th Leg., p. 189, ch. 100, § 1, eff. Aug. 28, 1967.]

¹ Article 970a.

² Word "on" probably should be inserted.

Art. 1175a. Extension of Corporate Limits by Certain Cities Validated

That all ordinances and proceedings, and all actions, proceedings and contracts, taken or made in pursuance thereof, of any city having a population of one hundred thousand and under one hundred fifty thousand, as shown by the preceding Federal Census, which have been, heretofore, passed under and in accordance with Article 1175, Revised Statutes 1925, providing for the extension of the corporate limits of such city, are hereby ratified and confirmed, and such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects and to the same extent as if done under Legislature¹ authority, previously given.

[Acts 1929, 41st Leg., p. 386, ch. 176, § 1.]

¹ Probably should read "Legislative."

Art. 1175b. Inspection and Test of Motor Vehicles

Ordinances Authorized

Sec. 1. All cities and towns in the State of Texas, whether incorporated under general or special law, including home rule cities, having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding or any future Federal Census, shall have and they are hereby given the power and authority to pass an ordinance or ordinances;

(a) Requiring all residents of said city, including corporations having their principal office or place of business in said city, owning a motor vehicle used for the transportation of persons or property, or both, and all persons using the streets, alleys, or other public thoroughfares of said city upon which to operate a motor vehicle, to have each and every such motor vehicle tested and inspected and to comply with such requirements, as may be imposed by said ordinance, not more than four times in each calendar year;

(b) Requiring that other and additional tests and inspections may be required of

all motor vehicles involved in any wreck, collision, or accident before the same may be operated on the streets, alleys, or other public thoroughfares of said city after said wreck, collision, or accident;

(c) Requiring as a condition precedent to the right to use the streets, alleys, or other public thoroughfares of said city that motor vehicles operated thereupon shall have been tested and inspected, shall have been approved by said testing and inspecting authorities, and shall have complied with all provisions of said ordinance;

(d) Providing a penalty subject to the limitations of Article 1011 of the Revised Civil Statutes of the State of Texas for the violation of any of the terms of said ordinance.

Testing Stations

Sec. 2. Said cities shall be and they are hereby authorized to acquire, establish, erect, equip, improve, enlarge, repair, operate, and maintain motor vehicle testing stations and to pay for the same out of the fees charged for testing and inspecting said motor vehicles.

Fees

Sec. 3. Said cities shall have and they are hereby given power and authority to prescribe and collect a fee, not to exceed One Dollar (\$1) per year per vehicle, for the testing and inspecting of each such motor vehicle. All fees so collected to be placed in a separate fund, out of which costs and expenses in connection with, or growing out of the acquisition, establishment, erection, equipping, improvement, enlargement, repairing, operating, and maintaining said testing stations, and automotive and Safety Education programs, may be paid.

Payment for Testing Stations; Encumbrance; Borrowing Money

Sec. 4. Said cities shall have and they are hereby given power and authority to pay for such testing stations and the equipping, maintaining, and operating thereof out of past or future earnings of said stations, and may mortgage and encumber said stations and everything pertaining thereto acquired, to secure the payment of funds to construct the same or any part thereof, or to erect, equip, improve, enlarge, repair, operate, or maintain said stations. No such mortgage or encumbrance shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue bonds for any purpose authorized by law. Said cities may borrow money and issue warrants to finance in whole or in part the cost of the acquisition, erection, equipping, improvement, enlargement, or repair of said stations and to pledge for the punctual payment of said warrants and interest thereon all or any part of the fees or other receipts derived from the operation of such stations.

Partial Invalidity

Sec. 5. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act, or the application thereof to any person or circumstance, is held invalid or unconstitutional, such holding shall not affect the validity of the remaining portions of the Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity or unconstitutionality.

Vehicles Operated Under Permits

Sec. 5a. Nothing herein or in any ordinance passed pursuant hereto shall apply to motor vehicles, trailers or semitrailers operated under a certificate or permit from the Railroad Commission of Texas.

Repeal

Sec. 6. All laws and parts of laws in conflict herewith shall be and the same are hereby repealed to the extent of said conflict only.

[Acts 1937, 45th Leg., p. 194, ch. 102.]

Art. 1175c. Vacancies in Offices in Cities Over 384,000

In case of vacancy from any cause in any elective office of any Home Rule City in this state having a population of three hundred eighty-four thousand (384,000) inhabitants or more according to the last preceding or any future Federal Census, where the charter of such city does not, at such time, provide for the filling of such vacancy, the city council or governing body of such city, by majority vote, shall appoint someone to fill such vacancy for the unexpired term; and pending such appointment such governing body may appoint someone temporarily, for not more than sixty (60) days, to hold such office, which person or persons, as the case may be, shall be qualified in like manner as is then required of the elective official. Provided, however, that whenever any such city holds an election to vote upon proposed amendments to its charter, it shall at such time submit a proposed amendment thereto providing a method for filling any vacancy to elective offices which are not now provided for in said charter.

[Acts 1945, 49th Leg., p. 77, ch. 54, § 1.]

Art. 1175d. Water Supply Systems; Easements Over Highways in Certain Home Rule Cities

The City Commission of all Home Rule Cities of this State, having a population of not less than thirty-one thousand (31,000) and not more than thirty-two thousand, five hundred (32,500) inhabitants, according to the last preceding Federal Census, shall have and such Cities are hereby granted easements on and over all public highways and county roads in the county in which such City is situated, for the purpose of constructing, laying and maintaining water pipe lines which constitute a part of the water supply system operated by said Cities. Provided, however, that on all State highways such water pipe lines shall be

laid at such place and in such manner as may be approved by the State Highway Engineers, and all such water pipe lines to be laid on any county road shall be laid in such manner and as may be approved by the County Engineer of such county; provided further, such water pipe lines shall not be laid in any manner that will unreasonably interfere with the use of such highways and public roads. Provided further that such lines shall be laid parallel to and in reasonably close proximity with the outer edge of the right of way of such State highway or public road, except that such lines may be laid across such highway or public road in the manner to be approved by the engineers of the aforesaid; and provided further that said lines shall be laid deep enough under the ground that the said pipe lines will not interfere with the grading or other use required by the Highway Department or the County Commissioners.

[Acts 1947, 50th Leg., p. 392, ch. 220, § 1.]

Art. 1175e. Parking Facilities

Sec. 1. Any home rule city in this state is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate and maintain structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or other conveyances.

Sec. 2. Any such city is hereby authorized and shall have the power by the exercise of the right of eminent domain to acquire the fee simple title to property for the purpose of acquiring sites upon which to build parking structures, parking areas, parking garages or facilities for off-street parking or storage of motor vehicles or conveyances. Any such city is hereby authorized and shall have the power to regulate the use of such facilities and establish rates and charges for the use thereof. In the event that the city, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telegraph or telephone properties and facilities, or pipeline, all such necessary relocation, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the city. The term "sole expense" shall mean the actual cost of such relocation, raising, lowering, rerouting, or change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Sec. 3. The governing body of any such city may divide the city or any portion thereof into improvement districts clearly defining the limits of each district, and any such city shall have the power to borrow money on the credit of such city and issue bonds of the city for the acquisition of the public improvements autho-

rized herein; but every proposition to borrow money on the credit of the city for the acquisition or construction of any of said public improvements within any improvement district shall be submitted to the qualified taxpaying voters living and owning property in such districts, and each proposition to borrow money on the credit of the city in any improvement district shall distinctly specify the purpose for which the bonds are to be issued and the public improvements to be constructed. If said proposition be sustained by a majority of the votes cast in such election in such district, the issuance of such bonds shall be lawful. All bonds shall specify for which purpose they were issued, shall bear interest at a rate not greater than 6½% per annum, and when sold, shall net not less than par value, with accrued interest to date of payment of the proceeds into the city treasury, and such bonds may be negotiated in lots, as the governing body of such city may direct. No debts shall ever be created against the city or any improvement district unless at the same time provision be made to assess and collect annually upon the property in such improvement district a sum sufficient to pay the interest on such bonds and create a sinking fund of at least 2% thereon. The interest and sinking fund tax shall be in addition to the other current taxes levied by the city, and shall be kept separate by the City Treasurer from other funds, and shall not be diverted or used for any other purpose than to pay interest and principal on such bonds and the City Treasurer shall honor no draft on said fund except to pay the interest and redeem the bonds for which it was provided. The sinking fund for such bonds may be invested in such securities as are now permitted by law for other municipal bonds. The tax levied for interest and sinking fund for bonds issued for public improvements in any district shall not exceed 50 cents on the \$100.00 valuation annually which tax shall be in addition to all other taxes authorized or permitted to be levied by the charter of such city.

[Acts 1969, 61st Leg., 2nd C.S., p. 125, ch. 27, eff. Sept. 19, 1969.]

Art. 1176. Further Powers

The enumeration of powers hereinabove made shall never be construed to preclude, by implication or otherwise, any such city from exercising the powers incident to the enjoyment of local self-government, provided that such powers shall not be inhibited by the State Constitution.

[Acts 1925, S.B. 84.]

Art. 1176a. Code of Civil and Criminal Ordinances

Power to Codify; Effect

Sec. 1. Any city of this state, whether incorporated under General or Special Law, shall have the power to codify its civil and criminal ordinances and adopt a civil and criminal code of ordinances, together with appropriate penal-

ties for the violation thereof, which said code when adopted shall have the force and effect of an ordinance regularly enacted with the usual prerequisite of law.

Ordinances Changed Without Separate Amendment or Repeal

Sec. 2. That should it become necessary in the codification of such ordinances, both civil and criminal, to change, alter or repeal any portion thereof or to change the terminology of any ordinances heretofore adopted, such change being occasioned by a change in the form of government and the redesignation of offices and officers, then such city is hereby expressly authorized to amend, omit or repeal the same and to change the terminology to conform to its present form of government without the necessity of re-enacting, repealing or amending any such ordinance separately incorporated in said code.

Adoption of Code

Sec. 3. That upon the codification of said code of civil and criminal ordinances, such city is authorized to adopt such code by the enactment of an ordinance and upon the adoption thereof, the City Secretary shall record said code as adopted in the ordinance records of such city, and thereafter such record shall serve as a record of the ordinances so codified and it shall not be necessary in establishing the content of any particular ordinance so codified to go beyond said record.

Publication of Adopting Ordinance

Sec. 4. That the ordinance adopting such code shall be published in the official publication of such city, or in a newspaper published in the city or county, as now provided by law, provided, however, that if any such city operates under a special charter or special law which provides for the publication of ordinances both civil and criminal, then in that event such city shall comply with such special provision of its charter in publishing such adopting ordinance. The code, when so adopted, shall become effective immediately upon and after its passage and it shall not be necessary to publish said code in any publication whatsoever.

Printed Code as Evidence of Enactment of Particular Ordinance

Sec. 5. That any such city may cause a copy of such code, duly authenticated and approved under the signature of the mayor and attested by the city secretary, to be printed under the direction of the governing body, and when so printed it shall be admitted in evidence without further proof and shall be prima facie evidence in all courts of the existence and regular enactment of such particular ordinance.

Subdivision of Code into Chapters, Articles, Sections, Etc.

Sec. 6. That the code may be subdivided into chapters, titles, articles and/or sections

within the discretion of the governing body making such codification and providing for its adoption.

[Acts 1935, 44th Leg., p. 418, ch. 168; Acts 1937, 45th Leg., 2nd C.S., p. 2004, ch. 71, § 1; Acts 1941, 47th Leg., p. 1352, ch. 614, § 1; Acts 1945, 49th Leg., p. 179, ch. 138, § 1; Acts 1965, 59th Leg., p. 349, ch. 165, § 1.]

Art. 1176b-1. Publication of Ordinances Enacted by Home Rule Cities

Sec. 1. Hereafter all ordinances passed by Home Rule Cities in the State of Texas organized and operating under the provisions of the Home Rule Amendment to the Constitution of the State of Texas, and under Title 28, Chapter 13 of the Revised Civil Statutes of Texas, 1925, may be published as provided by the Charters of such Cities, however, as an alternative method of publication the governing body may publish a descriptive caption or title stating in summary the purpose of the ordinances and the penalty for violation thereof; and in the event the Charter of any Home Rule City makes no provision for the method of publication, a full text of the ordinance may be published at least twice in the official newspaper of the City, or in lieu thereof a descriptive caption or title stating in summary the purpose of the ordinance and the penalty for violation thereof may be published.

Sec. 2. The provisions of this Act shall be cumulative of all laws on this subject and wherever the provisions of this Act are in conflict with any existing law or laws on this subject, the provisions hereof, in so far as same are in conflict with any existing law or laws, shall govern and control.

[Acts 1939, 46th Leg., p. 112; Acts 1947, 50th Leg., p. 463, ch. 264, § 1.]

Art. 1176b-2. Validation of Ordinances of Home Rule Cities Published in Compliance with Charters

All Ordinances heretofore passed by Home Rule Cities organized and operating under the provisions of Home Rule Amendment to the Constitution of the State of Texas, and under the provisions of Title 28, Chapter 13, Revised Civil Statutes of Texas, 1925, where such Ordinances have been passed in compliance with the provisions of the charters of said cities and have been duly published, as required by such charters, be and the same are hereby validated, ratified and confirmed, and are hereby declared to be in full force and effect, in so far as the required publication is concerned, as if published in strict compliance with all of the requirements of the General Laws of the State of Texas; provided, however, that the provisions of this Act shall not apply to any proceedings, levies, or to any bonds or warrants issued thereunder, nor to ordinances passed and published in violation of the method and procedure prescribed in said charters, the validity of which has been contested or attacked in suit or litigation which is pending at the time this Act becomes a law, or which may be

filed within ninety (90) days after this Act becomes a law; provided further, that any person, whose rights are adversely affected by an ordinance hereafter enacted in violation of said charter, shall be entitled to injunctive relief in any court of competent jurisdiction upon proper application and satisfactory proof. [Acts 1939, 46th Leg., p. 693, § 1.]

Art. 1176b-3. Validation of Ordinances of Home Rule Cities Authorizing Issuance of Time Warrants

This Act shall apply to every city or town incorporated and operating under a Home Rule Charter (hereinafter sometimes referred to as "city"). All ordinances or other proceedings heretofore adopted by the governing body of any city authorizing the issuance of time warrants of said city for the purpose of evidencing the indebtedness of such city for all or part of the cost of purchasing or acquiring, either or both, of rights-of-way for the public streets within said city, including incidental expenses in connection therewith, are hereby in all things validated; and any time warrants heretofore issued pursuant to the terms of any such ordinance or proceedings are hereby in all things validated; and any time warrants hereafter issued pursuant to the terms of any such ordinance or proceedings heretofore adopted shall, when issued, be valid and binding obligations of such city. It is expressly provided, however, that the validation provisions of this Act shall have no application to litigation pending upon the effective date of this Act which questions the legality of any of the matters hereby validated.

[Acts 1961, 57th Leg., p. 120, ch. 66, § 1.]

Art. 1177. Former Powers

All powers heretofore granted any city by general law or special charter are hereby preserved to each of said cities, and the power so conferred upon such cities, either by special or general law, is hereby granted to such cities when embraced in and made a part of the charter adopted by such city; and until the charter of such city as the same now exists is amended and adopted, it shall be and remain in full force and effect.

[Acts 1925, S.B. 84.]

Art. 1178. Vested Rights

The adoption of any charter hereunder or any amendment thereof shall never be construed to destroy any property, action, rights of action, claims, and demands of any nature or kind whatever vested in the city under and by virtue of any charter theretofore existing or otherwise accruing to the city, but all such rights of action, claims or demands shall vest in and inure to the city and to any persons asserting any such claims against the city as fully as though the said charter or amendment had not been adopted hereunder. The adoption of any charter or amendment hereunder shall never be construed to affect the right of the

city to collect by special assessment any special assessment heretofore levied under any law or special charter for the purpose of paving or improving any street, highway, avenue or boulevard of any city, or for the purpose of opening, extending, widening, straightening or otherwise improving the same, nor affect any right of any contract or obligation existing between the city and any person, firm or corporation for the making of any such improvements. For the purpose of collecting any such special assessment and carrying out of any such contract, the provisions of all charters shall be continued in force.

[Acts 1925, S.B. 84.]

Art. 1179. Improvement Districts

Such city shall have the power to create and establish improvement districts, to levy, straighten, widen, enclose or otherwise improve any river, creek, bayou, stream or other body of water or streets or alleys, and to drain, grade, fill and otherwise protect and improve the territory within its limits, and shall have power to issue bonds for making such improvements, such improvement districts to be created and established agreeably to the general laws of this State providing for the creation of such improvement districts, and the issuance of such bonds shall be governed by the powers a city possesses in the matter of issuing bonds.

[Acts 1925, S.B. 84.]

Art. 1180. Private Improvements

Such city shall further have the power to straighten, widen, levy, enclose, or otherwise improve any river, creek, bayou, stream, or other body of water, or streets or alleys and to drain, grade, fill and otherwise protect and improve the territory within its limits and to provide that the cost of making any such improvements shall be paid for by the property owners owning property in the territory specially benefited in enhanced value by reason of making such improvements, and a personal charge shall be made against such owners as well as a lien shall be fixed by special assessment against any such property, and the city may issue assignable certificates or negotiable certificates, as it deems advisable, covering such cost, and may provide for the payment of such cost in deferred payments and fix the rate of interest not to exceed eight per cent, and may provide for the appointment of special commissioners or otherwise for the making or levying of said special assessment, or may provide that the same shall be done by the governing authorities, and that such rules and regulations may be adopted for a hearing and other proceedings had as may be provided by said charter.

[Acts 1925, S.B. 84.]

Art. 1180a. Improvement of Streams Within Boundaries by Certain Cities

Cities Which May Make Improvements;
Power Conferred

Sec. 1. Any City having a population in excess of 150,000 people and less than 240,000

people, according to the last or any succeeding Federal Census, shall have and exercise the power and right to straighten, widen, levee, restrain or otherwise control or improve any river, creek, bayou, stream or other body of water, and to grade or fill land and otherwise protect life and property within the boundaries of such City, meaning hereby to confer the power to amend or abate any harmful excess of water, either constant or periodic, by any and all mechanical means, and, to that end, may provide and pay the cost of any such improvement, or any part thereof, in the manner and form provided by Articles 1179 and 1180, Revised Civil Statutes of 1925, or the cost of any such improvement, or any part thereof, may be provided in any other manner or form lawful to be exercised by any such City under the Constitution of Texas and not expressly prohibited by the Charter of any such City.

Additional Powers

Sec. 2. Any such City, in addition to the power declared in Subdivision 1 of this Article, shall have these further specific powers, viz.:

a. To contribute to the cost, upkeep, replacement, alteration, extension, maintenance and operation of any works or improvements contemplated hereby, when such improvements are to be provided and/or operated by another.

b. To solicit and receive from another contribution to the cost of any such improvements and/or the alteration, enlargement, operation and maintenance thereof, when such works are to be provided and operated by any such City.

c. To purchase, or otherwise acquire and take over any such improvements, and/or the maintenance or the operation thereof, any one or all, and, electively and when so contracted, to assume any outstanding bond debt or other debt secured by lien, which debt does not bear interest at a rate greater than six per cent per annum, and which debt may have been incurred in order to provide any such works and improvements. It is the intent hereof that this provision shall supercede and control any provision of a City Charter not in conformity hereto, but it is expressly provided that nothing herein contained shall be held to create indebtedness exceeding the limit for debt appropriately fixed by Law; provided no such city, in purchasing or acquiring any such improvements, or the right to maintain and control the properties of such levee or improvement district, shall assume any bonded indebtedness outstanding and owing by such levee or improvement district, unless and until such city shall have first been authorized to do so by an election, at which such question of assuming any indebtedness and/or maintenance shall be first submitted to, and adopted by, the qualified property-tax-paying voters of said city.

d. To enter into contract with another whereby any such City may, jointly with another or independently, do any one or all of the things by this Act intended.

Powers Available to All Bodies Politic

Sec. 3. It is the intent hereof that any and all Bodies Politic which are subsidiary Governmental Agencies of the State, and otherwise having appropriate powers, may avail themselves of the provisions hereof and enter into contract one with another in order to accomplish the purpose of this Article.

Power to Provide Money

Sec. 4. Any such City and/or any other Body Politic and Corporate, which, under contract with a City having power hereunder, may seek to exercise the powers established by this Article, shall have the further power to provide the money required to construct, maintain and operate improvements hereunder, either separately or jointly under contract with another, in any manner lawful under the Constitution of Texas, and not expressly inhibited by the Charter and/or Statutory Act under which any such City or other contracting Body Politic may have its being.

Construction

Sec. 5. The word "another" or "others" as used herein shall be understood to include both the singular and the plural and shall be understood to include a City, a County, a Levee District, a Water Control and Improvement District, a Water Improvement District, a Navigation District and every other Body Politic under the Laws of Texas having Statutory powers concerning the control of harmful excess of water.

[Acts 1931, 42nd Leg., p. 831, ch. 345.]

Art. 1180b. Self-liquidating Recreational Improvements

Powers Granted to Certain Cities; Encumbrances

Sec. 1. That all cities having two hundred and thirty thousand (230,000) or more inhabitants according to the last preceding Federal Census, shall have the power to purchase and own, build, maintain, operate, mortgage and encumber health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of health and recreational resorts, parks, or playgrounds, or any of them either, and the income therefrom and to provide, maintain, operate, and encumber such projects and facilities acquired by gift, devise, grant, or otherwise by such cities, and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase same with such instruments of pledge or mortgage as may be deemed to be desirable; or to remodel, rebuild, renovate, maintain and repair such health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other instal-

lations or establishments necessary or desirable as a part of such projects, or any of them. Provided, however, that such cities are prohibited from mortgaging or encumbering any property now owned by such cities, and the rights and privileges hereby conferred upon such cities shall only authorize such cities to mortgage and encumber property acquired by such cities after the date of the passage of this Act. No such obligation on any such project shall ever be a debt of such city, but solely a charge upon the property and revenue of the project or projects so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Acts as to Notice, Competitive Bids, Etc., Inapplicable

Sec. 2. That the provisions of House Bill No. 312, Chapter No. 163, Acts of the Forty-second Legislature, 1931,¹ with reference to notice, competitive bids and the right to referendum shall not apply to cities issuing "revenue bonds" under the authority conferred in this Act.

¹ Article 2368a.

Encumbrance of Income; Operating Expenses as Prior Lien

Sec. 3. Whenever the income to be derived from the operation of any such project or projects shall be encumbered under this law, the expense of operation and maintenance, including all salaries, labor, materials, interest, repairs, and extensions necessary to properly maintain said project or projects, and every proper item of expense, shall always be a first lien and charge against such income. The rate of rental and concession charges for the use of the various installations, facilities and establishments of such project or projects shall be determined by the governing body of such project and no free service or rental shall ever be allowed. Rental and concession charges shall be charged and collected for the use of the various installations, facilities and establishments of such project or projects in an amount sufficient to pay operating and maintenance expenses, depreciation, replacements, salaries and interest charges, and to provide interest and sinking funds to pay the amount of any bonds issued to purchase, construct, maintain or improve any such project as herein enumerated or allowed, or any outstanding indebtedness against such projects, or any of them, and such charges shall be in accordance with the requirements of the Governmental Agency or Agencies lending or furnishing funds in aid thereof.

Contents of Contracts, Bonds, Etc.

Sec. 4. Every contract, bond, warrant and note issued or executed under this law shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Management and Control by Governing Body

Sec. 5. The management and control of any such health and recreational establishments, parks, playgrounds, hotels, bathhouses, bathing pools or facilities, and any and all other installations or establishments necessary or desirable as a part of such project during the time that they are encumbered shall be, by the terms of such encumbrance, placed in the City Council or the Mayor and City Commissioners or other governing body as said city shall establish therefor. The City Council, Mayor and City Commissioners or the governing body of the project that shall be so established by the city shall have power to make rules and regulations governing the use and rental of said various installations, facilities, premises and establishments of such project or projects and for the payment of said rentals and concession charges. Such governing body shall have the power to provide penalties for the violation of such rules and regulations and for the use of such project or projects of the facilities or equipment thereof without the consent or knowledge of the authorities in charge thereof and to provide penalties for all interference, trespassing, or injury to any such project or projects or premises on which same may be located.

Trustee Under Encumbrance

Sec. 6. A contract of encumbrance may provide for the selection of a trustee to make sale upon the default of principal or interest or violation of the terms and conditions of such contract and for the selection of his successor or successors if the original trustee of any substitute trustee should become disqualified or fail or refuse to act, and for attorneys' fees in amount not exceeding ten (10) per cent of the principal unpaid.

Foreclosure Procedure

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any Court or through any trustee, and no option to mature any part of any such obligation because of any default in payment of any installment of principal or interest or violation of the terms and conditions of such pledge or loan shall be exercised until ninety (90) days written notice shall be given to the City Council, Mayor and City Commissioners, or other governing body of such city, of the default claimed, which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city. If the default claimed shall have been cured before the expiration of said ninety (90) days, it shall have like effect as if no default has occurred or been claimed.

Application of Income

Sec. 8. No part of the income of any such project or projects so encumbered shall be used to pay any other debt, expense, or obligation of

such city until the indebtedness so secured shall have been finally paid.

[Acts 1935, 44th Leg., 2nd C.S., p. 1848, ch. 470.]

Art. 1181. Franchises

No charter or any amendment thereof framed or adopted under this charter, shall ever grant to any person, firm or corporation any right or franchise to use or occupy the public streets, avenues, alleys or grounds of any such city, but the governing authority of any such city shall have the exclusive power and authority to make any such grant of any such franchise or right to use and occupy the public streets, avenues, alleys, and grounds of the city. If, at any time, before any ordinance granting a franchise takes effect, a petition shall be submitted to the governing authority signed by five hundred of the bona fide qualified voters of the city, then the governing body shall submit the question of granting such franchise to a vote of the qualified voters of the city, at the next succeeding general election.

[Acts 1925, S.B. 84.]

Art. 1182. Franchise Election

Such election shall occur within twelve months from the date such ordinance takes effect. If such election shall not occur within the said twelve months, then such ordinance may be submitted, if petitioned therefor as before provided, at a special election to be called by the governing body therefor. Whenever said ordinance is submitted at any election, notice thereof shall be published at least twenty days successively in a daily newspaper in said city prior to the holding of said election. The ballot used at said election shall briefly describe the franchise to be voted on and the terms thereof and shall contain the words "For the granting of a franchise" and "Against the granting of a franchise." If a majority of those voting at said election shall vote in favor of granting a franchise, the governing body upon canvassing the returns shall so declare and said franchise shall take effect in accordance with its terms. No franchise shall extend beyond the period fixed for its termination.

[Acts 1925, S.B. 84.]

Art. 1182a. Annexation of Additional Territory**Election**

Sec. 1. Whenever the City Commission of any City within this State, acting under and by virtue of any Charter adopted under Home Rule Amendment Article 11, Section 5, of the Constitution of this State, shall initiate or order an election for the extension of the territorial limits of said city, to be submitted to the legally qualified property tax paying voters residing within the territorial limits of said city, to determine whether or not the adjacent territory desired to be annexed shall be included

within the territorial limits of said city, said City Commissioners shall at the same time order an election to be held at some convenient place within said city limits, so that the legally qualified property tax paying voters residing in the territory contiguous to said city and proposed to be annexed, may appear and cast their vote for the purpose of determining whether a majority of the legally qualified property tax paying voters residing in said territory proposed to be annexed, favor the annexation of said territory proposed to be annexed.

Ballots for Election

Sec. 2. Whenever an election for the annexation of additional territory is held in accordance with the provisions of the foregoing section, said City Commissioners, when ordering such election for the annexation of said territory, shall prepare for the legally qualified property tax paying voters, printed ballots containing the following propositions to be voted on thereat:

"For annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

"Against annexation of additional territory and assumption by the city of all bonded indebtedness and flat rates owing to such water control and improvement district on the territory to be annexed and the levying and collecting of a tax on all property within the city limits sufficient to pay off and discharge said bonded indebtedness and flat rates."

Assumption of Indebtedness of Annexed Territory

Sec. 3. If, at any election to be held under the provisions hereof, a majority of the legally qualified tax paying voters residing within the territorial limits of such city, and those residing within the territorial limits proposed to be annexed, shall each vote in favor of the annexation of such additional territory, said city shall thereby assume all of said bonded indebtedness and flat rates on the territory thus annexed and due such Irrigation District, Water Improvement District or Water Control and Improvement District, or either of them, and shall from thence forth out of the taxes collected on the territory thus annexed pay to said Irrigation District, Water Improvement District or Water Control and Improvement District, said bonded indebtedness and flat rates, owing to such district, or either of them, as same become due and payable, and no city thus annexing such territory shall be entitled to collect any taxes due it from the property owners within the territory annexed until said City shall pay such bonded indebtedness and flat rates, for the current year same become due

and payable, and present to said property owner a receipt showing that said City has paid the same.

The order of election must give the metes and bounds of the territory to be annexed, and said metes and bounds shall be include¹ and made a part of the ordinance calling for the election.

The election herein provided for shall be ordered by the City Commissioners and the returns canvassed and the results declared as is provided by law for other elections pertaining to said City.

Said ordinance for the election must provide for separate elections and must be issued and public notice given thereof as in other city elections, and provided further that if a majority of the legally qualified property tax paying voters residing within the territorial limits of said city or if a majority of the legally qualified property tax paying voters residing within the territory desired to be annexed shall not be in favor of such annexations then such annexations shall not be made.

Powers Additional to Charter Provisions

Sec. 4. Provided further, however, that nothing in this Act shall be held or construed to repeal or nullify any charter provision of any city of over one hundred thousand inhabitants according to the last United States census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance, but shall be construed as an additional power and cumulative of the said charter provisions.

[Acts 1929, 41st Leg., p. 251, ch. 110.]

¹ Probably should read "included."

Art. 1182b. Annexation of Adjacent Territory Including Water District or Towns

Cities Which May Annex Territory

Sec. 1. In all cities having a population of more than One Hundred Fifty Thousand (150,000) and less than One Hundred Sixty Thousand (160,000) at the time of the taking of the Federal Census of 1920 and operating under a special charter or the Home Rule Act, the power to provide for the annexation of additional territory lying adjacent to said city according to such provisions as may be provided by said charter is hereby expressly granted, recognized, ratified and confirmed.

Annexation Authorized

Sec. 2. Said cities may annex territory which includes one or more fresh water supply districts, organized under authority of Section 59 of Article 16 of the Constitution of the State of Texas whether organized under general or special law; also which includes cities and towns of less than five thousand (5,000) inhabitants operating under the general law.

Property of Annexed Territory Vested in City

Sec. 3. In the event such district or districts, or incorporated cities and towns are in-

cluded in the annexed territory, it shall be the duty of the Governing Board of said City annexing such territory to adopt a resolution or pass an ordinance providing that all physical property belonging to said fresh water supply district or districts, or cities and towns so annexed, shall thereafter be vested in said city, provided that prior to the passage of any ordinance or resolution of the city annexing territory including fresh water supply district or districts, or incorporated cities and towns of under five thousand (5,000) inhabitants, the Board of Commissioners of such city annexing such territory, shall have been presented with an application for such annexation from the governing authority of such fresh water supply district or districts, or cities and towns of under five thousand (5,000) inhabitants included in the territory to be annexed.

Assumption of Indebtedness by City

Sec. 4. The ordinance or resolution passed or adopted by the governing board of said City shall provide that all bonded indebtedness of said fresh water supply district or districts and all legal indebtedness of such cities and towns, as provided herein, be assumed by said City. Immediately upon the passage of such resolution or ordinance the corporate existence of said fresh water supply district or districts, or cities and towns so annexed will have legally terminated and the outstanding bonds and interest unpaid thereon of said fresh water supply district or districts, and the legal indebtedness of such cities and towns, shall be paid by said City as they mature and accrue. [Acts 1929, 41st Leg., 1st C.S., p. 65, ch. 30.]

Art. 1182c. Validating Annexation by Cities of Fresh Water Supply Districts

Cities in Which Proceedings Validated

Sec. 1. That in each instance when there has been presented to the governing body of any city having a population of 150,000 or more a petition by the supervisors of any Fresh Water Supply District theretofore organized under Title 128, Chapter 4, Vernon's Revised Civil Statutes of 1925, or said Chapter 4 as amended,¹ asking that the territory therein described, including such Fresh Water Supply District, be annexed to such city, and the governing body of such city has adopted an ordinance annexing such territory to such city, including such Fresh Water Supply District, said ordinance and all proceedings had in connection with its adoption and with said annexation of territory are hereby validated and legalized.

Assumption of Indebtedness

Sec. 2. That in each instance when the governing body of any such city has provided by ordinance for the annexation of territory, including any such Fresh Water Supply District, to such city and has provided in said ordinance that all outstanding legal indebtedness and all outstanding bonds and interest unpaid thereon of any such Fresh Water Supply District shall be assumed and paid by said city, such out-

standing indebtedness and all such outstanding bonds and interest unpaid thereon are hereby declared to be the legal indebtedness of said city and for the payment thereof such city is authorized to levy taxes upon all taxable property therein, provided that this Act shall apply only on bonds or indebtedness of any Fresh Water Supply District, authorized and created pursuant to the approving vote of a majority of the qualified property taxpaying voters of any such District; and provided, further, that this Act shall not operate to abolish or impair any of the contractual rights of the holders of said bonds or other evidences of indebtedness issued or incurred by such Fresh Water Supply District.

[Acts 1931, 42nd Leg., Spec.Laws, p. 351, ch. 171.]

¹ Article 7881 et seq. (repealed; see, now, Water Code, § 53.012 et seq.).

Art. 1182c-1. Cities and Towns Which Have Annexed Territory Within Water Districts

Application

Sec. 1. This Act shall apply to all incorporated cities and towns, including Home Rule Cities, and those operating under general laws or special charters (hereinafter called "city" or "cities"), which have heretofore annexed, or hereafter may annex, all or any part of the territory within one (1) or more water control and improvement districts, fresh water supply districts or municipal utility districts, which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, the furnishing of sanitary sewer service or drainage services, any or all. Such cities shall succeed to the powers, duties, assets, and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within such districts in which such facilities are owned and are operated by such city at the effective date of annexation. This Act shall not apply in the case of any such district, the territory of which is now situated in more than one (1) incorporated city.

Taking Over Assets and Liabilities; Contracts

Sec. 2. In case all the territory within any such district is so annexed, such city shall take over all properties and assets, shall assume all debts, liabilities and obligations and shall perform all functions and services of such district, and after such annexation such district shall be abolished at the time and in the manner as provided in the sentence immediately following. The governing body of such city shall, by ordinance, designate the date upon which the city shall take over, shall assume all debts, and such district shall be abolished, and said date shall be in no event later than ninety (90) days after the effective date of such annexation; provided, that if the city fails to adopt such ordinance, the city shall automatically take over and assume such debts and the

district shall be abolished ninety (90) days after the effective date of such annexation.

In case less than all of the territory within any such district is so annexed, the governing authorities of such city and district shall be authorized to enter into contracts in regard to the division and allocation of duplicate and overlapping powers, functions and duties between such agencies, and in regard to the use, management, control, purchase, conveyance, assumption and disposition of the properties, assets, debts, liabilities and obligations of such district. Any such district is expressly authorized to enter into agreements with such city for the operation of the district's utility systems and other properties by such city, and may provide for the transfer, conveyance or sale of such systems and properties of whatever kind and wherever situated (including properties outside the city) to such city upon such terms and conditions as may be mutually agreed upon by and between the governing bodies of such district and city. Such operating contracts may extend for such period of time not exceeding thirty (30) years as may be stipulated therein and shall be subject to amendment, renewal or termination by mutual consent of such governing bodies. No such contract shall contain any provision impairing the obligation of any existing contract of such city or district.

In the absence of such contract, such district shall be authorized to continue to exercise all the powers and functions which it was empowered to exercise and perform prior to such annexation, and the city shall not duplicate services rendered by the district within the district's boundaries without the district's consent, but may perform therein all other municipal functions in which the district is not engaged.

Abolition of Water Districts Within Cities and Towns

Sec. 2a. All water control and improvement districts, fresh water supply districts or municipal utility districts which have heretofore been or which may hereafter be created out of territory which, at the time of such creation, was situated wholly within the corporate limits of any incorporated city, town or village, including a home rule city (hereinafter called "City"), may be abolished in the manner herein provided. The governing body of such city shall be authorized, by a vote of not less than two-thirds ($\frac{2}{3}$) of the entire membership of its governing body, to adopt an ordinance abolishing such water control and improvement district, fresh water supply district or municipal utility district if such governing body finds (a) that such district is no longer needed or (b) that the services furnished and functions performed by such district can be served and performed by the city and (c) that it would be to the best interests of the citizens and property within said district and the citizens and property within such city that such district be abolished.

If prior to the date when an ordinance adopted pursuant to this Section shall take effect, or within thirty (30) days after the same takes effect, or the publication of same, a petition signed and verified by the qualified voters of the city, equal in number to ten percent (10%) of the total vote cast at the city election for municipal officers next preceding the filing of said petition shall be filed with the city secretary protesting against the enactment or enforcement of such ordinance, it shall be suspended from taking effect and no action theretofore taken under such ordinance shall be legal or valid. Immediately upon the filing of such petition the secretary shall present it to the governing body of the city. Thereupon the governing body shall immediately reconsider such ordinance and if it does not entirely repeal the same shall submit it to popular vote at the next municipal election or the governing body may, in its discretion, call a special election for that purpose, and such ordinance shall not take effect unless a majority of the qualified electors voting thereon at such election shall vote in favor thereof.

Upon the adoption of an ordinance as hereinabove provided, such water control and improvement district, fresh water supply district or municipal utility district shall be abolished and dissolved and all properties and assets of such district shall thereupon vest immediately in such city and such city shall thereby assume and become liable for all bonds and other obligations for which such district is liable. Such city shall thereafter perform all services and functions theretofore performed or rendered by said district. When any district bonds, warrants or other obligations payable in whole or in part from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of, and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue refunding bonds in its own name to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available.

Continued Existence of City Water Boards; Depositories for Funds

Sec. 2b. City Water Boards created by Section 6 of Chapter 134, Acts of the 52nd Legislature, Regular Session, 1951,¹ which have remained in existence to preserve vested rights created thereunder shall, after a relevant city has annexed all the territory of the Water Control and Improvement District whose functions it has assumed and delegated to the City Water Boards, remain in existence with its full pow-

ers, so long as lands located within its jurisdiction are being used for farming, ranching and/or orchard purposes, and such City Water Boards, without limitation of any other powers they have, shall select and designate one or more depositories of the proceeds of all maintenance and water charges and other charges levied by any water control and improvement district annexed by a relevant city and of any other income or funds of said water control and improvement district, regardless of the fact that one or more members of said City Water Board may be a member of the board of directors or a stockholder of any such depository, and that the funds of said water control and improvement district may be kept in one or more separate and distinct accounts in said depository or depositories if the funds deposited in each such separate account are to be used for a different or separate designated purpose from the funds deposited in any other such separate account, and such funds deposited in any depository selected by said City Water Board shall be insured by an official agency of the government of the United States and shall be at least equally as well insured and protected as funds deposited in the official city depository of said relevant city.

¹ Article 7880-147z1 (now repealed).

Taxes to Pay Bonds; Refunding Bonds or Warrants

Sec. 3. When any district bonds, warrants or other obligations payable in whole or in part from ad valorem taxes have been assumed by such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes sufficient to pay principal of, and interest on, such bonds, warrants or obligations as they respectively become due and payable. Such city shall be authorized to issue its refunding bonds or warrants to refund any bonds, warrants or other obligations, including unpaid earned interest thereon, so assumed by it. Such refunding bonds or warrants shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended, provided that it shall not be necessary to give any notice of intention to issue such refunding bonds or warrants and no right of referendum thereon shall be available. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Outstanding Obligations

Sec. 4. When all of the territory within such district has been annexed as hereinabove provided and in cases where such district has outstanding bonds, warrants or other obligations, payable solely from the net revenues from the operation of any utility system or property, such city shall nevertheless take over and operate such system or properties, and shall apply the net revenues from the operation

thereof to the payment of such outstanding district revenue bonds, warrants or other bonded obligations in all respects as though the district had not been abolished.

If such city does not itself have outstanding revenue bonds, warrants or other obligations payable from, and secured by a pledge of, the net revenues of its own utility system or properties of like kind, or, if such city does have outstanding revenue bonds, warrants or other obligations payable from, and secured by pledge of, the net revenues of its own utility system or properties of like kind, but the revenues therefrom are sufficient to meet its own outstanding obligations to which such revenues are pledged, and have over a period of five (5) years prior to the effective date of this Amendment hereto had an annual surplus in said fund sufficient to meet the annual obligations for which the revenues from the water district, or districts, are pledged, such city may, at its option, combine such utility system or properties acquired from such district or districts with its own similar utility system or properties and, in such case, such city shall levy each year against all property subject to taxation by such city, an ad valorem tax in sufficient amount, when taken together with other funds and revenues of the city which may be lawfully appropriated and devoted thereto, to provide sufficient funds and moneys to make the payment of the principal of and interest on any such assumed bonds, warrants or other obligations so secured.

If any such city does have outstanding bonds, warrants or other bonded obligations payable from, and secured by a pledge of, the net revenues of the city's said utility system or properties of like kind, and such city does not have annually accruing to its surplus revenue fund an amount over and above the amount of such fund pledged to the payment of outstanding obligations of the city sufficient to meet the annual obligations for which the revenues from the water district or districts are pledged, then, until the refunding hereinafter authorized has been accomplished, the city shall continue to operate former properties of the district separate and apart from any similar properties of the city and shall not commingle in any way the revenue of any such several systems. Such city shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the governing body of such district in regard to the outstanding bonds, warrants, or other obligations payable solely from the revenues of such former district's utility system or properties and shall likewise, separate and apart, perform all duties, functions and obligations imposed upon such city in connection with its own revenue bonds, warrants or other obligations; provided that overhead expenses may be allocated between any two (2) or more such systems of properties in direct proportion of the gross income of each.

Revenue Refunding Bonds

Sec. 5. Any such city shall have authority to issue revenue refunding bonds in its own name for the purpose of refunding outstanding district revenue bonds, warrants or other obligations (including unpaid accrued interest thereon) assumed by such city and shall also have authority to combine any number of different issues of both district and city revenue bonds, warrants or other obligations into one series of revenue refunding bonds and pledge the net revenues of such utility systems or properties to the payment of such refunding bonds as the governing body shall deem proper. The provision of Articles 1111 to 1118, Vernon's Texas Civil Statutes, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein and provided that no election for the issuance of such bonds shall be necessary. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

Newly Incorporated Cities or Towns

Sec. 6. When any city or town is newly incorporated over all or any part of the territory within a water control and improvement district, a fresh water supply district or municipal utility district, the governing body may adopt an ordinance making the provisions of this Act applicable to such city or town and, upon the adoption of such an ordinance by a vote of not less than two-thirds ($\frac{2}{3}$) of the entire membership of such governing body, the provisions of this Act shall thereafter be applicable to such city or town and to such districts situated in whole or in part therein.

Partial Invalidity

Sec. 7. If any clause, phrase, sentence, paragraph, section or provision of this Act or the application thereof to any particular person or thing, is held to be invalid, such invalidity shall not affect the remainder of this Act or the application thereof to any other person or thing.

[Acts 1947, 50th Leg., p. 223, ch. 128; Acts 1949, 51st Leg., p. 387, ch. 206, § 1; Acts 1953, 53rd Leg., p. 588, ch. 230, § 1; Acts 1957, 55th Leg., p. 348, ch. 161, § 1; Acts 1959, 56th Leg., p. 940, ch. 436, § 1; Acts 1961, 57th Leg., p. 150, ch. 77, § 1; Acts 1967, 60th Leg., p. 929, ch. 406, § 1, eff. June 8, 1967; Acts 1971, 62nd Leg., pp. 2988, 2989, ch. 986, §§ 1, 2, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 504, ch. 217, § 1, eff. May 28, 1973.]

Art. 1182c-2. Validation of Annexations by Cities and Towns of Less Than 100,000 Population of Territories of Water Control and Improvement Districts, Etc.; Exception

All annexations by cities and towns of less than one hundred thousand (100,000) inhabitants, including Home Rule Cities, and those operating under general laws or special charters, heretofore made of territory or territories of water control and improvement districts or fresh water supply districts and the actions of

such cities and towns in taking over all the properties and assets of such districts, in assuming the debts and liabilities and obligations of such districts, and in abolishing such districts are hereby in all things validated, ratified, and confirmed, and all bonds heretofore issued by such cities and towns to refund bonds, warrants or other obligations of such district or districts are hereby in all things validated, ratified, and confirmed; provided, that this Section shall have no application to pending litigation questioning the validity of any of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1957, 55th Leg., p. 348, ch. 161, § 2.]

Art. 1182c-3. Repealed by Acts 1959, 56th Leg., p. 515, ch. 228, § 7, eff. May 25, 1959

Art. 1182c-4. Bonds; Issuance by Cities Over 500,000, in Lieu of Unissued Bonds of Annexed Water District

Sec. 1. This Act shall apply to all cities having a population of more than five hundred thousand (500,000) according to the then last preceding official United States census which have heretofore annexed or hereafter may annex one or more water control and improvement districts or fresh-water supply districts and have abolished or may abolish such districts as provided in Article 1182c-1, Vernon's Texas Civil Statutes (Chapter 128, Acts of the Fiftieth Legislature of Texas, Regular Session, 1947), as same has been, or may hereafter be, amended. In the event any such district had, prior to such abolition, voted bonds for the purpose of providing waterworks, sanitary sewer or drainage facilities, any or all, which bonds were not issued, sold and delivered prior to such abolition, the governing body of such city shall be authorized to issue and sell bonds of said city in an amount not exceeding the amount of such voted but unissued district bonds, for the purpose of carrying out the purpose or purposes for which said district bonds were voted. Such bonds shall be authorized by ordinance adopted by the governing body of said city in which provision shall be made for the levy of taxes upon all taxable property within said city for the payment of principal and interest thereon when due. Said bonds shall be sold for not less than par and accrued interest, shall mature, bear interest, be subject to approval by the Attorney General of Texas and registration by the Comptroller of Public Accounts as provided by law for other general obligation bonds of such city, and when so approved, registered, and sold, shall be incontestable.

Sec. 2. All laws, general and special, and city charter provisions in conflict herewith are, to the extent of such conflict, hereby repealed but nothing herein shall affect the right of such cities to issue bonds for other purposes. All ordinances, acts and proceedings of the governing bodies of any such cities for the annexation of territory which includes any such

water district or districts are hereby in all things validated, ratified and confirmed; provided, however, that nothing in this Act shall affect any pending litigation or the legal rights of parties involved in any litigation pending upon the effective date of this Act.

[Acts 1957, 55th Leg., p. 1428, ch. 495.]

Art. 1182c-5. Cities Which Have Annexed Territory Within Water Control and Improvement, Fresh Water Supply or Municipal Utility Districts

Application of Act; Succession to Powers, Duties, Assets and Obligations of Districts

Sec. 1. This Act shall apply to all incorporated cities and towns, including Home Rule Cities and those operating under General Laws or special charters (hereinafter called "city" or "cities"), which now or hereafter contain within their city or corporate limits (by virtue of annexation of territory or original incorporation, either or both) any part of the territory within one (1) or more water control and improvement districts, freshwater supply districts or municipal utility districts (hereinafter called "district" or "districts"), which districts were organized for the primary purpose of providing such municipal functions as the supply of fresh water for domestic or commercial uses, or the furnishing of sanitary sewer service, any or all, when the balance of the territory comprising such district or districts lies in another city or cities so that the entire district lies wholly within two (2) or more cities. Such cities shall succeed to the powers, duties, assets and obligations of such district or districts in the manner and to the extent hereinafter provided. Nothing herein shall prohibit any city from continuing to operate utility facilities within any such district in which such facilities are, or were, owned and operated by such city at the time that the part of the territory of the district became, or becomes, a part of or included within the boundaries of such city.

Abolition of Districts; Distribution of Assets; Assumption of Obligations

Sec. 2. Such district may be abolished by mutual agreement between the district and the cities wherein such district lies. Subject to the provisions of Section 4 of this Act, such agreement shall provide for the distribution among such cities of all the properties and assets of the district and for the pro rata assumption by such cities of all the debts, liabilities and obligations of the district, said distribution and assumption to be predicated or based upon the pro rata value of the properties and assets of the district going to such cities, respectively, to the entire value of such properties and assets. The determination of the value of such properties and assets may be on an original cost basis, a reproduction cost basis, or the fair market value basis. Such agreement shall designate the date upon which the district shall be abolished, and the agreement shall be approved by ordinance adopted by the

governing body of each of the cities and by order or resolution adopted by the governing board of the district, and the same shall be so approved prior to the date designated in the agreement for such abolition, distribution, and assumption.

Abolition of Certain Multi-city Conservation and Reclamation Districts

Sec. 2A(1) Notwithstanding any other provision of the law or this Act, any conservation and reclamation district created or existing pursuant to Article XVI, Section 59 of the Constitution of Texas which lies wholly within more than one city, and which, on April 1, 1971, did not lie wholly within more than one city, and which, on said date, was not a party to a contract providing for a federal grant for research and development pursuant to Title 33, Sections 1155(a)(2) and 1155(d) of the United States Code, as amended,¹ and which has provided or is providing fresh water supply, sanitary sewer and drainage services shall be abolished ninety (90) days after the inclusion of all of the territory of said district within said cities, and the physical assets, properties and facilities of the district shall be distributed to said cities and its intangible assets, bonded indebtedness, liabilities, obligations and other debts assumed by said cities in the following manner:

(a) All physical assets, properties and facilities of said district located within the boundaries of each respective city shall, at the date of distribution, belong to said city. The intangible assets, bonded indebtedness, liabilities, obligations and other debts of the district shall be assumed by the cities. That part of the intangible assets, bonded indebtedness, liabilities, obligations and other debts of the district assumed by each city shall be determined by multiplying the total intangible assets, bonded indebtedness, liabilities, obligations or other debts of the district by a fraction, the numerator of which is the original cost of all physical assets, properties and facilities of said district distributed to the city and the denominator of which is the total original cost of all physical assets, properties and facilities of the district. The term "original cost" as used in this section shall mean the actual cost of construction or acquisition. Operating expenses during construction, interest during construction, organizational expenses, engineering fees, legal fees, fiscal fees and other fees and expenses shall not be considered when determining the original cost of any physical assets, properties or facilities. Each city shall faithfully perform all duties, functions and obligations imposed by law or by contract upon the abolished district and its governing body in regard to any outstanding district bonds, warrants or other obligations payable in whole or in part from the revenues from the operation of the district's properties, assets and facilities;

provided, however, that maintenance and operation expenses may be allocated by a city between two or more similar properties, assets and facilities owned and operated by the city in direct proportion to the gross income of each.

(b) All of the physical assets, properties and facilities which serve territory within more than one city shall continue to serve such territory and shall be operated and maintained by the city within which such properties, assets and facilities are located. Said city may make reasonable charges to the other cities served by such assets, properties and facilities for the operation and maintenance of such assets, properties and facilities.

(2) Notwithstanding any contrary provision of the law or this Act, a district defined by Section 2A(1) may be abolished by mutual agreement between all of the cities wherein said district lies. Such agreement need not be approved by the district. The agreement may designate a date or dates, no later than ninety (90) days after the inclusion of all of the territory of said district within said cities, upon which the district shall be abolished. The agreement may provide a method by which the district's properties, assets and facilities shall be taken over by the cities, and the bonded indebtedness, liabilities, obligations and other debts of the district shall be assumed by said cities pursuant to such agreement. Said agreement may define those physical assets, properties and facilities of the district which serve territory within more than one city, and may provide a method by which said assets, properties and facilities shall be operated and maintained. An agreement executed pursuant to this section may contain all provisions necessary or proper to the abolition of said district, the distribution of its properties, assets and facilities, and the assumption of its bonded indebtedness, liabilities, obligations, and other debts. Said agreement may bind the parties for as long as fifty (50) years, notwithstanding any provision of the city charters of the respective cities to the contrary.

(3) If a city which has previously annexed territory within a district defined in Section 2A(1) annexes additional territory which lies wholly within such district and obtains the consent of all other cities which have previously annexed territory within said district and which have extra-territorial jurisdiction over the territory proposed to be annexed, then, notwithstanding any contrary provision of the Municipal Annexation Act (Article 970A, Vernon's Texas Civil Statutes, as amended), such annexing city need not obtain the consent of any other municipality.

¹ 33 U.S.C.A. § 1155(a)(2), (d).

Levy of Taxes to Pay Obligations

Sec. 3. When its pro rata part of any district bonds, warrants, or other obligations payable in whole or in part from ad valorem taxes

have been assumed by any such city, the governing body of such city shall thereafter levy and cause to be collected upon all taxable property within such city, taxes to pay its pro rata part of the principal of and interest on such bonds, warrants, or obligations, as they respectively become due and payable.

Operation of Systems with Outstanding Obligations Payable from Revenue

Sec. 4. When any such district is abolished and has outstanding bonds, warrants, or other obligations payable in whole or in part from net revenues from the operation of the district utility system or properties, the affected cities shall nevertheless take over and operate such system or properties through a board of trustees, hereinafter provided for, and shall apply the net revenues from the operation thereof to the payment of such outstanding district revenue bonds, warrants, or other obligations in all respects as though the district had not been abolished, and such system or properties shall be so operated until all such bonds, warrants, or other obligations shall have been retired in full, either by the payment thereof or by the refunding thereof into obligations of the cities. Such board of trustees shall consist of not more than five (5) members, shall be appointed by the governing bodies of the cities, shall serve for such term or terms, and shall perform such duties as shall be set forth in the agreement mentioned in Section 2 of this Act. It is specifically provided, however, that such board of trustees shall faithfully perform all duties, functions, and obligations imposed by law or by contract upon the abolished district and its governing board in regard to said outstanding district bonds, warrants, or other obligations payable in whole or in part from net revenues of the district utility system or properties, including the charging and collection of sufficient rates for the services of such system or properties and the application of revenues so as to comply with all covenants and agreements contained in the proceedings pertaining to such bonds, warrants, or other obligations with respect to the payment of the interest thereon and principal thereof and the maintenance of reserves and other funds. When all such district revenue bonds, warrants, or other obligations have been retired in full, either by the payment thereof or by the refunding thereof, then the properties and assets of the district shall be distributed among the cities as provided in Section 2 hereof, and such board of trustees shall thereupon be abolished.

General Obligation Refunding Bonds; Warrants; Issuance; Notice; Interest

Sec. 5. Any such city shall be authorized to issue general obligation refunding bonds in its own name to refund in whole or in part its pro rata part of any outstanding district bonds, warrants, or other obligations payable in whole or in part from ad valorem taxes (including unpaid earned interest thereon) so assumed by it. Such refunding bonds shall be issued in the manner provided in the Bond and Warrant

Law of 1931, as heretofore or hereafter amended; ¹ provided, however, that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. Such refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

¹ Article 2368a.

Revenue Refunding Bonds for Payment of District Bonds, Warrants or Obligations; Combination of Issues

Sec. 6. Any such city shall be authorized to issue revenue refunding bonds or general obligation refunding bonds, either or both, in its own name to refund in whole or in part its pro rata part of any outstanding district bonds, warrants, or other obligations payable solely from net revenues (including unpaid earned interest thereon) so assumed by it, and shall also have the authority to combine any number of different issues or bonds of different issues of both district and city revenue bonds, warrants, or other obligations into one (1) or more series of revenue refunding bonds (and pledge the net revenues of such utility systems or properties to the payment thereof) or into one (1) or more series of general obligation refunding bonds, either or both, as the governing body may deem proper; provided however, that no originally issued city revenue bonds shall be refunded into city general obligation refunding bonds. The provisions of Articles 1111 through 1118, Vernon's Texas Civil Statutes, 1925, as amended, shall apply to such revenue refunding bonds except as otherwise provided herein, and no election for the issuance of such revenue refunding bonds shall be necessary; and in the issuance of revenue refunding bonds, it is expressly provided that such cities shall have the benefits provided by Article 1118n-5, Vernon's Texas Civil Statutes, 1925, as amended, including the power and authority to issue and sell revenue refunding bonds under Section 1a of said Article, as amended in 1955, and the provisions of such Article, as amended, relating to outstanding revenue bonds shall apply to outstanding revenue bonds assumed by cities under this Act. General obligation refunding bonds shall be issued in the manner provided in the Bond and Warrant Law of 1931, as heretofore or hereafter amended; provided, however, that it shall not be necessary to give any notice of intention to issue such refunding bonds and no right of referendum thereon shall be available. Such revenue refunding bonds or general obligation refunding bonds shall bear interest at the same or lower rate than that borne by the obligations refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

[Acts 1959, 56th Leg., p. 515, ch. 228; Acts 1971, 62nd Leg., p. 1076, ch. 228, § 1, eff. May 17, 1971; Acts 1971, 62nd Leg., p. 2989, ch. 986, § 3, eff. June 15, 1971.]

Art. 1182c-6. Validation of Contracts Affecting Water and Sewer Facilities of Cities and Contiguous Water Control and Improvement Districts

Sec. 1. In each instance where since Chapter 161, Laws of the Regular Session of the 55th Legislature of Texas, 1957, amending Article 1182c-1, Vernon's Revised Civil Statutes of Texas, became effective, any city, including home rule cities, has entered into a contract with a contiguous Water Control and Improvement District, part or all of which district by reason of annexations to such city was at the time of the making of such contract within the territorial limits of such city, which contract provides for the operation of the water and sewer facilities of such district by such city and makes other provisions with respect to the operation of the water and sewer facilities of such district and such city and with respect to the rights of such district and such city thereto, such contract is hereby validated, ratified and confirmed and declared to be enforceable and legally effective in accordance with its terms, and the parties thereto are authorized to perform and carry out the provisions and obligations of such contract. No such contract shall be so construed as to have the effect of giving the outstanding bonds of any such district a lien on any revenues not contemplated by the proceedings authorizing such bonds, nor to have the effect of giving any outstanding bonds of such city a lien on any of the revenues pledged to the payment of such outstanding district bonds until all such outstanding district bonds shall have been retired.

Sec. 2. This Act shall not apply to any contract, the validity of which is under attack, in litigation pending in any court in Texas at the time this Act becomes effective.

[Acts 1959, 56th Leg., p. 635, ch. 289.]

Art. 1182d. Validating Relinquishment of Territory

That the Legislature of the State of Texas hereby validates, ratifies and approves all ordinances, relinquishing, discontinuing, and segregating any territory within the corporate limits of any Home Rule City in this state, having a population of more than twenty thousand (20,000) inhabitants and less than twenty-one thousand (21,000) inhabitants, according to the last preceding Federal census; which city has adopted a charter under Article 11, Section 5, of the Constitution of the State of Texas and the provisions of Chapter 147, Acts of the Regular Session of the 33rd Legislature of the State of Texas, passed in 1913.

[Acts 1934, 43rd Leg., 3rd C.S., p. 53, ch. 30, § 1.]

Art. 1182d-1. Donation of Unimproved Land to Counties for Use by Juvenile Boards; Validation; Authorization

Sec. 1. All donations of unimproved land by Home Rule cities of this State by grant or lease to the counties wherein they are located

for use by the Juvenile Boards of said counties are hereby validated.

Sec. 2. Home Rule cities of this State are authorized and empowered to donate by grant or lease to the counties wherein they are located any unimproved land for use by the Juvenile Boards of such counties.

[Acts 1959, 56th Leg., p. 275, ch. 155.]

Art. 1182e. Exposition or Convention Halls in Cities of 290,000 or More

Powers Granted; Obligation Not a Debt

Sec. 1. That all cities having two hundred and ninety thousand (290,000) or more inhabitants according to the last preceding Federal Census shall have the power to build and purchase, mortgage and encumber exposition and convention halls, or either, and the income thereof and to evidence the obligations therefor by bonds, notes or warrants and to secure the payment of funds to purchase same; or to remodel, rebuild, renovate and repair such exposition and convention halls, or either. No such obligation of any such exposition and convention halls shall ever be a debt of such city, but solely a charge upon the property of the exposition and convention hall so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Provisions as to Notice and Competitive Bids Inapplicable Until After January 1, 1936

Sec. 2. That notwithstanding any of the provisions of House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931, the requirements of said House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931,¹ with reference to notice, competitive bids and the right to referendum shall not apply to cities acting under the authority conferred in this Act until after January 1, 1936, instead of June 1, 1932, as provided in House Bill No. 312, Chapter No. 163, Acts of the 42nd Legislature, 1931.

¹ Article 2368a.

Lien on Income; Rates for Use

Sec. 3. Whenever the income to be derived from the operation of any exposition and convention hall shall be encumbered under this law, the expense of operation and maintenance including all salaries, labor, materials, interest, repairs, and extensions necessary to properly maintain said exposition and convention hall and every proper item of expense shall always be a first lien and charge against such income. The rate for the use of said exposition and convention hall shall be determined by the governing body of such city and no free service or rental shall ever be allowed. There shall be charged and collected for the use of such exposition and convention hall a sufficient rental to pay all operating, maintenance, depreciation, replacements, betterments, and interest charges and for interest and sinking fund to pay any bonds issued to purchase, construct or improve

any such exposition and convention hall or of any outstanding indebtedness against it.

Provision to be Inserted in Contract, Bond or Note

Sec. 4. Every contract, bond, or note issued or executed under this law shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Governing Body to Manage

Sec. 5. The management and control of any such exposition and convention halls during the time that they are encumbered shall be, by the terms of such encumbrance, placed in the city council or other governing body of said city. The city council or other governing body shall have power to make rules and regulations governing the use and rental of said exposition and convention halls and for the payment of said rentals. Such governing body shall have the power to provide penalties for the violation of such rules and regulations and for the use of such exposition and convention halls without the consent or knowledge of the authorities in charge thereof and to provide penalties for all interference, trespassing, or injury to any such exposition and convention halls or premises on which same may be located.

Provision for Trustee

Sec. 6. A contract of encumbrance may provide for the selection of a Trustee to make sale upon the default of principal or interest or otherwise according to the terms of such contract and for the selection of his successor, if disqualified or failing to act, and for collection of fees not exceeding five (5) per cent of the principal. If such contract provides for the appointment of a Receiver, the Trustee, in the event of any default in the payment of principal and interest or otherwise under such contract, continuing for a period of thirty (30) days, may apply to the proper Court for the appointment of a Receiver. A Receiver so appointed may, subject to the order of the Court, enter and take possession of the properties and operate and maintain them and apply the net revenue to the liquidation of the debt. The Receiver may maintain and operate the properties and may use or rent any part of the properties for any purpose consistent with the continued use of the major part as an exposition and convention hall or, if so authorized by the Court, may rent all the properties for any lawful use, and all of such properties shall continue to be free from taxation until the indebtedness secured thereby is fully paid. The Receiver may rent any part or all of such properties to the city, and the city may lease the same from the Receiver. All rights of the Receiver and of any lessees or other persons holding under him shall cease when the indebtedness is paid or if the Trustee, in the exercise of its powers, shall sell the properties, provided that the Trustees may agree with any lessee of the properties

from the Receiver not to sell the property during the term of his lease; provided also that if the principal of all the bonds shall not have been declared due or if such declaration being made shall have been annulled under the provisions of the contract of encumbrance, the rights of the Receiver may be terminated and the Receiver discharged by remedy or waiver of the default and upon application to the Court, and in such event the rights of any lessee from the Receiver shall be subject to adjudication and may be terminated or adjusted by the Court.

Validation of Proceedings, Mortgages, and Bonds

Sec. 6-a. Any proceedings taken by any such city under such Act and any mortgage or bonds heretofore authorized reciting the authority of such Act are hereby in all respects validated and confirmed as fully for all purposes as though duly and legally taken and authorized under such Act as now amended.

Notice to Governing Body Prior to Foreclosure or Action

Sec. 7. No collection fees shall accrue, and no foreclosure proceedings shall be begun in any Court or through any trustee, and no option to mature any part of any such obligation because of any default in payment of any installment of principal or interest shall be exercised until ninety (90) days written notice shall be given to each member of the city council or other governing body of such city that payment has been demanded and default made which notice shall date from the sending of a prepaid registered letter to each person to be notified, addressed to them at the post office in such city. If the installments of principal and interest then due shall be paid before the expiration of said ninety (90) days together with the interest prescribed in such contract, not exceeding ten (10) per cent per annum, from the date of default until the date of payment, it shall have like effect as if paid on the date when same was originally due.

Income Not to be Used for Other Debts

Sec. 8. No part of the income of any such exposition and convention hall so encumbered shall ever be used to pay any other debt, expense, or obligation of such city until the indebtedness so secured shall have been finally paid.

[Acts 1935, 44th Leg., 1st C.S., p. 1655, ch. 425; Acts 1937, 45th Leg., p. 614, ch. 307, §§ 1, 2.]

Art. 1182f. Validating Certain Tax Proceedings

Sec. 1. All elections, election orders, election proceedings, and city ordinances by which any city or town having a home rule charter has attempted to amend said charter so as to eliminate any requirement in said charter that any portion of the annual ad valorem tax levied in said city or town shall be provided for or set apart for the use of the Public Free Schools in said city or town, which election resulted in a majority of the votes cast being fa-

vorable to the amendment of said charter, shall be deemed and held valid in all respects and to the same extent as if each and all things done by said city or town in attempting to amend said charter had been done and performed in strict compliance with law, and each such charter amendment so adopted or attempted to be adopted are hereby fully validated, ratified, and confirmed, and are hereby declared to be in full force and effect as if adopted in strict compliance with all the requirements of the laws of the State of Texas and the charters of such cities and towns.

Sec. 2. Further provided that this Act shall only apply to cities and towns acting under a home rule charter and which charter sought to be amended provided that a portion of the annual ad valorem taxes levied shall be set apart for the use of the Public Free Schools; and further provided that this Act shall not apply to such cities and towns unless, prior to the voting of said amendment, the control of the Public Free Schools in such cities and towns had been separated from the jurisdiction of said cities and towns and such Public Free Schools were at the time of the holding of such election being operated under the control and jurisdiction of an independent school district.

[Acts 1939, 46th Leg., p. 700.]

Art. 1182g. Home Rule Cities of 900,000 or More; Investment of Trust Funds

Application of Act

Sec. 1. This Act shall apply to all cities having a population of 900,000 or more, according to the preceding federal census, and whose home-rule charter provides for an elected comptroller, auditor, or treasurer.

Authority to Make Investments of Trust Funds and Special Deposits; Amount

Sec. 2. Any such city, acting by and through the official or officials thereof charged with the duty of managing and conducting its fiscal affairs and subject to the supervision and control of its governing body, as established from time to time by ordinance, is hereby authorized from time to time to make investments of trust funds and special deposits in the custody of such city, to the extent of the amount of such funds that, according to official estimates, are not required for immediate disbursement, by purchasing with such funds or some of them obligations of the United States government, or by placing such funds or some of them on time deposit with one or more depository banks of such city.

Withdrawal of Funds

Sec. 3. If at any time any of the funds so placed on time deposit are required before maturity they shall be made available by the depository bank but the depository bank shall not be liable for interest earned on any amount withdrawn before maturity.

Interest

Sec. 4. Said city official is hereby authorized to receive all interest earned on such investments and to place the same in the general fund of such city as compensation to the city for holding and handling said trust funds and special deposits for the benefit of the persons ultimately entitled to receive such funds and deposits.

Cumulative Effect of Act

Sec. 5. The provisions of this Act are cumulative of all other powers of investment possessed by any such city, whether derived from its charter or from the general law; and nothing contained herein shall ever be held to have effected any limitation on any such city's powers of investment otherwise so derived.

[Acts 1967, 60th Leg., p. 201, ch. 113, eff. May 4, 1967.]

Art. 1182h. Validation of Ordinances Authorizing Bond Elections and Issuance of Bonds, and of Bonds Issued

Where any city in the state which operates pursuant to a home-rule charter has heretofore passed by unanimous vote of the governing body ordinances as emergency measures calling bond elections and authorizing the issuance of bonds, said ordinances are hereby in all things ratified, validated, and confirmed, including the purposes as stated in the voted propositions. All such bonds authorized by ordinances passed as emergency measures, including voted and authorized but undelivered bonds, are in all things ratified, validated, and confirmed.

[Acts 1971, 62nd Leg., p. 83, ch. 46, § 1, eff. April 1, 1971.]

Art. 1182i. Validation of Actions Taken During 1970 Pursuant to Designation of Territory as Disaster Area

All actions, proceedings, and ordinances taken by cities and towns during the year 1970 under the authority of Article 5890e, Vernon's Texas Civil Statutes, and Article 1175, Vernon's Texas Civil Statutes, jointly or severally pursuant to and in implementation of a decision of the President of the United States and/or the Governor of the State of Texas designating the territory encompassing such city or town to be a disaster area are hereby validated and confirmed as of the date of such actions, proceedings or ordinances; provided, however, the terms of this Act shall not affect any proceeding in a court of law docketed as of the effective date hereof.

[Acts 1971, 62nd Leg., p. 1542, ch. 410, eff. May 26, 1971.]

CHAPTER FOURTEEN. CITIES ON NAVIGABLE WATERS

Article

- 1183. Extension of Limits.
- 1184. Powers.
- 1185. Status of Territory.
- 1186. Regulation.
- 1187. Restrictions.

Article

- 1187-1. Designation of Annexed Territory as an Industrial District.
- 1187a. Construction of Bridges Over Navigable Waters.
- 1187a-1. Bonds for International Bridge Across Rio Grande Validated; Additional Bonds for Repairs and Improvements.
- 1187a-2. Home Rule Cities Owning Portion of Bridge Over Rio Grande River Financed by Revenue Bonds; Additional Bonds for Acquisition, Construction, Repair and Improvement.
- 1187b. Revenue Bonds for Certain Purposes in Certain Cities Authorized.
- 1187c. Municipal Fish Markets; Bonds Secured by Pledge of Properties.
- 1187d. Municipalities Authorized to Encumber Abattoirs.
- 1187e. Harbors, Ports and Navigational Facilities.
- 1187f. Harbor and Port Facilities; Cities and Towns Over 5,000 on Gulf or Connecting Waters; Bonds.

Art. 1183. Extension of Limits

The city council of all cities situated along or upon navigable streams in this State, and acting under special charters, may extend the limits of said city for the limited purposes named in the four succeeding articles, so as to include in said city the said navigable streams and the land lying on both sides thereof for a distance of twenty-five hundred feet from the thread of said stream to a distance of twenty miles or less in an air line from the ordinary boundaries of said city, either above or below the boundaries of said city, or both, by the passage of an ordinance extending the boundaries of said city to include the territory aforesaid, being a strip five thousand feet wide, and twenty miles, more or less, in length, or so much thereof as the city council may consider advisable to add to the limits of said city.

[Acts 1925, S.B. 84.]

Saved from Repeal

Acts 1963, 58th Leg., p. 447, ch. 160, enacting the Municipal Annexation Act (Article 970a) expressly provides in Article III of the Act that it shall not repeal or affect Articles 1183 to 1187 of the Revised Civil Statutes.

Art. 1184. Powers

The city council of said city shall have the right, power and authority to secure land within the territory so added to said city by purchase, condemnation or gift, for the improvement of the navigation of said navigable streams or waters either by the United States or by said city, or by any navigation or other improvement district, and for the purpose of establishing and maintaining wharves, docks, railway terminals, side tracks, warehouses or any other facilities or aids whatsoever to either navigation or wharves. In all condemnation proceedings under this law the same procedure shall apply that now applies in condemnation of land by cities for the purchase of streets.

[Acts 1925, S.B. 84.]

Art. 1185. Status of Territory

For the purposes specified, the corporate limits of said cities shall, upon passage of said ordinance, be extended from the existing limits so as to include all the land added to said city by said ordinance. Such city shall have no right to tax the property over which such boundaries are extended, unless such property is within the line and within the limits of the general city boundaries or limits.

[Acts 1925, S.B. 84.]

Art. 1186. Regulation

After the passage of the ordinance adding said territory to said city, said city shall have and exercise the fullest and most complete power of regulation of navigation and of wharfage and of wharfage rates and of all facilities, conveniences and aids to wharfage or navigation consistent with the Constitution of this State, and shall further have authority by criminal ordinances or otherwise, to police the navigation of said waters and the use of said wharves and facilities and aids to wharfage and navigation.

[Acts 1925, S.B. 84.]

Art. 1187. Restrictions

The power granted in the four preceding articles shall not authorize the extension of the territory of any city for the limited purposes named so as to include any land which is already part of any other city or town corporation whether incorporated under the general laws or under special law, or any land at the time belonging to any other city or town.

[Acts 1925, S.B. 84.]

Art. 1187-1. Designation of Annexed Territory as an Industrial District

The governing body of any incorporated city which has heretofore annexed or which shall hereafter annex territory under authority of and for the limited purposes described in Articles 1183 through 1187 of the Revised Civil Statutes of Texas, 1925, shall have the right, power, and authority to designate all or any part of such area so annexed and remaining in such limited purpose annexation status as an industrial district, as the term is customarily used, and to treat with such area from time to time as such governing body may deem to be in the best interest of the city. Included in such rights and powers of the governing body of any such city is the permissive right and power to enter into contracts or agreements with the owner or owners of land in such industrial district to guarantee the continuation of the limited purpose annexation status of such district, and its immunity from general purpose annexation by the city for a period of time not to exceed ten years, and upon such other terms and conditions as the parties might deem appropriate. Such contract or agreement shall be evidenced in writing and may be renewed or extended for successive periods not to exceed ten years each by such governing body and the

owner or owners of land in such industrial district.

[Acts 1967, 60th Leg., p. 842, ch. 353, § 1, eff. Aug. 28, 1967.]

Art. 1187a. Construction of Bridges Over Navigable Waters

Powers Granted; Wharves, Piers, Etc.; Sale or Lease

Sec. 1. Any city in this State, whether organized and operating under general law or under special charter granted by the Legislature of the State of Texas or under charter adopted or amended under Section 5 of Article 11 of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the general laws of the State of Texas and having a deep water port located within the limits of said city, may within such city purchase, construct, own, maintain and operate a bridge or bridges over or across any stream, inlet or arm of the Gulf of Mexico or entrance canal to said port connecting up any of the public streets, highways or other thoroughfares of said city and improve, enlarge or repair the same. Any such city may purchase, construct, own, maintain, operate or lease any wharf, pier, pavilion, and/or boat house and dams and dykes and spillways with roads and bridges thereon or thereover for the purpose of creating a fresh water supply for domestic, irrigation and other purposes within such navigation district, or within the county or counties adjacent to such fresh water basin and may acquire, reclaim, reconstruct, or fill in any submerged lands along its water front, may build and construct sea walls, breakwaters or other shore protection to protect its water front of said city, may provide for and construct water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets, or other like improvements in connection with such reconstructed or reclaimed properties and may operate, repair and otherwise maintain the same. And any such city reconstructing or reclaiming any such property may rent, lease or sell the same, or grant franchises for the use of any such reconstructed or reclaimed property and apply the income therefrom in accord with this Act, and may dredge out, construct, reconstruct, maintain and operate any channel in connection with any such deep water port in aid of navigation within said city and subject to the provisions of this Act.

Ordinances for Operation of Bridges

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

Construction of Act

Sec. 3. This Act shall be construed as cumulative authority for the purposes named

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

Estimating Cost of Improvement

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

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

If by the time set for action upon said ordinance, which shall be not less than twenty (20) days after the last publication of the notice provided for herein, as many as one hundred (100) of the qualified voters of such city whose names appear on the last approved tax rolls as property taxpayers, petition the city council or governing body of such city in writing to submit to a referendum vote the question as to the making of such improvements and the issuance of such bonds for such purposes, then such city, city council or governing body shall not be authorized to make said improvements or issue said bonds unless the proposition making such improvements and issuing such bonds for such purposes is sustained by a majority of the votes cast at such election for such purpose. The law in reference to elections for the issuance of city bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925,¹ shall govern in so far as consistent with the provisions of this Act. If such petition is not so filed with the city secretary, or clerk, then the city council or

governing body may proceed with the improvements and may issue said bonds, but in the absence of such petition, the city council or governing body may at its discretion submit such question to a vote of the people.

¹ Article 701 et seq.

Bonds for Improvement

Sec. 5. For the purpose of acquiring, constructing, improving, enlarging, extending or repairing any such bridge or bridges, and/or for the purpose of acquiring, constructing, reclaiming, reconstructing, repairing or improving any such dams, dykes and spillways with roads and bridges thereon and thereover sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements in such reconstructed or reclaimed area or territory, any one or all, any such city may borrow money and issue its negotiable bonds, provided that no such bonds shall be issued unless and until authorized by an ordinance which shall set forth a brief description of the contemplated improvement, the estimated cost thereof, the amount, the maximum rate of interest, time and place of payment and other details in connection with the issuance of such bonds. Such bonds shall bear interest at the rate of not more than six per centum (6%) per annum payable semiannually or otherwise, and shall be payable at such times, not exceeding forty-five (45) years from their date, and at such place or places as shall be prescribed in the ordinance providing for their issuance. The bonds and coupons shall be executed in such manner and shall be substantially in the form provided in the authorizing ordinance. Such bonds shall be sold in such manner and upon such terms as the governing body shall deem for the best interest of the city. In no event shall any of the bonds be sold on a basis to yield more than six per centum (6%) per annum from the date of sale to the date of average maturity of the bonds sold, provided, however, that in any contract for the purchase or construction of any such project or projects as hereinbefore described, or for the improvement, enlargement, extension, reclamation, reconstruction or repair of the same, provision may be made that payment therefor may be made in such bonds. Such bonds and their coupons may be made payable in lawful money of the United States of America, or in gold coin of or equal to the standard of weight and fineness existing on the date thereof. Such bonds shall mature annually and the first installment thereof shall be made payable not less than two (2) years nor more than five (5) years from the date of such bonds. No such installment shall be more than two and one-half times as great in amount as the smallest prior installment of the same issue. If all of the bonds of an issue are not issued at the same time, the bonds at any one time outstanding shall mature as aforesaid. The principal of and interest upon such bonds shall be payable solely from the income and revenues de-

rived from the operation of the bridge or bridges, sea walls, breakwaters, shore protection, water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets and other like improvements including rentals or other charges received from any reclaimed or reconstructed area or territory for the acquisition, construction, improvement, reconstruction, reclamation, enlargement, extension or repair of which the same are issued; provided, however, that where any such city acquires or constructs a bridge or bridges under authority of this Act, and in connection therewith acquires or constructs any sea wall, breakwaters or other shore protection and reclaims or reconstructs any submerged area or territory and constructs therein or thereon any water mains, gas mains, storm sewers, sanitary sewers, sidewalks, streets or other like improvements, any such city may, as additional security for the payment of any bonds issued for the acquisition or construction of any such bridge or bridges, pledge any income or revenues derived from any such projects, and additionally secure the payment of any such bonds with a mortgage on any such project or projects or reclaimed area as hereinafter provided. No bond or coupon issued pursuant to this Act shall constitute an indebtedness of such city within the meaning of any State constitutional or statutory limitation. No such obligation shall ever be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law. It shall be plainly stated on the face of each such bond and coupon that the same have been issued under the provisions of this Act and that it does not constitute an indebtedness of such city within any state constitutional or statutory limitation, and that the holder of such bond shall never have the right to demand payment of such obligation out of any funds raised or to be raised by taxation.

Security for Payment of Bonds

Sec. 6. As security for the payment of the principal of and interest on such bonds, such city may mortgage and encumber any part, parts or all of the properties and facilities for the acquisition, construction, reconstruction, reclamation, repair or improvement of the same such bonds were issued, and may provide in such mortgage or encumbrance for a grant to the purchaser under sale or foreclosure thereunder of a franchise to operate the properties and facilities so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force. The ordinance authorizing the issuance of such bonds shall contain a substantial description of the franchise which is to appear in the mortgage.

Provision of Mortgage as to Foreclosure

Sec. 7. The mortgage or encumbrance shall provide for a trustee to enforce foreclosure and the city shall have the option at any five (5) year period within said twenty (20) years after purchase of properties designated in the

franchise to repurchase said properties under reasonable terms and reasonable prices, to be set forth in said mortgage or encumbrance, but this limitation shall not extend to any reclaimed area acquired by individual purchasers.

Management of Encumbered Property

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

Bonds as Legal Investments

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

Bonds Exempt from Taxation

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

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

Bonds as Negotiable Instruments

Sec. 11. Bonds issued under the provisions of this Act shall have all of the qualities of negotiable instruments under the law merchant and the Negotiable Instruments law.¹

¹ Article 5932 et seq. (repealed; see now, Business and Commerce Code, § 3.101 et seq.).

Deposit of Proceeds of Bonds

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

Use of Proceeds of Bonds Solely for Improvements

Sec. 13. All moneys received from any such bonds shall be used solely for the acquisition,

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

Validity of Signatures to Bonds

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

Payment for Services Rendered City

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

Additional Bonds for Extension of Projects

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

Refunding Bonds

Sec. 17. Where a city has outstanding any bonds issued under the provisions of this Act, it may thereafter issue and negotiate new

bonds on such terms as the governing body of such city shall deem advisable for the purpose of providing for the payment of any such outstanding bonds. Such new bonds shall be designated "refunding bonds", and shall be secured to the same extent and shall have the same source of payment as the bonds which have been thereby refunded.

Rates or Charges for Services

Sec. 18. Rates or other charges for services and facilities afforded by the project and for sales of reclaimed area shall be sufficient to provide for the payment of the interest upon and principal of all such bonds as and when the same become due and payable, to create a Bond and Interest Redemption Fund therefor, to provide for the payment of expenses of administration and operation and such expenses for maintenance of the project or projects necessary to preserve the same in good repair and working order, to build up a reserve for depreciation of the project or projects, and to build up a reserve for improvements, betterments and extensions thereto other than those necessary to maintain the same in good repair and working order, as herein provided. Such rates and/or charges shall be fixed and revised from time to time so as to produce these amounts, and the governing body shall covenant and agree in the ordinance authorizing the issuance of such bonds, and on the face of each bond at all times to maintain such rates and/or charges for services furnished by such project or projects as shall be sufficient to provide for the foregoing.

Cost of Operation as First Lien on Income

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

Operation and Maintenance Account

Sec. 20. Out of the gross income and revenues of such project or projects there should be first set aside into an account to be known as the "Operation and Maintenance Account" monthly or oftener if necessary, sums sufficient to meet the cost and expenses set forth in Section 18 hereof. After provision for the "Operation and Maintenance Account" the ordinance authorizing the issuance of such bonds shall make provision for a "Bond and Interest Redemption Fund" into which there shall be set aside monthly or oftener if necessary such portion of the gross income and revenues of such project or projects as shall be sufficient to pay when due the principal of and interest upon the bonds provided, however, that in the segregation and separation of such gross income and revenues the governing body of the city may prescribe a reasonable excess amount to be placed in said Bond and Interest Redemption Fund from time to time during the earlier

years of maturities of such bonds so as thereby to produce and provide a reserve fund for contingencies to meet any possible deficiencies therein in maturities of future years.

Ordinance to Determine Fiscal Year

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

Disposition of Surplus

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

Provision for Redemption of Bonds Before Maturity

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

Construction as Not Prohibiting Use of Available Incomes and Revenues

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

Projects Not Subject to Regulation by State Agencies

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

Separate Books and Records to be Kept

Sec. 26. Any city issuing bonds under the provisions of this Act shall install and maintain proper books of record and account (separate entirely from other records and account of such city) in which full and correct entries shall be made of all dealings or transactions of or in relation to the properties, business and

affairs of the project or projects and the same shall be open for examination and inspection by any tax payer, user of the services furnished by the project or projects, or any holder of the bonds issued under the provisions of this Act, or any one acting for or on behalf of such taxpayer, user of the services of the project or projects, or bond-holder.

Construction as Not Authorizing Impairing Other Obligations

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

Borrowing from Federal Agencies

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

Permit from Navigation and Canal Commissioners

Sec. 29. Anything in this Act to the contrary notwithstanding, no such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of such District and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the Navigation District governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the

clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated under the direct control and direction of said Navigation and Canal Commissioners; provided, that said Commissioners may appropriate and use any available revenues of said District in defraying part of the cost of operation and maintenance of any bridge or bridges constructed hereunder. No city shall have the power to construct, maintain or operate any such bridge over any such entrance channel to any such deep water port except in conformity with this section.

County Appropriation Authorized

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

Appropriations by State Highway Department

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

Partial Invalidity

Sec. 32. The invalidity of any section, sentence, clause, paragraph or portion of this Act shall not affect the validity of the remainder of this Act.

[Acts 1933, 43rd Leg., p. 774, ch. 231.]

Art. 1187a-1. Bonds for International Bridge Across Rio Grande Validated; Additional Bonds for Repairs and Improvements

Sec. 1. This Act shall be applicable to any City operating under its Special Charter or Home Rule Charter, which has amended such Charter by a vote of the people so as to authorize the issuance of negotiable revenue bonds for the purpose of providing funds for paying the cost of the acquisition of the part of an International Bridge situated within the United States of America and extending from such City across the Rio Grande.

Sec. 2. All bonds authorized by the governing body of any such City for the purpose of acquiring the part of the International Bridge which is situated within the United States of America and which extends from such City across the Rio Grande, and which bonds are

payable solely from the revenues derived from tolls charged for the use of such bridge are hereby validated, and when such bonds are approved by the Attorney General of the State of Texas, registered by the Comptroller of Public Accounts, sold and delivered, they shall constitute valid, binding and negotiable obligations of such City payable only from the revenues pledged for their payment. The governing body of any such City within its discretion, is empowered to authorize and issue additional negotiable revenue bonds for the purpose of repairing and improving such bridge in an amount not exceeding ten per cent (10%) of the amount of the revenue bonds issued to acquire such property.

[Acts 1947, 50th Leg., p. 91, ch. 62, § 1.]

Art. 1187a-2. Home Rule Cities Owning Portion of Bridge Over Rio Grande River Financed by Revenue Bonds; Additional Bonds for Acquisition, Construction, Repair and Improvement

Sec. 1. This Act shall be applicable to any Home Rule City which owns the portion of an international toll bridge over the Rio Grande River which is situated within the United States of America and whose Home Rule Charter authorizes the City Council of any such city to issue bonds payable from the net revenues derived from the operation of such bridge for the purpose of providing funds to acquire such bridge and to construct, repair and improve such bridge, or for any of such purposes.

Sec. 2. Where any such city has bonds outstanding payable from the revenues of such bridge, additional bonds may be issued to the extent and under the conditions prescribed by the provisions of the outstanding bonds and the proceedings relating thereto, including the provisions of any trust indenture securing such outstanding bonds, and any such additional bonds may be secured by a pledge of and lien on the net revenues of the bridge on a parity with such outstanding bonds to the extent, in the manner, and under the conditions set out in the proceedings and the trust indenture authorizing and securing such previously issued and outstanding bonds.

Sec. 3. Any such city which, on or prior to the effective date of this Act, by ordinance duly passed by the governing body thereof and pursuant to published notice of intention as required by the charter to issue additional bonds for any one or more of the purposes specified in Section 1 hereof, or for capital improvements to such bridge, has authorized the issuance of any such additional bonds payable from the net revenues of such bridge and secured by a trust indenture or by a supplement to any previously executed indenture is authorized to issue, sell and deliver such additional bonds, and any such additional bonds when approved by the Attorney General of Texas, registered by the Comptroller of Public Accounts of Texas and sold and delivered in accordance with law, shall be valid and binding special ob-

ligations of such city. All proceedings authorizing and relating to the issuance of such bonds, including the execution and delivery of a trust indenture or supplemental trust indenture securing such bonds, and any provisions contained therein which by expression or reference provide for the substitution of new bonds or coupons for any such bonds or coupons which may be lost, mutilated or stolen, provide for the issuance of refunding bonds, authorize the issuance of additional parity bonds for the purpose of constructing another bridge, restrict the rights of minority bondholders, grant to the trustee a lien on the revenues and funds coming into its possession to secure the payment of fees and charges justly due such trustee and providing under certain conditions for the modification of such trust indenture or supplement thereto, be and they are hereby in all things ratified, confirmed and validated. [Acts 1955, 54th Leg., p. 9, ch. 8.]

Art. 1187b. Revenue Bonds for Certain Purposes in Certain Cities Authorized

Purposes for Which Bonds may be Issued

Sec. 1. Any city in this State, whether organized and operating under General Law or under Special Charter granted by the Legislature of the State of Texas, or under charter adopted or amended under Section 5 of Article 11 of the Constitution of the State of Texas, which city is situated within the territorial limits of a navigation district organized under the General Laws of the State of Texas, and having a deep water port located within the limits of said navigation district, is hereby authorized and empowered to issue its negotiable bonds, notes, or warrants, payable from revenues other than taxation, for either one or any or all of the following purposes, to-wit:

(a) The construction, maintenance, and operation of a toll bridge or toll bridges over and across, or a tube, underpass, or tunnel under any stream, inlet, or arm of the Gulf of Mexico, or entrance channel to such port connecting up any of the public streets and thoroughfares of, or in, and to said city;

(b) The construction, maintenance, and operation, and/or extension of a sewage disposal plant within or without the limits of said city;

(c) The construction, maintenance, and/or extension, or improvement of sanitary sewer lines and/or storm sewer lines within or without the limits of said city;

(d) The construction, maintenance, and/or extension or improvement of water mains or water lines from the source of water supply of said city to any part of said city or within said city as may be found necessary by the governing body thereof;

(e) The acquisition, reclamation, reconstruction, elevation, and filling in of any submerged or lowlands along the water

front of said city, and the construction of sidewalks, streets, and gas lines within the territory or area so acquired and/or reclaimed;

(f) The construction, maintenance, and/or extension or improvement of seawalls, breakwaters or other shore protections to protect the water front of said city;

(g) The construction, reconstruction, maintenance, operation and dredging out of any channel or boat basin in connection with any such deep water port;

(h) The construction, maintenance, replacement, and operation of a basin and boat slips, dry docks, boat service stations, walls, piers, wharfs, and structures in connection with such boat basin and slips.

Bonds as Charge on Revenues of Improvements

Sec. 2. No such bonds, notes or warrants shall ever evidence any debt or obligation of such city, but shall be solely a charge upon the revenues and/or properties and improvements pledged to secure their payment, and shall never be reckoned in determining the power of such city to issue bonds, or otherwise lend its credit, for any purposes authorized by law.

Pledge of Revenues for Payment of Bonds, Notes or Warrants

Sec. 3. Any and all bonds, notes or warrants, as well as interest thereon, issued under authority of this Act, shall be redeemed or paid by an appropriation or pledge of all revenues derived from either one or all of the improvement projects herein authorized, and/or tolls collected from the operation of any existing bridge or bridges, if such tolls are so authorized, as hereinafter provided, and payment of such bonds, notes or warrants may be additionally secured by a mortgage on any such improvement project or projects, including any toll bridge or toll bridges and reclaimed lands; it being the intent hereof to authorize and to provide that all sources of income and revenue derived from any one or more of such improvement projects may be pledged and applied to the payment of the obligation or obligations issued for the purpose of constructing and providing for another one or more of such improvement projects; provided, that said city may provide for the construction, maintenance and operation of all of the improvement projects enumerated in Section 1 of this Act, and improvements in connection therewith, by the issuance and sale of one series of bonds, notes or warrants in the discretion of the governing body thereof.

Election for Issuance

Sec. 4. Any and all bonds, notes or warrants authorized by this Act shall never be issued unless a proposition for the issuance of such bonds, notes or warrants, as the case may be, shall have been first submitted to the qualified voters who are property taxpayers of such city. The method of ordering and

holding such election shall be governed by the laws of this State regulating elections for the issuance of city bonds under Chapters 1 and 2, Title 22, Revised Statutes of 1925.¹ If at such election a majority of the property taxpaying voters, voting at such election, cast their ballots in favor of the issuance of the bonds, notes or warrants, as the case may be, the governing body of said city, shall as soon thereafter as practicable, issue said bonds, notes or warrants.

¹ Article 701 et seq.

Maturity and Denominations

Sec. 5. Such bonds, notes or warrants shall mature not later than thirty years from their date; they shall be issued in such denominations, and payable at such time or times as may be deemed most expedient by the governing body of such city, and shall bear interest not to exceed six per cent (6%) per annum. The General Laws relative to city bonds, not in conflict with the provisions of this Act, shall apply to the issuance, approval, certification and registration, and the sale of the bonds, notes or warrants provided for in this Act.

Contents of Bonds; Attorney General's Approval

Sec. 6. Each bond, note or warrant issued under authority of this Act shall contain this clause:

"The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

All bonds, notes or warrants issued hereunder shall be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by cities or towns; and in event such bonds, notes or warrants are approved by the Attorney General, they shall be registered by the State Comptroller as in the case of municipal bonds.

Borrowing from Federal Agencies

Sec. 7. Any such city is hereby further expressly authorized and empowered to borrow money from the Government of the United States, from the Federal Emergency Administration of Public Works, and any and all other agencies of the Government of the United States, which now are or hereafter may be authorized to make loans to public corporate bodies and municipalities, or from any person, firm, or corporation, and which loans may be made on such terms and in such amounts as may be agreed upon between the Government of the United States or its lending agency, or such person, firm, or corporation, and the governing body of such city; and any and all such loans shall be evidenced by negotiable bonds, notes, or warrants issued under the provisions of this Act in cases where the project or projects are to be financed pursuant to the provisions of this Act.

Destruction of Existing Bridges or Other Structures

Sec. 8. Power and authority is hereby conferred upon the governing body of any such

city to remove or demolish any existing bridge or other structure owned and operated by said city, if in the discretion of such governing body the removal or the demolishing of such bridge or structure may be necessary in carrying out to completion any one or more of the improvement projects herein authorized.

Eminent Domain

Sec. 9. The right of eminent domain is hereby expressly conferred upon any such city operating under the provisions of this Act, for the purpose of enabling such city to acquire the fee simple title, easement or right-of-way to, over and through any and all lands, water, or lands under water, private or public (except land and property used for cemetery purposes), within or without the limits of any such city, necessary in the constructing and maintaining of either one or all of the improvements herein authorized. In the event of the condemnation, or the taking, damaging or destroying of any property for such purposes, the city shall pay to the owner thereof adequate compensation for the property taken, damaged or destroyed. All such compensation and damages adjudicated in any condemnation proceedings, and all damages which may be done to the property of any person or corporation in the construction of any such improvement project, shall be paid out of funds derived from the sale of bonds, notes or warrants issued under the provisions of this Act. All procedure with reference to condemnation, the assessment of and estimating of damages, payment, appeal, the entering upon the property pending the appeal, etc., shall be in conformity with the procedure prescribed in Title 52, Articles 3264 to 3271, inclusive, Revised Civil Statutes of 1925, and any amendments thereto.

Conversion of Existing Bridges into Toll Bridges

Sec. 10. Whenever the governing body of any such city finds that it will not be necessary and/or practicable to construct any toll bridge or toll bridges under authority of Subdivision (a) of Section 1 of this Act, then in that event any existing bridge or bridges owned and/or operated by any such city over and across any such stream, inlet or arm of the Gulf of Mexico, or such entrance channel to such port, connecting up any of the public streets and thoroughfares of or in and to such city, may be by ordinance converted into a toll bridge or toll bridges, and the governing body of such city is hereby authorized to assess and collect such tolls for the use of any such bridge or bridges as within its judgment are reasonable and sufficient in amount, together with other income and revenues derived from the improvement projects, to pay the principal of and interest on all bonds, notes or warrants issued under the provisions of this Act as the same shall mature; provided, however, that all such tolls or charges so collected shall be placed in the interest and sinking fund account created for the purpose of paying the interest on and principal of all bonds, notes or war-

rants issued under the provisions of this Act, and such tolls or charges shall be applied to no other purpose; and, provided further, that the authority to assess and collect such bridge tolls and the irrevocable application of the same to the payment of bonds, notes or warrants issued under the provisions of this Act shall be authorized at the election to be ordered by the governing body of such city to determine whether or not any such bonds, notes or warrants shall be issued and sold.

Execution of Mortgages or Deeds of Trust

Sec. 11. Before such bonds, notes or warrants shall be put on the market the Mayor and the person acting as City Treasurer or Finance Commissioner, pursuant to authority conferred by ordinance of the governing body, may execute a proper indenture, mortgage or deed of trust, making effective the mortgage lien on the properties pledged or mortgaged to secure payment of the principal of and interest on such bonds, notes or warrants, naming in such indenture, mortgage or deed of trust a bank or banking institution, with trust powers, and such indenture, mortgage or deed of trust shall be placed of record in the proper Deed of Trust and Mortgage Records of the county or counties in which any of such mortgaged properties may be situated, and may provide in such indenture, mortgage or deed of trust for a grant to the purchaser under sale or foreclosure thereunder, a franchise to operate the properties so encumbered for a term of not over twenty (20) years after such purchase, subject to all laws regulating same then in force; provided, however, that the city shall have the option at any five (5) year period within said twenty (20) years after purchase of the properties designated in the franchise, to repurchase said properties under reasonable terms and at reasonable prices, to be set forth in said mortgage or encumbrance, but this option shall not extend to any lands or properties in the reclaimed area which may be acquired from the city by individual purchasers.

Costs of Administration and Operation as Lien

Sec. 12. The reasonable costs of administration and operation and the reasonable expense of maintaining such project or projects in good repair and working order shall be a first lien and charge against the income and revenues derived from the operation of such project or projects, superior to the lien of the indenture, mortgage or deed of trust on such project or projects.

Operation and Maintenance Account; Sinking Funds

Sec. 13. Out of the gross income and revenues of such project or projects, there shall be first set aside into an account to be known as the "Operation and Maintenance Account" monthly, or oftener if necessary, sums sufficient to meet the costs and expense set forth in Section 12 hereof. After provision for the "Operation and Maintenance Account," the ordinance authorizing the issuance of such

bonds, notes or warrants shall make provision for a "Special Interest and Sinking Fund Account" into which there shall be set aside monthly, or oftener if necessary, such portion of the gross income and revenues of either one or all of such project or projects as shall be sufficient to pay when due the principal of and interest on the bonds, notes or warrants.

Revenues Applied to Payment of Bonds

Sec. 14. No part of the income and revenues of either one or all of such project or projects shall be used or devoted to any purpose or purposes, save and except the purposes prescribed in Sections 12 and 13, hereof, so long as such notes, bonds or warrants shall be outstanding and unpaid; and the use or payment of such income and revenues, or any part thereof, for any other purpose shall be a diversion thereof and punishable as provided by Article 94 of the Penal Code of this State, Revision of 1925.

Permits for Bridges

Sec. 15. No such bridge shall be constructed, maintained or operated over any entrance channel to any port operated by any navigation district without a permit from the Navigation and Canal Commissioners of such District and all plans and specifications for said bridge shall be subject to the joint approval of the governing bodies of the city and district. Whenever any said toll bridge is constructed, maintained and operated over and across any entrance channel into a deep water port under the provisions of this Act, the Navigation and Canal Commissioners of the navigation district governing said port shall have the power to prescribe reasonable rules and regulations for the operation of said bridge in aid of navigation and shall have and exercise direct control over the operation of the mechanical facilities of said bridge, providing for the clearance of the channel for the ingress and egress of vessels to said deep water port and to employ and direct all agencies in the management and operation of same, and said facilities shall be maintained and operated at the expense of said city but under the direct control and direction of said navigation and canal commissioners. No city shall have the power to construct, maintain or operate any such toll bridge over any such entrance channel to any such deep water port except in conformity with this section.

Construction Against Repeal of Existing Law

Sec. 16. This Act shall not be construed to repeal any existing laws with respect thereto, it being the purpose and intent of this Act to create an additional and alternative method for the purposes named herein.

Bridge Defined; Toll Bridges

Sec. 16a. That wherever the word "bridge" or the word "bridges" appears in said Senate Bill No. 43, Chapter 17, passed at the Second Called Session of the Forty-third Legislature of the State of Texas, the same shall be con-

strued to mean and include the words "tube, underpass, or tunnel," and said Act, in authorizing the construction, maintenance, and operation of a toll bridge or toll bridges over and across any stream, inlet, or arm of the Gulf of Mexico, or entrance channel to such port connecting up any of the public streets or thoroughfares of or in and to said city, the same shall likewise authorize the construction, maintenance, and operation of a tube, underpass, or tunnel under any stream, inlet, or arm of the Gulf of Mexico, and entrance channel to such port connecting up any of the public streets or thoroughfares of or in and to said city, and the authority contained in said Chapter 17, passed at the Second Called Session of the Forty-third Legislature of the State of Texas, shall in all things authorize the construction, maintenance, and operation of a tube, underpass, or tunnel, and empower such city to charge tolls sufficient to pay from such revenues all bonds, notes, or warrants issued for the purposes enumerated in said Act.

Partial Invalidity

Sec. 17. If any section, sub-section, sentence, clause or phrase of this Act is held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this Act.

[Acts 1934, 43rd Leg., 2nd C.S., p. 48, ch. 17; Acts 1935, 44th Leg., 1st C.S., p. 1639, ch. 417, §§ 1 to 3.]

Art. 1187c. Municipal Fish Markets; Bonds Secured by Pledge of Properties

Powers Granted; Obligation Not a Debt

Sec. 1. That any City in this State with a population of over one thousand (1,000) people located on the Coast of Texas, or on any Gulf, Bay or Inlet, or within five (5) miles thereof, and in which commercial fishing and shrimping is an established industry, shall have the power to purchase and/or build a municipal fish market for the purpose of encouraging, developing and standardizing the fishing and shrimping industry, which among other services shall have sanitary facilities and equipment for cleaning, packing, shucking, canning and cold storage of shrimp, oysters and other sea food, and any such city shall have the right to borrow money, (and subject to the restrictions prescribed in Section 2 hereof to borrow money and to accept grants, either or both, from the United States of America or any agency thereof), for the purpose of building, purchasing or acquiring a municipal fish market and the necessary real property to be used as a site therefor; that any such city shall have the power to procure the funds for such purpose by issuing bonds or revenue notes for such purpose, and to secure the payment of such revenue bonds or revenue notes by mortgaging the physical properties so acquired, or to be acquired, and pledging the net revenues received therefrom, and by the terms of the encumbrance may grant to the purchaser under sale or foreclosure a permit to operate the

same subject to such laws as may then be in force regulating the operation of such industry, or may secure the revenue bonds or notes by pledge of revenues without a mortgage of the physical properties; such revenue bonds or revenue notes shall bear interest at a rate fixed by the governing body of such city not to exceed six per cent (6%) per annum, and shall mature serially in such installments as may be fixed by said governing body within forty (40) years from their date, and at the option of the holder, may be registered as to principal only. Such obligations as may be incurred under the terms of this Act shall never be a debt of such city but solely a charge upon the property so encumbered and the revenues therefrom, and such obligation shall never be reckoned in determining the power of such city to issue any bonds for purpose authorized by law.

Conditions Precedent to Loans or Grants from United States

Sec. 2. No such city shall have authority to accept a loan and grant, either or both, from the United States of America or any agencies thereof, for such purpose, except subject to the following conditions:

(a) The construction of the market must be approved by the Health Department of the State of Texas, as conducive to the health of the people of the State who consume food products from Texas Coast waters;

(b) The construction of the market must be approved by the Game, Fish and Oyster Commission, as feasible, and of economic importance to the fishing industry generally, in the entire district to be served by the market, as distinguished from the local or civic benefits to be derived therefrom by such city, and that the economic need for such project is not already adequately met by some other or similar institution accessible to the district to be served;

(c) Any such market shall be and shall remain subject to such rules and regulations as to health and sanitation as shall be prescribed by the State Health Department and by all agencies and departments of the United States of America having power to impose such rules and regulations.

Bonds and Notes Negotiable

Sec. 3. All revenue bonds and all revenue notes issued hereunder shall be considered and held to be negotiable under the Negotiable Instruments Law heretofore enacted by the Legislature of the State of Texas.

Disposition of Revenues

Sec. 4. The expense of operating and maintaining any such market including all salaries, labor, materials and repairs necessary to permit such market to render efficient service shall always be a first lien and charge against the revenues received from its operation. All of the gross revenues from the operation of

such market, after the payment of such maintenance and operating expenses shall be pledged and used exclusively to the payment of the principal and interest of such bonds or notes. Provided if in the judgment of the governing body of such city it is necessary to extend or enlarge such market, the city is authorized to make a junior pledge of the revenues of such market and of the extension to be constructed. In the event such subsequent pledge is made it shall be inferior in all respects to the pledge theretofore made, and the city may issue such junior revenue bonds or notes having interest rates, maturities and covenants as herein prescribed for the first issue of such bonds or notes. The city shall establish, deposit and secure the special funds to facilitate the payment of the principal and interest of all of such bonds and/or notes. It is the intent of this Act that all of the revenues from the operation of such market, after paying maintenance and operating expenses shall be used for debt service, and the surplus if any shall be used to buy in and cancel such revenue bonds or revenue notes before maturity or in the alternative shall be invested in such securities as shall be prescribed in the contracts under which money for such construction of such market may be furnished to the city.

Law Governing Notice, Referendum and Competitive Bidding

Sec. 5. Cities and towns building municipal fish markets under the provisions of this Act shall be governed by the provisions of Article 2368—a Revised Civil Statutes of Texas, with reference to notice, right of referendum and competitive bidding.

Bonds Not Payable from Taxation

Sec. 6. Any and all revenue bonds and revenue notes issued pursuant to the provisions of this Act shall have stamped or printed thereon the following:

"The holder hereof shall never have the right to demand payment out of any funds raised or to be raised by taxation."

Refunding Bonds; Leases; Sale of Facilities

Sec. 7. Any city of the class described in Section 1 above, having outstanding municipal fish market revenue bonds may, by ordinance adopted by the governing body thereof, issue refunding bonds for the purpose of refunding all or any part of such outstanding bonds. Such refunding bonds shall be issued and the payment thereof secured in the same manner provided for the issuance of such original bonds, except that no election, notice or right of referendum shall be required. The governing body of such city shall be authorized to enter into lease contracts with persons, firms or corporations for the use of all or any part of the facilities of such municipal fish market and properties appurtenant thereto for such period of time not exceeding twenty (20) years and upon such terms and conditions as such governing body shall deem proper; and the

governing body of such city shall be authorized to enter into sales contracts with persons, firms or corporations conveying all or any part of the facilities of such municipal fish market and properties appurtenant thereto under such terms and conditions as such governing body shall deem proper; provided that authority to enter into such lease or sales contracts shall be subject to the prior covenants and agreements relating to any outstanding revenue bonds issued for the purpose of acquiring such municipal fish market.

[Acts 1934, 43rd Leg., 3rd C.S., p. 39, ch. 22; Acts 1949, 51st Leg., p. 682, ch. 354, § 1; Acts 1957, 55th Leg., p. 379, ch. 182, § 1.]

Art. 1187d. Municipalities Authorized to Encumber Abattoirs

Cities to Which Act Applies

Sec. 1. All cities situated not more than one hundred (100) miles from the Gulf of Mexico, and not more than fifty (50) miles from any stream forming an international boundary, shall have power to mortgage and encumber their abattoirs and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to construct the same, or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements, including buildings and other structures, and as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such abattoirs, and the improvements thereof, for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law.

Pledge of Income

Sec. 2. All cities situated not more than one hundred (100) miles from the Gulf of Mexico, and not more than fifty (50) miles from any stream forming an international boundary, shall have power to pledge the income from their abattoirs and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to construct the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements including buildings and other structures, and as additional security therefor, by the terms of such pledge may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such abattoirs and the improvements thereof for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Notes or Warrants Issued Without Referendum

Sec. 3. Such cities shall have the power to issue notes or warrants in any sum not to exceed the sum of Fifty Thousand Dollars (\$50,000.00), for such purposes without submitting such proposition to a vote of the qualified taxing voters. This law shall take precedence over all conflicting city charter provisions.

Repeals

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent in conflict herewith.

Partial Invalidity

Sec. 5. If any section, portion, clause, or part of this Act be invalid or unconstitutional, the same shall not affect any remaining parts of this Act and it is expressly hereby declared that the Legislature would have passed such remaining parts of this Act with such invalid or unconstitutional section, portion, clause or part omitted.

[Acts 1934, 43rd Leg., 4th C.S., p. 53, ch. 21.]

Art. 1187e. Harbors, Ports or Navigational Facilities**Cities on Gulf Coast; Authority to Issue Negotiable Revenue Bonds, Refunding Bonds or to Accept Loans or Grants**

Sec. 1. (a) Any city located on the coast of the Gulf of Mexico, or on any channel, canal, bay or inlet connected with the Gulf of Mexico, shall have the right, power and authority to issue negotiable revenue bonds or accept loans or grants from the Federal, State or County Governments or any of their agencies, or from any other source or sources, to build, acquire, purchase, construct, enlarge, extend, repair, maintain, improve, replace, develop, regulate, operate, lease, mortgage and encumber their harbors, ports, or navigational facilities in connection therewith or any aids thereto, including but not limited to boathouses, boat pilings, seawalls, breakwaters, shore protections, wharfs, docks, walks, piers, pavilions, ways, walls, lands, bulkheads, fills, canals, channels, slips, pools, waterways, turning basins, dry docks, service facilities, bridges, tubes, underpasses, tunnels, ferries, buildings, warehouses, structures, bunkering facilities, equipment, loading devices, floating plants, lighterage, aids to navigation, improvements, towing facilities, and all other facilities or improvements or aids incident to or necessary or desirable in connection therewith, and as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such structures and facilities, and the improvements thereof, for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force.

(b) Such city shall have the right, power and authority to issue negotiable revenue bonds for the purposes mentioned herein pay-

able from such revenues as are pledged by the governing body of such city to the payment of such bonds, and the applicable provisions of Chapter 1, Title 22, Revised Civil Statutes of 1925, as amended,¹ shall be applicable to the issuance of such bonds, except as otherwise provided in this Act.

(c) Such city shall have the right, power and authority to issue refunding bonds for the purpose of refunding any outstanding bonds authorized by this Act and interest thereon. Such refunding bonds may be issued to refund more than one series of outstanding bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and may be secured by other or additional revenues. The provisions of this law with reference to the approval by the Attorney General of Texas and the remedies of the holders shall be applicable to refunding bonds. Refunding bonds shall be registered by the Comptroller of Public Accounts upon surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolution authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the bank where the original bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the original bonds to their option date or maturity date, and the Comptroller of Public Accounts shall register them without concurrent surrender and cancellation of the original bonds. No election shall be necessary for the refunding of any bonds provided for in this Act. Refunding bonds may be issued for the purpose of refunding the bonds of a single series or issue or two or more consecutive issues or series of bonds, and such refunding bonds shall enjoy the same priority of lien on the revenues pledged to their payment as pledged to the bonds refunded, provided that when two or more consecutive series or issues of bonds are refunded in a single issue of refunding bonds, the lien on all such refunding bonds shall be equal if all of the outstanding bonds of the several series or issues of bonds to be refunded are surrendered in exchange for such new refunding bonds. No refunding bonds shall attain any degree of priority of lien greater than that enjoyed by the series or issue then to be refunded having the highest priority of lien. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a saving will result in the total amount of interest to be paid and that the annual principal and interest burden will not be increased so as to infringe upon or impair the rights of the holders of any bonds enjoying a prior or inferior lien.

¹ Article 701 et seq.

Series Bonds; Pledge of Revenues; Rates for Charges; Payment of Interest and Expenses; Default in Payment of Principal or Interest

Sec. 2. (a) Bonds and refunding bonds provided for in this Act may be issued in more than one series and from time to time.

(b) To secure payment of principal and interest of the revenue bonds authorized by this Act, such city may pledge the gross or net revenues of:

(1) any or all of the installations, improvements, projects, or properties which are built, purchased, constructed, enlarged, extended, repaired, improved, replaced, developed, or financed by the proceeds of bonds authorized by this Act, and

(2) any or all of the existing facilities, installations, improvements, projects, or properties of such city existing prior to the issuance of such bonds under the provisions of this Act which may be pledged, and

(3) any or all contracts theretofore or thereafter made by such city which may be pledged, and

(4) any or all other revenues specified by the ordinance or resolution authorizing the issuance of the bonds authorized by this Act which may be pledged.

The ordinance or resolution authorizing the bonds and pledging revenues may reserve the right, under conditions therein specified, to issue additional bonds which will be on a parity with or subordinate to the bonds then being issued. The term "gross revenues," as used in this Section of the Act, shall mean the entire revenues of the installations, improvements, projects, or properties pledged. The term "net revenues," as used in this Section of the Act, shall mean the gross revenues of the installations, improvements, projects, properties, or facilities pledged by the ordinance or resolution authorizing the issuance of the bonds after deducting the amount necessary to pay the cost of maintaining and operating such installations, improvements, projects, properties, or facilities. Any revenues from contracts which are pledged shall be the entire amount due such city under such contract unless specified in the ordinance or resolution authorizing the bonds. Such city shall have the right, power and authority to transfer to the general fund of such city and use for general or special purposes, revenues pledged of the said installations, improvements, projects, properties, or facilities, by the ordinance or resolution authorizing the issuance of the bonds but only in the amount and to the extent as may be authorized and permitted in the ordinance or resolution authorizing the issuance of the bonds.

(c) When bonds payable from revenues are issued under this Act, it shall be the duty of the governing body of such city to fix, and from time to time to revise, the rates of compensation for charges, rates, rentals, tolls, leases, and services rendered by such city in connection with such installations, improvements, projects, properties, or facilities, of which the revenues are pledged which will be sufficient to pay the expense of operating and maintaining such installations, improvements, projects, properties, or facilities, and to pay the bonds as they mature and the interest as it accrues

and to maintain the reserve and other funds as provided in the ordinance or resolution authorizing the bonds unless otherwise specifically provided for in the ordinance or resolution authorizing the bonds. When bonds payable from revenues are issued under this Act, the face of the bonds shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Such bonds authorized under this Act shall never be a debt of such city but solely a charge upon the property and facilities and contracts as authorized by the ordinance or resolution authorizing the issuance of the bonds.

(d) From the proceeds from the sale of the bonds payable from revenues, such city may set aside an amount for the payment of interest expected to accrue during construction and a reserve interest and sinking fund, and such provision may be made in the ordinance or resolution authorizing the bonds.

(e) Proceeds from the sale of any bonds provided for in this Act may also be used for the payment of all expenses necessarily incurred in accomplishing the purposes for which the bonds are issued and in the issuance of the bonds, including but not limited to engineering fees, architectural fees, legal fees, fiscal agent fees, and the cost of printing, issuing and delivering the bonds.

(f) In the event of a default or a threatened default in the payment of principal or interest on bonds payable from revenues, any court of competent jurisdiction may, upon petition of the holders of twenty-five percent (25%) of the outstanding bonds of the issue thus in default or threatened with default, appoint a receiver with authority to collect and receive all income of the installations, improvements, projects, properties, facilities, or contracts of which the revenues were pledged, employ and discharge agents and employees, take charge of funds on hand, and manage the proprietary affairs of such installations, improvements, projects, properties, facilities, or contracts of which the revenues were pledged without consent or hindrance by the governing body of the city. Such receiver may also be authorized to rent or lease the installations, improvements, projects, properties, or facilities of which the revenues were pledged, renew such contracts with the approval of the court appointing him. The court may vest the receiver with such other powers and duties as the court may find necessary for the protection of the holders of the bonds.

Election Authorizing Bond Issue; Notice

Sec. 3. No bonds authorized by this Act, except refunding bonds, shall be issued unless authorized by an election at which only the qualified voters who reside in such city and who own taxable property therein and who have duly rendered the same for taxation and unless a majority of the votes cast is in favor of the issuance of the bonds. Such election

shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such city.

Examination of Bonds and Record by Attorney General; Approval; Registration; Incontestability

Sec. 4. After any bonds, including refunding bonds, are authorized under the provisions of this Act, such bonds and the record relating to their issuance shall be submitted to the Attorney General of Texas for his examination as to validity thereof. If such bonds have been authorized in accordance with the Constitution and laws of the State of Texas, and subject to the limitation of Section 6(b) of this Act, he shall approve the bonds or refunding bonds and the bonds or refunding bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds or refunding bonds shall be legal, valid and binding and shall be incontestable for any cause.

Legal and Authorized Investments

Sec. 5. All such bonds and refunding bonds of such city shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Authority of Cities to Issue Bonds Payable from Taxes; Applicability of Act; Location of Installations

Sec. 6. (a) No such city nor any other city in the State of Texas shall have any right, power or authority to issue any bonds payable from taxes under the provisions of this Act.

(b) The provisions of this Act shall not apply to any city of the State of Texas having a population of twelve thousand (12,000) or more according to the last preceding United States census, and the Attorney General of Texas shall have no authority or duty to approve any bonds under the provisions of this Act for cities having a population of twelve thousand (12,000) or more according to the last preceding United States census.

(c) The installations, improvements, projects, properties, or facilities which are authorized by this Act to be built, acquired, purchased, constructed, enlarged, extended, repaired, maintained, improved, replaced, developed, or financed under the provisions of this Act shall be within the corporate limits of such city.

Exemption from Taxation of Installations and Bonds

Sec. 7. The accomplishment of the purposes stated in this Act being for the benefit of the people of such city and of this state and for the improvement of their properties and industries, such city in carrying out the purposes of this Act will be performing an essential public function under the Constitution and shall not be required to pay any tax or assessment on such installations, improvements, projects, properties, or facilities, or any part thereof, and the bonds or refunding bonds issued hereunder and their transfer and the income therefrom, including the profits made on the sale thereof, shall at all times be free from taxation within this state.

Cumulative Effect of Act

Sec. 8. This law is cumulative of all existing laws of the State of Texas that are applicable but to the extent that the provisions of any such laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall prevail.

Severability

Sec. 9. If any provision of this Act or the application thereof to any person or circumstances shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby. [Acts 1934, 43rd Leg., 4th C.S., p. 73, ch. 30; Acts 1959, 56th Leg., p. 134, ch. 80, § 1.]

Art. 1187f. Harbor and Port Facilities; Cities and Towns Over 5,000 on Gulf or Connecting Waters; Bonds

Application of Act; Authority of City

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than five thousand (5,000) inhabitants according to the Federal Census last preceding the taking of any action by such city under the provisions of this Act. Every such city or town owning and operating port facilities (referred to hereinafter as "city") is hereby empowered and authorized to build, construct, purchase, acquire, improve, enlarge, extend, repair, maintain, or replace any and all improvements and facilities which the governing body thereof deems to be necessary or convenient for the proper operation of the ports or harbors of such city. Without in any way limiting the generalization of the foregoing, it is expressly provided that such improvements and facilities mentioned above shall include lands, properties, wharves, piers, docks, roadways, belt railways, warehouses, grain elevators, dumping facilities, bunkering facilities, floating plants and facilities, lightering facilities, towing facilities, any and all equipment and supplies, and all other structures, buildings, and facilities which the governing body deems to be necessary or convenient for the proper operation of the ports or

harbors of such city. The improvements and facilities mentioned in this Section 1 are hereinafter referred to as the "improvements and facilities."

Tax Bonds and Revenue Bonds; Election

Sec. 2. For the purpose of providing funds for any of the improvements and facilities provided in Section 1 hereof, the governing body of the city shall have the power and authority to issue from time to time tax bonds or revenue bonds of said city, either or both; provided, however, that no bonds payable from ad valorem taxes, except refunding bonds, shall be issued unless and until they have been authorized at an election at which a majority of the persons qualified to vote and voting at said election have voted in favor thereof, said election to be called and held under the provisions of and in accordance with Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as the same is now or may hereafter be amended.¹

¹ Article 701 et seq.

Pledge of Revenues; Collection of Fees and Charges; Payment of Interest and Principal

Sec. 3. Revenue bonds may be issued secured solely by a pledge of and payable from the net revenues derived from the operation of all or any designated part or parts of the improvements and facilities then in existence or to be improved, constructed, or otherwise acquired, with the duty of the city to charge and collect fees, tolls, and charges, so long as any of the revenue bonds or interest thereon are outstanding and unpaid, sufficient to pay all maintenance and operation expenses of the improvements and facilities (the net revenues of which are pledged), the interest on such bonds as it accrues, the principal of such bonds as it matures, and to make any and all other payments as may be prescribed in the ordinance and other proceedings authorizing and relating to the issuance of such bonds. "Net revenues" as used herein shall mean the gross revenues derived from the operation of those improvements and facilities the net revenues of which are pledged to the payment of the bonds less (a) the reasonable expenses of maintaining and operating said improvements and facilities, and said maintenance and operation expenses shall include, among other things, necessary repair, upkeep, and insurance of said improvements and facilities, and (b) if the city is operating under a Home Rule Charter, any annual payment of the city as may be set out in said Charter.

Interest, Sinking and Reserve Funds; Additional Bonds; Surplus Revenues

Sec. 4. In the ordinance adopted by the governing body authorizing the issuance of any revenue bonds and in the proceedings relating thereto, the governing body may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund, reserve fund or funds, and any other funds provided for therein, and may provide where such

funds shall be deposited, and may make such additional covenants with respect to the bonds and the pledged revenues and the operation, maintenance, and upkeep of those improvements and facilities (the net revenues of which are pledged), including provision for the leasing of all or any part or parts of said improvements and facilities and the use or pledge of moneys derived from leases thereof, as it may deem appropriate. Said ordinance and other proceedings may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said net revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to the conditions as are set forth in said ordinance or other proceedings. Said ordinance and other proceedings may provide for an annual payment to the general fund of the city of such an amount as may be specified in said ordinance or as may be specified in the Home Rule Charter of the city if it is operating under such a Charter, said annual payment to be made from revenues received from the operation of the improvements and facilities (the net revenues of which are pledged to the payment of the bonds). Said ordinance and other proceedings may also provide that surplus net revenues received from the operation of the improvements and facilities (the net revenues of which are pledged) may be used for the payment of interest on and principal of any tax bonds issued by the city under this Act. Such ordinance and other proceedings may contain such other provisions and covenants, as the governing body shall determine, not prohibited by the Constitution of the State of Texas or by this Act (provided, however, that if the city is operating under a Home Rule Charter and said Charter contains provisions relating to the improvements and facilities, such ordinance and other proceedings shall be in keeping with such Charter provisions if such Charter provisions are not inconsistent with the provisions of this Act); and the governing body may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of said revenue bonds.

Ordinance Authorizing Bonds; Form of Bonds; Maturity; Interest; Examination and Approval; Registration

Sec. 5. All bonds of the city (tax bonds and revenue bonds) issued pursuant to the provisions of this Act shall be authorized by ordinance of the governing body of the city, shall be issued in the name of the city, shall be signed by the mayor (or presiding officer) of the city and countersigned by the city secretary (or city clerk), and shall have the seal of the city impressed thereon; provided, that the ordinance authorizing the issuance of such bonds may provide for the bonds to be signed by the facsimile signatures of said officers, either or both, and for the seal of the city on the bonds to be a printed facsimile seal; and pro-

vided further that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Said bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and shall be sold at public sale at a price and under terms determined by the governing body to be the most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard interest tables then currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance authorizing the bonds. Such bonds may be made registrable as to principal, or as to both principal and interest.

After bonds have been authorized by the city such bonds and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and if such bonds have been authorized in accordance with this Act, the said Attorney General shall approve the same. After such approval, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud. When any revenue bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts (including lease contracts) made between the city and another party or parties (public agencies or otherwise), a copy of such contract or contracts and of the proceedings authorizing the same shall be submitted to the Attorney General along with the bond record, and the approval by the Attorney General of the bonds shall constitute an approval of such contract or contracts, and thereafter the contract or contracts shall be incontestable except for forgery or fraud.

Proceeds of Sale

Sec. 6. From the proceeds of sale of any bonds issued under the provisions of this Act, the governing body may appropriate or set aside out of such proceeds (i) an amount for the payment of interest expected to accrue during the period of construction, (ii) an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds, and, (iii) in the case of revenue bonds, such amount or amounts as may be prescribed by the bond ordinance to be deposited into the reserve fund or funds and into any other funds, as specified in said ordinance.

Outstanding Bonds; Unpaid Interest

Sec. 7. While any revenue bonds issued under the provisions of this Act or any interest thereon remain outstanding and unpaid, the management and control of such improvements

and facilities (and the physical properties comprising the same), by the terms of the ordinance authorizing the issuance of such bonds, may be placed in the hands of the governing body of the city or may be placed in the hands of a board of trustees to be named in such ordinance, consisting of not more than seven (7) members, one (1) of whom shall be a member of the governing body of such city; provided, if the city is operating under a Home Rule Charter and said Charter contains provisions requiring that the improvements and facilities be managed or controlled by a board of trustees, then the provisions of such Charter shall be followed. The compensation of the members of the board of trustees, the terms of office of such members, their powers and duties, the manner of exercising the same, the election or appointment of their successors, and all matters pertaining to their organization and duties shall be specified in said ordinance; provided, if the city is operating under a Home Rule Charter as mentioned above and the Charter contains provisions relating to any of the foregoing matters mentioned in this sentence, it is expressly provided that the provisions of such ordinance relating to such matters shall be in accordance with and governed by the Charter provisions. In all matters where such ordinance or Charter are silent, the laws and rules governing the governing body of the city shall govern said board of trustees so far as applicable.

Refunding Bonds; Ordinance; Approval and Registration

Sec. 8. (a) The governing body of the city shall have the power and authority to issue tax bonds for the purpose of refunding any outstanding tax bonds (original or refunding) issued by the city under the provisions of this Act and accrued interest thereon. Such refunding bonds may be issued to refund bonds of more than one series or issues of outstanding tax bonds. Such refunding bonds shall bear interest at the same or lower rate than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid.

(b) The governing body of the city shall have the power and authority to issue revenue bonds for the purpose of refunding any outstanding revenue bonds (original or refunding) issued by the city under the provisions of this Act, or heretofore issued for any of the purposes covered by Section 1 of this Act or payable from the revenues of any of the improvements and facilities covered by said Section 1, and accrued interest thereon. Revenue refunding bonds, at the option of the governing body, may be combined with new or original revenue bonds into one series or issue of bonds. Such revenue refunding bonds may be issued to refund bonds of more than one series or issue of outstanding revenue bonds and combine pledges for the outstanding bonds for the security of the refunding bonds, and such revenue refunding bonds may be secured by pledges of

other net revenues and additional net revenues; provided, that such refunding will not impair the contract rights of the holders of any of the outstanding revenue bonds which are not to be refunded. Revenue refunding bonds may bear interest at a rate higher than that borne by the bonds refunded; provided, that such interest rate shall not exceed the rate specified in Section 6 of this Act.

(c) Refunding bonds (both tax refunding bonds and revenue refunding bonds) shall be authorized by ordinance of the governing body of the city, and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General of the State of Texas as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts of the State of Texas upon surrender and cancellation of the bonds to be refunded; but in lieu thereof, the ordinance authorizing their issuance may provide that they shall be sold at public sale and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient, not only to pay the principal of the underlying bonds, but also to pay the interest on the underlying bonds to their option or maturity dates, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. In those situations where the proceeds of revenue refunding bonds are deposited in the place or places where the underlying bonds are payable, they shall be so deposited under an escrow agreement so that such proceeds will be available for the payment of the interest on and principal of said underlying bonds as such interest and principal respectively become due; and such escrow agreement may provide that such proceeds may, until such time as the same are needed to pay interest and principal as the same become due, be invested in direct obligations of the United States of America, in which instances the interest earned on such investments shall be considered as revenues of the improvements and facilities.

(d) When any refunding bonds (both tax refunding bonds and revenue refunding bonds) have been approved by the Attorney General and registered by the Comptroller of Public Accounts, they shall thereafter be incontestable except for forgery or fraud.

(e) All the provisions of this Act relating to original bonds, insofar as the same may be made applicable, shall also apply to refunding bonds issued hereunder (both tax refunding bonds and revenue refunding bonds).

Applicability of Statutes; Mortgage of Properties

Sec. 9. Insofar as the same may be applicable, the provisions of Articles 1111 to 1118, Revised Civil Statutes of Texas, 1925, together with all amendments thereof and additions

thereto, shall apply to revenue bonds issued under the provisions of this Act, and any city covered by this Act shall have, with respect to revenue bonds issued hereunder, all the powers granted by said Statutes. However, where the provisions of said Statutes are in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail. Further, it is expressly provided that the city shall have no power or authority to mortgage or encumber the physical properties of the improvements and facilities.

Legal and Authorized Investments

Sec. 10. All bonds issued under the provisions of this Act (tax bonds and revenue bonds, and original bonds and refunding bonds) shall be, and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be, and are hereby declared to be, legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 11. This Act is cumulative of all existing laws of the State of Texas that are applicable, but when a city acts under the provisions of this Act, to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail.

Validation of Bonds and Proceedings

Sec. 12. Any revenue bonds heretofore issued by a city which are payable from the revenues of any of the improvements and facilities covered by Section 1 hereof, and all the proceedings relating to such bonds, are hereby in all things validated. It is provided, however, that the validation provisions of this Section 12 shall have no application to litigation pending upon the effective date hereof questioning the validity of the matters hereby validated if such litigation is ultimately determined against the validity of the same.

[Acts 1961, 57th Leg., p. 724, ch. 341; Acts 1969, 61st Leg., 2nd C.S., p. 130, ch. 29, § 1, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 21, ch. 18, § 1, eff. March 22, 1973.]

CHAPTER FIFTEEN. CONSOLIDATION OF CITIES

Article

1188. Authority.
1188-(a). Consolidation of Cities, Towns or Villages Under 5000 with Cities Over 5000.
1189. Petition; Elections; Contests; Time Limitations.
1190. Election.
1191. "Consolidation."
1191a. Qualified Electors.
1192. Registration.
1193. Merger.
1193a. Validating Extension of Corporate Limits of Certain Cities and Towns.
1193b. Validating Extension of Limits of Certain Cities.

Art. 1188. Authority

When two (2) or more incorporated towns or cities in this State adjoining and contiguous to each other in the same county shall be desirous of being consolidated, it shall be lawful for them to do so by calling and holding an election for such purpose so as to consolidate under one government and take the name of the largest city, unless provided otherwise at the time of such consolidation, in the manner and subject to the provisions of Chapter 15, Title 28, Revised Civil Statutes of 1925.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 261, ch. 155, § 1; Acts 1957, 55th Leg., p. 380, ch. 183, § 1.]

Art. 1188-(a). Consolidation of Cities, Towns or Villages Under 5000 with Cities Over 5000

Upon complying with the provisions hereinafter prescribed in this Chapter, any city, town or village of less than five thousand (5,000) population according to the last preceding Federal Census may be consolidated under one government with an adjoining and contiguous city having a population of more than five thousand (5,000) inhabitants according to the last preceding Federal Census, when both of said municipalities are situated in the same county having a population of more than three hundred thousand (300,000) inhabitants according to the last preceding Federal Census.

This section is hereby declared retroactive to the following extent: All petitions purporting to be signed by qualified voters and presented to the governing body and all ordinances, resolutions, notices, declarations or other acts by the governing body of any city, town or village coming within the applicable provisions of this section, purporting to be in compliance with the statutory provisions contained in Chapter 15 of Title 28, Revised Civil Statutes of 1925; and any notice, declaration, certificate or other act required to be done or purporting to have been done by any Mayor, Councilman, Commissioner, Alderman, City Secretary or City Clerk in compliance with the statutory requisites of Chapter 15 of Title 28, Revised Civil Statutes of 1925, shall have the same legal effect as if there had then existed a law authorizing each act to have been done and authorizing cities, towns and villages of less than five thousand (5,000) population to consolidate. Any elec-

tion held prior to the enactment of this Act submitting the question of consolidation to the qualified voters of cities or towns authorized to consolidate by this Act, shall in all things be deemed a legal and valid election as if this law had been in existence on the date of such election; provided the requirements of law applicable to consolidation of cities and towns have otherwise been complied with.

[Acts 1945, 49th Leg., p. 71, ch. 50, § 1.]

Art. 1189. Petition; Elections; Contests; Time Limitations

(a) Whenever as many as one hundred (100) qualified voters of each of said cities shall petition the governing body of their respective cities to order an election for the purpose of voting on the consolidation of such cities into one city, said bodies may order an election to be held at the usual voting places in the city on such proposition. If any such petition be signed, however, by qualified voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for city officials in any of said cities, next preceding the filing of said petitions, the respective governing bodies receiving such a petition shall order an election to be held on such proposition, except as hereinafter provided.

(b) The election on consolidation shall first be held in the city having the smallest population according to the last preceding Federal Census. When a petition for consolidation has been presented to the governing body of the city having the smallest population, such governing body may, on a petition signed by one hundred (100) qualified voters, order an election for such purpose within forty-five (45) days after the receipt thereof. Upon the presentation of a petition in the city having the smallest population signed by qualified voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for the city officials in such city next preceding the filing thereof, the governing body of the city shall order an election within forty-five (45) days after the filing of the petition. Any such election shall be held within not less than thirty (30) nor more than ninety (90) days from the date of the election order.

(c) When the proposition has received a majority vote in favor of consolidation at an election in any city, the larger city or cities where no election has been held, in inverse order of rank in population according to the last preceding Federal Census, may or shall, depending on the number of qualified signatures on the petition presented in each such city, order an election on the same proposition within forty-five (45) days after the election returns have been canvassed in the next smaller city in which a majority have voted in favor of consolidation. Any such election shall be held within not less than thirty (30) nor more than ninety (90) days from the date of the election order. If the proposition for consolidation fails to receive a majority of the votes in an

election held for that purpose in any city, the larger city or cities which have not held an election shall not order an election for consolidation.

(d) If an election contest is timely filed in any such election, the governing body of each larger city which has not held its consolidation election may defer holding the election until the election contest is finally terminated. If no election contest is timely filed in any such election, the governing body of the next larger city may, when acting on a petition filed by one hundred qualified voters, and shall, when acting on a petition filed by voters equal to fifteen percent (15%) of the total vote cast at the last preceding general election for city officials, order an election for such purpose.

(e) If the proposition for consolidation fails to receive a majority of votes in favor thereof in an election in any of such cities, no consolidation election involving the same identical cities on the consolidation proposition which is defeated shall be held within two (2) years from the date of the defeat of such proposition in a consolidation election in any such city.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 68, ch. 35, § 1, eff. March 22, 1971.]

Art. 1190. Election

The governing body of each of said cities shall appoint from among the qualified voters of their respective cities, judges and clerks of said elections, and such elections shall be conducted under the ordinances of said cities, and in conformity with the general laws of this State. All persons voting at such election in favor of consolidation shall have written or printed on their ballots the words "For Consolidation," and all persons voting at such election not in favor of consolidation shall have written or printed on their ballots the words, "Against Consolidation."

[Acts 1925, S.B. 84.]

Art. 1191. "Consolidation"

The term "consolidation," as used in this Chapter, means the adoption by the smaller city or cities of the charter and ordinances and name of the larger of said cities, and the inclusion within the larger city of all of the territory of the smaller city or cities so consolidated with it, and the area of the smaller city or cities shall become subject to all the laws and regulations of the larger city.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., p. 380, ch. 183, § 2.]

Art. 1191a. Qualified Electors

All those Electors qualified to vote for city officers shall be eligible to vote in the elections herein provided.

[Acts 1957, 55th Leg., p. 380, ch. 183, § 3.]

Art. 1192. Registration

If a majority of the qualified voters at said election in each of said cities shall vote in favor of consolidation, the mayor or chief execu-

tive officer exercising like or similar powers of each of said cities as soon as practicable after the returns of said election have been made, shall certify to the Secretary of State an authenticated copy under the seal of the said cities showing the approval of the qualified voters of the consolidation of the two cities. The Secretary of State shall thereupon file and record the same in a separate book to be kept in his office for such purpose. The returns of such election shall be recorded at length in the record books of the respective cities, and the consolidation of such cities shall be held thereupon to be consummated.

[Acts 1925, S.B. 84.]

Art. 1193. Merger

After the consummation of such consolidation, all record books, public property, money on hand, credits, accounts and all other assets of the smaller of the annexed cities shall be turned over to the officers of the larger city, who shall be retained in office as the officials of the consolidated city during the remainder of their respective terms, and by such consolidation the offices existing in the smaller municipality shall be abolished and declared vacant, and the persons holding such offices shall not be entitled after the consummation of such consolidation, to further remuneration or compensation. All outstanding liabilities of the two cities so consolidated shall be assumed by the consolidated city. Whenever at the time of any such consolidation the respective cities shall have on hand any bond funds voted for public improvements not already appropriated or contracted for, such money shall be kept in a separate fund and devoted to public improvements in the territory for which such bonds were voted, and shall not be diverted to any other purpose.

[Acts 1925, S.B. 84.]

Art. 1193a. Validating Extension of Corporate Limits of Certain Cities and Towns

Sec. 1. That this Act shall affect all cities in the State of Texas having a population of not less than 11,000 and not more than 11,500, according to the 1920 United States Census, and which are located in counties situated on a boundary of the State of Texas.

Sec. 2. In every instance wherein a city coming under the provisions of this Act has attempted to extend its corporate limits by including all of the territory of an adjoining city of less than 5,000 population, and has attempted to accomplish such extension of boundaries under Statutes providing for the consolidation of cities of more than 5,000 population, and/or in every instance wherein said extension of territory was attempted under Charter provisions which provide for the annexation of adjoining territory without reference to the fact that the adjoining territory is included in an incorporated city, all actions, resolutions, elections and ordinances taken, held, made or passed in reference thereto or pursuant thereto, are hereby confirmed, ratified and validated

irrespective of any irregularities, and in like manner as if said consolidation or annexation had been authorized in the first instance.

[Acts 1930, 41st Leg., 4th C.S., p. 2, ch. 2.]

Art. 1193b. Validating Extension of Limits of Certain Cities

That all ordinances and proceedings, and all actions and proceedings and contracts, taken or made in pursuance thereof, of any city having a population of more than twenty-five hundred (2500) inhabitants as shown by the last preceding Federal Census, which have been heretofore passed since the passage of Chapter 110 of the 41st Legislature of the State of Texas of 1929,¹ providing for the extension of corporate limits of such city, are hereby ratified and confirmed, such extensions and actions, proceedings and contracts, taken or made in pursuance thereof, shall be deemed and held valid in all respects to the same extent as if done under legislative authority, previously given.

[Acts 1931, 42nd Leg., Spec.L., p. 280, ch. 143, § 1.]

¹ Article 1182a.

CHAPTER SIXTEEN. MUNICIPAL COURT

GENERAL PROVISIONS

Article

- 1194. Creation of Court.
- 1194A. Change of Name.
- 1195. Jurisdiction.
- 1196. Judge of the Municipal Court.
- 1196(a). Home Rule Cities; Judge.
- 1197. Judge in Other Cities.
- 1197a. Recorder.
- 1198. Term of Office.
- 1199. Vacancy.
- 1200. Clerk.
- 1200a. Two Courts Authorized in Cities Having Over 250,000 Population.

PARTICULAR MUNICIPAL COURTS

- 1200aa. Wichita Falls.
- 1200b. Home Rule Cities of 31,000 to 32,500 May Establish Two Courts.
- 1200c. Cities of 350,000 Population in Counties Having Over 500,000 But Less Than 650,000 Population.
- 1200d. Cities Over 130,000 and Not More Than 285,000.

GENERAL PROVISIONS

Art. 1194. Creation of Court

There is hereby created and established in each of the incorporated cities, towns, and villages of this State, a court to be known as the "Corporation Court."

[Acts 1925, S.B. 84.]

Art. 1194A. Change of Name

The name "Corporation Court" is changed to the "Municipal Court." All other statutory references to the Corporation Court shall be construed to mean the Municipal Court.

[Acts 1969, 61st Leg., p. 1689, ch. 547, § 1, eff. Sept. 1, 1969.]

Art. 1195. Jurisdiction

A corporation court shall have jurisdiction within the territorial limits of the city, town or village, in all criminal cases arising under the ordinances of the said city, town or village, and shall also have concurrent jurisdiction with any justice of the peace in any precinct in which said city, town or village is situated in all criminal cases arising under the criminal laws of this State, in which punishment is by fine only, and where the maximum of such fine may not exceed two hundred dollars, and arising within such territorial limits.

[Acts 1925, S.B. 84.]

Art. 1196. Judge of the Municipal Court

Such court shall be presided over by a judge to be known as the "judge of the municipal court" who, in cities, towns or villages incorporated under special charter shall be selected under the provisions of the charter concerning the election or appointment of the judge to preside over the municipal court. All such provisions are hereby made applicable to the judge of the municipal court herein provided for. All other statutory references to the "recorder" shall be construed to mean the "judge of the municipal court."

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 2423, ch. 771, § 1, eff. Aug. 30, 1971.]

Art. 1196(a). Home Rule Cities; Judge

The Corporation Court in any city heretofore or hereafter incorporated, or adopting or amending its Charter, under Article 11, Section 5, of the Constitution of the State of Texas, commonly known and referred to as the "Home Rule Amendment", shall be presided over by a judge to be known as the "Recorder", "City Judge", or "Judge of the Corporation Court", as such official may be called in the charter of any city, and who shall be selected under the provisions of the City Charter concerning the election or appointment of the judge to preside over the Corporation Court.

All judges now holding office and presiding over any such Corporation Court in any such city and heretofore appointed or elected in accordance with the provisions of the Charter of such city are hereby declared to be the duly constituted, appointed or elected judge of such Court and shall hold office until his successor shall have been duly selected in accordance with the provisions hereof and shall have qualified according to law.

[Acts 1949, 51st Leg., p. 323, ch. 156, § 1.]

Art. 1197. Judge in Other Cities

In cities, towns and villages, not incorporated under special charter, the mayor shall be ex-officio recorder of the "corporation court," unless the governing body shall by ordinance authorize the election of a recorder, in which case a recorder shall be elected in the same manner and for the same time as the mayor is elected.

[Acts 1925, S.B. 84.]

Art. 1197a. Recorder

The governing body of any city, town or village not incorporated under special charter nor incorporated under or adopting or amending its charter under Article 11, Section 5, of the Constitution of the State of Texas, commonly known and referred to as the "Home Rule Amendment," may by ordinance provide for the appointment and qualifications of the recorder of the Corporation Court in any such city, town or village.

In any such city, town or village so providing by ordinance for the appointment of the recorder of such Corporation Court and which has not theretofore provided for the election of such recorder in the manner authorized by Article 1197, Revised Civil Statutes of Texas, 1925, the mayor of such city, town or village shall cease to be the ex-officio recorder of such Court upon the enactment of such ordinance and the recorder first appointed shall hold his term of office corresponding to the unexpired term of said mayor, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

In any such city, town or village so providing for the appointment of the recorder of such Corporation Court and which has theretofore provided for the election of such recorder, the recorder first appointed shall be appointed at the expiration of the term of office of the then recorder so elected and shall hold his term of office for two (2) years, and every two (2) years thereafter a recorder shall be appointed for a term of two (2) years.

All recorders of such Corporation Courts in such cities, towns and villages shall hold their terms of office for the term appointed and until their successors have been appointed and qualified.

[Acts 1953, 53rd Leg., p. 39, ch. 31, § 1.]

Art. 1198. Term of Office

Wherever in any such city, town or village, the office of the presiding magistrate of the municipal court therein shall not have expired when the recorder is elected, the recorder first elected shall hold his term of office corresponding to the unexpired term of said magistrate; and every two years thereafter such recorder shall be elected for a term of two years.

[Acts 1925, S.B. 84.]

Art. 1199. Vacancy

A vacancy in the office of recorder or clerk of the court in any city, town or village, shall be filled by the governing body for the unexpired term only.

[Acts 1925, S.B. 84.]

Art. 1200. Clerk

A clerk for said corporation court shall be elected by the governing body of each such city, town or village, at the same time at which the recorder is elected; but it may be provided by ordinance that the city secretary shall be

ex-officio clerk of the said court, who may be authorized to appoint a deputy with the same power as the secretary. Such clerk shall hold his office for two years. In case of ex-officio clerk, he shall hold his office during his term as city secretary. The clerk shall keep minutes of the proceedings of the said court, issue all process, and generally perform all the duties of the clerk of a court as prescribed by law for a county clerk in so far as the same may be applicable.

[Acts 1925, S.B. 84.]

Art. 1200a. Two Courts Authorized in Cities Having Over 250,000 Population**Establishment; Judges**

Sec. 1. All incorporated cities of this State having a population in excess of two hundred and fifty thousand (250,000) according to the latest preceding United States census, may, by an ordinance legally adopted, provide for the establishment of two (2) Corporation Courts. The Mayor of any such city shall have the power to appoint two (2) or more Judges for such Corporation Courts and designate the seniority of the Judges, with the confirmation of the governing body of the city, so that either or both Courts may be in concurrent or continuous session, either day or night.

Jurisdiction

Sec. 2. Each of such Corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all Corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts.

(2) That such Courts and the Recorders thereof may transfer cases from one Court to another, and that any Recorder of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a Corporation Court Clerk who shall be Clerk for all of such Corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such Corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all Corporation Courts.

Conflicting Laws Repealed

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and this Act shall supersede any provisions of any special charters of cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that no portion shall become inoperative by reason of the invalidity of any other portion.

[Acts 1939, 46th Leg., p. 92; Acts 1947, 50th Leg., p. 226, ch. 130, § 1.]

PARTICULAR MUNICIPAL COURTS

Art. 1200aa. Wichita Falls

Creation; Formation by Ordinance; Additional Courts

Sec. 1. There is created in the City of Wichita Falls a court of record to be known as the "Municipal Court," to be held in that city if the governing body of the city, by legally adopted ordinance, finds and determines that the conditions of the dockets of the other courts of the county are such as to require the formation of the municipal court in order to properly dispose of the cases arising in the city. The governing body of the city may by ordinance determine that more than one municipal court is required in order to dispose of the cases arising in the city, in which case the governing body of the city may establish as many municipal courts as it deems necessary and the ordinance establishing the municipal courts shall designate the municipal courts as Municipal Court No. 1, Municipal Court No. 2, and as each municipal court is established it shall be designated with the next succeeding number.

Criminal Jurisdiction; Writs; Terms; Exchange of Benches

Sec. 2. (a) Municipal courts in Wichita Falls shall have concurrent jurisdiction in all criminal cases arising under the charter and ordinances of the city and shall also have concurrent jurisdiction in all criminal cases arising under the laws of the State of Texas and arising within the territorial limits of the city, in which punishment is by fine only, and where the maximum of such fine may not exceed \$200. The Municipal Court shall have exclusive original jurisdiction in all misdemeanor cases arising under the traffic laws of the State of Texas as defined in Chapter 173, Acts of the 47th Legislature, Regular Session, 1941, as amended,¹ and Chapter 421, Acts of the 50th Legislature, Regular Session, 1947, as amended² where the offense was committed within the corporate limits of the city.

(b) The judge of a municipal court may grant writs of mandamus, injunction, attach-

ment, and all other necessary writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court.

(c) Municipal courts shall hold no terms and may sit at any time for the transaction of the business of the courts.

(d) Where more than one municipal court is established by the governing body of the city, the judges of the municipal courts may, at any time, exchange benches and may, at any time, sit and act for and with each other in any case, matter, or proceeding pending in their courts; and any and all acts thus performed by any of the judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

¹ Article 6637b.
² Article 6701d.

Criminal Jurisdiction; Conformance to This Act

Sec. 3. The jurisdiction of all courts exercising criminal jurisdiction is conformed to the terms and provisions of this Act.

Judges; Qualifications; Appointment; Compensation; Removal; Vacancies; Bond and Oath

Sec. 4. Municipal courts shall be presided over by a judge, who shall be known as the "municipal judge," who shall be a licensed attorney in good standing with two or more years of experience in the practice of law in this state, a citizen of the United States and of this state. He need not be a resident of the city at the time of his appointment, but he shall maintain his residence within the city during his tenure of office. He shall devote his entire time to the duties of his office, and shall not engage in the private practice of law while in office. He shall be selected and appointed to office by the Board of Aldermen.

(a) Municipal court judges shall receive a salary to be set by the governing body of the city which may not be diminished during his term of office. A municipal judge may not be removed from office during the term for which he was appointed except for cause to the same extent and under the same rules that judges of the county courts may be removed from office.

(b) At the end of the term of office for which a municipal judge is appointed, the governing body of the city may appoint the person serving as municipal judge to another two-year term, or the governing body of the city may declare the office of municipal judge vacant.

(c) Any vacancy in the office of municipal judge by death, resignation, or otherwise shall be filled in the same manner as original appointments.

(d) Pending such nomination as hereinabove provided, as well as during any period during which a municipal judge is temporarily unable to act for any reason, the mayor of the city, by and with the consent of the governing body of said city, is authorized to appoint some qualified person

to act in the place and stead of the municipal judge, and the appointee shall have all the powers and discharge all the duties of the office, and shall receive the same compensation therefor as is payable to the regular municipal judge while he is so acting.

(e) Municipal judges shall execute a bond and take the oath of office as required by law relating to county judges.

Complaints by City Attorney

Sec. 5. All proceedings in municipal courts shall be commenced upon original complaint filed by the city attorney of the city, provided, however, that parking tickets, including red meter tickets, need not be signed by the city attorney unless a complaint is tried in court. All such complaints shall be prepared under the direction of the city attorney.

Filing of Original Papers; Notations on Case Folder

Sec. 6. The clerk of the municipal courts under the direction of the presiding judge shall file the original complaint and the original of all judgments, orders, motions, or other papers and proceedings in each case in a folder for permanent record. No separate minute book for the court is required, but the original papers filed with the court shall constitute the records of the courts, provided however, that such records may be kept by the clerk on microfilm when over one year old and shall be admissible in evidence as provided by Articles 3731a, 3731b, and 3731c, Vernon's Texas Civil Statutes, in civil cases. The clerk of the municipal courts shall cause to be noted on the outside of each case folder the following information:

- (1) The style of the action;
- (2) The nature of the offense charged;
- (3) The date the warrant was issued and return made thereon;
- (4) The time when the examination or trial was had, and if a trial, whether it was by a jury or before the judge of the court;
- (5) Trial settings;
- (6) The verdict of the jury, if any;
- (7) Judgment of the court, if any;
- (8) Motion for a new trial, if any, and the decision thereon;
- (9) If an appeal was taken; and
- (10) The time when, and the manner in which the judgment and sentence was enforced.

Orders or judgments, showing disposition of parking tickets as well as red meter tickets, not tried in court, need not be signed by the court.

Clerk of Municipal Courts; Appointment; Duties

Sec. 7. The clerk of the municipal courts shall be appointed by the governing body of the city. It shall be the duty of the clerk or his deputies to keep the records of proceedings of the court and to issue all processes and generally to do and to perform the duties now pre-

scribed by law for clerks of county court at law exercising criminal jurisdiction insofar as the same may be applicable. The clerk of the municipal courts shall hold his office at the pleasure of the governing body of the city, and shall perform his duties under the direction and control of the municipal judge.

Court Reporter; Qualifications; Appointment; Duties

Sec. 8. For the purpose of preserving a record in all cases tried before the municipal courts, the governing body of the city shall appoint an official shorthand reporter, who shall be well skilled in his profession and have the qualifications required of a court reporter in the county courts or county courts at law as provided by the general laws of Texas. The reporter shall be a sworn officer of the court and shall hold his office at the pleasure of the governing body of the city at a salary to be fixed by the governing body. The court reporter of the court is not required to take testimony in cases where neither the defendant, prosecutor, nor the judge demands it. The governing body of the city may authorize and appoint more than one court reporter for each court established so as to dispose of the business of the courts without delay. The court reporter shall perform his duties under the direction and control of the municipal judge.

Evidence; Admissibility in Other Proceedings

Sec. 8a. That testimony, exhibits or evidence given by any witness in the course of any proceeding in such municipal courts shall be solely for the purpose of such proceeding or appeal therefrom and, in any other civil proceeding, evidence relating to such testimony, exhibits, evidence or reproductions thereof shall be privileged and not admissible for any purpose.

Costs

Sec. 9. No court costs shall be assessed or collected by any municipal court in any case tried in the courts, except warrant fees or capias fees as authorized by the code of criminal procedure for corporation courts.

Service of Process

Sec. 10. All processes issuing out of municipal courts may be served by a policeman of the city or by any peace officer under the same rules as are provided for service by sheriffs and constables of process issuing out of a county court so far as applicable.

Prosecutions by City Attorney; Bailiff

Sec. 11. All prosecutions in municipal courts shall be conducted by the city attorney of the city, or his assistant or deputy. The chief of police of the city shall in person or by deputy attend the court and perform the duties of a bailiff.

Complaint; Form

Sec. 12. Proceedings in municipal courts shall be commenced by complaint filed by the

city attorney, which shall begin: "In the name and by authority of the State of Texas"; and shall conclude "Against the peace and dignity of the State." All complaints shall be prepared under the direction of the city attorney and may be signed by any credible person upon information and belief sworn to before the city attorney, or his assistant or deputy, who, for that purpose shall have power to administer the oath. The complaint shall be in writing and shall state:

(1) The name of the accused, if known, and if unknown, shall describe him as accurately as practicable;

(2) The offense with which he is charged in plain and intelligible words;

(3) It must appear that the place where the offense is charged to have been committed is within the jurisdiction of the municipal court; and,

(4) It must show, from the date of the offense stated therein that the offense is not barred by limitations. All pleadings in the municipal courts shall be in writing and filed with the clerk of such courts.

Right to Jury Trial; Selection of Jurors

Sec. 13. (a) Every person brought before the municipal courts and charged with an offense shall be entitled to be tried by a lawful jury of six persons. The municipal judge may set certain days of each week or month for the trial of jury cases. Juries for the court shall be selected as follows: On the adoption of this Act by the governing body of the city and between the 1st and 15th days of August of each year thereafter, the clerk of the municipal court or one of his deputies, and the city clerk, or one of his deputies, shall meet together and select from the list of qualified jurors in the city, the jurors for service in the municipal courts for the ensuing year. The list of jurors shall be taken from the voters registration list of the City of Wichita Falls. The officers shall write the names of all persons who are known to be qualified jurors under the law residing in the city on separate cards of uniform size and color, writing also on the cards, whenever possible, the post-office address of each juror so selected. The cards containing the names shall be deposited in a jury wheel to be provided for that purpose by the governing body of the city. The wheel shall be constructed of any durable material, shall be so constructed so as to freely revolve on its axle, and may be equipped with a motor to revolve the wheel so as to thoroughly mix the cards. The wheel shall be locked at all times, except when in use as hereinafter provided, by the use of two separate locks so arranged that the key to one will not open the other lock. The wheel and the clasps into which the locks are fitted shall be arranged so that the wheel cannot be opened unless both of the locks are unlocked. The keys to the locks shall be kept one by the city clerk and the other by the clerk of the municipal court. The city clerk and the clerk of

the municipal court shall not open the wheel nor permit it to be opened by any person except at the time and in the manner and by the persons herein specified. The city clerk shall keep the wheel when not in use in a safe and secure place where it cannot be tampered with.

(b) Not less than 10 days before January 1 and July 1 of each year, the clerk of the municipal court, or one of his deputies, and the city clerk or one of his deputies, in the presence and under the direction of the municipal judge shall draw from the wheel containing the names of jurors, after the wheel has been turned and the cards thoroughly mixed, one by one the names of jurors to provide the number directed by the judge for each week of the six months next ensuing for which a jury may be required, and shall record the names as they are drawn upon a separate sheet of paper for each week for which jurors may be required. At the drawing no person other than those above named shall be permitted to be present. The officers attending the drawing shall not divulge the name of any person that may be drawn as a juror to any person. If at any time during the next six months and prior to the next drawing date it appears that the list already drawn will be exhausted before the expiration of six months, additional lists for as many additional weeks as the judge may direct will be drawn in the same manner. The several lists of names so drawn shall be certified under the hand of the clerk of the municipal court, or the deputy, doing the drawing and the municipal judge in whose presence the names were drawn, to be the lists drawn by him for that semiannual period and shall be sealed up in separate envelopes endorsed "List No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." The clerk doing the drawing shall write his name across the seals of the envelopes and deliver them to the judge who shall inspect the envelopes to see that they are properly endorsed and shall then deliver them to the clerk or his deputy, and the clerk shall then immediately file them away in some safe and secure place in his office under lock and key. When the names are drawn for jury service, the cards containing the names shall be sealed in separate envelopes endorsed "Cards containing the names of jurors list No. _____ of the Petit Jurors drawn on the _____ day of _____, 19____, for the Municipal Court of Wichita Falls, Texas." Each envelope shall be retained unopened by the clerk until after the jury selected from the corresponding list has been impaneled. After the jurors so impaneled have served four or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk or his deputy and those cards bearing the names of persons who have not been impaneled and who have not served as many as four days shall be immediately returned to the wheel by the clerk or his deputy; and the cards bearing the names of the persons serving as many as

four days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors from the wheel. If any of the lists drawn are not used, the clerk or his deputy shall open the envelopes containing the cards bearing the names of the unused lists immediately after the expiration of the six-month period and return the cards to the wheel. A juror serving on a jury in the court shall receive not less than \$5 for each day and for each fraction of a day he attends the court as a juror and in no event less than that paid in county courts.

Ordinances and Corporate Limits; Judicial Notice

Sec. 14. Municipal courts shall take judicial notice of all the city ordinances and the corporate limits of Wichita Falls in all cases tried in the courts.

Code of Criminal Procedure; Applicability

Sec. 15. Except as modified by this Act, the trial of cases before municipal courts shall be governed by the Code of Criminal Procedure of the State of Texas applicable to county courts.

Bonds

Sec. 16. All bonds taken in proceedings in the courts shall be payable to the State of Texas for the use and benefit of Wichita Falls.

Judgment and Sentence

Sec. 17. The judgment and sentence, in case of conviction before municipal courts shall be in the name of the State of Texas, and shall recover of the defendant the fine and costs for the use and benefit of the city; except when otherwise ordered by the court, the court shall require that the defendant remain in custody of the chief of police of such city until the fine and costs are paid; and order that execution issue to collect the fines and penalties.

Appeals

Sec. 18. Appeals from municipal courts shall be heard by the county court except in cases where the county court has no jurisdiction of appeals from justice courts, in which cases, the appeals shall be heard by the court having jurisdiction of appeals from justice courts.

Right of Appeal; State

Sec. 19. The state shall have no right of appeal.

Right of Appeal; Defendant; Motion for New Trial

Sec. 20. A defendant has the right of appeal from a judgment of conviction in a municipal court under the rules hereinafter prescribed, and a motion for a new trial shall be prerequisite to the right of appeal from a municipal court.

Motion for New Trial; Time; Filing

Sec. 21. A motion for a new trial must be made within five days after the rendition of judgment and sentence, and not afterward.

Such motion must be in writing and filed with the clerk of said court.

New Trial; State

Sec. 22. In no case shall the state be entitled to a new trial.

Notice of Appeal; Bond; Time

Sec. 23. An appeal may be taken by giving notice of appeal in open court, which shall be noted on the docket of the court or embodied in the order overruling the motion for new trial. The notice must be given or filed within 10 days after the order overruling the motion for a new trial is rendered. If the defendant is not in custody, an appeal may not be taken until the required appeal bond has been given and approved by the court. The appeal bond must be filed with the court within 10 days after the order of the court refusing a new trial has been rendered, and not afterwards.

Bail on Appeal

Sec. 24. In appeals from the judgments and sentence of a municipal court, the defendant shall, if he be in custody, be committed to jail unless he gives bail, to be approved by the judge of the municipal court, in an amount not less than double the amount of fine and costs adjudged against him, payable to the State of Texas for the use and benefit of the city; provided the bail shall not in any case be for a less sum than \$100. The bond shall recite that in the cause the defendant shall make his personal appearance before the court to which the appeal is taken instanter, if the court is in session; and if the court is not in session, then at its next session, and there remain from day to day and answer in the cause.

Perfecting Appeal; Filing of Bond

Sec. 25. Appeals from municipal courts may be perfected by filing the appeal bond provided for in the preceding section upon approval by the municipal court, subject to compliance with the provisions of Section 34.

Record and Briefs on Appeal

Sec. 26. In view of the crowded conditions of the dockets of the courts, the record and briefs on appeal in a case appealed from a municipal court shall be limited so far as possible to the questions relied on for reversal.

Record on Appeal

Sec. 27. The record on appeal in a case appealed from a municipal court shall consist of a transcript, and where necessary to the appeal, a statement of facts.

Assignments of Error; Waiver

Sec. 28. The motion for a new trial in a case appealed from a municipal court shall constitute the assignments of error on appeal. A ground of error not distinctly set forth in a motion for new trial shall be considered as waived.

Record on Appeal; Stipulation

Sec. 29. The city attorney, or his assistant or deputy, and the defendant, or his attorney, by written stipulation filed with the clerk of the municipal court may designate the parts of the record, proceedings, and evidence to be included in the record on appeal.

Contents of Transcript

Sec. 30. The clerk of the municipal court, under written instructions of the defendant, or his attorney, shall prepare under his hand and seal of the court for transmission to the appellate court a true copy of the proceedings in the municipal court, and, unless otherwise designated by agreement of the parties, shall include the following:

- (1) the complaint upon which the trial was had;
- (2) the order of the court upon any motions or exceptions;
- (3) the judgment of the court and the verdict of the jury;
- (4) any findings of fact or conclusions of law by the court;
- (5) the judgment of the court;
- (6) the motion for new trial and the order of the court thereon;
- (7) the notice of appeal;
- (8) any statement of the defendant or the city attorney as to the matter to be included in the record;
- (9) the appeal bond;
- (10) certified bill of cost;
- (11) any signed paper designated as material by the defendant, or his attorney, or the city attorney or his assistant or deputy.

The defendant, or his attorney, may file with the clerk and deliver or mail to the city attorney a copy of the written instruction, and the city attorney may file and deliver or mail a written direction to the clerk to include in the transcript additional portions of proceedings in the trial court.

Statement of Facts

Sec. 31. (a) The statement of facts of the testimony of the witnesses need not be in narrative form but may be in question and answer form. The defendant, or his attorney, may prepare and file with the clerk a condensed statement in narrative form of all or part of the testimony and deliver a true copy thereof to the city attorney and if the city attorney is dissatisfied with the narrative statement, he may require the testimony in question and answer form to be substituted for all or part thereof.

(b) All matters not essential to the decision or the questions presented in the motion for new trial, shall be omitted from a statement of facts. Formal parts of all exhibits and more than one copy of any document appearing in the transcript or the statement of facts shall be excluded. All documents shall be abridged

by omitting or abbreviating a formal portion thereof.

(c) It shall be unnecessary for the statement of facts to be approved by the trial court or judge thereof when agreed to by the defendant, or his attorney, and the city attorney.

(d) A written request for a statement of facts shall be made to the court reporter of the municipal court by the defendant or his attorney.

Agreed Statement of Case

Sec. 32. The defendant, or his attorney, and the city attorney may agree upon a brief statement of the case and upon the facts proven as will enable the appellate court to determine where there is error in the judgment of the trial court. Such statements shall be copied into the transcript in lieu of the proceedings themselves.

Transcript and Statement of Facts; Filing

Sec. 33. The transcript and the statement of facts shall be filed with the clerk of the municipal court within 60 days from the date of the order overruling the motion for new trial, and shall be promptly forwarded by the clerk of the municipal court to the clerk of the court to which the appeal is taken.

Preparation of Transcript and Statement of Facts; Fee

Sec. 34. The defendant shall pay a fee of \$10 to the clerk of the municipal court for the preparation of the transcript and statement of facts, at the time of request therefor. If the case is reversed on appeal, the \$10 fee shall be refunded to the defendant.

Briefs; Filing

Sec. 35. Briefs shall be filed with the clerk of the court to which an appeal is taken within 10 days from the date of the filing of the transcript and statement of facts in the municipal court.

Procedure on Appeal

Sec. 36. The court to which the appeal is taken shall hear and determine appeals from municipal courts at the earliest time it may be done, with due regard to the rights of parties and proper administration of justice. Oral arguments before the court shall be under such rules as the court may determine, and the parties may submit the case on the records and briefs without oral arguments.

Disposition on Appeal; Presumptions; Decision

Sec. 37. The court, having jurisdiction of appeals from municipal courts, may affirm the judgment of the municipal court, or may reverse or remand for a new trial, or may reverse and dismiss the case, or may reform or correct the judgment, as the law and the nature of the case may require. The court shall presume

- (1) that the venue was proven in the court below;

(2) that the jury was properly impaneled and sworn;

(3) that the defendant was arraigned and that he pleaded to the complaint;

(4) that the court's charge was certified the judge and filed by the clerk before it was read to the jury; unless such matters were made an issue in the municipal court, or it affirmatively appears to the contrary from the transcript or statement of facts.

In each case decided by the court having jurisdiction of appeals, the court shall deliver a written opinion either sustaining or overruling each assignment of error presented. If an assignment of error is overruled no reason need be given by the court, but cases relied upon by the court may be cited. If an assignment of error is sustained, the court shall set forth the reasons for such decision. Copies of the decision of the court shall be mailed by the clerk of the court to the parties and the judge of the municipal court as soon as rendered by the court.

Certificate of Appellate Proceedings; Filing of Record; Enforcement of Judgment

Sec. 38. When the judgment of the court having jurisdiction of appeal from municipal courts becomes final, the clerk of the court shall make out a proper certificate of the proceedings had and the judgment rendered and mail the certificate to the clerk of the municipal court from which the appeal was taken. When the record is received by the clerk of the municipal court, he shall file it with the papers in the case and note it upon the docket of the municipal court. Where the judgment has been affirmed no proceedings need be had after filing the record in the municipal court to enforce the judgment of the court, except to forfeit the bond of the defendant, to issue a *casus* for the defendant, or an execution against his property.

New Trial

Sec. 39. Where the appeal court awards a new trial to the defendant, the cause shall stand as it would have stood if a new trial had been granted by the municipal court.

Appeals to Court of Criminal Appeals; Applicability of Code of Criminal Procedure; Record

Sec. 40. Appeals to the Court of Criminal Appeals of Texas from the decision of the court having jurisdiction of appeals from municipal courts, when permitted by law, shall be governed by the Code of Criminal Procedure of Texas, except that when an appeal is permitted by law, the transcript, briefs, and statement of facts filed in the court having jurisdiction of appeals from municipal courts shall constitute the transcript, briefs, and statement of facts before the Court of Criminal Appeals of Texas or as the rules of the court of criminal appeals may provide in such cases.

Places and Quarters for Court, Etc., Salaries

Sec. 41. (a) The municipal court shall be held in the city at a place or places within the corporate limits of the city as may be designat-

ed by the governing body of the city in the ordinances establishing the court.

(b) The governing body of the city shall provide suitable quarters for the court, and all costs of providing a court and office space for the court, the clerk, and court reporter shall be paid for by the governing body of the city. All salaries paid to the judge, clerk, court reporter, and employees of the municipal court shall be paid by the governing body of the city.

Payment and Deposit of Fines, Etc.

Sec. 42. All fines, fees, costs, and cash bonds in municipal courts shall be paid to the clerk of the municipal court. The clerk of the municipal court shall deposit all fines, fees, costs, and cash bonds directly into the general fund of the city.

Judges, Clerks and Court Reporters: Civil Service Ordinance; Retirement; Vacation; Sick Leave; Etc.

Sec. 43. The judges of municipal courts, the clerks and deputy clerks of the courts, and the court reporters of the municipal courts shall not be considered to be classified employees under the city civil service ordinance. However, the governing body of the city may provide by ordinance that all other employees of the municipal courts may be hired and paid as classified employees of the city under the city civil service ordinance. The judges, clerks, deputy clerks, and court reporters may be authorized or required by the governing body of the city to participate in the retirement program of the city. The judges, clerks, deputy clerks, and court reporters of municipal courts shall receive the same vacation, sick leave, and other benefits as are provided for other nonclassified employees of the city under such regulations as may be provided by the governing body of the city by ordinance.

Vacation of Court; Transfer of Pending Cases

Sec. 44. After the establishment of a municipal court if the governing body of the city shall by legally adopted ordinance find and determine that the condition of the dockets of the other courts of the county is such as not to require the existence of the municipal court in order to properly dispose of the cases arising in the city, then the office of municipal judge, clerk of the municipal court, court reporter, and other employees of the court shall be declared vacated as of the end of the term for which the municipal court judge was last appointed. In that event, any case pending in the municipal court shall be transferred to the proper court having jurisdiction of the offense. [Acts 1969, 61st Leg., p. 2255, ch. 762, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., pp. 2501 to 2504, ch. 822, §§ 1 to 6, eff. Aug. 30, 1971.]

Art. 1200b. Home Rule Cities of 31,000 to 32,500 May Establish Two Courts

Establishment

Sec. 1. All Home Rule cities of this State having a population of more than thirty-one

thousand (31,000) and not more than thirty-two thousand, five hundred (32,500) inhabitants according to the 1940 Federal Census, may, by an ordinance legally adopted, provide for the establishment of two (2) corporation Courts.

Jurisdiction

Sec. 2. Each of such corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts, one of which shall be designated the City Judge.

(2) Such courts and the Recorder thereof may transfer cases from one Court to another, and that any recorder of any such Court may exchange benches and preside over any of such Courts.

(3) There shall be a corporation Court Clerk who shall be Clerk for all of such corporation Courts together with such number of deputies as may be needed.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all corporation Courts.

Conflicting Laws Repealed

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only and this Act shall supersede any charter provision of such cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that no portion shall become inoperative by reason of the invalidity of any other portion.

[Acts 1947, 50th Leg., p. 287, ch. 177.]

Art. 1200c. Cities of 350,000 Population in Counties Having 500,000 But Less Than 650,000 Population

Establishment; Number; Judges

Sec. 1. All incorporated cities of this State having a population in excess of three hundred fifty thousand (350,000) and being in a county having a population in excess of five hundred thousand (500,000), but less than six hundred

fifty thousand (650,000), according to the last preceding United States Census may, by an ordinance legally adopted, provide for the establishment of two (2) or more corporation courts, not to exceed one (1) court for each eighty thousand (80,000) population according to the last preceding census. The Mayor of any such city shall have the power to appoint two (2) or more judges for each such court and designate the seniority of the judges, with the confirmation of the governing body of the city, so that any of such courts may be in concurrent or continuous session either day or night.

Jurisdiction

Sec. 2. Each of such corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all corporation Courts by the General Laws of this State.

Ordinances, Provisions Of

Sec. 3. The governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as Recorder of said Court or Courts.

(2) That such Courts and the Recorders thereof may transfer cases from one Court to another, and that any Recorder of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a corporation Court Clerk who shall be Clerk for all of such corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Appeals

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all corporation Courts.

Repeals

Sec. 5. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only, and this Act shall supersede any provisions of any special charters of cities which are contrary to the terms hereof.

Partial Invalidity

Sec. 6. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, the validity of the remaining portions shall not be affected thereby, it being the intent of the Legislature in adopting this Act that no portion shall become

inoperative by reason of the invalidity of any other portion.

[Acts 1949, 51st Leg., p. 493, ch. 269; Acts 1961, 57th Leg., p. 396, ch. 199, § 1; Acts 1967, 60th Leg., p. 109, ch. 53, § 1, eff. Aug. 28, 1967.]

Art. 1200d. Cities Over 130,000 and Not More Than 285,000

Establishment; Judges

Sec. 1. All incorporated cities of this State having a population over one hundred and thirty thousand (130,000) and not over two hundred and eighty-five thousand (285,000), according to the last preceding United States census, may, by ordinance legally adopted, provide for the establishment of one (1) or more Corporation Courts, not exceeding four (4). The judges of such courts shall have the same qualifications, and be selected in the same manner, as may be provided for the judge of the existing Corporation Court in the charter of such city, or as may be provided in any future charter or charter amendment. If the present charter of such city requires the election of the judge by vote of the people, the governing body may designate a person as judge of each newly created court until the next regular city election. Such courts may be in concurrent or continuous session, either day or night.

Jurisdiction

Sec. 2. Each of such Corporation Courts, when established, shall have and exercise concurrent jurisdiction within the corporate limits of the city establishing them, and such jurisdiction shall be the same as is now or hereafter may be conferred upon all Corporation Courts by the General Laws of this State.

Ordinance; Provisions Authorized

Sec. 3. Except as otherwise provided by the charter of such city, the governing body of the city establishing such Courts may provide by ordinance:

(1) Prescribe the qualifications of the persons to be eligible to appointment as judge of said Court or Courts.

(2) That such Courts and the judges thereof may transfer cases from one (1) Court to another, and that any judge of any of such Courts may exchange benches and preside over any of such Courts.

(3) That there shall be a Corporation Court Clerk who shall be Clerk for all of such Corporation Courts, together with such number of deputies as may be needed.

(4) That complaints shall be filed with such Corporation Court Clerk in such manner as to provide for an equal distribution of cases among such Courts.

Procedure

Sec. 4. Except as modified by the terms of this Act, the procedure before such Courts and appeals therefrom shall be governed by the General Law applicable to all Corporation Courts.

[Acts 1955, 54th Leg., p. 465, ch. 130.]

CHAPTER SEVENTEEN. CONDEMNATION FOR HIGHWAYS

Article

- 1201. Cities Empowered.
- 1202. Powers.
- 1203. Further Powers.
- 1204. Resolution.
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- 1206. Condemnation Commission.
- 1207. Statutes Applicable.
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- 1215. Certificates.
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- 1218. Deficiency Assessments.
- 1219. Suit.
- 1220. Enforcement of Law.
- 1220a. Notices of Assessments for Street Improvements.

Art. 1201. Cities Empowered

Cities having more than one thousand inhabitants under the preceding Federal census may proceed in accordance with the provisions hereof, independently of and without reference to any other applicable law or charter provision, present or future, which, however, shall remain in force as alternative methods. The term "city" or "cities" used herein shall include all incorporated towns and cities acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1202. Powers

Subject to the terms hereof, the governing body of a city may lay out, open, establish, widen, straighten, or extend any highway within its limits, and purchase, condemn, and take property therefor. The cost of property purchased, taken or damaged, and costs of condemnation and making assessments hereinafter referred to, and of the enforcement, collection, sale or realization into money of assessments or certificates, together with all other costs of making such improvements, may be paid wholly from any fund of the city available therefor, or wholly from the fund created by said assessments, or partly from each of said funds. The governing body shall have power to assess part or all of such costs against the owners of property abutting or in the vicinity of such improvements specially benefited thereby, and against said property, and to collect, enforce, sell or realize said assessments into money. The term "highway" shall include any street, avenue, boulevard, alley, public place or square, dedicated or to be dedicated to public use.

[Acts 1925, S.B. 84.]

Art. 1203. Further Powers

Cities may purchase by agreement with the owner any property, all or part of which in the opinion of the governing body is necessary for the making of improvements under the terms

hereof, and pay for same out of any fund available. Cities may sell and convey any part of such property not appropriated to such improvement on such terms and for such consideration as they may see fit, and the proceeds shall become a part of a special fund out of which the cost of improvements provided for herein may be defrayed and shall be used for no other purpose, but only the cost of property actually appropriated to such improvement shall be included in any assessment made under the provisions hereof.

[Acts 1925, S.B. 84.]

Art. 1204. Resolution

When the governing body shall determine to proceed hereunder it shall so declare by resolution which may state the nature and extent of the improvement to be made and the limits thereof, and may describe the parcel or parcels of land proposed to be taken or condemned by any description substantially identifying the same, or by lot or block number, or number of front feet, or by the name of the owner, or if owned by an estate, the name thereof. No mistake or omission of said resolution shall invalidate it, and its passage shall be conclusive of the public use and necessity of the proposed improvement.

[Acts 1925, S.B. 84.]

Art. 1205. Survey

Upon passage of such resolution, the city engineer or engineer designated by the governing body shall prepare and submit to said body a plat showing the nature and limits of the proposed investments,¹ the boundaries thereof, and the points between which it is proposed to establish the same, and the property through which it is to be extended, which is to be taken or condemned therefor, and shall in writing report the estimated total cost of said improvement, and of each parcel of property to be condemned or acquired. The governing body shall examine said plat and report and correct errors therein, if any, but no error or omission shall invalidate the same, or any proceeding had thereafter pursuant thereto.

[Acts 1925, S.B. 84.]

¹So in enrolled bill. Probably should read "improvements."

Art. 1206. Condemnation Commission

(a) No property shall be taken without just compensation first made to the owner. If the amount of said compensation shall not be agreed upon, the governing body shall cause to be prepared, on behalf of the city, a statement in writing containing a description of the parcel or parcels of property sought to be taken, the names of the owner or owners thereof, if known, and the purpose for which said property is sought to be taken. The statement shall be filed with the Judge of a County Court at Law, if such Court exists in the county where the property is situated, otherwise with the County Judge of such county. Upon filing the statement the Judge shall forthwith, in term

time or vacation, appoint a Commission consisting of three disinterested freeholders of said county who are qualified voters to assess the damages to accrue to said owners, or other interested parties, by reason of condemnation of said property.

In event of the death, disability, refusal to act, incapacity for any reason, or absence for more than thirty days from said county of any Commissioner appointed, at any time, the Judge shall forthwith appoint a new Commissioner or Commissioners having the qualifications herein prescribed, who shall succeed to and exercise all the powers and duties of the Commissioner or Commissioners originally appointed, and vacancies so caused in said Commission shall be so filled by the Judge whenever they occur. But all proceedings of said Commissioners prior to said vacancy shall be valid and it shall not be necessary for the Commissioners then qualified and acting to again do any Act or take any proceeding already done or performed, but said Commissioners shall proceed after the filling of said vacancy and take all steps and do all things provided to be done hereunder as if no such vacancy had occurred.

(b) The clerk, secretary, or recording officer of the city, or the said Commission itself, shall give written notice to the owners of property proposed to be taken or damaged and to all persons having any interest in or lien upon said property, of a hearing before said Commission, which notice shall state the time and place of hearing, and may contain a brief statement of the nature and extent of the proposed improvement, and a description of the property proposed to be taken; such description may be by lot and block number, front feet, the name of the owner or owners, or by any other description which will substantially identify said property. Notice of said hearing shall be given by publication in a newspaper of general circulation in the county in which the property is situated, not less than three separate days, the first publication to be not less than ten days prior to the date of hearing. Notice by publication shall be valid and binding upon the real and true owners of property and all persons having an interest in or lien upon the same, if it shall generally notify them to appear and be heard, without specifically designating said parties by name, and no error or mistake in the name of any person to whom said notice is directed shall invalidate the same. Said notice shall also be served by delivering to said owners, lienholders, or interested parties, if residents of the county where said property is situated, or to their agent or attorney, or if a minor to the Guardian thereof, a copy of said notice. The person serving said notice shall make and file with the clerk, secretary or recording officer of the city a return in writing thereon, stating when and how he served said notice. The governing body may provide for other and additional notice, but notice by publication shall in all cases be valid and binding, whether other notice is given or

not. The governing body may provide for and cause to be given, in accordance with due process of law, any other and additional notice of any other hearing which may become or be deemed necessary upon the vacation of the office of a Commissioner and appointing of a new one, or for any other reason, and to provide for such hearings and the nature and effect thereof, and to cause as many and different hearings to be held in the course of condemnation proceedings as may be deemed necessary. Said Notices, and the return thereon, shall be filed with the city and preserved in its records.

(c) Hearings shall be adjourned and shall be kept open until all parties interested and appearing shall be fully heard. All owners, interested parties, or lienholders shall have the right to appear at said hearings in person or by agent or attorney, and be heard as to the value of property proposed to be taken or as to the damages to property not taken, resulting from the improvement, or as to the legality or regularity of the proceedings or any right of said owners and other parties. All objections or contests shall be in writing and filed with said Commission. When all parties have been heard the Commission shall close the hearing and find the damages due owners, lienholders, or others interested, for property taken or damaged, and shall in their findings apportion between them the amounts payable to each, and shall date and sign a report in writing, in duplicate, one of which reports shall be filed with the clerk, secretary or recording officer of the city, and one with the Clerk of the Court by whose Judge the Commission was appointed.

All proceedings of the governing body with reference to such condemnation, as well as all notices issued in connection therewith, returns thereof, orders, reports, and other proceedings of the Commission, and certified copies of all orders or proceedings of any Judge or Court with reference thereto, may be recorded in the Minutes of said governing body, and said record, or certified copies, thereof, and the original shall be prima facie evidence of the truth of all facts therein recited.

(d) Any party affected by the decision of said Commission who shall be dissatisfied therewith, shall, within ten days after the filing of said report with said Judge, file in his Court in opposition thereto, setting forth in writing the particular cause or causes of objection, and thereupon the adverse party or parties shall be cited and said cause shall be tried and decided as other civil causes in said Court. If no objections are filed with said Judge within said time, he shall cause the said report to be entered in the Minutes of his Court and make the same the judgment thereof, and may issue the necessary process to enforce the same.

Upon the expiration of said time for filing objections, the findings of said Commission shall become final and binding upon the parties, their heirs, successors and assigns, and

shall not thereafter be questioned in any proceeding.

(e) Said Commissioners shall each be entitled to receive as compensation not exceeding Ten (\$10.00) Dollars for every day employed by them in the performance of their duties.

[Acts 1925, S.B. 84; Acts 1930, 41st Leg., 5th C.S., p. 236, ch. 75, § 1.]

Art. 1207. Statutes Applicable

The applicable provisions of the laws relating to eminent domain are made a part of this law, and shall apply to proceedings hereunder, and all parties shall proceed in accordance with and be governed by said articles, unless otherwise herein provided. The city shall not be required to execute the bond referred to in said laws.

[Acts 1925, S.B. 84.]

Art. 1208. Errors

The governing body, said commission and judge before whom condemnation proceedings are pending, shall take all steps and do all things proper to correct any error, invalidity or irregularity in any proceeding with reference thereto, and shall do so at the instance of any interested party. No error or omission in said proceedings shall invalidate the same, but any proceeding may be corrected, taken again, or adjourned, until such corrections are made or omissions supplied.

[Acts 1925, S.B. 84.]

Art. 1209. Assessments

Whenever the governing body shall order the making of any improvement herein referred to, it may then or thereafter at any time provide by resolution that all or part of the costs thereof, as defined in the third article of this chapter, shall be assessed against said property abutting said proposed improvement, or in the vicinity thereof, and the owners thereof specially benefited thereby, together with reasonable attorney's fees and all costs incurred in the collection of said assessments, and shall have power to apportion the same among the owners of said property, and may designate the property proposed to be assessed, or the district within which property will be benefited and within which assessments may be made, provided no assessment shall be made against any property, or its owner, in excess of the special benefits thereto in the enhanced value thereof from said improvement. No assessments shall be made against any property exempt from execution, but the owner shall be personally liable and assessed therefor.

[Acts 1925, S.B. 84.]

Art. 1210. Lien

Assessments shall constitute a prior lien upon the property to all others, except ad valorem taxes, and shall relate back and take effect as of the date of the resolution ordering the same.

[Acts 1925, S.B. 84.]

Art. 1211. Notice of Assessment

No assessment shall be made against owners of property benefited, or their property, until after a reasonable opportunity to be heard shall have been given them, lienholders, and others interested, before such governing body, or the commission hereafter referred to, preceded by a reasonable notice thereof published three (3) times prior to said hearing in some newspaper of general circulation in the city; and, if the owner is a railway or street railway, by additional written notice delivered either in person to its local agent, or by depositing said written notice in the city post office, postage paid, and properly addressed to the offices of the railway or street railway at the address as it appears on the last approved city tax roll; and the written notice, if required, to be mailed or delivered, and the first publication to be made not less than ten (10) days prior to said hearing, and the names of owners, lienholders, and others interested need not be specifically set out in said notice, but the parcel or parcels of land proposed to be assessed shall be briefly described in said notice, either by lot and block, number, front feet, or by any other description reasonably identifying the same, or by reference to any plat, report or record filed in connection with said proceedings. The governing body or commission shall have the power to give other and additional notice, but said published notice, together with said written notice, if required, shall be sufficient.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 347, ch. 131, § 1.]

Art. 1212. Hearing

At said hearing said owners, lienholders, and other interested parties shall have the right to contest in writing said assessments, the special benefits, irregularities or invalidities thereof, or any prerequisite thereto, and to produce testimony in support of said contests, and the governing body or said commission shall determine the amounts, if any, to be assessed.

[Acts 1925, S.B. 84.]

Art. 1213. Assessments Levied

The governing body shall make assessments by ordinance. Said assessments may be enforced by suit brought by the city for the benefit of any holder and owner of such assessments or of the certificates issued thereon, or brought by such holder and owner; or by the sale of the property assessed in the same manner as near as possible as is provided for the sale of real estate for municipal taxes. Assessments may be made payable in not exceeding sixteen installments, the last maturing in not over fifteen years, and may bear interest at not over eight per cent per annum.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 334, ch. 227, § 1.]

Art. 1214. Assessment Commission

At the time of or after the passage by the governing body of the resolution ordering such

assessments, it shall have power in its discretion to declare that said hearing to property owners and other interested parties shall be had before the commissioners then or thereafter appointed to make condemnations, or before their successors are appointed should a vacancy occur, and thereupon such commission shall cause to be given the notice or notices provided in the third preceding article, and it shall have all the powers conferred by this law upon such governing body, and shall do all things with reference to said assessments which said governing body is hereby empowered to do, except as herein expressly provided. If said hearing shall be before said commission, it shall report in writing its findings to the governing body, which shall examine said report, and, if found correct, approve the same, and shall by ordinance assess against the owners and their property found to be benefited by said improvements, the amounts found to be properly chargeable against them.

[Acts 1925, S.B. 84.]

Art. 1215. Certificates

The city may issue assignable certificates, payable to the city, or to the purchaser thereof, declaring the liability of owners and their property for the payment of assessments, and may fix the terms, time of payment, the conditions of default, and maturity thereof.

[Acts 1925, S.B. 84.]

Art. 1216. Suit on Certificate

The allegations of such recitals of such certificates in any suit brought for the enforcement thereof, shall be a sufficient allegation of all proceedings had by said governing body with reference to the making of said improvements and the assessment of the cost thereof; and of all prerequisites to the said assessment, and shall be deemed sufficient to permit proof of said proceedings and prerequisites without the necessity of alleging and setting forth the same in the pleadings, by caption, substantially or in full.

[Acts 1925, S.B. 84.]

Art. 1217. Reassessments

No error in any proceeding hereunder, or in the description of property, or in the name of the owner, shall invalidate an assessment, which shall nevertheless be in effect as against the real and true owner and his property. Whenever the governing body is advised of such error it shall correct the same, and shall at the request of any interested party reassess any owner or property erroneously assessed, after lawful notice and hearing and in accordance with benefits as herein provided as to original assessments, and may fix the time and terms of payment of said sums so reassessed, and issue assignable certificates evidencing the same as herein provided as to original assessments. The right to make said reassessments shall continue until the expiration of six years from the date of the ordinance making the

original assessment. But if the same shall have been resisted or brought in question in any action at law, the time consumed in said action shall be excluded in computing said term of six years. In making such reassessments it shall not be necessary to do any act, or take any step, or again perform any prerequisite already legally done or performed with reference to the original assessment, but the governing body may in its discretion proceed without again taking steps already validly taken or performed provided no reassessment shall be made until after the notice and hearing and in accordance with benefits, as herein provided.

[Acts 1925, S.B. 84.]

Art. 1218. Deficiency Assessments

If after any assessment has been made hereunder, if by means of an increased award of compensation for property taken or damaged in condemnation proceedings hereunder, or on appeal from the award of said commission, or for any other reason, the amount assessed and apportioned between the property owners benefited shall be found insufficient to defray all the costs of the improvement as herein defined, the governing body may, in its discretion, assess the deficiency against owners of property benefited, and their property, and apportion same among them, after the hearing and notice herein provided and after complying with each provision hereof applicable to original assessments; or said deficiency assessments may be made after notice and hearing before said commission in the manner provided in the fourth preceding article and assignable certificates evidencing said assessment may be issued by the city.

[Acts 1925, S.B. 84.]

Art. 1219. Suit

Any property owner against whom or whose property an assessment or reassessment has been made, may, within ten days thereafter bring suit to set aside or correct the same, or any proceeding with reference thereto on account of any error or invalidity therein, but thereafter such owner, his heirs, assigns, or successors shall be barred from such action or any defense of invalidity in such proceedings or assessment or reassessment, in any action in which the same may be brought into question.

[Acts 1925, S.B. 84.]

Art. 1220. Enforcement of Law

The governing body shall have power to pass any ordinance or resolution, or to adopt rules and regulations, or to take any steps proper to give full legal effect to every part of this chapter. No assessment or reassessment shall be affected or invalidated in any manner by any error, omission or invalidity in any proceeding of the city hereunder with reference to the making of any improvement herein provided for, or with reference to the taking or condemnation of any property therefor, or with refer-

ence to determining and paying damages for property taken or damaged, but regardless thereof, and regardless of the fact that at the date of said assessments said improvements may not have been completed, the said assessments shall be in all things valid and binding. [Acts 1925, S.B. 84.]

Art. 1220a. Notices of Assessments for Street Improvements

"Street" Defined

Sec. 1. That the term "street" as used herein, shall include any street, avenue, alley, highway, boulevard, drive, public place, square or any portion or portions thereof.

Filing Notice of Assessment

Sec. 2. That whenever the Governing Body of any city, town or village shall, by resolution, ordinance or other proceedings, order, direct or provide or determine it to be necessary that any street be improved in any manner, then if it is proposed that all or any part of the cost of such improvements be levied or assessed and made a lien on property abutting thereon, there shall be filed with the County Clerk of the county or counties in which such property is situated, a notice signed in the name of such city, town or village by its Clerk, Secretary or Mayor or other officer performing the duties of such. Such notice shall meet all requirements of this Act when it shows substantially that the Governing Body of such city, town or village has ordered, directed or otherwise provided or determined it to be necessary that such street be improved and shall give the name thereof with the two cross streets or other approximate lengthwise limits between which same is to be or has been improved, or shall otherwise identify or designate same and shall state that a portion of the cost of such improvement is to be or has been specially assessed as a lien upon property abutting thereon. It is specially provided that one notice may embrace and include any number of streets or improvements.

Notice Designating Property Subject to Lien

Sec. 3. If it is proposed that all or any part of the cost of improving any such street be assessed as a lien on any property other than that abutting thereon, then a notice so signed shall be filed with the Clerk of the county or counties in which such property affected is situated, and such notice in such cases shall designate the property proposed to be assessed or the district within which assessments have been or may be made or shall otherwise identify the property against which a lien is proposed to be assessed.

Requisites of Notice; Filing

Sec. 4. It shall not be necessary that any notice required by this Act give details or that it be sworn to or acknowledged, and same may be filed at any time and the County Clerk with whom any such notice is filed shall record same in the records of mortgages or deeds of

trust and shall index same in the name of the city, town or village and in the name or other designation of the street or streets to the improvement of which the notice relates.

Time of Taking Effect of Lien

Sec. 5. That in all instances coming within the purview of this Act the lien of any assessment or re-assessment upon the property assessed or re-assessed shall take effect and be in force at and from the filing of the notice herein provided for and not before such filing and substantial compliance with the provisions of this Act shall be sufficient.

No Retroactive Effect

Sec. 6. That this Act shall not apply to or in any wise affect special assessments or re-assessments or liens fixed nor to any assessments, re-assessments or liens for any such improvements ordered, directed or provided for prior to the time this Act takes effect.

Other Laws Superseded as to Time Liens Take Effect

Sec. 7. That this Act shall supersede all other parts of laws with reference to the time that liens of any assessments or re-assessments shall take effect.

[Acts 1930, 41st Leg., 5th C.S., p. 147, ch. 21.]

Repeal

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

CHAPTER EIGHTEEN. ARTIFICIAL LIGHTING SYSTEM

Article

- 1221. May Install.
- 1222. Petition.
- 1223. Plans.
- 1224. Resolution.
- 1225. Specifications.
- 1226. Bids.
- 1227. Contract.
- 1228. Assessments.
- 1229. Mode of Assessment.
- 1230. Statement.
- 1231. Notice of Hearing.
- 1232. Hearing.
- 1233. Order of Assessments.
- 1234. Lien.
- 1235. Suit.
- 1236. Proceedings.
- 1237. Certificates.
- 1238. Public Improvements.
- 1239. General Powers.
- 1240. Control.

Art. 1221. May Install

Incorporated cities or towns of more than five thousand inhabitants under the preceding Federal census for the purpose of making local public street improvements by installing and

maintaining special lighting systems in said cities or portions thereof, may proceed in accordance with the provisions of the next succeeding nineteen articles, independently of and without reference to any other applicable law or charter provisions, present or future, except as herein provided for, which said law or charter provision shall remain in force as alternative methods. The term "city" or "cities," as used herein, shall include all incorporated cities and towns acting hereunder.

[Acts 1925, S.B. 84.]

Art. 1222. Petition

Subject to the terms hereof, whenever a petition is filed with the governing body setting forth that a certain street, streets, or portions thereof not less than one block, naming and describing the same, or certain districts composed of streets, highways, boulevards or alleys, should be specially illuminated, and that an additional system is necessary for that purpose, and stating that such illumination thereof will be a public improvement and will be conducive to the public welfare, and is signed by a majority of the owners of property abutting on said street, streets or portions thereof, and praying that the governing body of such city specially illuminate such street, streets or portion thereof, and construct, install, equip and maintain additional system of street lights for that purpose, the governing body shall proceed in the manner hereinafter set out.

[Acts 1925, S.B. 84.]

Art. 1223. Plans

The petitioning property owners may provide in said petition plans and specifications together with the kind of poles and lights and other material necessary to properly install said special lighting system, or such part of same as they desire to specify, and the governing body in that instance may order the same or any part thereof used in the construction of said system. If the kind specified in said petition is not available, the governing body shall use material of like kind and quality to that specified in said petition. Said body may reject any or all of said plans and specifications and have same prepared as hereinafter provided for.

[Acts 1925, S.B. 84.]

Art. 1224. Resolution

The governing body shall have power, by resolution, to order the making of the public improvements mentioned herein, or any of them, by a majority vote, without first being petitioned to do so by the abutting property owners as hereinbefore provided, and the passage of such resolution shall be conclusive of the public necessity and the benefits thereof, and no notice of such action by the governing body shall be requisite to its validity. Such resolution shall in general terms, set forth the nature and extent of the improvements or improvement to be made, the street, streets or portions thereof to be illuminated, the material

or materials with which the improvements are to be constructed, and the method or methods under which the cost of such improvements are to be paid. Such resolution shall be passed whether the improvements are made with or without the petition of the abutting property owners.

[Acts 1925, S.B. 84.]

Art. 1225. Specifications

Upon the passage of the resolution by the governing body as hereinbefore provided, it shall be the duty of the city engineer, or the official of the city whose duties most nearly correspond to that of city engineer, to forthwith prepare plans and specifications for the said improvement, which, when completed, shall be submitted to the governing body for its approval.

[Acts 1925, S.B. 84.]

Art. 1226. Bids

When the plans and specifications have been approved and adopted by the governing body, it shall be the duty of the city secretary, or other officer as may be designated by the governing body, to at once advertise for sealed bids for the construction of such improvements in accordance with the specifications. Such advertisement shall be inserted in a daily paper of general circulation in the city concerned, and shall state the time within which the bids may be received as prescribed by the governing body, which shall not be less than ten and not more than fifteen days from the insertion of said advertisement. Bids shall be filed with the city secretary, or such other officer as the governing body may designate, and shall be opened and read at a public meeting of the governing body. Such body shall have the right to accept such bids as it shall deem most advantageous to the abutting property owners concerned in the improvement, or may reject any and all bids. No bid shall be amended, changed or revised after being filed.

[Acts 1925, S.B. 84.]

Art. 1227. Contract

When the bids for such improvements have been accepted by the governing body, the city shall enter into a contract with the contractor or contractors to whom the work has been let for the performance thereof, which contracts shall be executed in the name of the city by its chief executive and attested by the city secretary, or such other officer as may be designated by the governing body, with the corporate seal.

[Acts 1925, S.B. 84.]

Art. 1228. Assessments

The city shall have power to assess the whole cost of installing and completing the improvements provided for herein, both for labor and material, against the owners of property abutting upon the street, streets or portions thereof, upon which said improvements are to

be constructed, and who are specially benefited thereby, and shall have power to fix a lien against such property to secure the payment of the proportion of such costs assessed against the owners of such property. In no event shall costs be assessed against such owners or their property, or their personal liability therefor finally determined until after the hearing hereinafter mentioned, and after the adjustment of equities between such owners. The cost assessed against any property or the owner thereof, shall not exceed the amount of the special benefit in enhanced value which such property shall receive from such improvement.

[Acts 1925, S.B. 84.]

Art. 1229. Mode of Assessment

The portion of the costs of such improvements which may be assessed against any such property or its owners, shall be in proportion as the frontage of the property of each owner is to the whole frontage of the property on the street, streets or portions thereof abutting on the special lighting system, and such cost shall be apportioned in accordance with what is commonly known as the frontage or front foot rule; provided that if the application of this rule would, in the opinion of the governing body in particular cases be unjust or unequal, it shall be the duty of said body to assess and apportion said costs in such proportion as it may deem just and equitable, having in view the specific benefit in enhanced value to be received by each owner of such property, the equities of such owners and the adjustment of such apportionment, so as to produce a substantial equality of the benefits received by and the burdens imposed upon each owner.

[Acts 1925, S.B. 84.]

Art. 1230. Statement

The contract or contracts for such improvements having been executed and approved by the governing body, the city engineer, or the officer of the city whose duties most nearly correspond to that of city engineer, shall prepare a written statement which shall contain the names of such persons, firms, corporations or estates as may own property abutting on the section to be improved, the number of front feet owned by each, and describing the property owned by each, either by lot and block number, or otherwise so describing such property as may be sufficient to identify same; and such statement shall contain an estimate of the total cost of the improvement, the amount per front foot to be assessed against abutting property and its owners, and the total estimated amount to be assessed against each owner. Such statement shall be submitted to the governing body whose duty it shall be to examine same and correct any errors that may appear therein, but no error, omission or mistake in said statement shall in any manner invalidate any assessment made, or lien or claim of personal liability fixed thereunder.

[Acts 1925, S.B. 84.]

Art. 1231. Notice of Hearing

When the statement shall have been examined and approved by the governing body, it shall declare by resolution, and directing notice thereof to be given to the owners aforesaid by publication for ten consecutive days in a daily newspaper of general circulation in the city where the improvement is to be made; but if there be no daily newspaper in such place, then the governing body shall give such notice to such owners by registered mail at least ten days before the time set for the hearing as hereinafter provided. The notice shall state the time and place of the hearing and the street, streets or portions thereof to be improved, with a general description of such improvements and a statement of the amount per front foot proposed to be assessed against the property, and a notice to all such property owners and all persons interested to appear at such hearing. It shall not be necessary to include in such notice a description of any property or the name of the owner, but such notice shall nevertheless be binding and conclusive upon all owners of property, or persons interested in or having a lien or claim thereon.

[Acts 1925, S.B. 84.]

Art. 1232. Hearing

On the day set out in the notice for the hearing, not less than ten days from the date of such notice, or at any time thereafter before the close of the hearing, any person, firm or corporation interested in any property which may be claimed to be subject to assessment for the purpose of paying the cost of the improvement, in whole or in part, shall be entitled to a hearing before the governing body as to all matters affecting said property, or the benefits thereto, or such improvements, or any claim of liability, or objection to the making of said improvements, or any invalidity or irregularity in any proceeding with reference to making said improvements, or any other objection thereto. Such person, firm, or corporation shall file their objections in writing, and thereafter the governing body shall hear and determine the same, and all persons interested shall have full opportunity to produce evidence and witnesses and appear in person or by attorney; and a full and fair hearing thereof shall be given by such governing body, which hearing may be adjourned from time to time without further notice. The governing body shall have the power to inquire into and determine all facts necessary to the adjudication of such objections and the ascertainment of the special benefits to such owners by reason of the contemplated improvements; and shall render such judgment or order in each case as may be just and proper. Any objection to the irregularity of the proceedings with reference to the making of such improvements as herein provided, or to the validity of any assessment or adjudication of personal liability against such property or the owners thereof, shall be deemed waived un-

less presented at the time and in the manner herein specified.

[Acts 1925, S.B. 84.]

Art. 1233. Order of Assessments

When the hearing above mentioned has concluded, the governing body shall, by ordinance, assess against the several owners of the property abutting on the street, streets or portions thereof, such proportionate part of the cost of improvements as said body shall have adjudged against the respective owners and their property. Said ordinance shall fix a lien upon such property and declare the respective owners thereof to be personally liable for the respective amounts to be assessed; and shall state the time and manner of payment of such assessment; and said governing body may order that the said assessments shall be payable in installments, and prescribe the amount, time and manner of payment of such installments, which, except as hereinafter provided, shall not exceed six, and the last payment shall not be deferred beyond five years from the completion of such improvement and its acceptance by the city. The said ordinance shall also prescribe the rate of interest to be charged upon deferred payments, not to exceed seven per cent per annum; and may provide for the maturity of all deferred payments and their collection upon default of any installment of principal or interest.

[Acts 1925, S.B. 84.]

Art. 1234. Lien

Each property owner shall have the privilege of discharging the whole amount assessed against him, or any installment thereof, at any time before maturity, upon payment thereof with accrued interest. The fact that more than one parcel of land, the property of one owner or jointly owned by two or more persons, firms or corporations, have been assessed together in one assessment, shall not invalidate the same or any lien thereon, or any claim of personal liability thereunder. The cost of any such improvement assessed against any property or owner thereof, together with all costs and reasonable attorneys fees when incurred, shall constitute a personal claim against such property owner, and shall be secured by a lien on such property superior to all other liens, claims, or titles, except city, county and State taxes, and such personal liability may be enforced by suit in any court of competent jurisdiction. In any suit brought under this article, it shall be proper to join as defendants two or more property owners who are interested in any single improvement or any single contract for such improvement. The person or persons who own property at the date of any ordinance providing for the assessment thereof, shall be severally and personally liable for their respective portions of the said assessment. The lien of such improvements shall revert back and take effect as of the date of the original resolution ordering the improvement, and the pas-

sage of such resolution shall operate as notice of such lien to all persons. Any error or mistake in such ordinance in the name of the owner of the property assessed, shall not invalidate the lien or personal liability thereby created, but the same shall nevertheless exist against the real and true owner of such property as if correctly described.

[Acts 1925, S.B. 84.]

Art. 1235. Suit

At any time within ten days after the hearing herein provided for has been concluded, any person or persons having an interest in any property which may be subject to assessment under this law, or otherwise having any financial interest in such improvement or improvements or in the manner in which the cost thereof is to be paid, who may desire to contest on any ground the validity of any proceeding that may have been had with reference to the making of such improvements or the validity in whole or in part of any assessment or lien or personal liability fixed by said proceedings, may institute suit for that purpose in any court of competent jurisdiction. Any person who shall fail to institute such suit in said period of ten days, or who shall fail to diligently prosecute such suit in good faith to final judgment, shall be forever barred from making any such contest or defense in any other action, and this estoppel shall bind their heirs, successors, administrators and assigns. The city and the person or persons to whom the contract has been awarded shall be made defendants in such suit, and any other proper parties may be joined therein.

[Acts 1925, S.B. 84.]

Art. 1236. Proceedings

There shall be attached to the plaintiff's petition an affidavit of the truth of the matters therein alleged, except such matters as are alleged on information and belief, that said suit is brought in good faith and not to injure or delay the city or the contractor or any owner of real estate abutting on the improvement. Unless the provisions of this article are complied with by the plaintiff or plaintiffs, such suit shall be dismissed on motion of any defendant and in that event plaintiff or plaintiffs shall be barred and estopped to the same extent as if suit had not been brought. In any case where a suit is brought as above provided, then the performance of the work may be suspended at the election of either the city or contractor until such suit shall be finally determined in the court of original jurisdiction or any appellate court to which the same may be taken by appeal or writ of error. Every appeal or writ of error shall be perfected within thirty days from the adjournment of the term of court of original jurisdiction at which final judgment was rendered in such suit; and no appeal or writ of error to review the judgment of said court may thereafter be taken or sued out by either party. Any such suit shall be entitled to precedence in the courts of this State,

both of original and appellate jurisdiction, and shall be heard and determined as promptly as practicable.

[Acts 1925, S.B. 84.]

Art. 1237. Certificates

The governing body may provide that for the cost, which is assessed against the abutting property and its owners, the contractor to whom the work may be let shall look only to such property owners and their property, and that the city shall be relieved of liability for such cost. The governing body may also authorize assignable certificates against abutting property or property owners. The recital in such certificates that the proceedings with reference to making such improvements have been regularly had in compliance with the terms of this law, and all prerequisites to the fixing of this lien and the claim of personal liability evidenced by such certificate, having been performed, shall be prima facie evidence of the facts so recited, and no other proof thereof shall be required, but in all courts the said proceedings and prerequisites shall, without further proof, be presumed to have been had or performed. Such certificates shall be executed by the chief executive of the city, and attested with the corporate seal by the city secretary or such other officer as may be designated by the governing body.

[Acts 1925, S.B. 84.]

Art. 1238. Public Improvements

The governing body, if it deems it to be more advantageous to the public, provided public funds are available therefor, may order by resolution the making of any local public improvement by installing a special lighting system as contemplated herein, and for such purpose shall prescribe the district composed of the street or streets, highways, boulevards or alleys, or any portion thereof, that are sought to be improved by the establishment and maintenance of such special lighting system. Specifications shall be prepared therefor under the direction of the governing body and bids shall be invited upon the same as provided herein for making such local improvements. Contracts shall be let as provided herein for making contracts in other cases. A hearing shall be accorded to all property owners owning property abutting upon the streets in such districts to be improved by the said lighting system, and the cost of the same shall be assessed against such property in the same manner as provided herein in other cases; a special lien shall be created against the abutting property and the owners thereof shall be personally liable as is provided herein in all other cases. The cost of making the said improvement shall be paid out of any available funds of the city which may be provided by said body. The amount of the cost of making such improvements so paid by the city to the contractor shall be reimbursed to the city by the property owners whose property is assessed in the manner provided for herein. All proceedings rela-

tive to making the assessments and issuing assignable certificates shall apply as far as practicable to the procedure to be followed in making the public improvements under the terms of this article.

[Acts 1925, S.B. 84.]

Art. 1239. General Powers

The governing body may provide additional rules and regulations governing hearings and the issuance of notices therefor as may be deemed advisable in order to afford a full hearing to all property owners concerning the assessments levied or to be levied against them on account of the special benefits received from the improvements so ordered. Such body may use such money as is at its disposal to assist in the financing of the public improvements herein provided for.

[Acts 1925, S.B. 84.]

Art. 1240. Control

After the public improvements provided for in the preceding nineteen articles have been completed and the job accepted by the city, the same shall become the property of the city, and the city shall maintain the same at its own expense, as a part of its regular lighting system.

[Acts 1925, S.B. 84.]

CHAPTER NINETEEN. ABOLITION OF CORPORATE EXISTENCE

Article

- 1241. Repealed.
- 1241a. Procedure for Abolition of Cities and Towns.
- 1242. Repealed.
- 1243. Repealed.
- 1244. Receiver.
- 1245. Duties of Receiver.
- 1246. Claim.
- 1247. Notice of Claim.
- 1248. Adjustment.
- 1249. Contest, Suit.
- 1250. Judgment and Costs.
- 1251. Limitation.
- 1252. Certain Dissolutions.
- 1253. Suits Barred.
- 1254. Payment of Claims.
- 1255. Collection of Tax, Etc.
- 1256. Delinquent Taxes.
- 1257. Prior Claims.
- 1258. Public Schools.
- 1259. School Taxes.
- 1260. Public Buildings.
- 1261. Repealed.
- 1262. When Corporation Ceases to Function.
- 1263. Action for Debt.

Art. 1241. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1241a. Procedure for Abolition of Cities and Towns

Authority to Abolish Corporate Existence

Sec. 1. Incorporated towns and villages, and cities and towns incorporated under the general laws, and cities and towns of ten thousand inhabitants or less chartered under special law, including those which may have here-

before accepted the provisions of Chapter 1 of Title 28, may abolish their corporate existence in the manner hereinafter provided.

Petition and Election

Sec. 2. When four hundred of the qualified voters resident in any such city, town, or village desire the abolishment of such corporation, they may petition the mayor to that effect, who shall thereupon order an election to be held in such city, town, or village on the same date provided by law for the next general election for mayor therein. If a majority of the qualified voters resident in any such city, town, or village is less than four hundred in number, then the mayor shall order an election as above provided upon the presentation to him of a petition signed by three-fourths of the resident voters of such city, town, or village.

Eligible Voters; Results; Declaration of Abolition

Sec. 3. All persons who are legally qualified resident voters of the city, town, or village where such election is to be held shall be entitled to vote at such election. If a majority of such voters voting at such election shall vote to abolish such corporation, the mayor shall declare such corporation abolished and certify such fact to the commissioners court of the county. Such commissioners court shall enter said order upon its minutes, and said corporation shall cease to exist.

Order; Conduct and Canvass of Election by Mayor; Laws Governing Election

Sec. 4. The election as herein provided shall be ordered, conducted and canvassed by the mayor as in the case of the incorporation of such city, town, or village, except that the mayor shall perform all acts performable in the case of incorporation by the county judge. Except as otherwise specifically provided herein, such election shall be governed by the laws of the State of Texas applicable generally to elections in incorporated cities.

Repeals

Sec. 5. The following statutes are specifically repealed: Acts 1895, p. 166, G.L. Vol. 10, p. 896; Acts 1899, p. 245; Acts 1897, p. 194; these being codified respectively as Articles 1241, 1242, 1243, and 1261. No other laws are hereby repealed except insofar as they are inconsistent herewith.

[Acts 1967, 60th Leg., p. 1989, ch. 736, eff. June 18, 1967.]

Arts. 1242, 1243. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1244. Receiver

In all cases where any city or town having theretofore had a valid corporate existence, under the laws of this State, has abolished said corporate existence in the manner provided by law, and in all cases where any city or town having a valid corporate existence under such laws may hereafter abolish their corporate ex-

istence, any creditor of any such city or town may apply to the judge of the district court of the district in which such city or town may be situated, for the appointment of a receiver for said corporation. After having posted up in at least three public places in the county where such city or town is located, one of which shall be in said city or town, written notice stating the substance of the application, when and before whom the same will be heard, such judge in term time or vacation, may appoint a suitable person as such receiver for such corporation, and shall fix the amount of bond to be given by such receiver in at least double the probable amount of the indebtedness or value of the property of such town or city, conditioned for the faithful performance of his duties as such officer, and for the paying over and delivery of all money and property coming into his hands as such receiver, to the parties entitled to receive same, such bond to be approved by the judge making the appointment; and same, together with order of appointment, shall be filed with, and recorded in, the minutes of said court by the district clerk of the county where such city or town is situated. Receivers appointed under the provisions of this chapter shall receive such compensation as the court may allow.

[Acts 1925, S.B. 84.]

Art. 1245. Duties of Receiver

A receiver appointed under the preceding article, after having given the required bond, and after having same duly filed and recorded, shall take charge of all the real and personal property, including moneys, minute books, ordinances, etc., except such property as pertains to the public free schools or devoted exclusively to public use, and shall return an inventory of all such property, money, books, etc., so received by him to the next succeeding term of the district court for the county in which such city or town is situated; and, for the purpose of securing such property, money, books, etc., he may, under the order of said court, or the judge thereof in vacation, bring suit against any person in possession of such property, books, or moneys, or indebted to said city or town, the same as such city or town could were it still incorporated.

[Acts 1925, S.B. 84.]

Art. 1246. Claim

Any person, firm or corporation, having any claim against such city or town, shall within six months from the appointment of said receiver, present to him a statement of the amount of such claim, duly verified, which, if he finds correct, he will mark allowed, and file same in the district court; and at its next regular term, if no protest be filed, said claim shall be approved by said court and shall thereafter be considered a valid debt against such city or town.

[Acts 1925, S.B. 84.]

Art. 1247. Notice of Claim

No such claim or account against such city shall be allowed or approved by the receiver without notice of the presentment thereof first having been given, by publication in some newspaper, if any, in the town or city where same is filed or presented, for four consecutive weeks, and in case there be no newspaper published in such town or city, then by posting notice of the presentment of such claim at the courthouse door of the county in which said town or city is situated, for four weeks prior to the allowance of said claim or account. Such notice, whether published or posted, shall state the name and residence of the creditor, the amount and date of said claim and account, and for what purpose incurred.

[Acts 1925, S.B. 84.]

Art. 1248. Adjustment

If such receiver finds any claim so presented to him unjust, in whole or in part, he shall endorse his finding thereon, and return same to the claimant, who may file same with the district court, if he desires to accept the findings of the receiver, and such claim for the amount allowed by the receiver may be acted upon by said court as other claims.

[Acts 1925, S.B. 84.]

Art. 1249. Contest, Suit

In case any protest by any taxpayer of said city or town be filed against any claim in said court, together with a bond to be approved by said court, that he will pay all costs of suit in case said claimant established his claim in full in any State court in which he may sue thereon, then such district court shall refuse to approve such claim until it shall have been established by judgment, recovered thereon in a State court of competent jurisdiction. Such suit to establish such claim or any claim disallowed in part or in whole, may be brought against the receiver, who shall make all legal defense against such claim. The court trying said claim is hereby authorized to hear and consider any material defense that may be or may have been urged against said claim, except that of limitation, though such claim, prior thereto, may have been reduced to judgment, but such judgment shall be considered, upon such trial, as prima facie evidence of the justice of such a claim.

[Acts 1925, S.B. 84.]

Art. 1250. Judgment and Costs

Any judgment recovered against such receiver upon a claim against such city or town shall be allowed by the receiver and approved by the district court wherein the receivership is pending. In all suits upon claims wherein protest and bond were filed in the district court, the claimant shall be liable for the costs of the suit, unless he recovers judgment for the full amount for which he asked the approval of the said district court. In suits upon claims rejected in part by the receiver, the claimant shall be liable for the costs of the suit, unless

he establishes his claim for a greater amount than was allowed by the receiver.

[Acts 1925, S.B. 84.]

Art. 1251. Limitation

Limitations shall not run, begin to run or be plead against any claim against such city or town at any time prior to six months after the appointment of such receiver.

[Acts 1925, S.B. 84.]

Art. 1252. Certain Dissolutions

No receiver shall be appointed for any such city or town whose corporate existence was dissolved prior to July 17, 1905, where the application therefor was not filed in said court within two years from and after July 10, 1905.

[Acts 1925, S.B. 84.]

Art. 1253. Suits Barred

No suit shall be brought against such receiver upon any claim, against the allowance of which a protest has been filed, as herein provided for, at any time after six months from the date of filing such protest, nor after the expiration of six months from the date of the disallowance of any such claim in whole or in part, where the claim has not been filed in the district court, after such disallowance as hereinbefore provided.

[Acts 1925, S.B. 84.]

Art. 1254. Payment of Claims

The district court of the county in which such town or city is situated, and in which such receivership is pending, shall provide for the payment of all claims legally established against such city or town, and determine the priority of any claims and order the sale of all property in the hands of the receiver subject to sale for such purpose, and direct such receiver to pay such claims. If the money and proceeds of property are insufficient to pay such indebtedness, then said court, at the request of any creditor, at the first regular term of said court in each year, shall levy a tax upon all the property and real and personal estate situated within the limits of said city or town, as previously incorporated, on the first day of the preceding January, not exempt from taxation under the Constitution and laws of this State, sufficient to discharge the indebtedness, but not to exceed the rate allowed by existing law for such purposes in incorporated cities and towns.

[Acts 1925, S.B. 84.]

Art. 1255. Collection of Tax, Etc.

Whenever the district court, having jurisdiction in the premises, has or may order the assessment and collection of taxes for the payment of the indebtedness of such town, or city, the tax assessor for the county in which such town or city is situated, shall assess the taxes so ordered in like manner as taxes in rural school districts. The county tax collector for such county shall collect such taxes in like

manner as taxes in rural school districts. This article shall not repeal any part of Articles 1245 to 1250 inclusive. For the services rendered under this article, the assessor and collector shall receive the same compensation as for like services for the assessment and collection of taxes in rural school districts; and said collector shall pay such taxes when collected, to the receiver of such city or town.

[Acts 1925, S.B. 84.]

Art. 1256. Delinquent Taxes

Suits may be brought by the receivers against delinquents, and a lien shall exist upon all property for such taxes, the same as though the corporate existence of such city or town had never been abolished, and such levy and assessment had been made by its council and assessor.

[Acts 1925, S.B. 84.]

Art. 1257. Prior Claims

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

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 768, ch. 227.]

Art. 1258. Public Schools

Where the public free schools of such city or town are under the management of trustees appointed or elected by the voters of the city or town, or by the city or town council, at the time its incorporation is abolished under the provisions of this chapter, such trustees shall have the management of said schools for the remainder of the term for which they were appointed or elected, subject to the supervision of the commissioners court, unless such city or town shall sooner become incorporated for school purposes only.

[Acts 1925, S.B. 84.]

Art. 1259. School Taxes

All taxes for municipal or school purposes which shall have been levied prior to the date of the abolishment of such corporation, and which shall not have been paid, shall be col-

lected by the receiver, together with such penalties and interest as may be due; but the portion of such taxes levied for the purpose of maintaining the public free schools of said city or town shall be paid over by said receiver to the trustees of the public free schools of said city or town and applied by them for the purpose for which they were levied.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 768, ch. 227.]

Art. 1260. Public Buildings

When any corporation is abolished under the provisions of this chapter, and shall at the time of any such abolishment own any public buildings, public parks, public works or other property, and the same shall not have been sold or disposed of as provided in this chapter, the same shall be managed and controlled by the commissioners court of such county for the purpose to which same were originally used and intended; and, for this purpose, the commissioners court shall have and exercise, with reference thereto, the powers originally conferred by charter upon the mayor and aldermen of such city.

[Acts 1925, S.B. 84.]

Art. 1261. Repealed by Acts 1967, 60th Leg., p. 1988, ch. 736, § 5, eff. June 18, 1967

Art. 1262. When Corporation Ceases to Function

When any corporation is abolished, or if any de facto corporation has been or shall be declared void by any court of competent jurisdiction, or if the same shall cease to operate and exercise the functions of such corporation or de facto corporation, when such corporation or de facto corporation has indebtedness outstanding, then the officers of such corporation, in office at the time of such dissolution, or at the time such corporation ceases to operate and exercise the functions of such corporation, shall take charge of the property of the corporation and sell and dispose of same, and shall settle the debts due by the corporation, and for said purpose shall have power to levy and collect a tax from the inhabitants of said city, town or village in the same manner as the said corporation. In the event of their failure or refusal to do so, and upon the petition of any number of the citizen taxpayers of such corporation or of the holders of the evidences of indebtedness of such corporation or de facto corporation, to the proper court within this State having jurisdiction in the county in which such dissolved or de facto corporation shall have been situated, the judge of said court shall appoint three trustees to take charge of such property and dispose of same and settle the debts of such corporation or de facto corporation, and for said purpose the said trustees so appointed shall be vested with all the powers herein given to the officers of such corporation.

[Acts 1925, S.B. 84.]

Art. 1263. Action for Debt

The holder of any indebtedness against any municipal corporation which has or may be dissolved in any way provided in the preceding article, including dissolution of a de facto corporation by a court of competent jurisdiction, may maintain a suit in the proper court within this State having jurisdiction in the county in which such dissolved or de facto corporation shall have been situated, to establish said indebtedness against said municipal corporation, and service may be had on such dissolved corporation by serving the citation upon any person who was the mayor, secretary or treasurer of said corporation or pretended to act as such, at the time of its dissolution, and judgment may be rendered in such suit in favor of the holder of such indebtedness against such municipal corporation as fully as if it had not been dissolved or its organization declared void. The status of such city, town or village shall be and remain the same in so far as it affects the holders of its indebtedness, until such indebtedness has been paid.

[Acts 1925, S.B. 84.]

CHAPTER TWENTY. MISCELLANEOUS PROVISIONS

Article

- 1264. Current Expenses.
- 1265. Extension of Limits.
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- 1268. Sale or Lease of Franchise.
- 1268a. Natural Gas Systems; Authority to Lease and Grant Option to Purchase.
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- 1269a. Municipal Bands.
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- 1269j-4. Auditoriums, Exhibition Halls and Similar Buildings; Cities Over 125,000 Population.
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- 1269j-4.4 Sea Life Park and Oceanarium; Certificates of Indebtedness.
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- 1269j-4.8 Off-Street Parking Facilities; Revenue Bonds; Cities Over 650,000.
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- 1269j-6. Validating Bonds for Auditorium, Equipment and Facilities, Issued by Cities, Including Home-rule Cities.
- 1269j-7. Validating Interest-bearing Time Warrants and Scrip; Refunding Bonds; Proceedings; Exception.
- 1269j-8. Validating Notes and Warrants.
- 1269j-9. Validation of Proceedings for Public Improvements on Civic Centers, Etc.
- 1269j-101. Repealed.

Art. 1264. Current Expenses

Any incorporated city or town in this State, whether incorporated under the general laws of this State, or incorporated by special charter adopted in the manner provided by law, and having a population of 161,000 or more according to the preceding Federal census, may, through its governing body, provide for the payment of its current expenses for any current fiscal year, or for any portion of such fiscal year, by the issuance of warrants drawn against the current revenues of said city or town for such fiscal year, in the manner following:

1. Such warrants shall be dated and numbered consecutively as they are issued, and shall become a lien upon the revenues of said city or town for such fiscal year, available for the payment thereof, and shall be paid consecutively according to their respective dates and numbers as funds for the payment thereof become available.

2. If no funds are available to pay such warrants at the time of their issuance, the governing body may provide for the payment of interest upon such warrants, or may provide for the payment of a discount thereon. Such interest or discount shall never exceed an amount equal to six per cent per annum upon the face of such warrants for the period of time intervening between the date of their issuance and the time of their payment.

3. In no event shall the governing body provide for the issuance of warrants upon which interest or discount is to be paid, in excess of eighty per cent of the estimated revenues of said city or town for such fiscal year, after the deduction of all interest upon the bonded indebtedness of such city or town to be paid out of the revenues for such fiscal year, and such sums as may be required to be paid into any sinking fund

or into any special fund or any special trust fund of said city or town out of its revenues for such fiscal year.

[Acts 1925, S.B. 84.]

Art. 1265. Extension of Limits

Any city having a population of 100,000 and under 150,000 as shown by the preceding Federal census, shall have the power and authority to amend its charter so as to extend its boundary limits by annexing additional territory adjacent and contiguous to such city, where the territory so annexed does not include any incorporated city or town having more than five thousand inhabitants according to the preceding Federal census. Such extension shall be effected in the manner following:

1. The governing body of such city may, upon its own motion, and shall upon the petition of at least ten per cent of the qualified voters of said city as shown by the preceding general election, submit such proposed amendment to a vote of the qualified voters of such city, which election shall be held as provided by chapter 13 of this title.

2. If such amendment is adopted by a majority of those voting at such election, and such annexed territory shall include any incorporated city or town of five thousand inhabitants or less, then, from and after the adoption of such amendment, the incorporation of such city or town of five thousand inhabitants or less shall be abolished and shall cease to exist, and all record books, public property, public buildings, money on hand, credit accounts and other assets of the annexed incorporated city or town shall become the property of said larger city and shall be turned over to the officers thereof, and by such annexation, the offices existing in the smaller municipality shall be abolished and the persons holding such offices shall not be entitled to further remuneration or compensation; and all legal outstanding liabilities of such smaller city shall be assumed by the enlarged city.

3. Whenever such annexed city or town shall have on hand any bond funds for public improvement and not already appropriated or contracted for, such money shall be kept in a separate special fund and devoted to public improvements in the territory for which such bonds were voted, and shall not be diverted or used for any other purpose.

4. After such annexation, all claims, fines, debts and taxes due or payable to the annexed city or town shall thereupon become due and payable to said larger city and shall be collected by it. If taxes for the current year shall have been duly assessed prior to said annexation, then the amount so assessed shall remain as the amounts due and payable from the inhabi-

tants of such annexed city or town for such current year.

5. Providing however that nothing in this Article shall be held or construed to repeal or nullify any charter provision of any city of over 100,000 and under 150,000 inhabitants, according to the preceding Federal census, operating under Article 11, Section 5 of the Constitution providing for the annexation of additional territory by ordinance but shall be construed as an additional power and cumulative of the said charter provisions, and all such charter provisions in effect at the time of the original passage of this Article are hereby ratified and confirmed and declared to be in full force and effect.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 2nd C.S., p. 131, ch. 63, § 1.]

Art. 1266. Discontinuing Territory

Whenever there exists within the corporate limits of any city in this state of four thousand (4,000) or more population according to the preceding Federal Census located in a county having a population according to such census in excess of two hundred and five thousand (205,000) territory to the extent of at least three (3) acres contiguous, unimproved and adjoining the lines of any such city, or wherever there exists within the corporate limits of any city in this state of five hundred and ninety-six thousand (596,000) or more population according to the last preceding Federal Census, improved territory which is non-taxable to the city and which is contiguous and adjoining the lines of any such city, the governing body of any such city, whether organized by Special Law, home rule charter, or General Laws of this state, may by ordinance duly passed discontinue said territory as a part of any such city. When said ordinance has been duly passed, the governing body shall cause to be entered an order to that effect on the minutes or records of such city; and from and after the entry of such order, said territory shall cease to be a part of such city.

[Acts 1925, S.B. 84; Acts 1959, 55th Leg., p. 563, ch. 254, § 1; Acts 1961, 57th Leg., 1st C.S., p. 152, ch. 39, § 1.]

Art. 1267. Oil and Mineral Lands

Cities and towns chartered or organized under the general laws of Texas, or by special Act or charter, which may own oil or mineral lands, shall have the power and right to lease such oil or mineral lands for the benefit of such town or city, but shall not lease for such purposes any street or alley or public square in said town or city, or any land therein dedicated by any person to public uses in such town or city; and no well shall be drilled within the thickly settled portion of any city or town, nor within two hundred feet of any private residence.

[Acts 1925, S.B. 84.]

Art. 1268. Sale or Lease of Franchise

Any individual, association or corporation now or hereafter organized under the laws of this State, including any municipal corporation of this State, engaged in manufacturing, producing, supplying or selling electricity, natural or artificial gas, steam, or water, or owning or operating any street railway within any incorporated city, town or village within this State, where the rates charged for such service are subject to regulation under authority of the laws of this State, may, by a majority vote of the qualified voters thereof having been first obtained at an election held for that purpose, lease, sell or otherwise dispose of its entire plant or business or any part thereof, to any other individual, association or corporation which, at the time of said sale, lease or other disposition of said plant or business or any part thereof, is doing, or has authority to do, a like business in said incorporated city, town or village. Nothing herein shall authorize any corporation to engage in any kind of business not authorized by its charter.

[Acts 1925, S.B. 84.]

Art. 1268a. Natural Gas Systems; Authority to Lease and Grant Option to Purchase

Any city which owns its natural gas distribution system and has heretofore had an election resulting favorably to a sale of such system may, by majority vote of its governing body, enter into a contract leasing said system to any person, firm or corporation. Any such city may also grant an option to the lessee or to any other person, firm or corporation to purchase the system at a price specified or to be determined in the manner provided in such lease or option contract. It is provided, however, that if the city has any bonds outstanding payable from the revenues of its gas system, it shall not make such lease or option contract except under conditions specified in the ordinance authorizing the bonds, unless provision is made for the full payment of the bonds with interest to their maturities or to the date they are to be redeemed prior to maturity.

[Acts 1959, 56th Leg., 2nd C.S., p. 92, ch. 8, § 1.]

Art. 1268b. Lease of City-owned Swimming Pools

The governing body of any incorporated city or town (including home rule cities) is hereby authorized to lease any city-owned swimming pool, to be operated by the lessee as a public swimming pool under such terms and conditions as may be agreed upon by such governing body and such lessee. Any such lease shall be authorized by ordinance or resolution adopted by such governing body, and the lease agreement shall be executed on behalf of the city or town, by the mayor and the city secretary or clerk, and the seal of the city shall be impressed thereon. Such lease may cover any period of time not to exceed fifty (50) years.

[Acts 1963, 58th Leg., p. 1169, ch. 455, § 1.]

Art. 1269. Repealed by Acts 1929, 41st Leg., p. 667, ch. 299, § 1

Art. 1269a. Municipal Bands

That the word "band" as used in this Act shall mean a band composed of such musical instruments as are recognized in the standard instrumentation established for the use of United States Army Bands.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 1.]

Art. 1269b. Same Subject—Establishment and Maintenance

That any incorporated city or town in this State is authorized to establish and maintain a band in such city or town, and to appropriate such part of the revenues of such city or town for the maintenance and operation of such band as the governing body of such city or town may determine. It is provided, however, that the total amount of such appropriation for any one year shall not exceed three mills for each one dollar of taxable value of property within such city or town.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 2.]

Art. 1269c. Same Subject—Election

That it shall be the duty of the governing body of any city or town within this State, upon a written petition signed by a number of property tax paying voters in such city or town equal to at least ten per cent of the total number of votes cast at the last regular municipal election, to submit to the qualified property tax paying voters within such city or town, at an election for that purpose, the question of whether or not a band shall be established and maintained by such city or town. Such elections shall be held as nearly as possible in accordance with the law in reference to regular elections in said city or town, but said governing body is hereby empowered by resolution to order such elections and prescribe the form of ballot for use therein and the time and manner of holding the same. Such governing body shall canvass and determine the result of such elections in the manner provided by law for canvassing and returning the results of general elections held therein, and the result of the election shall be entered upon the minutes of said governing body. If the majority of the voters voting upon said question at such election shall vote to establish and maintain a band, the governing body shall thereupon proceed to establish, and thereafter maintain, such band.

[Acts 1925, 39th Leg., ch. 22, p. 82, § 3.]

Art. 1269d. Same Subject—Subsequent Elections

That the governing body of any city or town shall upon similar petition as provided in Section 3 of Chapter 22 of the General Laws of the 39th Legislature, Regular Session, 1925,¹ cause subsequent elections to be held for the purpose of determining whether or not a band shall be established and maintained by a city or town; or where any city or town has been

previously authorized to establish and maintain a band, at an election held for that purpose, whether or not the establishment and maintenance of said band by said city or town shall be abrogated. If at an election held to abrogate the establishment and maintenance of a band by a city or town, a majority of the voters voting at such an election shall vote in favor of the proposition to abrogate the establishment and maintenance of a band, the governing body of said city or town shall thereupon discontinue said band and the maintenance thereof. Said elections shall be held and conducted in the same manner as provided in Section 3 of Chapter 22 of the General Laws of the 39th Legislature, Regular Session, 1925, but no two of such elections shall be held within the same city or town within a period of less than two (2) years.

[Acts 1925, 39th Leg., p. 82, ch. 22, § 4; Acts 1933, 43rd Leg., p. 185, ch. 86.]

¹ Article 1269c.

Art. 1269e. Same Subject—Ordinances

When it shall be determined to establish and maintain a band in any city or town, the governing body thereof shall have full power to pass all ordinances and resolutions to enable such city or town to maintain such band, and in addition thereto such governing body shall elect a non-partisan citizen commission of not more than five nor less than three members whose duty it shall be to negotiate contracts and formulate rules and regulations and do all things necessary or proper to establish, control and maintain said band.

[Acts 1925, 39th Leg., ch. 22, p. 83, § 5.]

Art. 1269f. Same Subject—Charters Affected

That this Act shall not modify or in any manner affect any special charter which has been heretofore granted by the Legislature, nor any charter heretofore adopted by the voters of any city or town.

[Acts 1925, 39th Leg., ch. 22, p. 83, § 6.]

Art. 1269g. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 209, ch. 83, § 4a

Art. 1269h. Airports, Maintenance and Operation

Acquisition; Sale or Lease

Sec. 1. A—The governing body of any incorporated city in this State may receive through gift or dedication, and is hereby empowered to acquire, by purchase without condemnation or by purchase through condemnation proceedings, and thereafter maintain and operate as an airport, or lease, or sell, to the Federal Government, tracts of land either within or without the corporate limits of such city and within the county in which such city is situated, and the Commissioners Court of any county may likewise acquire, maintain and operate for like purpose tracts of land within the limits of the county.

B—The governing body of any incorporated city in this State may receive through gift or

dedication, and is hereby empowered to acquire by purchase without condemnation, and thereafter maintain and operate as an airport, or lease, or sell to the Federal Government, tracts of land without the county in which such city is situated, provided said tracts are not within five (5) miles of another incorporated city that has a population of more than fifteen hundred (1500) people, according to the last preceding Federal Census.

C—The governing body of any incorporated city in this State may, and is hereby empowered, to acquire through condemnation proceedings, tracts of land located without the county in which said city is located, provided said tracts of land are within six (6) miles of the county boundary of the county in which said city is located, and are not within five (5) miles of another incorporated city having a population in excess of fifteen hundred (1500) people, according to the last preceding Federal Census; and that said city may thereafter maintain and operate as an airport, or lease, or sell, said tracts to the Federal Government; provided, however, that the grant herein made to acquire land through condemnation proceedings, without the county in which said city is located, shall expire on December 31, 1942, but that tracts of land acquired prior to that date, and under the authority of this Act, may continue to be operated, leased, or sold, as provided in this Act.

D—In addition to the power herein granted the Commissioners Courts of the several counties of this State are hereby authorized to lease any airport that has been or may be acquired by the county, as herein provided, to any incorporated city or municipality within such county, or to the Federal Government, or to any other person, firm or corporation for the purpose of maintaining and operating an airport; and providing further that any incorporated city having acquired land for an airport, or an airport, under the authority of this Act shall have the right to lease said land or airport to the county in which such incorporated city is located.

E—In addition to the power which it may now have, the Commissioners Court of any county, or the governing body of any incorporated city in this State, shall have the power to sell, convey or lease all or part of any airport or property connected therewith, heretofore established or that may be hereafter established; also any land which has been or may be acquired under the provisions of this Act, to the United States of America for any purpose necessary for National Defense, or for air mail purposes or any other public purpose; or to the State of Texas or any branch of the State Government which may be authorized to own or operate airports, and to any person, firm or corporation. The Commissioners Court and governing body of any incorporated city shall promulgate rules and regulations for the use of any such airports.

Bond Issues and Tax

Sec. 2. (a) For the purpose of condemning or purchasing, either or both, lands to be used and maintained as provided in Section 1 hereof, and improving and equipping the same for such use, the governing body of any city or the Commissioners Court of any county, falling within the terms of such Section, may issue negotiable bonds of the city or of the county, as the case may be, and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and levy and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of 1925.¹

(b) In addition to the powers herein granted, the Commissioners Courts of counties having a population of not less than fifteen thousand (15,000) and not more than fifteen thousand, two hundred and fifty (15,250), according to the last preceding Federal Census, are hereby authorized to issue time warrants for the purposes herein stated, but the Commissioners Court of any such county proposing to issue such warrants shall comply with the provisions of Chapter 163, Acts of the Forty-second Legislature,² with reference to notice to issue such warrants and with reference to the levy and collection of taxes in payment thereof, and the right to referendum election therein shall apply.

¹ Article 701 et seq.

² Article 2368a.

Management by City or Commissioners Courts; Nonliability for Injuries

Sec. 3. Any Air Port acquired under and by virtue of the terms of this Act shall be under the management and control of the governing body of the city or the Commissioners Court of the county acquiring the same, which is hereby expressly authorized and empowered to improve, maintain and conduct the same as an Air Port, and for that purpose to make and provide therein all necessary or fit improvements and facilities and to fix such reasonable charges for the use thereof as such governing body or Commissioners Court shall deem fit, and to make rules and regulations governing the use thereof. All proceeds from such charges shall be devoted exclusively to the maintenance, up-keep, improvement and operation of such Air Port and the facilities, structures, and improvements therein, and no city or county shall be liable for injuries to persons resulting from or caused by any defective, unsound or unsafe condition of any such Air Port, or any part thereof, or thing of any character therein or resulting from or caused by any negligence, want of skill, or lack of care on the part of any governing Board or Commissioners Court, officer, agent, servant or employee or other person with reference to the construction, improvement, management, conduct, or maintenance of any such Air Port or any structure, improvement, or thing of any character whatever, located therein or connected therewith.

Special Tax for Maintenance or Operation

Sec. 4. That in addition to and exclusive of any taxes which may be levied for the interest and sinking fund of any bonds issued under the authority of this Act, the governing body of any city or the Commissioners Court of any county, falling within the terms hereof, may and is hereby empowered to levy and collect a special tax not to exceed for any one year five cents on each One Hundred Dollars for the purpose of improving, operating, maintaining and conducting any Air Port which such city or county may acquire under the provision of this Act, and to provide all suitable structures, and facilities therein. Provided that nothing in this Act shall be construed as authorizing any city or county to exceed the limits of indebtedness placed upon it under the Constitution.

[Acts 1929, 41st Leg., 1st C.S., p. 209, ch. 83; Acts 1941, 47th Leg., p. 65, ch. 51, § 1; Acts 1941, 47th Leg., p. 196, ch. 142, § 1; Acts 1941, 47th Leg., p. 1345, ch. 609, § 1; Acts 1947, 50th Leg., p. 473, ch. 273, § 1.]

Art. 1269h-1. Validating Bonds Issued to Acquire Lands for Airports by Cities and Counties

In instances wherein elections have been held or called prior to the effective date of this Act bonds otherwise issued in accordance with law and for purposes permitted under said Chapter 83, Acts of the First Called Session of the Forty-first Legislature,¹ are hereby validated, notwithstanding the fact that the proceeds from the sale of said bonds either have been used or may be used to purchase lands for airport purposes, which together with lands already owned by any such city for airport purposes will exceed six hundred and forty (640) acres; provided, however, that this Section shall not apply to any bonds the validity of which has been attacked in any litigation pending at the time this Act becomes effective.

[Acts 1941, 47th Leg., p. 79, ch. 64, § 1.]

¹ Article 1269h.

Art. 1269h-2. Pledge of Ad Valorem Tax to Payment of Airport Operation and Maintenance Expense

Sec. 1. This Act shall be applicable to any city operating under its Home Rule Charter, either adopted pursuant to the Home Rule amendment to the Constitution of Texas, or granted by the Legislature and amended pursuant to said provision of the Constitution, having a population of 200,000 or more according to the last preceding Federal Census, which owns land acquired for airport purposes, and which, either in whole or in part, is leased to an airport operating company or corporation.

Sec. 2. In the event any such city shall determine to issue revenue bonds as authorized by Chapter 43, Acts of the 53rd Legislature of Texas, First Called Session, 1954, as amended,¹ to acquire the improvements constructed by any such airport operating company or corporation on any such land and to further improve

its airport or airports, such city, in addition to the pledge of the revenues and income of said airport or airports to the payment of the operation and maintenance expenses and principal of and interest on such bonds, shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, as a supplement to the pledge of revenues for such purpose, all or any part of the ad valorem tax authorized by Chapter 114, Acts 1947, 50th Legislature, Regular Session.² The proceeds of any tax thus pledged shall be utilized annually to the extent required by the ordinance authorizing such revenue bonds to assure the efficient operation and maintenance of such airport or airports and such city, in its discretion, may covenant in the proceedings authorizing the issuance of said bonds that certain costs of operating and maintaining such airport or airports, as may be enumerated in said proceedings, will be paid by the city from the proceeds of such tax. If it is deemed advisable by the city that revenue bonds theretofore issued under said Chapter 43, supra, and then outstanding, should be refunded so as to facilitate the financing of the acquisition of said improvements and the further improvement of its airport or airports, it shall be authorized to make a like pledge of said tax in the proceedings authorizing such refunding bonds and any additional revenue bonds issued for the purposes prescribed in said Chapter 43, supra.

[Acts 1959, 56th Leg., 2nd C.S., p. 102, ch. 13.]

¹ Article 1269j-5.

² Article 46d-1 et seq.

Art. 1269i. Mortgage of Airports for Improvements

Cities to Which Applicable

Sec. 1. All cities having a population of more than One Hundred and Sixty Thousand (160,000) inhabitants according to the last preceding federal census shall have power to mortgage and encumber their airports and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to purchase the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements, including buildings, repair shops and other structures, and, as additional security therefor, by the terms of such mortgage or encumbrance, may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such airport and the improvements situated thereon for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever by a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of such city to issue any bonds for any purpose authorized by law.

Pledge of Income

Sec. 2. All cities having a population of more than One Hundred and Sixty Thousand (160,000) inhabitants according to the last pre-

ceding federal census shall have power to pledge the income from their airports and everything pertaining thereto acquired, or to be acquired, to secure the payment of funds to purchase the same or to build, improve, enlarge, extend, repair or construct any kind or character of permanent improvements including buildings, repair shops and other structures, and, as additional security therefor, by the terms of such pledge may grant to the purchaser under sale or foreclosure thereunder a franchise to operate such airport and the improvements situated thereon for a term of not over thirty (30) years after such purchase, subject to all laws regulating the same then in force. No such obligation shall ever be a debt of such city, but solely a charge upon the properties so mortgaged or encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Notes or Warrants Issued Without Referendum

Sec. 3. Such cities shall have the power to issue notes or warrants in any sum not to exceed the sum of One Hundred Thousand Dollars (\$100,000.00) for such purposes without submitting such proposition to a vote of the qualified taxpaying voters. This law shall take precedence over all conflicting city charter provisions.

Repeals

Sec. 4. All laws and parts of laws in conflict herewith are hereby expressly repealed to the extent in conflict herewith.

Partial Invalidity

Sec. 5. If any section, portion, clause, or part of this Act be invalid or unconstitutional, the same shall not affect any remaining part or parts of this Act and it is expressly hereby declared that the Legislature would have passed such remaining parts of this Act with such invalid or unconstitutional section, portion, clause or part omitted.

[Acts 1934, 43rd Leg., 2nd C.S., p. 72, ch. 24.]

Art. 1269j. Additional Powers of Certain Cities

Acquisition; Bonds; Rates; Pledges; Definition

Sec. 1. In addition to the powers which it may now have, any City having a population of more than forty thousand (40,000) inhabitants, according to the last preceding Federal Census, shall have power

(a) to own, maintain and operate an airport, either within or without, or partially within and partially without, the corporate limits of such city;

(b) to construct, acquire by gift, purchase, lease or the exercise of the right of eminent domain, improve, enlarge, extend or repair any airport, and to acquire by gift, purchase, lease or the exercise of the right of eminent domain, lands or rights in land in fee simple in connection therewith;

(c) to borrow money and issue its bonds or warrants to finance in whole or in part the cost of the acquisition, construction, improvement, enlargement, extension or repair of any airport;

(d) to prescribe and collect rates, fees, rents, tolls or other charges for the service and facilities afforded by such airport; and

(e) to pledge to the punctual payment of said warrants and interest thereon all or any part of the income, rents, revenues, tolls or other receipts derived from the operation of such airport, in addition to the taxes which shall be levied annually, for the payment of the principal and interest on such warrants.

An airport within the meaning of this Act shall include all lands and buildings or other improvements necessary or convenient in the establishment and operation of an airport, and shall include such lands and improvements as are necessary to assemble or manufacture aircraft for military or naval uses, or for any other governmental purpose, and to provide housing and office space for employees necessary or incidental to such purposes.

Form and Contents of Warrants

Sec. 2. Warrants may be authorized to be issued under this Act by ordinance which may be adopted at the same meeting at which it is introduced by a majority of all the members of the governing body of the city then in office and shall take effect immediately upon adoption. Such warrants shall bear interest at such rate or rates not exceeding five (5) per centum per annum, payable semi-annually, may be made payable to bearer, may be in one or more series, may bear such date or dates, may be in such denomination or denominations, may be payable in such medium of payment, at such place or places, may carry such registration privileges, may be subject to such terms of redemption, may be executed in such manner, may contain such terms, covenants and conditions, and may be in such form, either coupon or registered, as such ordinance or subsequent ordinance may provide. Said warrants shall mature annually in such amounts so that the aggregate amount of principal and interest falling due in each year shall be substantially equal over a period not to exceed thirty (30) years from their date. Said warrants shall be sold at public or private sale at not less than par. Said warrants shall be negotiable instruments within the meaning of the Negotiable Instruments Law¹ of this State. Said warrants bearing the signature of the officers in office at the date of the signing thereof shall be valid and binding obligations notwithstanding that before the delivery thereof and payment therefor any or all of the persons whose signatures appear thereon shall have ceased to be officers of the city issuing the same.

¹ Article 5932 et seq. (repealed; see, now, Business and Commerce Code, § 3.101 et seq.).

Limitation on the Amount of Warrants Which
May Be Issued

Sec. 3. No city shall issue any warrants pursuant to this Act in an aggregate amount in excess of One Hundred and Twenty-five Thousand Dollars (\$125,000).

No Election Necessary

Sec. 4. No election shall be necessary to authorize the issuance of warrants pursuant to this Act, but the city shall comply with the provisions of Chapter 163, Acts of the Forty-second Legislature,¹ with reference to bidders and notice of intention to issue such warrants and the right to referendum therein specified shall apply.

¹ Article 2368a.

Tax Levy

Sec. 5. Whenever any city shall issue warrants pursuant to this Act, a tax sufficient to pay when due the principal and interest on such warrants shall be levied annually and assessed, collected and paid in like manner with other taxes of such city, provided, however, that if such warrants are payable from taxes and additionally secured by a pledge of the income, rents, revenues, tolls, and other receipts derived from the operation of the airport for which such warrants were issued, the tax to be levied and assessed by such city may be reduced by the amount of money on hand pledged to the payment of the principal and interest of such warrants.

Charges for Use of Airport

Sec. 6. The governing body of a city issuing warrants pursuant to this Act shall prescribe by ordinance and collect reasonable rates, fees, tolls, rentals or other charges for the service and facilities furnished by the airport for which such warrants have been issued. The rates, fees, tolls, rentals or other charges so prescribed shall be such as will produce revenues sufficient (a) to pay when due all warrants and interest thereon, for the payment of which such revenues shall have been pledged, including reserves therefor; (b) to provide for all expenses of operation and maintenance of such airport, including reserves therefor.

Sale or Lease of Airport

Sec. 7. The governing body of the City shall have the power to sell, convey, or lease all or any portion of such airports heretofore established, or that may be hereafter established, to the United States of America for the purpose of air mail or any other public purpose, including the purpose of runways for the landing of aircraft, the assembling or manufacture of aircraft or aircraft parts, or any other purpose deemed by the Government of the United States necessary for the national defense, or to the State of Texas or any branch of the State Government, or to any municipality for any such purpose, or to any other person, firm or corporation to carry out any necessary or incidental purpose; and that such governing body shall provide rules and regula-

tions for the proper use of any such airports, whether used for pleasure, experiment, exhibition, commercial purpose, or for the national defense.

Airport a Public Purpose

Sec. 8. The acquisition and operation of an airport are hereby declared to be a public purpose and a matter of public necessity.

Approval of Attorney General

Sec. 9. Said warrants shall be presented to the Attorney General for examination and if he approves the same they shall be registered in the office of the State Comptroller. Such warrants after receiving the certificate of the Attorney General and having been registered in the Comptroller's office, shall be held in each action, suit or proceeding in which their validity is or may be brought into question, prima facie valid and binding obligations. The only defense which can be offered against the validity of such warrants shall be forgery or fraud. In each action brought to enforce collection of such warrants the certificate of the Attorney General, or a duly certified copy thereof shall be admitted and received in evidence of the validity of such warrant or warrants together with the coupons attached thereto.

Construction of Act

Sec. 10. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law, including any charter provision. In so far as the provisions of this Act are inconsistent with the provisions of any other law, including any charter provision, the provisions of this Act shall be controlling. If any provision of this Act, or the application of such provisions to any person, body or circumstance shall be held invalid, the remainder of the Act, or the application of such provision to persons, bodies, or circumstances other than as to which it is held invalid, shall not be affected thereby.

[Acts 1935, 44th Leg., p. 364, ch. 132; Acts 1941, 47th Leg., p. 67, ch. 54, § 1.]

**Art. 1269j-1. Validating Interest Bearing
Time Warrants Issued to Finance Airports
or Airport Improvements by Cities Having
Over 285,000 Population**

All interest-bearing time warrants heretofore authorized by ordinance of the governing body of any city in Texas having a population of two hundred and eighty-five thousand (285,000) or more according to the latest United States Census, issued or authorized to be issued in payment or part payment for the construction of administration buildings, hangars, and hangar doors for its airport and/or to improve, enlarge, extend, or repair its airport, are hereby validated, ratified, and legalized, and such warrants shall not be invalid on account of irregularities in the notice to bidders, and shall not be invalid because the notice to bidders did not contain notice that it was the intention of the governing body to pay for such improvements and the contracts therefor by the issu-

ance of time warrants. The contracts for such improvements and payment therefor by the issuance of interest-bearing time warrants shall not be invalid on account of the notice to bidders not containing a clause to the effect that it was the intention to pay for such improvements and the contracts therefor by the issuance of interest-bearing time warrants and stating the maximum amount, interest rate, and maximum maturity date of such contemplated warrants. This Act shall apply to such warrants and the contracts on which they are based whether such warrants shall have been completely issued, or whether they have been authorized by ordinance and not as yet completely issued; and in so far as they have not as yet been completely issued, the governing body of such city is authorized in due course to complete the issuance thereof.

[Acts 1939, 46th Leg., Spec.Laws, p. 1006, § 1.]

Art. 1269j-2. Repealed by Acts 1947, 50th Leg., p. 784, ch. 391, § 16

Art. 1269j-3. Investments by Political Subdivisions of State in Defense Bonds or Other United States Obligations

All political subdivisions of the State of Texas which have balances remaining in their accounts at the end of any fiscal year may invest such balances in Defense Bonds or other obligations of the United States of America; provided, however, that when such funds are needed the obligations of the United States in which such balances are invested shall be sold or redeemed and the proceeds of said obligations shall be deposited in the accounts from which they were originally drawn.

[Acts 1943, 48th Leg., p. 481, ch. 321, § 1.]

Art. 1269j-4. Auditoriums, Exhibition Halls and Similar Buildings; Cities Over 125,000 Population

Powers of Cities; Obligations to be Charge on Property Only

Sec. 1. All incorporated cities and towns, including home rule cities, having a population exceeding one hundred and twenty-five thousand (125,000) according to the last preceding Federal Census, shall have power to build and purchase, to mortgage and encumber their municipal auditoriums, exhibition halls, coliseums, and other buildings or structures for public gatherings, either, or all, and the income thereof and everything pertaining thereto acquired or to be acquired and to evidence the obligation therefor by the issuance of bonds, notes or warrants, and to secure the payment of funds to purchase same; or to purchase additional lands and facilities, or to build, improve, enlarge, extend or repair such buildings and structures, or any one of them, including the purchase of equipment and appliances necessary in the operation of such buildings and structures. No such obligation of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings shall ever be a debt of such city, but

solely a charge upon the properties so encumbered, and shall never be reckoned in determining the power of any such city to issue any bonds for any purpose authorized by law.

Sale or Encumbrance; Submission to Voters

Sec. 2. No such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be sold until such sale is authorized by a majority vote of the qualified voters of such City; nor shall same be encumbered for more than Five Thousand Dollars (\$5,000) except for purchase money, or to refund any existing indebtedness lawfully created, until authorized in like manner. Such vote in either case shall be ascertained at an election, which election shall be held and notice thereof given as is provided in the case of the issuance of municipal bonds by such cities.

Lien of Expenses; Rates and Charges; System of Records and Account; Report of Operations

Sec. 3. Whenever the income of any municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be encumbered under this law, the expenses of operation and maintenance, including all salaries, labor, materials, interest, repairs and additions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income. Provided, that only such repairs and additions, as in the judgment of the governing body of such city, are necessary to keep such building or structure for public gatherings in operation and render adequate service to such city and the inhabitants thereof, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to any existing lien. The rates charged for the use of and for services furnished by any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall be equal and uniform, and no free use or service shall be allowed except for activities and institutions operated by such city. There shall be charged and collected for such use and services a sufficient rate to pay all operating, maintenance, depreciation, replacement, betterment, and interest charges, and for interest and sinking fund sufficient to pay any bonds issued to purchase, construct or improve any such buildings or structures or any outstanding indebtedness against same. No part of the income of any such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, shall ever be used to pay any other debt, expenses or obligation of such city, until the indebtedness so secured shall have been finally paid.

It shall be the duty of the chief executive officer of such city to install and maintain, or cause to be installed and maintained, a complete system of records and accounts showing the free uses and services rendered, and the

value thereof, and showing separately the amounts expended and the amounts set aside for operation, salaries, labor, materials, repairs, maintenance, depreciation, replacements, additions, interest, and the creation of a sinking fund to pay off such bonds and indebtedness.

It shall likewise be the duty of the superintendent or manager of such municipal auditorium or other building or structure for public gatherings, to file with the chief executive officer of such city, not later than February 1, a detailed report of the operation of such building or structure for the year ending January 1 preceding, showing the total sums of money collected and the balance due, as well as the total disbursements made and the amounts remaining unpaid as a result of operation of such building or structure during such calendar year.

Failure or refusal on the part of the chief executive officer to install and maintain, or cause to be installed and maintained, such system of records and accounts within ninety (90) days after the completion of such municipal auditorium, exhibition hall, coliseum, or other building or structure for public gatherings, or on the part of such superintendent or manager to file or cause to be filed such report, shall constitute a misdemeanor, and upon conviction therefor, such chief executive officer or such superintendent or manager shall be subject to a fine of not less than One Hundred Dollars (\$100) and not more than One Thousand Dollars (\$1,000); and any taxpayer or holder of such indebtedness residing within such city shall have the right, by appropriate civil action in the district court of the county in which said city is located, to enforce the provisions of this Act.

Evidence of Indebtedness to Include Statement as to Funds from Which Payable; Approval and Registration of Bonds

Sec. 4. Every contract, bond, note or other evidence of indebtedness issued or included under this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by such cities. In such case, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds.

Projects Self Liquidating

Sec. 5. Projects financed in accordance with this law are hereby declared to be self liquidating in character and supported by charge other than by taxation.

[Acts 1951, 52nd Leg., p. 595, ch. 350.]

Art. 1269j-4.1. Public Improvements in Cities of 5,000 or More; Bonds; Occupancy Tax

Applicability of Act

Sec. 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of five thousand (5,000) or more according to the last preceding federal census.

Buildings, Structures, Parking Areas and Facilities; Leases

Sec. 2. Any such city is hereby authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other city buildings (either or all), and golf courses, tennis courts, and other similar recreational facilities, and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances; and provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Revenue Bonds; Ordinance; Pledge of Revenues; Charges for Services; Leases

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries or other city buildings, either or all, and golf courses, tennis courts, and other similar recreational facilities, and the establishment, acquisition, purchase, construction, improvement, enlargement, equipment or repair (any or all) of structures, parking areas or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said public improvements or said parking or storage facilities, as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge

or pledges. Within the discretion of the governing body of the city, and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such public improvements and facilities are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by properties and facilities, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants, and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

(d) If any such city leases as lessee any one or more such public improvements, structures, parking areas or facilities, such city shall have authority to pledge to the lease payments required to be made by such city all or any part of the revenues of such public improvements, structures, parking areas or facilities.

Occupancy Tax Authorized

Sec. 3a. Any such city is hereby authorized to levy by ordinance a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where the cost of occupancy is at the rate of \$2 or more per day. Such tax may not exceed three percent of the consideration paid by the occupant of the sleeping room to the hotel.

Ordinances, Bonds and Taxes; Validation

Sec. 3b. All ordinances heretofore passed and adopted by the governing body of any such city levying a tax upon the cost of occupancy of any sleeping room furnished by any hotel, where such cost of occupancy is at the rate of two dollars (\$2) or more per day and such tax is equal to or less than three percent (3%) of the consideration paid by the occupant of such room to such hotel, and any bonds heretofore issued that are secured in whole or in part by a pledge of such tax, are hereby in all respects validated and held to be enforceable as of the respective date of passage and adoption of said ordinances levying such tax or issuing such bonds. All such occupancy taxes to be levied or attempted to be levied pursuant to such ordinances are hereby validated and declared fully enforceable to the same extent as if levied or attempted to be levied pursuant to valid laws duly enacted by the Legislature of this State specifically providing authority for the passage and adoption of such ordinances and the levy of such taxes.

Disposition of Revenue

Sec. 3c. (a) The revenue derived from any occupancy tax authorized or validated by this Act may only be used for:

(1) the acquisition of sites for and the construction, improvement, enlarging,

equipping, repairing, operation, and maintenance of convention center facilities including, but not limited to, civic center convention buildings, auditoriums, coliseums, and parking areas or facilities for the parking or storage of motor vehicles or other conveyances located at or in the immediate vicinity of the convention center facilities;

(2) the furnishing of facilities, personnel and materials for the registration of convention delegates or registrants;

(3) for advertising for general promotional and tourist advertising of the city and its vicinity and conducting a solicitation and operating program to attract conventions and visitors either by the city or through contracts with persons or organizations selected by the city.

(b) Any city which levies and collects an occupancy tax which is authorized or validated by this Act may pledge a portion of the revenue derived therefrom to the payment of the bonds which the city may issue pursuant to the provisions of Section 3 of this Act, if such bonds are issued solely for one or more of the purposes set forth in the preceding subsection; provided that any city which levies and collects such tax shall reserve a portion of the tax revenue equal to at least one-half of one percent of the cost of occupancy and may reserve all of the tax revenue from the cost of the occupancy of hotel rooms for the purpose of advertising and conducting solicitation programs to acquaint potential users with public meeting and convention facilities, and for promotion of tourism and advertising of the city and its vicinity either by the city or through contract with persons or organizations selected by the city.

Definitions

Sec. 3d. As hereinabove employed, the following words, terms and phrases are defined as follows:

(a) "Hotel" shall mean any building or buildings in which the public may, for a consideration, obtain sleeping accommodations. The term shall include hotels, motels, tourist homes, houses, or courts, lodging houses, inns, rooming houses, or other buildings where rooms are furnished for a consideration, but "hotel" shall not be defined so as to include hospitals, sanitariums, or nursing homes.

(b) "Consideration" shall mean the cost of the room in such hotel only if the room is one ordinarily used for sleeping, and shall not include the cost of any food served or personal services rendered to the occupant of such room not related to the cleaning and readying of such room for occupancy.

(c) "Occupancy" shall mean the use or possession, or the right to the use or possession, of any room in a hotel if the room is one ordinarily used for sleeping and if

the occupant's use, possession, or right to use or possession extends for a period of less than thirty (30) days.

(d) "Occupant" shall mean anyone, who, for a consideration uses, possesses, or has a right to use or possess any room in a hotel if the room is one ordinarily used for sleeping.

Payment of Principal or Interest on Bonds

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on such bonds out of any funds raised or to be raised by taxation, except as to room taxes, if pledged.

Interest and Sinking Funds; Reserve Funds

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities, the revenues of which are pledged, including provision for the operation or for the leasing of all or any part of said improvements or facilities and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

Payment of Interest; Expense of Sale and Delivery of Bonds; Investment of Proceeds

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, or

both. Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in any other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

Signatures on Bonds; Maturity Dates; Examination and Approval; Registration

Sec. 7. All bonds shall be signed by the Mayor of the city and countersigned by the City Secretary or City Clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be a facsimile as provided by Acts 1961, 57th Legislature, page 406, Chapter 204 (Article 717j-1, V.A.C.S.). Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

Revenue Refunding Bonds; Examination and Approval; Registration

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds similarly secured to refund either original bonds or revenue refunding bonds theretofore issued by such city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and

shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud.

Legal and Authorized Investments; Securing
Deposit of Public Funds

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative Effect

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

[Acts 1965, 59th Leg., p. 148, ch. 63, eff. April 2, 1965; Acts 1967, 60th Leg., p. 1239, ch. 563, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., pp. 1809, 1810, ch. 536, §§ 1, 2, eff. June 1, 1971; Acts 1973, 63rd Leg., p. 105, ch. 56, § 1, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., pp. 797, 798, ch. 358, §§ 1 to 3, eff. June 12, 1973.]

**Art. 1269j-4.2. Coliseums or Stadiums of
Counties in Excess of 500,000; Sale to
Certain Cities**

Sec. 1. This Act shall be applicable to any city to which Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended (Article 1269j-4.1, Vernon's Texas Civil Stat-

utes), shall apply (each such city herein called an "authorized city") and to any county which has a population in excess of 500,000 according to the then most recent federal census, which county has issued bonds for the purpose of constructing a coliseum or stadium within the county and which is operating such coliseum directly and is not having the same operated by another through a lease or other agreement not subject to cancellation by the county in event of a sale of such facilities (each such county being herein called an "authorized county").

Sec. 2. The commissioners court of any authorized county, upon finding (a) that the coliseum or stadium owned and operated by it is in need of expansion or other improvement, and (b) that such expansion or other improvement may be better accomplished without resort to the tax funds and resources of the county by the sale of such coliseum or stadium and related land to an authorized city in which such facility is located, may sell such coliseum or stadium and related land and facilities to such authorized city pursuant to an agreement of sale and purchase entered into in accordance with the provisions of this Act.

Sec. 3. A sale and purchase, as authorized in Section 2 of this Act, shall be upon such terms and for such price as shall be agreed between the authorized county and the authorized city, but in no event shall such price be less than the amount of the then outstanding bonds of the county issued for the purpose of constructing and equipping such coliseum or stadium. Such sale and purchase price may be paid by the authorized city in cash and the funds to pay the same may be obtained by such city in any manner now permitted by law; or, such sale and purchase price may be paid by the city in installments with interest at not lower than the same rates borne by the county's outstanding coliseum or stadium bonds. The funds with which to make such installments may be obtained by such city in any lawful manner, including, but not limited to, one or a combination of the following methods, to-wit: (a) Such installments, by the agreement, may be made payable to the authorized county out of revenues of the stadium or coliseum thus sold on dates coinciding with or earlier than the dates upon which principal and interest on such county's outstanding coliseum or stadium bonds shall mature and come due. If this method of payment is selected, the payments due the county may be treated as a fixed operating expense of the stadium or coliseum payable solely from the revenues of such facilities. When received by the county, such funds shall be utilized for the purpose of retiring and paying interest upon its outstanding coliseum or stadium bonds when due. (b) Such city and such county may agree that the city shall issue a series of coliseum or stadium acquisition revenue bonds (or include such purpose as a part of a larger series of coliseum or stadium revenue bonds), which revenue bonds (or part

of a larger series allocable to such purchase) shall be delivered to the county in payment of the purchase price for said stadium or coliseum. Such bonds shall be at least payable at the times and in the same amounts as, and bear not lower than the same rates of interest borne by, the county's outstanding coliseum or stadium bonds, so as to provide funds from such revenue bonds to the county with which to pay the principal and interest when due upon its said outstanding bonds. Such revenue bonds of the city may be upon such other terms as the city and the county may agree and may include any mortgage security authorized by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended. Upon delivery of such bonds to the county, the county shall hold the same for the account of the Interest and Sinking Fund created in connection with its outstanding coliseum or stadium bonds and shall utilize the payments when received to pay the principal and interest on its said bonds when due.

Sec. 4. Any such sale authorized by this law shall be effected by delivery of a deed, with reservation of such vendor's liens on such facilities as may be appropriate in connection with the selected method for payment of the purchase price, from the county and approved by the commissioners court and accepted by the city in accordance with the terms of such sale and purchase agreement. From and after the delivery of such deed, the city shall be the complete and total owner of the coliseum or stadium, and the land and facilities thus conveyed, and may thereafter exercise all the powers with respect thereto authorized and implied by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965, as amended, and any other laws applicable to such city, for the purpose of operating, maintaining, improving, or expanding a coliseum or stadium, and may in connection with the financing thereof include such indoor and outdoor recreational facilities, properties and entertainment attractions as may be considered by the city to be appropriate in connection therewith and may lease, or enter into operating agreement with respect to, all or any part of the same for such periods and upon such terms as the city may determine.

[Acts 1969, 61st Leg., p. 1296, ch. 400, eff. May 29, 1969.]

Art. 1269j-4.3. Parking Facilities; Revenue Bonds; Gulf Coast Cities of 55,000 to 120,000

Application to Certain Cities

Sec. 1. This Act shall apply to every incorporated city or town (including Home Rule Cities) located on the Coast of the Gulf of Mexico, or any channel, canal, bay or inlet connected therewith, having a population of more than fifty-five thousand (55,000) and less than one hundred twenty thousand (120,000) inhabitants according to the last preceding federal census.

Parking Facilities

Sec. 2. That any such city is hereby authorized to establish, acquire, lease as lessor or lessee, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) permanent public improvements, to-wit: structures, parking areas or facilities (hereinafter called "improvements") for off-street parking or storage of motor vehicles or other conveyances; provided that any such lease shall be on such terms and conditions as said city shall deem appropriate.

Revenue Bonds

Sec. 3. (a) Any such city is hereby authorized to issue negotiable revenue bonds to provide all or part of the funds for the establishment, acquisition, lease, purchase, construction, improvement, enlargement, equipment or repair (any or all) of said improvements.

(b) Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city and shall be secured by a pledge of and be payable from all or any designated part of the revenues of said improvements (any or all) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds. To the extent that such revenues may have been pledged to the payment of revenue or revenue refunding bonds which are still outstanding, the pledge securing the proposed bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city, and subject to the limitations contained in previous pledges, if any, in addition to the pledge of revenues a lien may be given on all or any part of the physical properties acquired out of the proceeds from the sale of such bonds.

(c) When any of the revenues of such improvements are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the city to cause to be fixed, maintained and enforced charges for services rendered by such improvements, the revenues of which have been pledged, at rates and amounts at least sufficient to comply with and carry out the covenants and provisions contained in the ordinance or ordinances authorizing the issuance of said bonds.

Bonds; Demand of Payment

Sec. 4. The owners or holders of such revenue or revenue refunding bonds shall never have the right to demand payment of either the principal of or interest on such bonds out of any funds raised or to be raised by taxation.

Funds; Additional Bonds and Covenants

Sec. 5. In the ordinance or ordinances authorizing the issuance of any revenue or revenue refunding bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and

maintenance of those improvements and facilities, the revenues of which are pledged, including provisions for the operation or for the leasing of, as lessor or lessee, all or any part of said improvements and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payment from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary or convenient in the issuance of any of said bonds.

Bond Proceeds; Appropriation; Investment

Sec. 6. From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside, out of the bond proceeds, an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited in the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred or to be incurred in the issuance, sale and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit, either or both, moneys in the interest and sinking fund or funds, and the reserve fund or funds, and any other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

Bonds; Signatures; Seal; Facsimiles; Maturity; Interest; Approval and Registration

Sec. 7. That all bonds shall be signed by the mayor of the city and countersigned by the city secretary or city clerk, and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds and any attached interest coupons to be signed by facsimile signatures and for the seal of the city on the bonds to be in facsimile as provided by Acts, 1961, 57th Legislature, page 406, Chapter 204 (Art. 717j-1, V.A.C.S.), as amended. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous and reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond

interest tables currently in use by insurance companies and investment houses, does not exceed six and one-half per cent (6½%) per annum, and within the discretion of the governing body such bonds may be called prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Public Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable.

Refunding Bonds; Approval and Registration

Sec. 8. Any city to which this Act applies shall have the power and authority to issue revenue refunding bonds to refund either original bonds or revenue refunding bonds theretofore issued by said city under this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and shall mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on and principal of the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable.

Bonds; Negotiability; Legal Investments; Security for Deposits

Sec. 9. All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Act of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan asso-

ciations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

Cumulative Effect; Precedence

Sec. 10. This Act is cumulative of all existing laws of the State of Texas, but to the extent that such existing laws may be in conflict or inconsistent with the provisions of this Act, the provisions of this Act shall govern and prevail; and this Act shall take precedence over any and all conflicting or inconsistent city charter provisions.

[Acts 1969, 61st Leg., p. 1966, ch. 665, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1839, ch. 542, § 94, eff. Sept. 1, 1971.]

Art. 1269j-4.4. Sea Life Park and Oceanarium; Certificates of Indebtedness

Authorization

Sec. 1. Any city or town which owns a sea life park and oceanarium, the same having been, or the same being, constructed, equipped and developed wholly or partly with the proceeds of general obligation park bonds duly voted by the inhabitants of such city or town, is hereby authorized to issue Certificates of Indebtedness for the purpose of obtaining funds for operating, maintaining, repairing, further equipping, developing, expanding or obtaining inventories for such sea life park and oceanarium or for paying for such services and items when performed, obtained or acquired by others for the benefit of any such city or town under the terms of any lease, use, purchase, or concession agreement, operating agreement or other type of agreement relating to the development, operation, equipping, staffing, maintenance or upkeep of any such facilities; and for the same purposes, such obligations may be issued in connection with any other public facilities which are owned by such city or town in conjunction with such sea life park and oceanarium and which are of the type authorized by Chapter 63, Acts of the 59th Legislature, Regular Session, 1965 (Article 1269j-4.1, Vernon's Texas Civil Statutes) or under said Act and Chapter 400, Acts of the 61st Legislature, Regular Session, 1969 (Article 1269j-4.2, Vernon's Texas Civil Statutes).

Acquisition of Facilities and Rights by Cities and Towns from Person or Corporation

Sec. 1(a). If any such city or town has heretofore or shall hereafter cause any part or all of said facilities to be operated on its be-

half by a person or corporation under the terms of a lease, use, purchase, concession agreement, operating agreement, or other type of agreement, such city or town, upon a determination by the governing body thereof that the same could be better and more efficiently operated directly by it or by another method, including an operating board appointed by it, with such powers as may be granted by ordinance, or by any other method, and with the consent and agreement of such person or corporation to the rescission of any such agreement shall be authorized to purchase or otherwise acquire all or any part of the properties, assets, rights and facilities of any such person or corporation and to issue certificates of indebtedness therefor in accordance with the terms of this Act, expressly including the right to purchase or acquire any broadcasting or similar rights, and the same may be used, sold or resold by such city or town and in conjunction with which such use or sales, such city or town may promote or advertise such city or town or any such facilities or any events to be conducted therein or in connection therewith.

Issuance; Terms and Conditions; Security

Sec. 2. The Certificates of Indebtedness authorized by this Act may be issued when authorized by ordinance adopted by the governing body of any such city or town and may mature serially or otherwise and may be issued upon such other terms and conditions as may be contained and specified in any such ordinance, including, but not limited to, provisions as to interest rate or rates, registration and redemption privileges, and any manner and method of sale, exchange for goods, property or services, and for the delivery thereof; and the same may be secured by and made payable from taxes or revenues, or both; provided that, in the issuance of any such obligations payable from taxes, the issuer shall comply with the provisions of the Texas Constitution requiring in such cases that sufficient taxes to pay the principal thereof and interest thereon when due be duly and properly levied.

Pledge of Revenues to Payment of Certificates of Indebtedness; Deed of Trust or Mortgage Lien

Sec. 2(a). If any such city or town shall elect to pledge the revenues from the aforesaid facilities to the repayment of any certificate of indebtedness issued under this Act, or in connection with the refunding thereof as herein permitted, either alone or in combination with taxes, as permitted in Section 2 of this Act, then such city or town may pledge all or any part of the designated revenues to result from the ownership or operation of any or all of the facilities, properties and rights described in Section 1 and Section 1(a) of this Act, and, within the discretion of the governing body of such city or town, may additionally secure the same by a deed of trust or mortgage lien on any part or all of the physical properties of the city which are described in this Act, in which event, such deeds of trust or mortgages may be

executed as may be deemed appropriate in addition to the ordinance contemplated in Section 1 hereof. If any such city or town shall elect to refund any certificates of indebtedness issued hereunder pursuant to Section 4 of this Act, it is hereby expressly provided that any such refunding bonds may be secured by any part or all of the aforesaid revenues and by a deed of trust or other mortgage lien upon said properties or by taxes or by any combination thereof, and irrespective of the nature of the initial security pledged or committed to the payment of the certificate of indebtedness as initially issued.

Certificates as Investment Securities

Sec. 3. Any Certificates of Indebtedness issued under authority of this Act shall constitute "Investment Securities" under Chapter 8 of the Texas Uniform Commercial Code,¹ and may be issued in such form and denominations and under such other terms, conditions and details, and may be executed, all as provided in the proceedings authorizing the same; and all Certificates of Indebtedness which shall recite that they have been issued under authority of this Act for the purposes herein authorized shall be incontestable for any reason and shall be valid and binding obligations in accordance with their terms and for all purposes.

¹ Business and Commerce Code, § 8.101 et seq.

Refunding into Bonds

Sec. 4. The Certificates of Indebtedness authorized by this Act may be wholly or partially refunded into bonds in any manner and upon such terms as now permitted by law with respect to the refunding of other indebtedness or obligations of any such city or town, including Chapter 503, Acts of the 54th Legislature, 1955, as amended, and Chapter 784, Acts of the 61st Legislature, 1969 (Article 717k, and Article 717k-3, Vernon's Texas Civil Statutes).

Legal and Authorized Investments; Security for Deposit of Public Funds

Sec. 5. All Certificates of Indebtedness issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any city, county or other political subdivision of this State. Said obligations also shall be eligible and lawful security for all deposits of public funds of any city, county or other political subdivision or public agency.

Contracts and Agreements; Operation, Etc. of Facilities; Proceeds of Certificates

Sec. 6. Upon or in anticipation of the issuance of any Certificates of Indebtedness authorized by this Act, (or in anticipation of the receipt of revenues from said facilities in lieu of the issuance of Certificates of Indebtedness) the governing body of any such city or town shall be authorized and permitted to make and enter into such contracts and agreements relat-

ing to the operation, maintenance, upkeep, equipment, development, expansion or supplying of or for any said public facilities, of such types and kinds, upon such terms, in such manner and in accordance with such procedures as the governing body of such city or town shall deem best, necessary and proper; and the proceeds of such Certificates of Indebtedness (or in lieu thereof such revenues) may be utilized and devoted to the satisfaction thereof.

Cumulative Effect

Sec. 7. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of such Certificates of Indebtedness and the performance of the other acts, powers and procedures authorized hereby, without reference to any other laws or any restrictions, procedures or limitations on borrowing or contracting contained therein, including the Bond and Warrant Law of 1931, as amended (Article 2368a, Vernon's Texas Civil Statutes), except as may be specifically required herein, and when any obligations are being issued or any act or contract is undertaken or made under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law otherwise applicable to such city or town, the provisions of this Act shall prevail and control.

Severability

Sec. 8. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 1284, ch. 327, eff. May 24, 1971; Acts 1973, 63rd Leg., pp. 482, 483, ch. 209, §§ 1, 2, eff. May 26, 1973.]

Art. 1269j-4.5. Civic Center Authority Act

SUBCHAPTER A. GENERAL PROVISIONS

Short Title

Sec. 1. This Act may be cited as the "Civic Center Authority Act."

Definitions

Sec. 2. As used in this Act, unless the context requires a different definition:

- (1) "County" means any county in the state.
- (2) "Judge" or "county judge" means the county judge of a county.
- (3) "Authority" means a civic center authority created under this Act.

(4) "Board" or "board of directors" means the board of directors of an authority.

(5) "Bond resolution" means the resolution authorizing the issuance of revenue bonds.

(6) "Person" means any individual, public agency as defined in this Act, public or private corporation, copartnership, association, firm, trust, estate, or any other entity.

(7) "Public agency" means a city, as defined in this Act, the United States, this state, or a political subdivision or governmental agency of the United States or of this state.

(8) "City" means an incorporated city, town, or village, whether operating under general law or under a home rule charter.

(9) "Facility" means the improvements and facilities described in Section 21 of this Act, or a designated portion of those improvements and facilities.

SUBCHAPTER B. CREATION OF AUTHORITIES

Creation Authorized

Sec. 3. Civic center authorities without taxing power may be created in accordance with this Act.

Authority a Political Subdivision

Sec. 4. An authority created in accordance with this Act is a body politic and corporate and is a political subdivision of the state.

Composition of Authority

Sec. 5. An authority may include the area of any county or portion thereof, including cities and other public agencies, and the area comprising an authority need not be in one body, but may consist of separate bodies of land separated by land not included in the boundaries of the authority.

Petition Required

Sec. 6. (a) When it is proposed to create an authority, a petition requesting creation shall be filed with the county judge of the county in which such authority is proposed to be created. The petition shall be signed by a majority of the members of each of the governing bodies of two or more cities. Such petition shall describe the boundaries of the proposed authority by metes and bounds or by lot and block number, if there is a recorded map or plat and survey of such area, or by natural or artificial boundaries or survey lines. If the area of the authority is to be composed entirely of cities, it shall be sufficient if the petition recites that fact and specifies the cities to be included. Such petition shall contain the names of those persons recommended for the authority's first board of directors, the number

of said directors shall be an odd number, but not less than five nor more than eleven. Such petition shall state the desirability of or the need for the creation of the authority and shall include the name of the authority which shall be generally descriptive of the locale of the authority followed by the words "Civic Center Authority." A copy of such petition shall be recorded in the deed records of the county in which the authority is located, and no other authority in the same county shall have the same name.

(b) The petition shall be accompanied by a deposit of \$200 to cover the cost of publishing notice of the hearing hereinafter mentioned. If all of such moneys are not required for such purpose, the excess shall be returned to the petitioners.

Hearing

Sec. 7. (a) Upon the filing of a petition with the county judge, said judge shall fix a date, time and place at which the petition shall be heard by him, such date to be not more than 20 days from the date of such filing of the petition. The county judge shall issue notice of the date, time, and place of hearing, and the notice shall inform all persons of their right to appear and contest the form and allegations of the petition and the desirability of or need for the creation of the authority.

(b) Notice of the hearing shall be published in a newspaper having general circulation in the county in which the authority is located at least one time, the date of publication to be at least 10 days prior to the date fixed for the hearing.

(c) The county judge shall examine the petition to ascertain the sufficiency thereof, and any person interested may appear before him in person or by attorney and offer testimony touching the sufficiency of the petition and whether the creation of the authority is desirable or necessary. The county judge shall have jurisdiction to determine all issues raised touching the sufficiency of the petition and creation of the authority. The hearing may be adjourned from day to day, and the county judge shall have the power to make all incidental orders in respect to the matters before him.

(d) If, upon the hearing of the petition, the county judge finds that it conforms to the requirements of Section 6 of this Act and that the creation of the authority is desirable or necessary, the county judge shall so declare by his order and grant the petition. If he finds that such authority is neither desirable nor necessary, he shall refuse to grant the petition.

(e) Any person who signed the petition or any person who did actually appear and protest the petition and offer testimony for or against the creation of the authority may appeal to an appropriate district court from the order of the judge, granting or refusing the petition, within 30 days after the entry of such order.

SUBCHAPTER C. ADMINISTRATIVE PROVISIONS

Board of Directors

Sec. 8. An authority shall be governed by a board of not less than five nor more than eleven directors, as provided in Section 6 of this Act.

Qualifications of Directors

Sec. 9. To be qualified to serve as a director of an authority a person shall be 21 or more years of age, a resident citizen of the State of Texas and must reside within the boundaries of the authority.

Term of Office

Sec. 10. The term of office of the first board of directors shall be two years from the date the authority is created and until their successors are appointed and qualified. Thereafter, at two-year intervals the members of such boards of directors shall be appointed by the county judge upon the advice and consent of, and only from among those persons recommended by, all of the respective cities included within the boundaries of the authority and contracting with the authority under the terms of this Act. Such directors shall serve for a term of two years and until their successors are appointed and qualified.

Vacancies

Sec. 11. A vacancy in the office of a director or any office on the board shall be filled by appointment by the board of directors for the unexpired term. If at any time the number of qualified directors shall be less than a majority of the board because of the failure or refusal of one or more directors to qualify to serve, or because of his or their death or incapacitation, or for any other reason, then the county judge shall, upon the petition of any resident of the authority, appoint the necessary number of directors to fill all vacancies on the board.

Organization of Board; Election of Officers

Sec. 12. After the directors have qualified by making the proper bond and taking the proper oath, they shall organize by electing a president, a vice president, a secretary, and such other officers as in the judgment of the board are deemed necessary. The authority's treasurer may be a director of a state or national bank. The treasurer shall give bond in such amount as may be required by the board, conditioned that he or it will faithfully account for all moneys which shall come into his or its custody as treasurer of the authority.

Quorum

Sec. 13. A majority of the directors appointed shall constitute a quorum and a concurrence of such majority shall be sufficient in all matters pertaining to the business of the authority. The president shall preside at all meetings of the board and shall be the chief executive officer of the authority. The vice

president shall act as president in case of the absence or disability of the president. The secretary shall act as president if both the president and vice president are absent or disabled. The secretary shall act as secretary of the board and shall be charged with the duty of seeing that all records and books of the authority are properly kept. The board may appoint another director, the general manager or any employee as assistant or deputy secretary to assist the secretary and any such person shall be entitled to certify as to the authenticity of any record of the authority.

Bylaws

Sec. 14. The board is empowered to adopt bylaws to govern:

- (1) the time, place, and manner of conducting its meetings;
- (2) the powers, duties, and responsibilities of its officers and employees;
- (3) the disbursement of funds by checks, drafts, and warrants;
- (4) the appointment and authority of director committees; and
- (5) the keeping of records and accounts and such other matters as the board deems appropriate.

Meetings and Notice

Sec. 15. The board shall establish regular meetings to conduct authority business and may hold special meetings at such other times as the business of the authority requires. The board shall hold its meetings at one of its designated meeting places. Notice of the time, place and purpose of any meeting of the board shall be given by posting at a place convenient to the public within the boundaries of the authority. A copy of the notice shall be furnished to the clerk of the county in which the authority is located who shall post the same on a bulletin board in the county courthouse or sub-courthouse used for such purpose. The notice of the meeting shall be posted for at least three days prior to a meeting, unless there is an emergency or urgent public necessity, which shall be expressed in the notice. Failure to post notice as required herein shall not affect the validity of any action taken at a regular meeting of the board but shall affect the validity of action taken at a special meeting unless the board declares in action taken at that special meeting that an emergency existed. Any interested person may attend any meeting of the board.

Authority Office and Meeting Place

Sec. 16. The board of directors shall designate, establish and maintain an authority office and meeting place within the authority. The board may also establish a meeting place outside the authority. If the board establishes a meeting place outside the authority, it shall give notice of the location thereof by filing a true copy of its order establishing the location of the authority office with the county clerk

and also by publishing the location in a newspaper of general circulation in the county in which the authority is located. If the location of the meeting place outside the authority is thereafter changed, notice of the change shall be given in the same manner.

Fees of Office

Sec. 17. The directors may receive as fees of office the sum of not to exceed \$25 per day for each day of service necessary to discharge their duties, but such fees shall not exceed the sum of \$100 in any one month regardless of the number of days of necessary service during that month.

General Manager

Sec. 18. A director may be employed as general manager of the authority at such compensation as may be fixed by the other directors, and, when so employed, he shall continue to perform the duties of a director. If the general manager is not a director, he shall furnish a fidelity bond payable to the authority in the amount of \$5,000 conditioned upon the faithful performance of his duties.

Bond and Oath of Office

Sec. 19. As soon as practicable after a director is appointed, he shall give a bond for \$5,000 payable to the authority and conditioned upon the faithful performance of his duties. Each director shall take the oath of office prescribed for the commissioners court, except that the name of the authority shall be substituted for the county. The bond and oath shall be filed with the authority and retained in its records.

Qualification of Directors

Sec. 20. After an authority has been created by the granting of a petition therefor, the first members of the board of directors shall make their bonds and take the oath of office and thereafter shall meet and organize. Said bonds of the first board of directors shall be approved by the county judge. The bonds for subsequent directors shall be approved by the board of directors of the authority.

SUBCHAPTER D. POWERS AND DUTIES

General Powers

Sec. 21. Any authority created under this Act is authorized to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) public improvements such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, recreational buildings or facilities, or other public buildings and related facilities (either or all), and to establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improve-

ments for off-street parking or storage of motor vehicles or other conveyances. Any such lease may be on such terms and conditions as the board of directors of said authority shall deem appropriate as in this Act provided.

Addition of Cities

Sec. 22. A city may be added to and become a part of an authority upon filing a petition to that effect with an authority's board of directors. Such petition must be signed by a majority of the members of the governing body of such city. If the authority's board determines such addition to the authority is desirable or necessary, such board shall so find and enter its order adding such city to such authority, and a copy of same shall be recorded in the county deed records. Such an added city, however, shall not have any authority or power with respect to recommending or appointing members to the authority's board of directors unless and until it becomes a contracting city as mentioned in Section 10 of this Act.

Management of District

Sec. 23. The board shall have control over and management of all of the affairs of the authority and shall employ persons, firms, partnerships, or corporations deemed necessary by the board for the conduct of the affairs of said authority, including, but not limited to, engineers, attorneys, financial advisors, a general manager, bookkeepers, auditors, and secretaries. The board of directors shall determine the term of office and compensation of all employees. All employees may be removed by the board. The board of directors may require a bond of any employee payable to the authority and conditioned upon the faithful performance of his duties.

Supplies

Sec. 24. The board shall also have the right to purchase all materials, supplies, equipment, vehicles, and machinery needed by the authority.

Seal

Sec. 25. The directors shall adopt a seal for the authority.

Destruction of Records

Sec. 26. All original minutes and orders of the board, all construction contracts and all instruments relating thereto, all bonds of the authority's board of directors, and all bonds of the authority's officers and employees shall be kept in a safe place and maintained as permanent records of said authority. No minutes or orders or resolutions of the board of directors shall be destroyed. All records necessary for the authority's annual audits and necessary to comply with the term of its bond resolutions shall be retained for at least one full year after the expiration of the next preceding fiscal year. Authority contracts other than construction contracts and records relating thereto shall be retained for at least four years after the performance thereof. Except for the fore-

going, an authority's records may be destroyed when the board determines that they are no longer needed or useful. As to any authority records destroyed, the board of directors shall designate the person or persons to destroy same and the manner of such destruction. If the board deems it advisable it may cause any instruments to be first inventoried or micro-filmed before they are destroyed.

Director Interested in Contract

Sec. 27. A director who is financially interested in any contract with the authority shall disclose that fact to the other directors and may not vote on the acceptance of the contract or participate in the discussion on the contract. The failure of a director to disclose his financial interest shall invalidate the contract.

Suits

Sec. 28. All authorities created under the provisions hereof shall be governmental agencies and bodies politic and corporate, and may, through their directors, sue and be sued in any and all courts of this state in the name of such authority. Service of process in any suit may be had by serving any three directors. All courts of this state shall take judicial knowledge of the establishment of such authorities.

Contracts in Name of Authority

Sec. 29. Authority shall contract and be contracted with in the name of said authority.

Fees and Charges

Sec. 30. An authority shall have the power to adopt, promulgate, and enforce all necessary charges, fees or rentals for providing any authority facilities or services.

Rules and Regulations

Sec. 31. An authority may adopt and enforce reasonable rules and regulations as to any or all of its facilities.

Acquisition of Land

Sec. 32. An authority is empowered to acquire lands, materials, easements, rights-of-way, and everything deemed necessary, incidental, or helpful for the purpose of accomplishing any one or more of the purposes provided in Section 21 of this Act. An authority shall have the right to acquire all such property by gift, grant, purchase, or condemnation, and the right to acquire property shall include property deemed necessary for the construction, improvement, extension, enlargement, operation, or maintenance of its facilities. An authority may acquire either the fee simple title to, or an easement upon, all lands, both public and private, either within or beyond its boundaries and may acquire the title to, or an easement upon, property other than lands held in fee. An authority may also lease property upon such terms and conditions as the board of directors may determine advantageous to the authority.

Eminent Domain

Sec. 33. An authority may acquire any lands, easements, or other property within its boundaries by condemnation, and in case of a condemnation, the authority may elect to condemn either the fee simple title, or an easement only. The right of eminent domain shall be exercised in the manner provided in Title 52, Revised Civil Statutes of Texas, 1925, as amended (Article 3264, et seq., Vernon's Texas Civil Statutes), except that an authority shall not be required to give bond for appeal or bond for costs in any condemnation suit or other suit to which it is a party and shall not be required to deposit double the amount of any award in any such suit. Such proceedings shall be instituted under the direction of the directors and in the name of the authority.

Costs of Relocation of Property

Sec. 34. In the event that the authority, in the exercise of the power of eminent domain or power of relocation, or any other power, makes necessary the relocation, raising, rerouting or changing the grade of, or altering the construction of, any highway, railroad, electric transmission line, telephone or telegraph properties and facilities, or pipeline, all such necessary relocations, raising, rerouting, changing of grade, or alteration of construction shall be accomplished at the sole expense of the authority. The term "sole expense" shall mean the actual cost of such relocation, raising, rerouting, or changing grade, or alteration of construction and providing comparable replacement without enhancing such facilities after deducting therefrom the net salvage value derived from the old facility.

Sale of Surplus Land

Sec. 35. Any property or land owned by the authority which may be found to be surplus and not needed by the authority may be sold under order of the directors of the authority either by public or private sale or such property may be exchanged for other property.

Leases

Sec. 36. An authority may lease to or from any person, all or any part of any facilities constructed or acquired or to be constructed or acquired by it. The lease may contain the terms and provisions which the board determines to be advantageous to the authority. The term of any lease shall not exceed 40 years from the date thereof.

Contracts

Sec. 37. An authority shall have authority to contract with a public agency for furnishing or making available all or a part of the authority's facilities or services and for the joint ownership and operation of any improvements, facilities, and equipment necessary to accomplish any purpose or function permitted by an authority. An authority may enter into contracts with any person in the performance of any purpose or function permitted by an au-

thority, such contracts not to exceed 40 years' duration and to be on such terms and conditions as the board of directors may deem desirable, fair and advantageous.

Contracts Over \$10,000

Sec. 38. (a) The board shall advertise a contract for more than \$10,000 for the purchase of materials and all things to constitute the facilities of the authority or for construction as specified in Subsections (b) through (d) of this section.

(b) The board shall advertise the letting of a contract, including the general conditions, time, and place of opening of sealed bids. The notice shall be published in one or more newspapers published in the county. The notice shall be published once a week for two consecutive weeks prior to the date that the bids are opened, and the first publication shall be at least 14 days before the opening of sealed bids.

(c) A contract may cover all the facilities to be provided by the authority, or the various elements of the facilities may be segregated for the purpose of receiving bids and awarding contracts. A contract may provide that the facilities will be constructed in stages over a period of years.

(d) A contract may provide for the payment of a total sum which is the completed cost of the facilities or may be based on bids to cover cost of units of the various elements entering into the work as estimated and approximately specified by the authority's architects or engineers or a contract may be let and awarded in any other form or composite of forms and to any responsible person or persons which, in the board's judgment, will be most advantageous to the authority and result in the best and most economical completion of the authority's proposed facilities.

Additional Work; Change Orders

Sec. 39. After a contract has been awarded and the authority determines that additional work is needed or that the character or type of work or facilities should be changed, the board may authorize change orders to such contract provided same does not increase the total cost of the contract by more than 25 percent.

Construction Bids

Sec. 40. (a) A person who desires to bid on proposed construction work shall submit to the board a written sealed bid together with a certified or cashier's check on a responsible bank in the state or a bidder's bond for at least two percent of the total amount of the bid.

(b) Bids shall be opened at the same time, and the board may reject any or all of the bids.

(c) If the successful bidder fails or refuses to enter into a proper contract with the authority or fails or refuses to furnish the bond required by law, he shall forfeit the amount of the check or bond which accompanied his bid.

Executing and Recording Construction Contract

Sec. 41. (a) Contracts for construction work shall be in writing and signed by the board and the contractor.

(b) The contract shall be kept in the authority's records and be available for public inspection.

Contractor's Bond

Sec. 42. Any person, firm, partnership, or corporation to whom a contract is let must give good and sufficient performance and payment bonds in accordance with Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

Repayment of Organizational Expenses

Sec. 43. The authority's directors are authorized to pay all costs and expenses necessarily incurred in the creation and organization of an authority, the cost of investigation and making plans, engineer's or architect's report, and other incidental expenses, and to reimburse any person for money advanced for such purposes. Any such payments may be made from money obtained from the sale of bonds first issued by the authority.

Premium on Directors or Employees Bonds

Sec. 44. The board of directors may pay the premium on surety bonds required of officials or employees of the authority out of any available funds of the authority including proceeds from the sale of bonds.

Depository

Sec. 45. The board of directors shall by order or resolution designate one or more banks within or without the authority to serve as the depository for the funds of the authority. All funds of the authority shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the authority's bonds. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they shall be secured in the manner provided by law for the security of funds of counties of the State of Texas.

Investments

Sec. 46. Funds of the authority may be invested and reinvested by the board of directors in direct or indirect obligations of the United States of America or any agency thereof, of the State of Texas or of any county, city, school district, or other political subdivision of the State of Texas. Funds of the authority may be placed in certificates of deposit of state or national banks or savings and loan associations within the State of Texas provided that the same are secured in the manner provided for the security of the funds of counties of the State of Texas.

Accounts and Records; Audits

Sec. 47. A complete system of accounts shall be kept by the authority and an audit of its affairs for each year shall be prepared by an independent certified public accountant or a

firm of independent certified public accountants. The fiscal year of the authority shall be from January 1 to December 31, unless and until changed by the board of directors. A signed copy of the audit report shall be delivered to each member of the board of directors not later than 120 days after the close of each fiscal year. A copy of the audit shall be kept on file at the authority office and shall constitute a public record open for inspection by any interested person or persons during normal office hours.

SUBCHAPTER E. REVENUE BONDS

Issuance of Bonds

Sec. 48. The authority is authorized to issue its revenue bonds for all or any of the purposes set forth in this Act. Said bonds may be issued when duly authorized by a resolution adopted by the board and shall be secured by a pledge of and be payable from all or any designated part of the authority's revenues from its facilities or whatever source derived, including but not limited to the proceeds of contracts and leases. Said bonds shall mature serially or otherwise in not more than 40 years from their date or dates, and shall bear interest at any rate or rates permitted by the Constitution and laws of the State of Texas, all as shall be determined by the board. Said bonds and interest coupons, if any, appertaining thereto, shall be investment securities under the terms of Chapter 8 of the Business & Commerce Code¹ and may be issued registrable as to principal or as to both principal and interest and may be made redeemable prior to maturity, at the option of the board, or they may contain a mandatory redemption provision all as may be provided by said board. Such bonds may be issued in such form, denominations, and manner and under such terms, conditions and details, and shall be signed and executed, as provided by the board in the resolution authorizing their issuance.

¹ Business and Commerce Code, § 8.101 et seq.

Additional Security for Bonds

Sec. 49. The bonds, within the discretion of the board, may be additionally secured by a deed of trust or mortgage lien upon part or all of the physical properties of the authority, and franchises, easements, leases, and contracts and all rights appurtenant to such properties, vesting in the trustee power to sell such properties for payment of the bonds or interest thereon, power to operate the properties and all other powers and authority for the further security for the bonds. Such trust indenture, regardless of the existence of the deed of trust or mortgage lien on the properties, may contain provisions prescribed by the board for the security of the bonds and as preservation of the trust estate, and may make provisions for amendment or modification thereof, and may condition the right to expend authority money or sell authority property upon approval of a registered professional engineer or architect

selected as provided therein and may make provisions for investment of funds of the authority. Any purchaser under a sale under the deed of trust or mortgage lien, where one is given, shall be absolute owner of the properties, facilities and rights so purchased and shall have the right to maintain and operate same.

Provisions of Bonds

Sec. 50. In the resolutions authorizing the issuance of bonds as provided in this Act (including refunding bonds) the board may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, the reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those facilities (the revenues of which are pledged), including provisions for the operation or for the leasing of all or any part of said facilities and the use or pledge of moneys derived from such operation, contracts and leases, as such board may deem appropriate. The resolutions of the board authorizing the issuance of bonds may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support of the bonds being issued, subject to such conditions as are set forth in such resolutions. The resolutions of the board issuing bonds may contain other provisions and covenants, as the authority's board may determine, not prohibited by the Texas Constitution or by this Act, and said board may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any authority bonds.

Use of Bond Proceeds

Sec. 51. From the proceeds of sale of any bonds issued under the provisions of this Act, the board may appropriate or set aside an amount for the payment of interest and administrative and operating expenses expected to accrue during the period of construction, as may be provided in the bond resolutions, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds.

Sale of Bonds

Sec. 52. After the issuance of said bonds, the board shall sell the bonds on the best terms and for the best possible price.

Approval by Attorney General; Registration by Comptroller

Sec. 53. All bonds issued by an authority shall be submitted to the Attorney General of the State of Texas for examination. If he finds that the bonds have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of

Texas. After the approval and registration of bonds by the comptroller, they shall be incontestable in any court or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes. If said bonds recite that they are secured partially or otherwise by a pledge of the proceeds of a contract or contracts or a lease or leases made between the authority and another party or parties (public agencies, cities, or otherwise), a copy of each such contract or lease and of the proceedings authorizing same may or may not be submitted to the attorney general along with the bond records, and, if so submitted, then the approval by the attorney general of the bonds shall constitute an approval of such contract or lease, and thereafter such contract or lease shall be incontestable.

Refunding Bonds

Sec. 54. (a) By resolutions adopted by its board, an authority shall have the power and authority to issue bonds to refund all or any part of its outstanding bonds, including matured but unpaid interest coupons. Refunding bonds shall mature serially or otherwise not more than 40 years from their date and shall bear interest at any rate or rates permitted by the Constitution and laws of the State of Texas. Refunding bonds may be payable from the same source as the bonds being refunded or from other additional sources, shall be approved by the attorney general as in the case of original bonds, and shall be registered by the comptroller of public accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the resolutions authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued before the cancellation of the bonds being refunded provided an amount sufficient to pay the interest and principal on the underlying bonds to their maturity dates, or to their option dates if said bonds have been duly called for payment prior to maturity according to their terms, has been so deposited in the place or places where said underlying bonds are payable, and the comptroller of public accounts shall register them without the surrender and cancellation of the underlying bonds. The refunding may be accomplished in one or several installment deliveries. Refunding bonds, and the interest coupons appurtenant thereto, shall be investment securities under the provisions of Chapter 8 of the Business & Commerce Code¹ and shall be issued as provided in this Act.

(b) In lieu of the method set forth in Subsection (a) of this section, an authority may refund its bonds as provided by the general laws of the State of Texas.

¹ Business and Commerce Code, § 8.101 et seq.

Bonds Legal Investments; Security for Funds

Sec. 55. All bonds issued by the authority shall be legal and authorized investments for all banks, trust companies, building and loan associations, insurance companies of all kinds and types, fiduciaries, and trustees, and for all interest and sinking funds and other public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Authority bonds also shall be eligible and lawful security for all deposits of public funds of the State of Texas, and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Paid Bonds or Coupons

Sec. 56. All authority bonds and interest coupons, or notes and warrants when paid, shall be delivered to the authority or destroyed and evidence of such destruction furnished the board.

[Acts 1971, 62nd Leg., p. 2468, ch. 807, eff. June 8, 1971.]

Art. 1269j-4.6. Contracts with Civic Center Authorities

Applicability of Act

Sec. 1. This Act shall be applicable to any incorporated city, town, or village (hereinafter "city") of the State of Texas, whether operating under the general laws or under a home-rule charter.

Contracts Authorized; Purposes

Sec. 2. A city, pursuant to approval by a majority of its governing body, is hereby authorized to enter into a contract or contracts with a civic center authority under which the authority, for the benefit of the contracting city or contracting cities, may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) public improvements within or without the boundaries of such city such as civic centers, civic center buildings, auditoriums, opera houses, music halls, exhibition halls, coliseums, museums, libraries, or other public buildings and related facilities (either or all), and may establish, acquire, lease as lessee or lessor, purchase, construct, improve, enlarge, equip, repair, operate, or maintain (any or all) structures, parking areas, or facilities, located at or in the immediate vicinity of such public improvements, to be used in connection with such public improvements for off-street parking or storage of motor vehicles or other conveyances, as may be authorized to the authority by the laws of this state (hereinafter "facilities"), and under

which the authority may furnish all or any part of its authorized services and facilities within or without the boundaries of such city to the contracting city or cities. Such contract may be upon such terms and conditions as the city may deem desirable, fair and advantageous, such contract not to exceed 40 years' duration.

Payments by City to Authority; Sources

Sec. 3. Payments by a city to an authority shall be made, as prescribed in the contract between the city and the authority, from any available funds, including, without limitation of the above, ad valorem taxes; provided, however, that if a city wishes to pledge ad valorem taxes as part or all of the required payments under the contract with an authority, it must follow the alternative procedure prescribed in Section 4. Unless the alternative procedure prescribed in Section 4 is followed, neither an authority nor the holder of any bonds of the authority shall have the right to demand payment of the city's obligation out of any funds raised or to be raised by taxation. If the alternative procedure prescribed in Section 4 is followed, payments under the contract may be payable from and constitute solely an obligation against the taxing powers of the city or may be payable both from taxes and from such funds and revenues as may be prescribed in the contract.

Election by City; Authority to Levy and Collect Ad Valorem Tax; Contracts as Obligations against Taxing Power; Qualified Electors

Sec. 4. (a) If an election is held, substantially according to applicable procedure prescribed in Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ in reference to the issuance of bonds by cities, by a city and carried, determining that the governing body of the city is authorized to levy and collect an ad valorem tax to pay all or a portion of the payments to be made by the city under a contract to be entered into by and between the city and an authority, the contract, in such event, will constitute an obligation against the taxing power of the city to the extent therein provided. After such election and at or prior to the time such city enters into such contract it shall, in accordance with the Texas Constitution, make provision for assessing and collecting annually a sufficient sum to pay such contract and creating a sinking fund of at least two percent thereon. No election is required for the exercise of any power conferred by this Act except for the levy of such tax.

(b) Only electors of the city who are qualified to vote at such elections under the Constitution and laws of the State of Texas and the Constitution of the United States shall be entitled to vote at such elections.

¹ Article 701 et seq.

Authority of this Act

Sec. 5. If there be any conflict or inconsistency between this Act and the general laws of

the State of Texas and/or any provision of a home-rule charter of a contracting city, the provisions of this Act shall control.

[Acts 1971, 62nd Leg., p. 2481, ch. 808, eff. June 8, 1971.]

Art. 1269j-4.7. Certificates of Indebtedness Authorized for New Community Plan Adopted by City or Town Under Federal Act

Authorization

Sec. 1. Any city or town, which has by duly adopted resolution, order or ordinance approved or approved in principle a New Community Development project under the Urban Growth and New Community Development Act of 1970, enacted by the United States Congress as Title VII of the Housing and Urban Development Act of 1970, Public Law 91-609,¹ is hereby authorized to issue Certificates of Indebtedness for the purposes of acquiring, purchasing, constructing, repairing, renovating, improving and/or equipping any public projects or public facilities of any type, including but not excluding others, parks, streets, drainage facilities, water supply and distribution facilities, sewage and waste collection, disposal and treatment facilities, plants and properties, and for the purpose of planning, developing, engineering and financing such public projects and the payment for professional services incident thereto and in connection therewith.

¹ 42 U.S.C.A. § 4501 et seq.

Issuance; Ordinance; Terms and Conditions; Interest; Pledge of Revenues; Levy of Taxes

Sec. 2. The Certificates of Indebtedness authorized by this Act may be issued when authorized by ordinance adopted by the governing body of any such city or town and may mature serially or otherwise and may be issued upon such other terms and conditions as may be contained and specified in any such ordinance, including but not limited to provisions as to interest rate or rates, registration and redemption privileges, and any manner and method of sale, or as to exchange for goods, property or services, and for the delivery thereof. Said Certificates of Indebtedness may be issued in amount sufficient to provide for escrowed interest during such periods, not exceeding three years as such ordinance may direct, and/or may provide for deferred interest payments for such period as may be agreed upon with the purchaser thereof; and the same may be secured by and made payable from taxes or revenues by utility system or systems of the issuer, or both; provided that, in the issuance of any such obligations payable from taxes, the issuer shall comply with the provisions of the Texas Constitution requiring in such cases that sufficient taxes to pay the principal thereof and interest thereon when due be duly and properly levied.

Investment Securities; Incontestability

Sec. 3. Any Certificates of Indebtedness issued under authority of this Act shall consti-

tute "Investment Securities" under Chapter 8 of the Texas Uniform Commercial Code,¹ and may be issued in such form and denominations and under such other terms, conditions and details, and may be executed, all as provided in the proceedings authorizing the same; and all Certificates of Indebtedness which shall recite that they have been issued under authority of this Act for the purposes herein authorized shall be incontestable for any reason and shall be valid and binding obligations in accordance with their terms and for all purposes.

¹ Business and Commerce Code, § 8.101 et seq.

Refunding Bonds; Security

Sec. 4. The Certificates of Indebtedness authorized by this Act may be wholly or partially refunded into bonds in any manner and upon such terms as now permitted by law with respect to the refunding of other indebtedness or obligations of any such city or town, including Chapter 503, Acts of the 54th Legislature, 1955, as amended (Article 717k, Vernon's Texas Civil Statutes), and Chapter 784, Acts of the 61st Legislature, 1969 (Article 717k-3, Vernon's Texas Civil Statutes), which refunding bonds may be secured by taxes and/or any revenues of any utility system and/or in any other manner permitted by said acts, irrespective of the purposes for which such Certificates of Indebtedness were issued or the manner in, or source from, which they were secured or were payable.

Legal Investments and Security for Deposits

Sec. 5. All Certificates of Indebtedness issued under this Act shall be legal and authorized investments for all banks, savings banks, trust companies, building and loan associations, savings and loan associations, and insurance companies of all kinds and types, and for the interest and sinking funds and other public funds of any city, county or other political subdivision of this State. Said obligations also shall be eligible and lawful security for all deposits of public funds of any city, county or other political subdivision or public agency.

Cumulative and Prevailing Effect

Sec. 6. This Act shall be cumulative of all other laws on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of such Certificates of Indebtedness and the performance of the other acts, powers and procedures or limitations on borrowing contained therein, except as may be specifically required herein, and when any obligations are being issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law otherwise applicable to such city or town, the provisions of this Act shall prevail and control.

Severability

Sec. 7. In case any one or more of the sections, provisions, clauses or words of this Act, or the application thereof to any situation or

circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1971, 62nd Leg., p. 2895, ch. 957, eff. June 15, 1971.]

Art. 1269j-4.8. Off-Street Parking Facilities; Revenue Bonds; Cities Over 650,000

Application

Sec. 1. This Act applies to any city with a population of more than 650,000 according to the last preceding federal census.

General Authority

Sec. 2. A city subject to this Act may acquire, lease as lessor or lessee, construct, improve, enlarge, and operate off-street parking facilities. The city may contract with any public or private entity for the performance of any function authorized under this section.

Issuance of Revenue Bonds

Sec. 3. For any purpose authorized under Section 2 of this Act, the governing body of the city may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the revenue derived from a facility authorized under this Act.

Terms and Conditions of Bonds

Sec. 4. (a) The bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of fa-

cilities authorized under this Act, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges

Sec. 5. Each eligible city shall be authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities authorized under this Act in such amounts and in such manner as may be determined by the governing body of the city.

Pledges

Sec. 6. (a) The city may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges, shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the facilities authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the city, and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The city may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Public Purpose

Sec. 7. The acquisition, purchase, construction, improvement, enlargement, equipment, operation, and maintenance by a city of any property, buildings, structures, or other facilities for providing an off-street parking facility is a public purpose and a proper municipal function.

Refunding Bonds

Sec. 8. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refi-

nanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the city. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a city under this Act also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 9. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings relating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court, or other forum, for any reason, and are valid and binding obligations for all purposes in accordance with their terms.

Authorized Investments and Security for Deposits

Sec. 10. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of

the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 11. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control. A city shall have the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 12. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 709, ch. 305, eff. June 11, 1973.]

Art. 1269j-4.9. Farmers' Markets; Revenue Bonds; Cities Over 650,000

Definition

Sec. 1. In this Act, "farmers' market" means a public marketplace at which persons are permitted to sell agricultural and other products.

Application

Sec. 2. This Act applies to any city with a population of more than 650,000 according to the last preceding federal census.

General Authority

Sec. 3. A city subject to this Act may acquire, lease as lessor or lessee, construct, improve, enlarge, and operate a farmers' market. The city may contract with any public or private entity for the performance of any function authorized under this section.

Issuance of Revenue Bonds

Sec. 4. For any purpose authorized under Section 3 of this Act, the governing body of the city may issue revenue bonds from time to time in one or more series to be payable from and secured by liens on all or part of the reve-

nue derived from a facility authorized under this Act.

Terms and Conditions of Bonds

Sec. 5. (a) The bonds may be issued to mature serially or otherwise within not to exceed 40 years from their date, and provision may be made for the subsequent issuance of additional parity bonds, or subordinate lien bonds, under any terms or conditions that may be set forth in the resolution authorizing the issuance of the bonds.

(b) The bonds, and any interest coupons appertaining thereto, are negotiable instruments within the meaning and for all purposes of the Texas Uniform Commercial Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, and shall be executed, and may be made redeemable prior to maturity, and may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and may be sold in such manner, at such price, and under such terms, and said bonds shall bear interest at such rates, all as shall be determined and provided in the ordinance authorizing the issuance of the bonds.

(c) If so provided in the bond ordinance the proceeds from the sale of the bonds may be used for paying interest on the bonds during and after the period of the acquisition or construction of any facilities to be provided through the issuance of the bonds, for paying expenses of operation and maintenance of facilities authorized under this Act, for creating a reserve fund for the payment of the principal of and interest on the bonds, and for creating any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, all to the extent, and in the manner provided, in the bond ordinance.

Rentals, Rates, and Charges

Sec. 6. Each eligible city shall be authorized to fix and collect fees, rentals, rates, and charges for the occupancy, use, or availability of all or any of its property, buildings, structures, or other facilities authorized under this Act in such amounts and in such manner as may be determined by the governing body of the city.

Pledges

Sec. 7. (a) The city may pledge all or any part of the revenues, income, or receipts from such fees, rentals, rates, and charges to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged fees, rentals, rates, and charges, shall be fixed and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the ordinance authorizing the issuance of the bonds, to provide for the payment of expenses in connec-

tion with the bonds, and for the payment of operation, maintenance, and other expenses in connection with the facilities authorized under this Act.

(b) The bonds may be additionally secured by mortgages or deeds of trust on any real property relating to the facilities authorized under this Act owned or to be acquired by the city, and by chattel mortgages, liens, or security interests on any personal property appurtenant to that real property. The governing body of the city may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrances to evidence the indebtedness.

(c) The city may also pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source, whether pursuant to an agreement or otherwise.

Public Purpose

Sec. 8. The acquisition, purchase, construction, improvement, enlargement, equipment, operation, and maintenance by a city of any property, buildings, structures, or other facilities for providing a farmers' market is a public purpose and a proper municipal function.

Refunding Bonds

Sec. 9. (a) Any bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds for that purpose, under any terms or conditions, as are determined by ordinance of the governing body of the city. All appropriate provisions of this Act are applicable to refunding bonds, and the refunding bonds shall be issued in the manner provided in this Act for other bonds. The refunding bonds may be sold and delivered in amounts necessary to pay the principal, interest, and redemption premium, if any, of bonds to be refunded, at maturity or on any redemption date.

(b) The refunding bonds may be issued to be exchanged for the bonds being refunded by them. In that case, the comptroller of public accounts shall register the refunding bonds and deliver them to the holder or holders of the bonds being refunded in accordance with the provisions of the ordinance authorizing the refunding bonds. The exchange may be made in one delivery or in several installment deliveries.

(c) Bonds issued at any time by a city under this Act also may be refunded in the manner provided by any other applicable law.

Approval and Registration of Bonds

Sec. 10. All bonds issued under this Act and the appropriate proceedings authorizing their issuance shall be submitted to the attorney general for examination. If the bonds recite that they are secured by a pledge of revenues or rentals from a contract or lease, a copy of the contract or lease and the proceedings re-

lating to it shall be submitted to the attorney general also. If he finds that the bonds have been authorized and any contract or lease has been made in accordance with law, he shall approve the bonds and the contract or lease, and thereupon the bonds shall be registered by the comptroller of public accounts. After approval and registration the bonds and any contract or lease relating to them are incontestable in any court, or other forum, for any reason, and are valid and binding obligations for all purposes in accordance with their terms.

Authorized Investments and Security for Deposits

Sec. 11. All bonds issued under this Act are legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and all agencies, subdivisions, and instrumentalities of the state, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for all deposits of public funds of the state and all agencies, subdivisions, and instrumentalities of it, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant thereto.

Cumulative Effect

Sec. 12. This Act is cumulative of all other law on the subject, but this Act shall be wholly sufficient authority within itself for the issuance of the bonds and the performance of the other acts and procedures authorized by it without reference to any other law or any restrictions or limitations contained therein, except as herein specifically provided. When any bonds are issued under this Act, then to the extent of any conflict or inconsistency between any provisions of this Act and any provision of any other law, the provisions of this Act shall prevail and control. A city shall have the right to use the provisions of any other laws, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act.

Severability

Sec. 13. In case any one or more of the sections, provisions, clauses, or words of this Act, or the application thereof to any situation or circumstance, shall for any reason be held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other sections, provisions, clauses, or words of this Act, or the application thereof to any other situation or circumstance, and it is intended that this Act shall be severable and shall be construed and applied as if any such invalid or

unconstitutional section, provision, clause, or word had not been included herein.

[Acts 1973, 63rd Leg., p. 724, ch. 314, eff. June 11, 1973.]

Art. 1269j-5. Airport Revenue Bonds; Cities with Population Over 70,000

Sec. 1. All cities having a population of more than seventy thousand (70,000) according to the last preceding federal census, may issue revenue bonds for enlarging, or extending, or repairing, or improving its airport, or for any two (2) or more such uses. Included within the meaning of improvements without limiting the generality of the term, is the construction or enlargement of hangars and related buildings for use by tenants or concessionaires of the airport, including persons, firms or corporations rendering repair or other services to air carriers. Such revenue bonds may be issued when duly authorized by an ordinance passed by the governing body of such city. Such revenue bonds shall be secured by a pledge of all, or such part of, the revenues from the operation of the city's airport as may be prescribed in such ordinance. To the extent that the revenues of the airport may have been pledged to the payment of revenue bonds which are still outstanding, the pledge securing the proposed revenue bonds shall be inferior to the previous pledge or pledges. Within the discretion of the governing body of the city and subject to limitations contained in previous pledges, if any, in addition to the pledge of revenues, a lien may be given on all or any part of the physical properties comprising such airport. Included within the authority to pledge revenues and without limiting the generality of such authority is the right to pledge all or any part of the lease consideration to be received by the city for any such hangars or buildings, and within the discretion of the governing body of the city the sole security for such bonds may be the revenues to be received from leasing any one or more of such hangars and buildings, together with or without a lien upon such hangars or buildings and the land on which they are to be situated.

Sec. 2. No money raised or to be raised from taxation shall be used to pay the principal of or interest on any revenue or refunding bonds issued under this Act. When any of the revenues of such airport are pledged to the payment of bonds issued under this Act, it shall be the duty of the governing body of the City in reference to the revenues pledged, to cause to be fixed, maintained and enforced charges for services to be rendered by properties and facilities whose revenues have been pledged at rates and amounts sufficient to provide for the expense of maintenance and operation of such properties and facilities and to provide the amounts of money required under such ordinance to pay principal of and interest on the revenue bonds and to provide the reserve funds required by such ordinance.

Sec. 3. The Revenue Bonds shall be sold at a price or prices so that the interest cost of the

money received therefor, computed to maturity in accordance with standard bond interest tables, shall not exceed five per-cent (5%) per annum; shall mature serially or otherwise within thirty (30) years from their date; shall be negotiable instruments under the Negotiable Instruments Act of the State of Texas; shall not be finally issued until approved by the Attorney General of Texas and registered by the Comptroller of Public Accounts of the State of Texas, and after such approval shall be incontestable.

Sec. 4. Refunding Bonds bearing an interest rate or interest rates which result in the same or a lower over-all interest cost to City may be either issued in exchange for or to provide funds to repurchase and retire any such revenue bonds.

Sec. 4(a). Bonds issued by any city having a population of one hundred fifty thousand (150,000) or more, according to the last preceding Federal Census, pursuant to the provisions of this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations and all insurance companies. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, counties, school districts, or other political corporations or subdivisions of the State of Texas, and such bonds shall be lawful and sufficient security for said deposits to the extent of the principal amount thereof, or their value on the market, whichever is the lesser, when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1954, 53rd Leg., 1st C.S., p. 93, ch. 43; Acts 1957, 55th Leg., p. 465, ch. 225, § 1; Acts 1961, 57th Leg., p. 1183, ch. 535, § 1.]

Art. 1269j-5.1. Airport Revenue Bonds; Cities with Population of 500,000 or More

Sec. 1. This Act shall be applicable to all incorporated cities, including Home Rule Cities, having a population of five hundred thousand (500,000) or more according to the last preceding Federal Census.

Sec. 2. (a) Any such city is hereby authorized to issue revenue bonds for the purpose of establishing, improving, enlarging, extending or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor, said bonds to be issued in the manner provided and as authorized by Chapter 43, Acts of the 53rd Legislature of Texas, First Called Session, 1954, as presently or hereafter amended,¹ the bonds issued hereunder to be payable from all or any designated part or parts of the revenues of said airport or airports (including the revenues from any airport or airports then existing or to be thereafter acquired, either or both) as may be provided in the ordinance or ordinances authorizing the issuance of such bonds; and, except as the same may be inconsistent or in conflict with the provisions of this Act, the provisions of said Chapter 43, as presently or hereafter amended,

shall apply to revenue bonds issued under the provisions of this Act (the provisions of said Act to govern and take precedence in the event of any such inconsistency or conflict). Without in any way limiting the generality of "establishing, improving, enlarging, extending, or repairing (any or all) the airport or airports of such city, including the acquisition of land therefor," as used above, it is expressly provided that the same shall include, among other things, buildings, improvements, landing fields, and such other facilities and services that the city deems to be necessary, desirable, or convenient to the efficient operation and maintenance of its airport or airports. With respect to the pledge of revenues and income of said airport or airports to the payment of the operation and maintenance expenses and principal of and interest on such bonds, as provided by said Chapter 43, such city shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, either as a supplement to the pledge of revenues for such purpose or in lieu thereof, a continuing, annual ad valorem tax at a rate or rates on each One Hundred Dollars (\$100.00) sufficient for such purposes, all as may be provided in the ordinance or ordinances authorizing the issuance of any revenue bonds pursuant to the provisions of this Act; provided, that such tax or taxes shall be within the Constitutional or Charter limit for the cities covered by this Act; and provided further, that no part of any moneys raised by such tax or taxes shall ever be used for the payment of the interest on or principal of any bonds issued hereunder. The proceeds of any such tax or taxes thus pledged shall be utilized annually to the extent required by, or provided in, the ordinance or operation and maintenance of such airport or airports, and such city in its discretion may covenant in such ordinance or ordinances that certain costs of operating and maintaining such airport or airports, as may be enumerated therein, or all of such costs, will be paid by the city from the proceeds of such tax.

(b) In the ordinance or ordinances authorizing the issuance of any revenue bonds authorized hereunder, the city may provide for the flow of funds, the establishment and maintenance of the interest and sinking fund or funds, reserve fund or funds, and other funds, and may make additional covenants with respect to the bonds and the pledged revenues and the operation and maintenance of those improvements and facilities (the revenues of which are pledged), including provision for the operation or for the leasing of all or any part of said improvements and facilities and the use or pledge of moneys derived from such operation contracts and leases, as it may deem appropriate. Such ordinance or ordinances may also prohibit the further issuance of bonds or other obligations payable from the pledged revenues, or may reserve the right to issue additional bonds to be secured by a pledge of and payable from said revenues on a parity with, or subordinate to, the lien and pledge in support

of the bonds being issued, subject to such conditions as are set forth in said ordinance or ordinances. Such ordinance or ordinances may contain other provisions and covenants, as the city may determine, not prohibited by the Constitution of Texas or by this Act, and the city may adopt and cause to be executed any other proceedings or instruments necessary and/or convenient in the issuance of any of said bonds.

(c) From the proceeds of sale of any bonds issued hereunder, the city may appropriate or set aside out of the bond proceeds an amount for the payment of interest expected to accrue during the period of construction, an amount or amounts to be deposited into the reserve fund or funds as may be provided in the bond ordinance or ordinances, and an amount necessary to pay all expenses incurred and to be incurred in the issuance, sale, and delivery of the bonds. Until such time or times as the bond proceeds are needed to carry out the bond purpose, such bond proceeds may be invested in direct obligations of the United States of America or may be placed on time deposit (either or both). Moneys in the interest and sinking fund or funds, in the reserve fund or funds, and in the other fund or funds established or provided for in the bond ordinance or ordinances may be invested in such manner and in such securities as may be provided in the bond ordinance or ordinances.

(d) All bonds shall be signed by the Mayor of the city and counter-signed by the City Secretary (or City Clerk), and shall have the seal of the city impressed thereon; provided, that the bond ordinance or ordinances may provide for the bonds to be signed by the facsimile signatures of said Mayor and City Secretary (or City Clerk), either or both, and for the seal of the city on the bonds to be a facsimile seal of the seal of the city; and provided further, that the interest coupons attached to said bonds may also be executed by the facsimile signatures of said officers. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates and may be sold at a price and under such terms determined by the governing body of the city to be the most advantageous reasonably obtainable, provided that the interest cost to the city, calculated by the use of standard bond interest tables currently in use by insurance companies and investment houses, does not exceed six per cent (6%) per annum, and within the discretion of the governing body such bonds may be callable prior to maturity at such time or times and at such price or prices as may be prescribed in the ordinance or ordinances authorizing such bonds. Any such bonds may be made registrable as to principal, or as to both principal and interest. All bonds issued hereunder and the record relating to their issuance shall be submitted to the Attorney General of the State of Texas for his examination as to the validity thereof, and after said Attorney General has approved the same, such bonds shall be registered by the Comptroller of Pub-

lic Accounts of the State of Texas. When such bonds have been approved by the Attorney General, registered by the Comptroller of Public Accounts, and delivered to the purchasers, they shall thereafter be incontestable except for forgery or fraud.

(e) Any city covered by this Act shall have the power and authority to issue revenue refunding bonds to refund revenue bonds (either original bonds or refunding bonds) theretofore issued by such city under Chapter 43, supra, or under said Chapter 43 and this Act, and such refunding bonds shall bear interest at the same or lower rate or rates than that of the bonds refunded unless it is shown mathematically that a saving will result in the total amount of interest to be paid. Refunding bonds shall be authorized by ordinance or ordinances and shall be executed and mature as is provided in this Act for original bonds. They shall be approved by the Attorney General as in the case of original bonds, and shall be registered by the Comptroller of Public Accounts upon the surrender and cancellation of the bonds to be refunded, but in lieu thereof, the ordinance or ordinances authorizing their issuance may provide that they shall be sold and the proceeds thereof deposited in the place or places where the underlying bonds are payable, in which case the refunding bonds may be issued in an amount sufficient to pay the interest on the underlying bonds to their option or maturity date, and the Comptroller of Public Accounts shall register them without the surrender and cancellation of the underlying bonds. All such refunding bonds, after they have been approved by the Attorney General and registered by the Comptroller of Public Accounts, shall be incontestable except for forgery or fraud. The provisions of Sections 2(a) and 2(b) of this Act shall apply with equal force to refunding bonds issued hereunder.

(f) All bonds issued under this Act, whether original bonds or refunding bonds, shall be and are hereby declared to be, and to have all the qualifications of, negotiable instruments under the Negotiable Instruments Law of the State of Texas, and all such bonds shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies of every kind or type, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value when accompanied by all unmatured coupons appurtenant thereto.

[Acts 1962, 57th Leg., 3rd C.S., p. 50, ch. 19, §§ 1, 2; Acts 1967, 60th Leg., p. 906, ch. 396, § 1, eff. Aug. 28, 1967.]

¹ Article 1269j-5.

Art. 1269j-5.2 Airport Revenue Bonds; Home Rule Cities with Population of 125,000 or More

Sec. 1. This Act shall be applicable to any home-rule city having a population of 125,000 or more according to the last preceding federal census, which owns or has leased or has otherwise acquired control of land for airport purposes, and which is operating such land for such purposes.

Sec. 2. In the event any such city shall determine to issue revenue bonds under and for any of the purposes and secured by any of the revenues authorized by Chapter 43, Acts of the 53rd Legislature of Texas, 1st Called Session, 1954, as amended (compiled as Article 1269j-5, Vernon's Texas Civil Statutes), such city, in addition to the revenues and income of said airport or airports pledged to the payment of operation and maintenance expenses and principal of and interest on such bonds, shall be authorized to levy and pledge to the payment of such operation and maintenance expenses, as a supplement to the pledge of revenues for such purpose, all or any part of the ad valorem tax authorized by Section 8 of Chapter 114, Acts of the 50th Legislature, Regular Session, 1947 (compiled as Article 46d-8, Vernon's Texas Civil Statutes). The proceeds of any tax thus pledged shall be utilized annually to the extent required by the ordinance authorizing such revenue bonds to assure the efficient operation and maintenance of such airport or airports, and such city, in its discretion, may covenant in the proceedings authorizing the issuance of said bonds that certain costs of operating and maintaining such airport or airports, as may be enumerated in said proceedings, will be paid by the city from the proceeds of such tax. If it is deemed advisable by the city that revenue bonds theretofore issued under said Chapter 43, supra, and then outstanding, should be refunded so as to facilitate the financing of the acquisition of any improvements to and the further improvement of its airport or airports, it shall be authorized to make a like pledge of said tax in the proceedings authorizing such refunding bonds and any additional revenue bonds issued for the purposes prescribed in said Chapter 43, supra.

[Acts 1967, 60th Leg., p. 112, ch. 56, eff. April 17, 1967.]

Art. 1269j-6. Validating Bonds for Auditorium, Equipment and Facilities, Issued by Cities, Including Home-rule Cities

Sec. 1. All bonds heretofore authorized by an incorporated city, including home-rule cities, for the purpose of constructing a municipal auditorium and to purchase or acquire the necessary lands, equipment and facilities therefor, including lands for parking and the necessary equipment and facilities therefor,

and which pledge the revenues of the auditorium to be acquired, constructed and equipped by the use of the proceeds of such bonds, and which pledge the revenues of a coliseum, if any, owned by the city, together with the parking facilities in connection therewith, for either or both, including all present and future extensions, additions, replacements and improvements thereto, for either or both, and which pledge other revenues to be derived from parking meters in the city and from certain existing swimming pools in the city, and any and all acts and proceedings pertaining to the authorization and issuance thereof, are hereby validated, ratified, approved and confirmed notwithstanding any lack of statutory or general authority of such city or the governing body thereof to authorize such bonds and make such pledge of the revenue or revenues; and such bonds, when approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas and sold and delivered, regardless of whether such sale and delivery is made prior to or after the effective date of this Act, shall be binding, legal, valid and enforceable obligations against the revenues so encumbered, and said bonds shall be incontestable.

Sec. 2. This Act shall take precedence over any law or parts of any law to the contrary or in conflict herewith.

Sec. 3. This Act shall not be construed as validating any such proceedings or bonds issued or to be issued, the validity of which is contested or under attack in any suit or litigation pending at the time this Act becomes effective, if such suit or litigation is ultimately determined against the validity of the proceedings.

[Acts 1955, 54th Leg., p. 237, ch. 63.]

Art. 1269j-7. Validating Interest-bearing Time Warrants and Scrip; Refunding Bonds; Proceedings; Exception

Sec. 1. In every instance since the approval by the Governor of Texas, of Chapter 362, Acts of the Fifty-fourth Legislature, Regular Session, 1955,¹ where the governing body of any city in this State has entered into contracts or agreements, or has incurred and recognized or approved claims for the construction of public works or improvements, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders authorizing the issuance of scrip or interest-bearing time warrants to pay for or to evidence the indebtedness incurred by such city for the cost of such public works or improvements, and such materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts or agreements and claims, and assignments of such claims and such scrip and interest-bearing time warrants, and the proceedings adopted by such governing body relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip and inter-

est-bearing time warrants heretofore issued by the governing body of any city in this State in payment for or to evidence the indebtedness incurred for work done by such city and paid for by the day as the work progressed, and for materials, supplies, equipment, labor, supervision or professional or personal services purchased or secured in connection with such work, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any scrip or interest-bearing time warrants issued by the governing body of a city in this State unless such city has received full value and consideration for the issuance of such scrip or interest-bearing time warrants as may be evidenced by certificate of the Mayor and City Secretary. It is expressly further provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any city the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, orders, resolutions, and other instruments heretofore adopted or executed by any governing body of a city in this State authorizing the issuance of bonds for the purpose of refunding time warrants issued by any such city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any city the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1957, 55th Leg., p. 793, ch. 328.]

¹ Article 2368a-4.

Art. 1269j-8. Validating Notes and Warrants

Sec. 1. All notes, warrants, time warrants, and treasury warrants heretofore issued and sold or authorized to be issued and sold or attempted to be issued and sold by any and all cities in the state for the purpose of obtaining funds for public purposes are in all respects validated.

Sec. 2. All orders, ordinances, and resolutions of the governing bodies of such cities authorizing such notes, warrants, time warrants, and treasury warrants, or attempting to authorize the same, or any of the same, and the sales and attempted sales thereof for cash for the par or principal amount thereof plus accrued interest to the date of delivery thereof, are in all respects validated.

Sec. 3. All orders, ordinances, and resolutions of said governing bodies of said cities levying and directing the levying and assessing of taxes to provide for the payment of interest and principal of such notes, warrants, time warrants, and treasury warrants, as they respectively mature, are in all respects validated.

Sec. 4. All notes, warrants, time warrants, and treasury warrants validated by this Act may be refunded into bonds at any time after the effective date of this Act upon proper authorization thereof by a duly adopted bond ordinance of the governing body of any such city. Such bonds shall be made to mature serially or otherwise in not to exceed 40 years, and shall bear interest at a rate or rates not exceeding six percent per annum, and shall contain such other covenants, details and specifications as may be contained in such bond ordinance, and after approval thereof by the attorney general and registration by the comptroller shall be incontestable for any cause.

Sec. 5. This Act is not intended to validate nor does it apply to any notes, warrants, time warrants, or treasury warrants which are on the effective date hereof the subject matter of any litigation pending in any court in this state in which the validity thereof is being challenged.

[Acts 1967, 60th Leg., p. 869, ch. 375, eff. June 8, 1967.]

Art. 1269j-9. Validation of Proceedings for Public Improvements on Civic Centers, Etc.

Sec. 1. All proceedings, including all revenue bonds and all provisions, pledges, security, and other terms thereof, and the terms and conditions of the sale of such bonds; and all contracts, agreements, leases, operating agreements, options, and all other agreements and proceedings; taken, had, made, entered into or executed by the governing bodies of all cities and towns, including home rule cities, in the State of Texas, in connection with the establishment, acquisition, purchase, construction, improvement, operation, maintenance and/or use of public improvements authorized by and described in Chapter 63, page 148, Acts of 1965, 59th Legislature, Regular Session, as amended by Chapter 563, page 1239, Acts of 1967, 60th Legislature, Regular Session (compiled, as amended, as Article 1269j-4.1, Vernon's Annotated Civil Statutes), are in all things hereby fully validated, confirmed, approved and ratified.

Provided, however, nothing contained in this Act shall serve to validate, confirm, approve, or ratify any municipal ordinance, regulation, contract, agreement, or proceeding relating to utilities. Moreover, nothing contained in this Act shall serve to validate any contract or agreement relating to utilities entered into by the city or its agencies.

Sec. 2. All orders, resolutions, ordinances, indentures, and other actions authorizing the issuance of or securing any such revenue bonds, and the sale thereof, and the other agreements and proceedings validated in Section 1 hereof are themselves hereby in all things validated, confirmed, approved and ratified.

Sec. 2A. The provisions of this Act shall not serve to validate any proceedings the validity of which is being questioned on the effective

date of this Act in any litigation in any court of competent jurisdiction in this state, if such proceedings are ultimately determined invalid in such litigation under the existing laws of this state.

[Acts 1969, 61st Leg., p. 2335, ch. 790, eff. June 14, 1969.]

Art. 1269j-101. Repealed by Acts 1971, 62nd Leg., p. 3319, ch. 1024, Art. 1, § 3, eff. Sept. 1, 1971

Acts 1971, 62nd Leg., p. 3072, ch. 1024, repealing this article, enacts Title 3 of the Texas Education Code. See, now, Education Code, § 53.01 et seq.

CHAPTER TWENTY-ONE. HOUSING

Article

1269k. Housing Authorities Law.

1269k-1. Bonds or Other Obligations of Housing Authorities as Legal Investments and Security.

1269k-2. Validation of Establishment and Acts of Housing Authorities.

1269k-3. Validation of Acts, Bonds, Contracts, Etc., of Housing Authorities in Counties of 90,000 to 100,000; National Defense Activities.

1269k-4. Projects by Housing Authorities to Make Available Dwellings for Persons in National Defense Activities.

1269l. Housing Co-operation Law.

1269l-1. Rent Control.

1269l-2. State Department of Health; Planning and Assistance for Political Subdivisions; Acceptance of Federal Grants for Housing.

1269l-2.1 Governor's Office; Planning Assistance for Political Subdivisions; Payment; Federal Grants; Transfer of Property, Etc.

1269l-3. Urban Renewal Law.

Art. 1269k. Housing Authorities Law

Short Title

Sec. 1. This Act may be referred to as the "Housing Authorities Law."

Finding and Declaration of Necessity

Sec. 2. It is hereby declared:

(a) that there exist in the State insanitary or unsafe dwelling accommodations and that persons of low income are forced to reside in such insanitary or unsafe accommodations; that within the State there is a shortage of safe or sanitary dwelling accommodations available at rents which persons of low income can afford and that such persons are forced to occupy overcrowded and congested dwelling accommodations; that the aforesaid conditions cause an increase in and spread of disease and crime and constitute a menace to the health, safety, morals, and welfare of the residents of the State and impair economic values; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities;

(b) that these slum areas cannot be cleared, nor can the shortage of safe and sanitary dwellings for persons of low income be relieved, through the operation of

private enterprise, and that the construction of housing projects for persons of low income (as herein defined) would therefore not be competitive with private enterprise;

(c) that the clearance, replanning, and reconstruction of the areas in which insanitary or unsafe housing conditions exist and the providing of safe and sanitary dwelling accommodations for persons of low income are public uses and purposes, for which public money may be spent and private property acquired and are governmental functions of State concern; that it is in the public interest that work on such projects be commenced as soon as possible in order to relieve unemployment which now constitutes an emergency; and the necessity in the public interest for the provisions hereinafter enacted; is hereby declared as a matter of legislative determination.

Definitions

Sec. 3. The following terms, wherever used or referred to in this Act, shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Authority" or "Housing Authority" shall mean any of the public corporations created by Section 4 of this Act.

(b) "City" shall mean any city.

"The City" shall mean the particular city for which a particular housing authority is created.

(c) "Governing Body" shall mean the Council or Commission of the city.

(d) "Mayor" shall mean the Mayor of the city or the officer thereof charged with the duties customarily imposed on the Mayor or executive head of the city.

(e) "Clerk" shall mean the clerk of the city or the officer charged with the duties customarily imposed on such clerk.

(f) "Area of operation" shall include the city and the area within five (5) miles of the territorial boundaries thereof; provided, however, that the area of operation of a housing authority of any city shall not include any area which lies within the territorial boundaries of some other city as herein defined.

(g) "Federal Government" shall include the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum" shall mean any area where dwellings predominate which, by reason of dilapidation, overcrowding, faulty arrangement or design, lack of ventilation, light, or sanitary facilities, or any combination of these factors, are detrimental to safety, health, and morals.

(i) "Housing Project" shall mean any work or undertaking:

(1) to demolish, clear, or remove buildings from any slum area; such work or undertaking may embrace the adaptation of such area to public purposes, including parks or other recreational or community purposes; or

(2) to provide decent, safe, and sanitary urban or rural dwellings, apartments, or other living accommodations for persons of low income; such work or undertaking may include buildings, land, equipment, facilities, and other real or personal property for necessary, convenient, or desirable appurtenances, streets, sewers, water service, parks, site preparation, gardening, administrative, community, health, recreational, educational, welfare, or other purposes; or

(3) to accomplish a combination of the foregoing. The term "housing project" also may be applied to the planning of the buildings and improvements, the acquisition of property, the demolition of existing structures, the construction, reconstruction, alteration, and repair of the improvements and all other work in connection therewith.

(j) "Persons of low income" shall mean families or persons who lack the amount of income which is necessary (as determined by the authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe, and sanitary dwellings, without overcrowding.

(k) "Bonds" shall mean any bonds, notes, interim certificates, debentures, or other obligations issued by the authority pursuant to this Act.

(l) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, and right, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage, or otherwise and the indebtedness secured by such liens.

(m) "Obligee of the authority" or "obligee" shall include any bondholder, trustee, or trustees for any bondholder, or lessor demising to the authority property used in connection with a housing project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the authority.

Creation of Housing Authorities

Sec. 4. In each city (as herein defined) of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority" of the city; provided, however, that such authority shall not transact any business or exercise its powers hereunder

until or unless the governing body of the city, by proper resolution shall declare at any time hereafter that there is need for an authority to function in such city. The governing body may upon its own motion, or shall upon the filing of a petition signed by one hundred (100) qualified voters and residents of the city, make a determination as to whether or not there is need for an authority to function in the city.

The governing body shall adopt a resolution declaring that there is need for a housing authority in the city, if it shall find (a) that insanitary or unsafe inhabited dwelling accommodations exist in such city or (b) that there is a shortage of safe or sanitary dwelling accommodations in such city available to persons of low income at rentals they can afford. In determining whether dwelling accommodations are unsafe or insanitary said governing body may take into consideration the degree of overcrowding, the percentage of land coverage, the light, air, space, and access available to the inhabitants of such dwelling accommodations, the size and arrangement of the rooms, the sanitary facilities, and the extent to which conditions exist in such buildings which endanger life or property by fire or other causes.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the authority, the authority shall be conclusively deemed to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the governing body declaring the need for the authority. Such resolution or resolutions shall be deemed sufficient if it declares that there is such need for an authority and finds in substantially the foregoing terms (no further detail being necessary) that either or both of the above enumerated conditions exist in the city. A copy of such resolution duly certified by the clerk shall be admissible in evidence in any suit, action, or proceeding.

Appointment, Qualifications, and Tenure of Commissioners

Sec. 5. When the governing body of a city adopts a resolution as aforesaid, it shall promptly notify the Mayor of such adoption. Upon receiving such notice, the Mayor shall appoint five (5) persons as commissioners of the authority created for said city. Two (2) of the commissioners who are first so appointed shall be designated to serve for terms of one year and the remaining commissioners shall be designated to serve for terms of two (2) years, respectively, from the date of their appointment, but thereafter commissioners shall be appointed as aforesaid for a term of office of two (2) years except that all vacancies shall be filled for the unexpired term. No commissioner of an authority may be an officer or employee of the city for which the authority is created. A commissioner shall hold office until his successor has been appointed and has qualified. A certificate of the appointment or reappointment of any commissioner shall be

filed with the clerk and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A commissioner shall receive no compensation for his services, but he shall be entitled to the necessary expense, including traveling expenses, incurred in the discharge of his duties.

The powers of each authority shall be vested in the commissioners thereof in office from time to time. Three (3) commissioners shall constitute a quorum of the authority for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by the authority upon a vote of a majority of the commissioners present, unless in any case the bylaws of the authority shall require a larger number. The Mayor shall designate which of the commissioners appointed shall be the first chairman, but when the office of the chairman of the authority thereafter becomes vacant, the authority shall select a chairman from among its commissioners. An authority shall select from among its own commissioners a vice-chairman, and it may employ a secretary (who shall be executive director), technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For such legal services as it may require, an authority may call upon the chief law officer of the city or may employ its own counsel and legal staff. An authority may delegate to one or more of its agents or employees such powers or duties as it may deem proper.

Interested Commissioners or Employees

Sec. 6. No commissioner or employee of an authority shall acquire any interest direct or indirect in any housing project or in any property included or planned to be included in any project, nor shall he have any interest direct or indirect in any contract or proposed contract for materials or services to be furnished or used in connection with any housing project. If any commissioner or employee of an authority owns or controls an interest direct or indirect in any property included or planned to be included in any housing project, he immediately shall disclose the same in writing to the authority and such disclosure shall be entered upon the minutes of the authority. Failure to so disclose such interest shall constitute misconduct in office.

Removal of Commissioners

Sec. 7. For inefficiency or neglect of duty or misconduct in office, a commissioner of an authority may be removed by the Mayor, but a commissioner shall be removed only after he shall have been given a copy of the charges at least ten (10) days prior to the hearing thereon and had an opportunity to be heard in person or by counsel. In the event of the removal of any commissioner, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk.

Powers of Authority

Sec. 8. An authority shall constitute a public body corporate and politic, exercising public and essential governmental functions, and having all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To sue and to be sued; to have a seal and to alter the same at pleasure; to have perpetual succession; to make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority; and to make and from time to time amend and repeal bylaws, rules, and regulations, not inconsistent with this Act, to carry into effect the powers and purposes of the authority.

(b) Within its area of operation: to prepare, carry out, acquire, lease, and operate housing projects; to provide for the construction, reconstruction, improvement, alteration, or repair of any housing project or any part thereof.

(c) To arrange or contract for the furnishing by any person or agency, public or private, of services, privileges, works, or facilities for, or in connection with, a housing project or the occupants thereof; and (notwithstanding anything to the contrary contained in this Act or in any other provision of law) to include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with the requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project.

(d) To lease or rent any dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project and (subject to the limitations contained in this Act) to establish and revise the rents or charges therefor; to own, hold, and improve real or personal property; to purchase, lease, obtain options upon, acquire by gift, grant, bequest, devise, or otherwise any real or personal property or any interest therein; to acquire by the exercise of the power of eminent domain any real property; to sell, lease, exchange, transfer, assign, pledge, or dispose of any real or personal property or any interest therein to insure or provide for the insurance of any real or personal property or operations of the authority against any risks or hazards; to procure insurance or guarantees from the Federal Government of the payment of any debts or parts thereof (whether or not incurred by said authority) secured by mortgages on any property included in any of its housing projects.

(e) To invest any funds held in reserves or sinking funds, or any funds not re-

quired for immediate disbursement, in property or securities in which savings banks may legally invest funds subject to their control; to purchase its bonds at a price not more than the principal amount thereof and accrued interest, all bonds so purchased to be cancelled.

(f) Within its area of operation: to investigate into living, dwelling, and housing conditions and into the means and methods of improving such conditions; to determine where slum areas exist or where there is a shortage of decent, safe, and sanitary dwelling accommodations for persons of low income; to make studies and recommendations relating to the problem of clearing, replanning, and reconstructing of slum areas, and the problem of providing dwelling accommodations for persons of low income, and to cooperate with the city, the county, the State or any political subdivision thereof in action taken in connection with such problems; and to engage in research, studies, and experimentation on the subject of housing.

(g) Acting through one or more commissioners or other person or persons designated by the authority; to conduct examinations and investigations and to hear testimony and take proof under oath at public or private hearings on any matter material for its information; to administer oaths, issue subpoenas requiring the attendance of witnesses or the production of books and papers and to issue commissions for the examination of witnesses who are outside of the State or unable to attend before the authority, or excused from attendance; to make available to appropriate agencies (including those charged with the duty of abating or requiring the correction of nuisances or like conditions, or of demolishing unsafe or unsanitary structures within its area of operation) its findings and recommendations with regard to any building or property where conditions exist which are dangerous to the public health, morals, or safety or welfare.

(h) To exercise all or any part or combination of powers herein granted. No provisions of law with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to an authority unless the Legislature shall specifically so state.

Operation Not for Profit

Sec. 9. It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe, and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city. To this end an authority shall fix the rentals for

dwelling in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available moneys, revenues, income, and receipts of the authority from whatever sources derived) will be sufficient

(a) to pay, as the same become due, the principal and interest on the bonds of the authority;

(b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and

(c) to create (during not less than the six (6) years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payments which will be due on such bonds in any one year thereafter and to maintain such reserve.

Rentals and Tenant Selection

Sec. 10. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection:

(a) It may rent or lease the dwelling accommodations therein only to persons of low income and at rentals within the financial reach of such persons.

(b) It may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding.

(c) It shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an aggregate annual income, excluding that earned by children attending school full time, in excess of five (5) times the annual rental of the quarters to be furnished such person or persons except that in the case of families with three (3) or more minor dependents such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to the occupants, of heat, water, electricity, gas, cooking range, and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Nothing contained in this or the preceding section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof or acquire title thereto through foreclosure pro-

ceedings, free from all the restrictions imposed by this or the preceding section.

Co-operation Between Authorities

Sec. 11. Any two (2) or more authorities may join or co-operate with one another in the exercise of any or all of the powers conferred hereby for the purpose of financing, planning, undertaking, constructing or operating a housing project or projects located within the area of operation of any one or more of said authorities.

Eminent Domain

Sec. 12. An authority shall have the right to acquire by the exercise of the power of eminent domain any interest in real property, including a fee simple title thereto, which it may deem necessary for its purposes under this Act after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and Acts amendatory thereof or supplementary thereto; or it may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. Property already devoted to a public use may be acquired in like manner, provided that no real property belonging to the city, the county, the State, or any political subdivision thereof may be acquired without its consent.

Planning, Zoning, and Building Laws

Sec. 13. All housing projects of an authority shall be subject to the planning, zoning, sanitary and building laws, ordinances, and regulations applicable to the locality in which the housing project is situated. In the planning and location of any housing project, an authority shall take into consideration the relationship of the project to any larger plan or long-range program for the development of the area in which the housing authority functions.

Bonds

Sec. 14. An authority shall have power to issue bonds from time to time in its discretion, for any of its corporate purposes. An authority shall also have power to issue refunding bonds for the purpose of paying or retiring bonds previously issued by it. An authority may issue such types of bonds as it may determine, including bonds on which the principal and interest are payable:

(a) exclusively from the income and revenues of the housing project financed with the proceeds of such bonds, or with such proceeds together with a grant from the Federal Government in aid of such project;

(b) exclusively from the income and revenues of certain designated housing projects whether or not they were financed

in whole or in part with the proceeds of such bonds; or

(c) from its revenues generally. Any of such bonds may be additionally secured by a pledge of any revenues or a mortgage of any housing project, projects, or other property of the authority.

Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state on their face) shall not be a debt of the city, the county, the State or any political subdivision thereof and neither the city nor the county, nor the State or any political subdivision thereof shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction. Bonds of an authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income therefrom, shall be exempt from taxes.

Bonds or Legal Investments

Sec. 14-A. Repealed by Acts 1939, 46th Leg., p. 427, § 2.

Form and Sale of Bonds

Sec. 15. Bonds of an authority shall be authorized by its resolution and may be issued in one or more series and shall bear such date or dates, mature at such time or times, bear interest at such rate or rates, not exceeding eight (8) per centum per annum, be in such denomination or denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium) as such resolution, its trust indenture or mortgage may provide.

The bonds may be sold at not less than par at public sale held after notice published once at least five (5) days prior to such sale in a newspaper having a general circulation in the city or the county and in a financial newspaper published in the City of New York, New York, provided, however, that such bonds may be sold at not less than par to the Federal Government at private sale without any public advertisement.

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

the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable.

In any suit, action, or proceedings involving the validity or enforceability of any bond of an authority or the security therefor, any such bond reciting in substance that it has been issued by the authority to aid in financing a housing project to provide dwelling accommodations for persons of low income shall be conclusively deemed to have been issued for a housing project of such character and said project shall be conclusively deemed to have been planned, located, and constructed in accordance with the purposes and provisions of this Act.

Provisions of Bonds, Trust Indentures, and Mortgages

Sec. 16. In connection with the issuance of bonds or the incurring of obligations under leases and in order to secure the payment of such bonds or obligations, an authority, in addition to its other powers, shall have power:

(a) To pledge all or any part of its gross or net rents, fees, or revenues to which its right then exists or may thereafter come into existence.

(b) To mortgage all or any part of its real or personal property, then owned or thereafter acquired.

(c) To covenant against pledging all or any part of its rents, fees, and revenues, or against mortgaging all or any part of its real or personal property, to which its right or title then exists or may thereafter come into existence or against permitting or suffering any lien on such revenues or property; to covenant with respect to limitations on its right to sell, lease, or otherwise dispose of any housing project or any part thereof; and to covenant as to what other, or additional debts or obligations may be incurred by it.

(d) To covenant as to the bonds to be issued and as to the issuance of such bonds in escrow or otherwise, and as to the use and disposition of the proceeds thereof; to provide for the replacement of lost, destroyed, or mutilated bonds; to covenant against extending the time for the payment of its bonds or interest thereon, and to redeem the bonds, and to covenant for their redemption and to provide the terms and conditions thereof.

(e) To covenant (subject to the limitations contained in this Act) as to the rents and fees to be charged in the operation of a housing project or projects, the amount to be raised each year or other period of time by rents, fees, and other revenues, and as to the use and disposition to be made thereof; to create or to authorize the creation of special funds for moneys held for construction or operating costs, debt service, reserves, or other purposes, and to covenant as to the use and disposition of the moneys held in such funds.

(f) To prescribe procedure, if any, by which the terms of any contract with bond holders may be amended or abrogated, the amount of bonds of holders of which must consent thereto and the manner in which such consent may be given.

(g) To covenant as to the use of any or all of its real or personal property; and to covenant as to the maintenance of its real and personal property, the replacement thereof, the insurance to be carried thereon and the use and disposition of insurance moneys.

(h) To covenant as to the rights, liabilities, powers, and duties arising upon the breach by it of any covenant, condition, or obligation; and to covenant and prescribe as to events of default and terms and conditions upon which any or all of its bonds or obligations shall become or may be declared due before maturity, and as to the terms and conditions upon which such declaration and its consequences may be waived.

(i) To vest in a trustee or trustees or the holder of bonds or any proportion of them the right to enforce the payment of the bonds or any covenants securing or relating to the bonds; to vest in a trustee or trustees the right, in the event of a default by said authority, to take possession and use, operate, and manage any housing project or part thereof, and to collect the rents and revenues arising therefrom and to dispose of such moneys in accordance with the agreement of the authority with said trustee; to provide for the powers and duties of a trustee or trustees and to limit the liabilities thereof; and to provide the terms and conditions upon which the trustee or trustees or the holders of bonds or any proportion of them may enforce any covenant or rights securing or relating to the bonds.

(j) To exercise all or any part or combination of the powers herein granted; to make covenants other than and in addition to the covenants herein expressly authorized, of like or different character; to make such covenants and to do any and all such acts and things as may be necessary or convenient or desirable in order to secure its bonds, or, in the absolute discretion of said authority, as will tend to make the bonds more marketable notwithstanding that such covenants, acts, or things may not be enumerated herein.

Certificate of Attorney General

Sec. 17. Any authority may submit to the Attorney General of the State any bonds to be issued hereunder after all proceedings for the issuance of such bonds have been taken. Upon the submission of such proceedings to the Attorney General, it shall be the duty of the Attorney General to examine into and pass upon the validity of such bonds and the regularity

of all proceedings in connection therewith. If such proceedings conform to the provisions of this Act and are otherwise regular in form and if such bonds when delivered and paid for will constitute binding and legal obligations of such authority enforceable according to the terms thereof, the Attorney General shall certify in substance upon the back of each of said bonds that it is issued in accordance with the Constitution and laws of the State of Texas.

Remedies of an Oblige of Authority

Sec. 18. An obligee of an authority shall have the right in addition to all other rights which may be conferred on such obligee, subject only to any contractual restrictions binding upon such obligee:

(a) By mandamus, suit, action, or proceeding at law or in equity to compel said authority and the commissioners, officers, agents, or employees thereof to perform each and every term, provision, and covenant contained in any contract of said authority with or for the benefit of such obligee, and to require the carrying out of any or all such covenants and agreements of said authority and the fulfillment of all duties imposed upon said authority by this Act.

(b) By suit, action, or proceeding in equity, to enjoin any acts or things which may be unlawful, or the violation of any of the rights of such obligee of said authority.

Additional Remedies Conferrable by Authority

Sec. 19. An authority shall have power by its resolution, trust indenture, mortgage, lease, or other contract to confer upon any obligee holding or representing a specified amount in bonds, or holding a lease, the right (in addition to all rights that may otherwise be conferred) upon the happening of an event of default as defined in such resolution or instrument, by suit, action, or proceeding in any Court of competent jurisdiction:

(a) To cause possession of any housing project or any part thereof to be surrendered to any such obligee.

(b) To obtain the appointment of a receiver of any housing project of said authority or any part thereof and of the rents and profits therefrom. If such receiver be appointed, he may enter and take possession of such housing project or any part thereof and operate and maintain same, and collect and receive all fees, rents, revenues, or other charges thereafter arising therefrom, and shall keep such moneys in a separate account or accounts and apply the same in accordance with the obligations of said authority as the Court shall direct.

(c) To require said authority and the commissioners thereof to account as if it and they were the trustees of an express trust.

Exemption of Property from Execution Sale

Sec. 20. All real property of an authority shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall any judgment against an authority be a charge or lien upon its real property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to foreclose or otherwise enforce any mortgage of an authority or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on its rents, fees, or revenues.

Aid from Federal Government

Sec. 21. In addition to the powers conferred upon an authority by other provisions of this Act, an authority is empowered to borrow money or accept grants or other financial assistance from the Federal Government for or in aid of any housing project within its area of operation, to take over or lease or manage any housing project or undertaking constructed or owned by the Federal Government, and to these ends, to comply with such conditions and enter into such mortgages, trust indentures, leases, or agreements as may be necessary, convenient or desirable. It is the purpose and intent of this Act to authorize every authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal Government in the undertaking, construction, maintenance, or operation of any housing project by such authority.

Tax Exemption and Payments in Lieu of Taxes

Sec. 22. The property of an authority is declared to be public property used for essential public and governmental purposes and such property and an authority shall be exempt from all taxes and special assessments of the city, the county, the State or any political subdivision thereof; provided, however, that in lieu of such taxes or special assessments, an authority may agree to make payments to the city or the county or any such political subdivision for improvements, services, and facilities furnished by such city, county, or political subdivision for the benefit of a housing project, but in no event shall such payments exceed the estimated cost to such city, county, or political subdivision of the improvements, services, or facilities to be so furnished.

Reports

Sec. 23. At least once a year, an authority shall file with the clerk a report of its activities for the preceding year, and shall make recommendations with reference to such additional legislation or other action as it deems necessary in order to carry out the purposes of this Act.

Housing Authorities in Counties

Sec. 23a. In each county of the State there is hereby created a public body corporate and politic to be known as the "Housing Authority"

of the county; provided, however, that such housing authority shall not transact any business or exercise its powers hereunder until or unless the Commissioners Court of such county, by proper resolution shall declare at any time hereafter that there is need for a housing authority to function in such county, which declaration shall be made by such Commissioners Court for such county in the same manner and subject to the same conditions as the declaration of the governing body of a city required by Section 4 of the Housing Authorities Law for the purpose of authorizing a housing authority created for a city to transact business and exercise its powers (except that the petition referred to in said Section 4 shall be signed by one hundred qualified voters and residents of such county).

The commissioners of a housing authority created for a county may be appointed and removed by the Commissioners Court of the county in the same manner as the commissioners of a housing authority created for a city may be appointed and removed by the Mayor, and except as otherwise provided herein, each housing authority created for a county and the commissioners thereof, within the area of operation of such housing authority as hereinafter defined, shall have the same functions, rights, powers, duties, immunities, privileges, and limitations provided for housing authorities created for cities and the commissioners of such housing authorities, in the same manner as though all the provisions of law applicable to housing authorities created for cities were applicable to housing authorities created for counties; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court", and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a housing authority created for a county shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low income.

The area of operation of a housing authority created for a county shall include all of the county in which it is created except that portion of the county which lies within the territorial boundaries of any city.

Creation of Regional Housing Authority

Sec. 23b. If the Commissioners Court of each of two (2) or more contiguous counties by resolution declares that there is a need for one housing authority to be created for all of such counties to exercise powers and other functions herein prescribed for a housing authority in such counties, a public body corporate and politic to be known as a regional housing authority shall thereupon exist for all of such counties and exercise its powers and other functions in such counties; and thereupon each county housing authority created for each of such counties shall cease to exist except for

the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided that the Commissioners Court of a county shall not adopt a resolution as aforesaid if there is a county housing authority created for such county which has any obligations outstanding unless first, all obligees of such county housing authority and parties to the contracts, bonds, notes, and other obligations of such county housing authority agree with such county housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority adopt a resolution consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two (2) conditions are complied with and such regional housing authority is created and authorized to exercise its powers and other functions, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, and all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The Commissioners Court of each of two (2) or more contiguous counties shall by resolution declare that there is a need for one regional housing authority to be created for all of such counties to exercise powers and other functions herein prescribed in such counties, if such Commissioners Court finds (and only if it finds)

(a) that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and

(b) that a regional housing authority would be a more efficient or economical administrative unit than the housing authority of such county to carry out the

purposes of the Housing Authorities Law in such county.

In any suit, action, or proceeding involving the validity or enforcement of or relating to any contract of the regional housing authority, the regional housing authority shall be conclusively deemed to have become created as a public body corporate and politic and to have become established and authorized to transact business and exercise its powers hereunder upon proof of the adoption of a resolution by the Commissioners Court of each of the counties creating the regional housing authority declaring the need for the regional housing authority. Each such resolution shall be deemed sufficient if it declares that there is need for the regional housing authority and finds in substantially the foregoing terms (no further detail being necessary) that the conditions enumerated above in (a) and (b) exist. A copy of such resolution of the Commissioners Court of a county, duly certified by the county clerk of such county, shall be admissible in evidence in any suit, action, or proceeding.

Area of Operation of County or Regional Housing Authorities

Sec. 23c. The area of operation of a regional housing authority shall include all of the counties for which such regional housing authority is created and established except that portion of the counties which lies within the territorial boundaries of any city. Provided that a county or regional housing authority shall not undertake any housing project or projects within the boundaries of any city unless a resolution shall have been adopted by the governing body of such city (and also by any housing authority which shall have been theretofore established and authorized to exercise its powers in such city) declaring that there is a need for the county or regional housing authority to exercise its powers within such city.

The area of operation of a regional housing authority shall be increased from time to time to include one or more additional counties not already within a regional housing authority (except in such portion or portions of such additional county or counties which lie within the territorial boundaries of any city) if the Commissioners Court of each of the counties then included in the area of operation of such regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties each adopt a resolution declaring that there is a need for the inclusion of such additional county or counties in the area of operation of such regional housing authority. Upon the adoption of such resolutions, the county housing authority created for each such additional county shall cease to exist except for the purpose of winding up its affairs and executing a deed to the regional housing authority as hereinafter provided; provided, however, that such resolutions shall not be adopted if there is a county housing authority

created for any such additional county which has any obligations outstanding unless first, all obligees of any such county housing authority and parties to the contracts, bonds, notes, and other obligations of any such county housing authority agree with such county housing authority and the regional housing authority to the substitution of such regional housing authority in lieu of such county housing authority on all such contracts, bonds, notes, or other obligations; and second, the commissioners of such county housing authority and the commissioners of such regional housing authority adopt resolutions consenting to the transfer of all the rights, contracts, obligations, and property, real and personal, of such county housing authority to such regional housing authority as hereinafter provided; and provided further that when the above two (2) conditions are complied with and the area of operation of such regional housing authority is increased to include such additional county, as hereinabove provided, all rights, contracts, agreements, obligations, and property of such county housing authority shall be in the name of and vest in such regional housing authority, all obligations of such county housing authority shall be the obligations of such regional housing authority and all rights and remedies of any person against such county housing authority may be asserted, enforced, and prosecuted against such regional housing authority to the same extent as they may have been asserted, enforced, and prosecuted against such county housing authority.

When any real property of a county housing authority vests in a regional housing authority as provided above, the county housing authority shall execute a deed of such property to the regional housing authority which thereupon shall file such deed with the clerk of the county where such real property is, provided that nothing contained in this sentence shall affect the vesting of property in the regional housing authority as provided above.

The Commissioners Court of each of the counties in the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties shall by resolution declare that there is a need for the addition of such county or counties to the regional housing authority, if

(a) the Commissioners Court of each such additional county or counties finds that insanitary or unsafe inhabited dwelling accommodations exist in such county or there is a shortage of safe or sanitary dwelling accommodations in such county available to persons of low income at rentals they can afford and

(b) the Commissioners Court of each of the counties then included in the area of operation of the regional housing authority, the commissioners of the regional housing authority and the Commissioners Court of each such additional county or counties

find that the regional housing authority would be a more efficient or economical administrative unit to carry out the purposes of this Housing Authorities Law if the area of operation of the regional housing authority shall be increased to include such additional county or counties.

In connection with the issuance of bonds or the incurring of other obligations, a regional housing authority may covenant as to limitations on its right to adopt resolutions relating to the increase of its area of operation.

In determining whether dwelling accommodations are unsafe or insanitary under this or the preceding Section, the Commissioners Court of a county shall take into consideration the safety and sanitation of dwellings, the light and air space available to the inhabitants of such dwellings, the degree of overcrowding, the size and arrangement of the rooms and the extent to which conditions exist in such dwellings which endanger life or property by fire or other causes.

No governing body of a county shall adopt any resolution authorized by this or the preceding Section unless a public hearing has first been held. The clerk of such county shall give notice of the time, place, and purpose of the public hearing at least ten days prior to the day on which the hearing is to be held, in a newspaper published in such county, or if there is no newspaper published in such county, then in a newspaper published in the State and having a general circulation in such county. Upon the date fixed for such public hearing an opportunity to be heard shall be granted to all residents of such county and to all other interested persons.

Commissioners of Regional Housing Authority

Sec. 23d. When a regional housing authority has been created as provided above, the Commissioners Court of each county included in such regional housing authority shall thereupon appoint one person as a commissioner of the regional housing authority. When the area of operation of a regional housing authority is increased to include an additional county or counties as provided above, the Commissioners Court of each county shall thereupon appoint one additional person as a commissioner of the regional housing authority. The Commissioners Court of each such county shall thereafter appoint each person to succeed such commissioner of the regional housing authority. A certificate of the appointment of any such commissioner shall be filed with the clerk of the county, and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. If a regional housing authority includes only two counties, the commissioners of such authority appointed by the Commissioners Court of such counties shall appoint one additional commissioner to such authority. The commissioners of such authority appointed by the Commissioners Court of such counties shall likewise appoint each person to

succeed such additional commissioner; provided that the term of office of such person begins during the terms of office of the commissioners appointing him; and provided further that no person shall be appointed to succeed such additional commissioner in the event the area of operation of the regional housing authority is increased to include more than two counties. A certificate of the appointment of any such additional commissioner of such regional housing authority shall be filed with the other records of the regional housing authority and shall be conclusive evidence of the due and proper appointment of such additional commissioner. The commissioners of a regional housing authority shall be appointed for terms of two (2) years except that all vacancies shall be filled for the unexpired terms. Each commissioner shall hold office until his successor has been appointed and has qualified, except as otherwise provided herein.

For inefficiency or neglect of duty or misconduct in office, a commissioner of a regional housing authority may be removed by the Commissioners Court appointing him, or in the case of the commissioner appointed by the commissioners of the regional housing authority, by such commissioners; provided that such commissioner shall be removed only after he shall have been given a copy of the charges against him at least ten (10) days prior to the hearing thereon and provided that such commissioner shall have had an opportunity to be heard in person or by counsel. In the event of the removal of a commissioner by the Commissioners Court appointing him, a record of the proceedings, together with the charges and findings thereon, shall be filed in the office of the clerk of the county; and in the case of the removal of the commissioner appointed by the commissioners of the regional housing authority, such record shall be filed with the other records of the regional housing authority.

The commissioners appointed as aforesaid shall constitute the regional housing authority, and the powers of such authority shall be vested in such commissioners in office from time to time.

The commissioners of a regional housing authority shall elect a chairman from among the commissioners and shall have power to select or employ such other officers and employees as the regional housing authority may require. A majority of the commissioners of a regional housing authority shall constitute a quorum of such authority for the purpose of conducting its business and exercising its powers and for all other purposes.

Powers of Regional Housing Authority

Sec. 23e. Except as otherwise provided herein, a regional housing authority and the commissioners thereof shall, within the area of operation of such regional housing authority, have the same functions, rights, powers, duties, privileges, immunities and limitations provided for housing authorities created for cities or

counties and the commissioners of such housing authorities in the same manner as though all the provisions of law applicable to housing authorities created for cities or counties were applicable to regional housing authorities; provided, that for such purposes the term "Mayor" or "governing body" as used in the Housing Authorities Law shall be construed as meaning "Commissioners Court" and the term "city" as used therein shall be construed as meaning "county" unless a different meaning clearly appears from the context; and provided further that a regional housing authority shall not be subject to the limitations provided in clause (c) of Section 10 of the Housing Authorities Law with respect to housing projects for farmers of low income. A regional housing authority shall have power to select any appropriate corporate name.

Rural Housing Projects

Sec. 23f. County housing authorities and regional housing authorities are specifically empowered and authorized to borrow money, accept grants and exercise their other powers to provide housing for farmers of low income. In connection with such projects, any such housing authority may enter into such leases or purchase agreements, accept such conveyances and rent or sell dwellings forming part of such projects to or for farmers of low income, as such housing authority deems necessary in order to assure the achievement of the objectives of this Act. Such leases, agreements or conveyances may include such covenants as the housing authority deems appropriate regarding such dwellings and the tracts of land described in any such instrument, which covenants shall be deemed to run with the land where the housing authority deems it necessary and the parties to such instrument so stipulate. Nothing contained in this Section shall be construed as limiting any other powers of any housing authority.

Housing Applications by Farmers

Sec. 23g. The owner of any farm operated, or worked upon, by farmers of low income in need of safe and sanitary housing may file an application with a county housing authority or a regional housing authority requesting that it provide for a safe and sanitary dwelling or dwellings for occupancy by such farmers of low income. Such applications shall be received and examined by housing authorities in connection with the formulation of projects or programs to provide housing for farmers of low income.

Farmers of Low Income Defined

Sec. 23h. "Farmers of low income," as used in this Act, shall mean persons or families who at the time of their admission to occupancy in a dwelling of a housing authority:

- (1) live under unsafe or insanitary housing conditions;
- (2) derive their principal income from operating or working upon a farm; and

(3) had an aggregate average annual net income for the three years preceding their admission that was less than the amount determined by the housing authority to be necessary, within its area of operation, to enable them, without financial assistance, to obtain decent, safe and sanitary housing, without overcrowding.

Severability

Sec. 24. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances, other than those as to which it is held invalid, shall not be affected hereby.

Act Controlling

Sec. 25. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1937, 45th Leg., p. 1144, ch. 462; Acts 1937, 45th Leg., 2nd C.S., p. 1924, ch. 41, § 1; Acts 1941, 47th Leg., p. 926, ch. 563, §§ 1, 2; Acts 1969, 61st Leg., p. 1686, ch. 544, § 1, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 1555, ch. 416, § 1, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., p. 2948, ch. 976, § 1, eff. Aug. 30, 1971.]

Art. 1269k-1. Bonds or Other Obligations of Housing Authorities as Legal Investments and Security

Authorization; Purpose

Sec. 1. Notwithstanding any restrictions on investments contained in any laws of this State, the State and all public officers, municipal corporations, political subdivisions, and public bodies, all banks, bankers, trust companies, savings banks and institutions, building and loan associations, savings and loan associations, investment companies, and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business and all executors, administrators, guardians, trustees and other fiduciaries may legally invest any sinking funds, moneys or other funds belonging to them or within their control in any bonds or other obligations issued by a housing authority pursuant to the Housing Authorities Law (Chapter 462, Regular Session of the 45th Legislature, as amended by House Bill No. 102, 2nd Called Session of the 45th Legislature, and amendments thereto)¹ or issued by any public housing authority or agency in the United States, when such bonds or other obligations are secured by a pledge of annual contributions to be paid by the United States Government or any agency thereof, or secured or guaranteed by a pledge of the full faith and credit of the United States Government or any agency thereof, and such bonds and other obligations shall be authorized security for all public deposits; it being the purpose of this Act to authorize all persons, firms, corpora-

tions, associations, political subdivisions, bodies and officers, public or private, to use any funds owned or controlled by them, including, but not limited to, sinking, insurance, investment, retirement, compensation, pension and trust funds, and funds held on deposit, for the purchase of any such bonds or other obligations; provided, however, that nothing contained in this Act shall be construed as relieving any person, firm, or corporation from any duty of exercising reasonable care in selecting securities.

Severability

Sec. 3. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, are held invalid the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Act Controlling

Sec. 4. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

[Acts 1939, 46th Leg., p. 427; Acts 1971, 62nd Leg., p. 2367, ch. 729, § 1, eff. June 8, 1971.]

¹ Article 1269k.

Art. 1269k-2. Validation of Establishment and Acts of Housing Authorities

Establishment and Organization

Sec. 1. The establishment and organization of housing authorities pursuant to the provisions of the Housing Authorities Law (House Bill Number 821, Chapter 462, page 1144, Regular Session of the Forty-fifth Legislature, as amended by House Bill Number 102, Chapter 41, page 1924, Second Called Session of the Forty-fifth Legislature, as amended by House Bill Number 834, Chapter 1, page 427, Regular Session of the Forty-sixth Legislature, and any amendments thereto),¹ together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Contracts and Undertakings

Sec. 2. All contracts, agreements, obligations, and undertakings of housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance, or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions, contracts, and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including agreements which are pledged or authorized to be pledged for the

protection of the holders of any notes or bonds issued by housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and unsanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts, and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

Notes and Bonds

Sec. 3. All proceedings, acts, and things heretofore undertaken, performed or done in or for the authorization, issuance, sale, execution, and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved, and declared legal in all respects, notwithstanding any defect or irregularity therein or any want of statutory authority.

[Acts 1941, 47th Leg., p. 900, ch. 544.]

¹ Article 1269k.

Art. 1269k-3. Validation of Acts, Bonds, Contracts, Etc., of Housing Authorities in Counties of 90,000 to 100,000; National Defense Activities

Sec. 1. The acts of any housing authority created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which is located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, in undertaking the development and administration of housing projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof, are hereby validated, ratified, approved, and confirmed in all respects.

Sec. 2. All bonds, notes, contracts, agreements, and obligations of housing authorities created by and organized pursuant to the "Housing Authorities Law" of the State of Texas, and which are located in any county in Texas having a population of not less than ninety thousand (90,000) and not more than one hundred thousand (100,000), according to the last preceding Federal Census, heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government in) the development or administration of any housing project to assure the availability of safe

and sanitary dwellings for persons engaged in national defense activities, are hereby validated, ratified, approved, confirmed, and declared enforceable in all respects.

[Acts 1941, 47th Leg., p. 1301, ch. 576.]

Art. 1269k-4. Projects by Housing Authorities to Make Available Dwellings for Persons in National Defense Activities

Declaration of Necessity

Sec. 1. It is hereby found and declared that the national defense program involves large increases in the military forces and personnel in this State, a great increase in the number of workers in already established manufacturing centers, and the bringing of a large number of workers and their families to new centers of defense industries in the State; that there is an acute shortage of safe and sanitary dwellings available to such persons and their families in this State, which impedes the national defense program; that it is imperative that action be taken immediately to assure the availability of safe and sanitary dwellings for such persons, to enable the rapid expansion of national defense activities in this State and to avoid a large labor turnover in defense industries which would seriously hamper their production; that the provisions hereinafter enacted are necessary to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, which otherwise would not be provided at this time; and that such provisions are for the public use and purpose of facilitating the national defense program in this State. It is further declared to be the purpose of this Act to authorize housing authorities to do any and all things necessary or desirable to secure the financial aid of the Federal Government, or to cooperate with or act as agent of the Federal Government, in the expeditious development and the administration of projects to assure the availability, when needed, of safe and sanitary dwellings for persons engaged in national defense activities.

Time Limit for Initiation of Development; Rights and Powers of Authority; Definitions

Sec. 2. Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, whom the housing authority determines would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof; but no housing authority shall initiate the development of any such project pursuant to this Act after December 31, 1943.

In the ownership, development or administration of such projects, a housing authority shall have all the rights, powers, privileges and immunities that such authority has under any provision of law relating to the ownership, development or administration of slum clearance and housing projects for persons of low income, in the same manner as though all the

provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this Act; and housing projects developed or administered hereunder shall constitute "housing projects" under the Housing Authorities Law, as that term is used therein; provided, that during the period (herein called the "National Defense Period") that a housing authority finds (which finding shall be conclusive in any suit, action or proceeding) that within its area of operation (as defined in the Housing Authorities Law), or any part thereof, there is an acute shortage of safe and sanitary dwellings, which impedes the national defense program in this State, and that the necessary safe and sanitary dwellings would not otherwise be provided when needed for persons engaged in national defense activities, any project developed or administered by such housing authority (or by any housing authority cooperating with it) in such area pursuant to this Act, with the financial aid of the Federal Government (or as agent for the Federal Government as hereinafter provided), shall not be subject to the limitations provided in Section 10 and the second sentence of Section 9 of the Housing Authorities Law;¹ and provided further, that, during the National Defense Period, a housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges or improvements furnished for or in connection with any such projects. After the National Defense Period, any such projects owned and administered by a housing authority shall be administered for the purposes and in accordance with the provisions of the Housing Authorities Law.

¹ Article 1269k.

Cooperation with Federal Government; Sale of Project to Federal Government

Sec. 3. A housing authority may exercise any or all of its powers for the purpose of cooperating with, or acting as agent for, the Federal Government, in the development or administration of projects by the Federal Government, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and may undertake the development or administration of any such project for the Federal Government. In order to assure the availability of safe and sanitary housing for persons engaged in national defense activities, a housing authority may sell (in whole or in part) to the Federal Government, any housing project developed for persons of low income but not yet occupied by such persons; such sale shall be at such price and upon such terms as the housing authority shall prescribe, and shall include provision for the satisfaction of all debts and liabilities of the authority relating to such project.

Cooperation with Federal Government by other State Public Bodies

Sec. 4. Any state public body, as defined in the Housing Cooperation Law (House Bill No. 820, Regular Session of the 45th Legislature, page 1141, as amended by House Bill No. 103, Second Called Session of the 45th Legislature, page 1940,¹ and any additional amendments thereto) shall have the same rights and powers to cooperate with housing authorities, or with the Federal Government, with respect to the development or administration of projects, to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, that such state public body has pursuant to such Law for the purpose of assisting the development or administration of slum clearance or housing projects for persons of low income.

¹ Article 1269l.

Bonds as Security for Public Deposits and as Legal Investments

Sec. 5. Bonds or other obligations issued by a housing authority for a project developed or administered pursuant to this Act, shall be security for public deposits and legal investments to the same extent and for the same persons, institutions, associations, corporations, bodies and officers, as bonds or other obligations issued pursuant to the Housing Authorities Law¹ for the development of a slum clearance or housing project for persons of low income.

¹ Article 1269k.

Validation of Bonds, Notes, Contracts, and Obligations

Sec. 6. All bonds, notes, contracts, agreements and obligations of housing authorities heretofore issued or entered into relating to financing or undertaking (including cooperating with or acting as agent of the Federal Government) in the development or administration of any project to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, are hereby validated and declared legal in all respects, notwithstanding any defects or irregularities therein, or any want of statutory authority.

Act as Independent Authorization

Sec. 7. This Act shall constitute an independent authorization for a housing authority to undertake the development or administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, as provided in this Act, and for a housing authority to cooperate with, or act as agent for, the Federal Government in the development or administration of similar projects by the Federal Government. In acting under this authorization, a housing authority shall not be subject to any limitations, restrictions or requirements of other laws (except those relating to land acquisition) prescribing the procedure or action to be taken in the development or administration of any pub-

lic works, including slum clearance and housing projects for persons of low income, or undertakings or projects of municipal or public corporations or political subdivisions, or agencies of the State. A housing authority may do any and all things necessary or desirable to cooperate with, or act as Agent for, the Federal Government, or to secure financial aid, in the expeditious development or in the administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities, and to effectuate the purposes of this Act.

Definitions

Sec. 8. (a) "Persons engaged in national defense activities," as used in this Act, shall include: enlisted men in the military and naval services of the United States and employees of the War and Navy Departments assigned to duty at military or naval reservations, posts or bases; and workers engaged, or to be engaged, in industries connected with, and essential to, the national defense program; and shall include the families of the aforesaid persons who are living with them.

(b) "Persons of low income," as used in this Act, shall mean persons or families who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding.

(c) "Development" as used in this Act, shall mean any and all undertakings necessary for the planning, land acquisition, demolition, financing, construction or equipment in connection with a project (including the negotiations or award of contracts therefor), and shall include the acquisition of any project (in whole or in part) from the Federal Government.

(d) "Administration," as used in this Act, shall mean any and all undertakings necessary for management, operation or maintenance, in connection with any project, and shall include the leasing of any project (in whole or in part) from the Federal Government.

(e) "Federal Government," as used in this Act, shall mean the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(f) The development of a project shall be deemed to be "initiated", within the meaning of this Act, if a housing authority has issued any bonds, notes or other obligations with respect to financing the development of such project of the authority, or has contracted with the Federal Government, with respect to the exercise of powers hereunder, in the development of such project of the Federal Government for which an allocation of funds has been made prior to December 31, 1943.

(g) "Housing Authority", as used in this Act, shall mean any housing authority established or hereafter established pursuant to the Housing Authorities Law (House Bill No. 821, Regular Session of the 45th Legislature, page

1144, as amended by House Bill No. 102, Second Called Session of the 45th Legislature, page 1924, as amended by Section 2 of House Bill No. 834, Regular Session of the 46th Legislature, page 427, and any additional amendments thereto).¹

¹ Article 1269k.

Powers Additional and Supplemental

Sec. 9. The powers conferred by this Act shall be in addition, and supplemental, to the powers conferred by any other law, and nothing contained herein shall be construed as limiting any other powers of a housing authority.

Partial Invalidity

Sec. 10. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any persons or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1941, 47th Leg., p. 799, ch. 497.]

Art. 1269l. Housing Co-operation Law

Short Title

Sec. 1. This Act may be referred to as the "Housing Co-operation Law."

Finding and Declaration of Necessity

Sec. 2. It has been found and declared in the Housing Authorities Law that there exist in the State unsafe and insanitary housing conditions and a shortage of safe and sanitary dwelling accommodations for persons of low income; that these conditions necessitate excessive and disproportionate expenditures of public funds for crime prevention and punishment, public health and safety, fire and accident protection, and other public services and facilities; and that the public interest requires the remedying of these conditions. It is hereby found and declared that the assistance herein provided for the remedying of the conditions set forth in the Housing Authorities Law constitutes a public use and purpose and an essential governmental function for which public moneys may be spent and other aid given; that it is a proper public purpose for any State Public Body to aid any housing authority operating within its boundaries or jurisdiction or any housing project located therein, as the State Public Body derives immediate benefits and advantages from such an authority or project; and that the provisions hereinafter enacted are necessary in the public interest.

Definitions

Sec. 3. The following terms, whenever used or referred to in this Act shall have the following respective meanings, unless a different meaning clearly appears from the context:

(a) "Housing authority" shall mean any housing authority created pursuant to the Housing Authorities Law of this State.

(b) "Housing project" shall mean any work or undertaking of a housing authority pursuant to the Housing Authorities Law or any similar work or undertaking of the Federal Government.

(c) "State Public Body" shall mean any city, town, county, municipal corporation, commission, district, authority, other subdivision or public body of the State.

(d) "Governing Body" shall mean the council, Commissioners Court, board, or other body having charge of the fiscal affairs of the State Public Body.

(e) "Federal Government" shall mean the United States of America, the United States Housing Authority, or any other agency or instrumentality, corporate or otherwise, of the United States of America.

Cooperation in Undertaking Housing Projects

Sec. 4. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms, as it may determine:

(a) Dedicate, sell, convey or lease any of its property to a housing authority or the Federal Government;

(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places which it is otherwise empowered to undertake;

(d) Plan or replan, zone or re-zone any part of such State Public Body; make exceptions from building regulations or ordinances; any city or town also may change its map;

(e) Enter into agreements, (which may extend over any period, notwithstanding any provision or rule of law to the contrary) with a housing authority or the Federal Government respecting action to be taken by such State Public Body pursuant to any of the powers granted by this Act; and

(f) Do any and all things, necessary or convenient to aid and co-operate in the planning, undertaking, construction, or operation of such housing projects.

(g) Purchase or legally invest in any of the bonds of a housing authority and exercise all of the rights of any holder of such bonds.

(h) With respect to any housing project which a housing authority has acquired or taken over from the Federal Government

and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation, and other protection, no State Public Body shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction.

(i) In connection with any public improvements made by a State Public Body in exercising the powers herein granted, such State Public Body may incur the entire expense thereof. Any law or Statute to the contrary notwithstanding, any sale, conveyance, lease, or agreement provided for in this Section may be made by a State Public Body without appraisal, public notice, advertisement, or public bidding.

Further Cooperation in Undertaking Housing Projects

Sec. 4-a. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of housing projects located within the area in which it is authorized to act, any State Public Body may upon such terms as it may determine: (a) enter into agreements with respect to the exercise by such State Public Body of its powers relating to the repair, elimination or closing of unsafe, insanitary or unfit dwellings; and (b) cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish.

Contracts for Payments for Services

Sec. 5. In connection with any housing project located wholly or partly within the area in which it is authorized to act, any State Public Body may contract with a housing authority or the Federal Government with respect to the sum or sums (if any) which the housing authority or the Federal Government may agree to pay during any year or period of years, to the State Public Body for the improvements, services and facilities to be furnished by it for the benefit of said housing project, but in no event shall the amount of such payments exceed the estimated cost to the State Public Body of the improvements, services or facilities to be so furnished; provided, however, that the absence of a contract for such payments shall in no way relieve any State Public Body from the duty to furnish, for the benefit of said housing project, customary improvements and such services and facilities as such State Public Body usually furnish without a service fee.

Loans to Housing Authority

Sec. 6. When any housing authority which is created for any city, becomes authorized to transact business and exercise its powers therein, the governing body of the city shall immediately make an estimate of the amount of money necessary for the administrative expenses and overhead of such housing authority during the first year thereafter, and shall appro-

priate such amount to the authority out of any moneys in such city treasury not appropriated to some other purposes. The moneys so appropriated shall be paid to the authority as a loan. Any city located in whole or in part within the area of operation of a housing authority shall have the power from time to time to lend money to the authority or to agree to take such action. The housing authority, when it has money available therefor, shall make reimbursements for all such loans made to it.

Procedure for Exercising Powers

Sec. 7. The exercise by a State Public Body of the powers herein granted may be authorized by resolution of the governing body of such State Public Body adopted by a majority of the members of its governing body present at a meeting of said governing body, which resolutions may be adopted at the meeting at which such resolution is introduced. Such a resolution or resolutions shall take effect immediately and need not be laid over or published or posted.

Notice of Proposed Action; Petitions and Election

Sec. 7-a. None of the actions named in this Act shall ever be consummated until the governing body of such state public body shall have given notice of its intention to enter into a cooperation agreement with a housing authority, such notice to be given by publishing a copy thereof in its officially designated newspaper, if it has one, at least twice; which notice shall state that at the expiration of sixty (60) days the governing body will consider the question of whether or not it will enter into a cooperation agreement. If, during such sixty-day period, there is presented to the governing body a petition that an election be held on the question of whether or not such governing body shall enter into such cooperation agreement, signed by two thousand (2,000) or five per cent (5%), in number, of all the qualified voters of such state public body, and such petition is found to have the requisite number of legally qualified voters, then it shall be the duty of the governing body to order an election to be held for such purpose at such time as it may designate in the election call; provided, however, that no such election shall be held unless two (2) weeks notice is given as is presently required by law to be given in connection with elections on the question of issuing tax supported bonds. All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall execute such cooperation agreement.

Provided, however, the governing body of said state public body may on its own motion call an election to be held on the question of whether such governing body shall enter into such cooperation agreement. All qualified vot-

ers residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body of such state public body shall then be authorized to execute such cooperation agreement.

In the event such governing body of a state public body fails or refuses to give notice of its intention to enter into a cooperation agreement with a "Housing Authority" or fails or refuses on its own motion to submit said proposition to the qualified voters of such state public body, as hereinabove provided, then upon the filing of a petition demanding same signed by two thousand (2,000) or five per cent (5%) in number of the qualified voters of said state public body, the governing body of said state public body shall order an election for the purpose of submitting a proposition for the approval of such "Housing Project". All qualified voters residing in such state public body shall be entitled to vote at such election, and if a majority of those voting at such election shall vote in favor of such cooperation agreement, the governing body shall then be authorized to execute such cooperation agreement; provided, however, that the provisions of this section shall not affect any actions taken or to be taken by a state public body with respect to a "Housing Project" for which a cooperation agreement as that term is defined by this Article has been executed prior to the effective date of this Act. The law pertaining to elections for the issuance of city and county bonds as contained in Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, insofar as applicable to and not inconsistent with the provisions of this section, shall govern the elections herein provided for.

Supplemental Nature of Act

Sec. 8. The powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Severability

Sec. 9. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

[Acts 1937, 45th Leg., p. 1141, ch. 461; Acts 1937, 45th Leg., 2nd C.S., p. 1940, ch. 42, § 1; Acts 1951, 52nd Leg., p. 117, ch. 73.]

Art. 1269I-1. Rent Control

Sec. 1. Rent control as established by the Act of the Eighty-first Congress of the United States, extending rent control for a period of fifteen (15) months from and after March 31, 1949, as further described in Housing and Rent Act of 1949, H.R. 1731,¹ is hereby abolished in the State of Texas and is declared to be no

longer needed in the State of Texas, and all Federal rent controls are hereby declared no longer needed in the State of Texas.

Sec. 1a. It is further provided however that the governing body of any city or town may, by ordinance duly passed, finding that a housing emergency exists, establish rent control in such city or town for the duration of such housing emergency provided that the ordinance so passed is approved by the Governor of the State of Texas.

Sec. 2. If any part, Section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity.

[Acts 1949, 51st Leg., p. 879, ch. 472.]
 1 50 U.S.C.A. Appendix, § 1884 et seq.

Art. 1269l-2. State Department of Health; Planning and Assistance for Political Subdivisions; Acceptance of Federal Grants for Housing

The Texas State Department of Health is hereby authorized, upon the request of the governing body of any political subdivision or the authorized agency of any group of political subdivisions:

(a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the State Department of Health, provided, however, that the employees of the State Department of Health shall not themselves make such surveys, studies, or reports;

(b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the State Department of Health for such service; and

(c) to apply for and accept grants from the Federal Government or other sources in connection with any such assistance, study, or report, and to contract with respect thereto.

The regular functions of the Texas State Department of Health may be utilized in this program, provided that any additional employees shall be paid from sources other than General Revenue Funds of the State.

[Acts 1957, 55th Leg., p. 235, ch. 112, § 1; Acts 1961, 57th Leg., p. 162, ch. 83, § 1.]

Art. 1269l-2.1 Governor's Office; Planning Assistance for Political Subdivisions; Payment; Federal Grants; Transfer of Property, Etc.

Sec. 1. The governor or his designated representative is hereby authorized, upon request

to¹ the governing body of any political subdivision or the authorized agency of any group of political subdivisions:

(a) to arrange planning assistance (including surveys, community renewal plans, technical services, and other planning work) and to arrange for the making of a study or report upon any planning problem of any such political subdivision or political subdivisions submitted to the governor or his representative;

(b) to agree with such governing body or the agency of such governing bodies as to the amount, if any, to be paid to the governor's office for such service; and

(c) to apply for and accept grants from the federal government or other sources in connection with any such assistance, study or report, and to contract with respect thereto. The regular functions of the office of the governor or other state agencies may be utilized in this program.

Sec. 2. All property, records, and personnel used by the State Department of Health in administering such programs for planning assistance as are authorized in this Act are transferred to the governor's office.

Sec. 3. The provisions of this Act shall take effect and be in full force on and after September 1, 1969.

Sec. 4. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

[Acts 1969, 61st Leg., p. 1449, ch. 429, eff. Sept. 1, 1969.]

¹ Possibly should read "of".

Art. 1269l-3. Urban Renewal Law

Short Title

Sec. 1. This Act shall be known and may be cited as the "Urban Renewal Law."

Findings and Declarations of Necessity

Sec. 2. It is hereby found and declared that there exist in cities of the State slum and blighted areas (as herein defined) which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the State; that the existence of such areas contributes substantially and increasingly to the spread of disease and crime, necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, and punishment and for the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection and other public services and facilities, and that the existence of such areas constitutes an economic and social liability, substantially impairs or arrests the sound growth of such cities and retards the provision of housing accommodations; that the prevention and elimination of slum and blighted areas is a matter of State policy and State concern

in order that the State and its cities shall not continue to be endangered by areas which are focal centers of disease, constitute pernicious environments for the young, and while contributing little to the tax income of the State and its cities, consume an excessive proportion of its revenues because of the extra services required for police, fire and other forms of protection; that by such prevention and elimination property values, freed from the depressing influence of blight, will be stabilized, and tax burdens will be distributed more equitably, and the financial and capital resources of the State, required for the prosperity of, and provision of necessary governmental services to, its people, will be strengthened; that this menace can best be remedied by conjunctive action of private enterprise, of the cities through the regulatory process and the exercise of other powers provided hereunder, and of other public bodies, acting pursuant to approved urban renewal plans; that the carrying out of plans for a program of voluntary or compulsory repair and rehabilitation of buildings and improvements in such areas, the public acquisition of real property and demolition or removal of buildings and improvements where necessary to eliminate slum conditions or conditions of blight or to prevent the development, spread or recurrence of such conditions in such areas, the disposition of any property acquired in such areas incidental to the foregoing, and any assistance which may be given by any public body in connection therewith, are public uses and purposes for which public money may be expended and the power of eminent domain exercised; and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.

It is further found and declared that slum and blighted areas, if permitted to continue without the governmental aids herein provided, will produce the conditions and evils hereinabove enumerated; that a slum area or a badly deteriorated area may require clearance therefrom of the buildings and improvements thereon, as provided in this Act, since the prevailing condition of decay may make impracticable the reclamation of the area by rehabilitation; that a less deteriorated area, a deteriorating area, or an area blighted for other reasons may, through the means provided in this Act, be susceptible of rehabilitation in such manner that the conditions and evils hereinabove enumerated may be remedied or prevented; and that it is the intent of this Act that to the greatest extent feasible, and compatible with sound and enduring urban renewal objectives—to wit, eliminating slums and urban blight, preventing the spread or recurrence thereof, and remedying the physical causes thereof in terms of blighted properties—private enterprise shall, in the administration of this Act, be encouraged to carry out such objectives to the extent of its capacity to do so with the assistance of the aids herein provided.

Not Available for Public Housing; Exception; Election

Sec. 3. (a) No real property acquired under the provisions of this Act shall be sold, leased, granted, conveyed or otherwise made available for any public housing, except as provided in subsection (b) of this Section.

(b) Real property acquired under the provisions of this Act may be sold, leased, granted, conveyed or otherwise made available for public housing if an election is held at which a majority of the qualified electors voting approve that use of the property. The election shall be called and held in the same way that an election is called and held under Section 5 of this Act, except that any qualified voter of the city may vote at the election. At the election, the ballots shall be printed to permit voting for or against the proposition: "Permitting the use of land acquired by urban renewal for public housing."

(c) If the qualified voters of a city have approved the use of land acquired under this Act for public housing, an election may be called for the purpose of prohibiting the use of land of that type for public housing. The election shall be called and held in the same manner as an election held under subsection (b) of this Section, except the ballots shall be printed to permit voting for or against the proposition: "Prohibiting the use of land acquired by urban renewal for public housing." If a majority of the qualified electors voting favor prohibiting the use of land acquired by urban renewal for public housing, the prohibition contained in subsection (a) of this Section applies. An election which results in prohibiting the use of land acquired by urban renewal for public housing does not affect land which has been sold, leased, granted, conveyed or otherwise made available for public housing at the time of the election.

(d) When an election is held under this Section, no other election may be held under this Section in the same city for a period of one year.

Definitions

Sec. 4. The following terms wherever used or referred to in this Act, shall have the following meanings, unless a different meaning is clearly indicated by the context.

(a) "Agency" or "Urban Renewal Agency" shall mean a public agency created by Section 16 of this Act.

(b) "City" shall mean any incorporated city, town or village in the State of Texas.

(c) "Public body" shall mean the State of Texas or any political subdivision thereof, or any department, agency or instrumentality of any such public body.

(d) "City Council" shall mean the city council or other legislative body charged with governing the city.

(e) "Mayor" shall mean the mayor or other chief executive officer of a city.

(f) "Clerk" shall mean the clerk or other official of the city who is the custodian of the official records of such city.

(g) "Federal Government" shall include the United States of America or any agency or instrumentality, corporate or otherwise, of the United States of America.

(h) "Slum Area" shall mean an area within a city in which there is a predominance of either residential or nonresidential buildings or improvements which are in a state of dilapidation, deterioration or obsolescence due to their age, or for other reasons; or an area in which inadequate provisions have been made for open spaces and which is thus conducive to high population densities and overcrowding of population; or an area of open land which, because of its location and/or situation within the city limits of a city, is necessary for sound community growth, by re-platting and planning and development, for predominantly residential uses; or an area in which conditions exist, due to any of the hereinabove named causes, or any combination thereof, which endanger life or property by fire or by other causes, or which is conducive to the ill-health of the inhabitants of the area or to the transmission of disease, and to the incidence of abnormally high rates of infant mortality, or which is conducive to abnormally high rates of crime and juvenile delinquency, or which is not conducive to an orderly development by reason of inadequate and/or improper platting with adequate lots for residential development of lots, streets and public utilities, and is thus an area which is detrimental to the public health, safety, morals or welfare of the city.

(i) "Blighted Area" shall mean an area (other than a slum area) which, by reason of the presence therein of slum or deteriorated or deteriorating residential or nonresidential buildings, structures, or improvements, or by reason of the predominance therein of defective or inadequate streets or defective or inadequate street layout or accessibility, or by reason of the existence therein of insanitary, unhealthful or other hazardous conditions which endanger the public health, safety, morals or welfare of the inhabitants thereof and of the city, or by reason of the predominance therein of the deterioration of site or other improvements, or by reason of the existence therein of conditions which endanger life, or property by fire or from other causes, or by reason of the existence therein of any combination of the hereinabove stated causes, factors, or conditions, results in a condition in that area which substantially retards or arrests the provisions of a sound and healthful housing environment, or which thereby results in and constitutes an economic or social liability

to the city, and is thus a menace, in its present condition and use, to the public health, safety, morals or public welfare of the city, provided, that any disaster area referred to in Section 7(h) of this Act shall constitute a blighted area.

(j) "Urban Renewal Project" may include undertakings of a city (as herein defined) in an urban renewal area for the elimination and for the prevention of the development or spread of slums and blight, and may involve slum clearance and redevelopment (as herein defined) in an urban renewal area, or rehabilitation or conservation (as herein defined) in an urban renewal area, and may include open land which, because of its location and/or situation, is necessary for sound community growth which is to be developed, by replatting and planning, for predominantly residential uses, or any combination or part thereof in accordance with the urban renewal plan therefor.

(k) "Urban Renewal Activities" shall, wherever used in this Act, include "slum clearance and redevelopment" or "rehabilitation or conservation" which shall be limited to clearance or rehabilitation measures or any combination thereof which might be required to prevent further deterioration of an area which is tending to become either a blighted or a slum area and shall specifically include:

(1) acquisition of (i) a slum area or a blighted area or portion thereof or (ii) land which is predominately open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements or otherwise, substantially impairs or arrests the sound growth of the community;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the urban renewal area the urban renewal objectives of this Act in accordance with the urban renewal plan;

(4) disposition of any property acquired in the urban renewal area including sale, initial leasing or retention by the city at its fair value for uses in accordance with the urban renewal plan;

(5) carrying out plans for a program of voluntary repair and rehabilitation of buildings or other improvements in accordance with the urban renewal plan; and

(6) acquisition of any real property in the urban renewal area where necessary to remove or prevent the spread

of blight or deterioration or to provide land for needed public facilities.

(l) "Urban Renewal Area" shall mean a slum area or a blighted area or a combination thereof, which the city council designates as appropriate for an urban renewal project.

(m) "Urban Renewal Plan" shall mean a plan for an urban renewal project, which plan (1) shall conform to the general plan of the city as a whole, except as provided in Section 7(h) of this Act and (2) shall be sufficiently complete to indicate zoning and planning changes, if any; building requirements; land uses; maximum densities; such land acquisition, redevelopment, rehabilitation, and demolition and removal of structures as may be proposed for the urban renewal area; and the plan's relationship to local objectives respecting public transportation, traffic conditions, public utilities, recreational and community facilities, and other improvements.

(n) "Real Property" shall include all lands, including improvements and fixtures thereon, and property of any nature appurtenant thereto, or used in connection therewith, and every estate, interest, right and use, legal or equitable, therein, including terms for years and liens by way of judgment, mortgage or otherwise.

(o) "Bonds" shall mean any bonds (including refunding bonds), notes, interim certificates, certificates of indebtedness, debentures or other obligations.

(p) "Obligee" shall include any bondholder, agents or trustees for any bondholders, or lessor demising to the city property used in connection with an urban renewal project, or any assignee or assignees of such lessor's interest or any part thereof, and the Federal Government when it is a party to any contract with the city.

(q) "Person" shall mean any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and shall include any trustee, receiver, assignee, or other person acting in a similar representative capacity.

(r) "Area of Operation" shall mean the area within the corporate limits of a city.

(s) "Board" or "Commission" shall mean a board, commission, department, division, office, body or other unit of the city through which the city elects, pursuant to Section 15 hereof, to perform powers, functions or duties under this Act.

(t) "Conservation" shall mean the preserving, protecting and keeping of an area which is susceptible to blight from succumbing to blight.

(u) "Deteriorated" shall mean the impairment as to quality, character, value or

safety due to use, wear and tear or other physical causes.

(v) "Planning Commission" shall mean a planning commission established pursuant to law or charter.

(w) "Rehabilitate" shall mean to restore to a former state of solvency, efficiency or the like. "Rehabilitation" shall mean the restoration of buildings or structures in order to prevent deterioration of an area which is tending to become either a blighted or slum area.

Finding of Necessity by City Council

Sec. 5. No city shall exercise any of the powers conferred upon cities by this Act until after the City Council shall have adopted a resolution, after giving notice and ordering an election on the question of whether the City Council shall adopt such resolution, finding that:

(1) one or more slum or blighted areas exist in such city; and

(2) the rehabilitation, conservation, or slum clearance and redevelopment, or a combination thereof, of such area or areas is necessary in the interest of public health, safety, morals or welfare of the residents of such city.

Such notice shall be published at least twice in the newspaper officially designated by the City Council and shall state that on a date certain, which date shall be stated in the notice and shall be not less than sixty (60) days after the publication of the first of such notices, the City Council will consider the question of whether or not it will order an election to determine if it should adopt such a resolution. On the date specified in the notice to consider such question the City Council may, on its own motion, call an election to determine whether it shall adopt such a resolution and shall, in any event, call such election if there has been presented to it during such period a petition that such election be held, signed by at least five per cent (5%) of the legally qualified voters residing in such city and owning taxable property within the boundaries thereof, duly rendered for taxation. If it be determined to call such an election, at least thirty (30) day's notice thereof shall be given. Notwithstanding any other provisions of this Act, no powers granted by this Act shall be exercised by any city until an election shall have been held as herein provided with a majority of the votes cast at such election being cast in favor of the exercise of such powers by such city. Only qualified voters residing in said city, owning taxable property within the boundaries thereof, who have duly rendered the same for taxation, shall be entitled to vote at such election. If a majority of those voting at such election shall vote in favor of the adoption of such resolution, the City Council shall then be authorized to adopt it. If a majority of those voting at such election shall vote against the adoption of such resolution, the City Council shall not adopt it

and such resolution shall not again be proposed within the period of one (1) year.

Alternate Method of Approval

Sec. 5a. Provisions in Section 5 to the contrary notwithstanding, any city which has not approved the exercise of urban renewal powers pursuant to Section 5 prior to the enactment of this Section may, in lieu of complying with Section 5, approve the exercise of urban renewal powers for a specific urban renewal project in the following manner:

(a) An election to approve an urban renewal project shall be called and held in the same manner that elections are called and held under Section 5 of this Act. Only qualified voters residing in the city, who own taxable property within the boundaries thereof duly rendered for taxation, may vote at the election.

(b) The resolution calling the election and the notice of the election shall contain the following information:

(1) a complete legal description of the area included in the proposed project;

(2) a statement of the nature of the proposed project; and

(3) the total amount of local funds to be spent on the proposed project.

(c) The ballot proposition at the election need not contain a complete legal description of the area included in the project, but shall contain a general description of the area which is sufficient to give notice to the voters of where the proposed project is to be carried out. The proposition shall also contain a statement of the nature of the proposed project and the total amount of local funds to be spent on the project.

(d) If the ballot proposition is approved, the city may not exceed in any respect the limitations imposed on the project in the resolution calling the election with respect to the area, nature, or amount of local funds to be spent on the project. If the city desires to expand the project beyond any of those limitations, the proposed expansion must be approved at an election in the same manner as an original project.

(e) Voter approval is not required for preliminary planning of an urban renewal project.

(f) This Section shall not require any further elections, resolutions or actions of any city presently exercising the powers conferred by this Act. All elections, findings, actions, determinations, decisions, rules, regulations and conveyances of any city or agency exercising the powers conferred by this Act are hereby ratified, validated and confirmed; except such elections, findings, actions, determinations, decisions, rules, regulations or conveyances

which are the subject of litigation pending at the time of enactment of this amendment.

Workable Program

Sec. 6. A city, in furtherance of the urban renewal objectives of this Act, may formulate a workable program for utilizing appropriate private and public resources (including those specified in Section 8 hereof) to encourage needed urban rehabilitation, to provide for the redevelopment of slum and blighted areas, or to undertake such of the aforesaid activities or other feasible municipal activities as may be suitably employed to achieve the objective of such a workable program. Such workable program should include specifically, without limitation, provision for the prevention of the spread of blight into areas of the city which are free from blight, through diligent enforcement of housing and occupancy controls and standards; the rehabilitation or conservation of slum and blighted areas, in so far as it shall be practicable to convert them into areas free from blight, by replanning, removing congestion, providing parks, playgrounds and other public improvements, encouraging voluntary rehabilitation, and compelling the repair and rehabilitation of deteriorated or deteriorating structures; and the clearance and redevelopment of slum areas.

Preparation and Approval of Urban Renewal Plan

Sec. 7. (a) A city shall not prepare an urban renewal plan for an urban renewal area unless the City Council has, by resolution, determined such an area to be a slum area or a blighted area or a combination thereof, and designated such area as appropriate for an urban renewal project. The City Council shall not approve an urban renewal plan until a general plan for the city has been prepared. A city shall not acquire real property for an urban renewal project unless the City Council has approved the urban renewal plan in accordance with subsection (d) hereof.

(b) Any person or agency, public or private, may submit an urban renewal plan to the city. Prior to its approval of such an urban renewal plan, the City Council shall submit such proposed plan to the urban renewal agency and the planning commission of the city, if any, for review and recommendations as to its conformity with the general plan for the development of the city as a whole. The agency and planning commission shall submit their written recommendations with respect to the proposed urban renewal plan to the City Council within thirty (30) days after receipt of the plan for review. Upon receipt of such recommendations or, if no recommendations are received within said thirty (30) days, then without such recommendations, the City Council may proceed with the hearing on the proposed urban renewal plan prescribed by subsection (c) hereof.

(c) The City Council shall hold a public hearing on the proposed urban renewal plan

before it may approve the urban renewal plan, after notice of hearing has been given by publication three (3) times in a newspaper having a general circulation in the city, the first of which notices shall be published at least thirty (30) days prior to the hearing. Such notice shall describe the time, date, place and purpose of the hearing, shall generally identify the urban renewal area and shall outline the general scope of the urban renewal project under consideration.

(d) Following such hearing, the City Council may approve an urban renewal plan if it finds that

(1) a feasible method exists for the location of families or individuals who will be displaced from the urban renewal area in decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families or individuals;

(2) the urban renewal plan conforms to the general plan of the city as a whole; and

(3) the urban renewal plan will afford maximum opportunity, consistent with the sound needs of the city as a whole, for the rehabilitation or redevelopment of the urban renewal area by private enterprise.

(e) An urban renewal plan may be modified at any time; provided, that if modified after the lease or sale by the city of real property in the urban renewal project area, such modification shall be subject to such rights at law or in equity as a lessee or purchaser, or his successor or successors in interest, may be entitled to assert. If any proposed modification of the urban renewal plan adopted for an area should affect the street layout, land use, public utilities, zoning, if any, open space and density, then such modification shall not be made until it has been submitted to the planning commission and a report rendered to the City Council as outlined in subsection (b) hereof.

(f) Upon the approval of an urban renewal plan by the city, the provisions of said plan with respect to the future use and building requirements applicable to the property covered by said plan shall be controlling with respect thereto.

(g) In any urban renewal area or project, if there exists a building or buildings in good state of repair and so located that the building or buildings can be incorporated into the renewal project pattern or plan adopted for that area, such building or buildings shall not be acquired without the consent of the owner or owners; provided further that if any owner of property in such area agrees to use such property in a manner not inconsistent with the purposes of the urban renewal plan and the improvements on such property do not constitute a fire or health hazard, then such property shall not be subject to the powers of eminent domain. Any property owner shall have the right to contest before the City Council such powers of eminent domain as respects his indi-

vidual ownership and shall have the right of appeal to the District Court with a trial de novo.

(h) Notwithstanding any other provisions of this Act, where the local governing body certifies that an area is in need of redevelopment or rehabilitation as a result of a flood, fire, hurricane, earthquake, storm, or other catastrophe respecting which the Governor of the State has certified the need for disaster assistance under Public Law 875, Eighty-first Congress, or other Federal law, the local governing body may approve an urban renewal plan and an urban renewal project with respect to such area without regard to the provisions of subsection (d) of this Section and the provisions of this Act requiring a general plan for the municipality and a public hearing on the urban renewal project.

Encouragement of Private Enterprise

Sec. 8. A city, to the greatest extent it determines to be feasible in carrying out the provisions of this Act, shall afford maximum opportunity, consistent with the sound needs of the city as a whole, to the rehabilitation or redevelopment of the urban renewal area by private enterprise. A city shall give consideration to this objective in exercising its powers under this Act, including the formulation of a workable program, the approval of urban renewal plans (consistent with the general plan of the municipality), the exercise of its zoning powers, and enforcement of other laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements, the disposition of any property acquired, and the provision of necessary public improvements.

Powers

Sec. 9. A city shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this Act, including the following powers in addition to others herein granted:

(a) To conduct preliminary surveys to determine if the undertakings and carrying out of urban renewal projects is feasible.

(b) To undertake and carry out urban renewal projects within its area of operation.

(c) To make and execute contracts and other instruments necessary or convenient to the exercise of its powers under this Act.

(d) To provide or arrange or contract for the furnishing or repair by any person or agency, public or private, of services, privileges, works, streets, roads, public utilities or other facilities for or in connection with an urban renewal project; to install, construct and reconstruct streets, utilities, parks, playgrounds, and other public improvements necessary for carrying out urban renewal projects.

(e) To acquire by purchase, lease, option, gift, grant, or bequest, devise, eminent domain or otherwise, any real property (or personal property for its administrative purposes) together with any improvements thereon, necessary or incidental to an urban renewal project; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of any real or personal property or operations of the city against any risks or hazards, including the power to pay premiums on any such insurance; and to enter into any contracts necessary to effectuate the purpose of this Act.

(f) To invest any urban renewal project funds held in reserves or sinking funds or any such funds not required for immediate disbursements, in property or securities in which banks may legally invest funds subject to their control; to redeem such bonds as have been issued pursuant to Section 15 of this Act at the redemption price established therein or to purchase such bonds at less than redemption price, all such bonds so redeemed or purchased to be cancelled.

(g) To borrow money and to apply for and accept advances, loans, grants, contributions and any other form of financial assistance from the Federal Government, the State, County or other public body or from any sources, public or private, for the purposes of this Act, and to give such security as may be required and to enter into and carry out contracts in connection therewith. A city may include in any contract for financial assistance with the Federal Government for an urban renewal project such provisions and conditions imposed pursuant to Federal Law as the city may deem reasonable and appropriate and which are not inconsistent with the purposes of this Act.

(h) Within its area of operation, to make or have made all plans necessary to the carrying out of the purposes of this Act and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend such plans. The city is authorized to develop, test and report methods and techniques and carry out demonstrations and other activities, for the prevention and the elimination of slums and urban blight, and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

(i) To prepare plans and provide reasonable assistance for the relocation of persons (including families, business concerns, and others) displaced from an urban renewal project area to the extent essential for acquiring possession of and

clearing such area or parts thereof to permit the carrying out of the urban renewal project.

(j) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; to plan or replan, zone or rezone any part of the city and to make exceptions from building regulations; and to enter into agreements with an urban renewal agency vested with urban renewal powers under Section 15 of this Act (which agreements may extend over any period, notwithstanding any provision or rule or law to the contrary), restricting action to be taken by such city pursuant to any of the powers granted by this Act; provided, however, that no taxes or assessments shall be levied under authority or for the purposes of this Act unless and until such levy shall first have been submitted to a vote of the property-owning taxpayers of said city, and said proposition shall have received a majority of the votes cast as being "for" such levy.

(k) Within its area of operation to organize, coordinate and direct the administration of the provisions of this Act as they apply to such city in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such city may be most effectively promoted and achieved, and to establish such new office or offices of the city or to reorganize existing offices in order to carry out such purpose most effectively.

(l) To exercise all or any part or combination of powers herein granted.

Eminent Domain

Sec. 10. A city shall have the right to acquire by condemnation any interest in any real property, including a fee simple title thereto, which it may deem necessary for or in connection with an urban renewal project under this Act; provided, however, that if any such urban renewal project shall include a "slum clearance and redevelopment section," as that term is hereinafter defined, which section a city shall propose to clear for redevelopment and re-use other than for a public use, a city may not acquire by condemnation any such "slum clearance and redevelopment section" or portion thereof, unless it shall appear, and the City Council shall have found and determined, by resolution duly adopted, that the rehabilitation of such section without clearance would be impractical, infeasible and ineffective, based upon its finding that at least fifty per cent (50%) of the structures in such section are dilapidated beyond the point of feasible rehabilitation, or are otherwise unfit for rehabilitation, and that there exist other blighting characteristics, such as overcrowding of struc-

tures on the land, mixed uses of structures, narrow, crooked, inconvenient, congested, unsafe or otherwise deficient streets, or deficiencies in public utilities or recreational and community facilities. A city may exercise the power of eminent domain in the manner provided in Articles 3264 to 3271, both inclusive, Revised Civil Statutes of Texas, 1925, and acts amendatory thereof or supplementary thereto. Property already devoted to a public use may be acquired in like manner; provided, that no real property belonging to the State, or any political subdivision thereof, may be acquired without its consent. The term "slum clearance and redevelopment section," as that term is used in this Section, shall be construed as meaning, and shall mean, any substantial contiguous part or portion of an urban renewal area which a city shall propose to acquire and clear of all buildings, structures and other improvements thereon for redevelopment and reuse in accordance with the urban renewal plan.

Relocation of Transmission Lines, Etc.

Sec. 10a. In the event any city or urban renewal agency or other public body, in exercising any of the powers conferred by this Act, makes necessary the relocation, raising, re-routing or changing the grade of or altering the construction of any railroad, electric transmission line, telephone or telegraph property or facility, or pipeline, all such necessary relocation, raising, re-routing, changing of grade or alteration of construction, shall be accomplished at the expense of the city, urban renewal agency or other public body making the same necessary.

Disposal of Property in Urban Renewal Area

Sec. 11. (a) A city may sell, lease, or otherwise transfer real property or any interest therein acquired by it, and may enter into contracts with respect thereto, in an urban renewal area for residential, recreational, commercial, industrial or other uses or for public use, or may retain such property or interest for public use, in accordance with the urban renewal plan, subject to such covenants, conditions, and restrictions, including covenants running with the land, as it may deem to be in the public interest or necessary to carry out the purposes of this Act, all of which shall be written into the instrument transferring or conveying titles; provided, that such sale, lease, other transfer, or retention or any agreement relating thereto may be made only after approval of the urban renewal plan by the City Council. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with conditions enumerated in the deed of conveyance, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest shall be sold, leased, otherwise transferred, or retained at not less than the

fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, a city shall take into account and give consideration to the uses provided in such plan; the restrictions upon, and the covenants, conditions, and obligations assumed by the purchaser or lessee or by the city retaining the property; the objectives of such plan for the prevention of the recurrence of slums or blighted areas; and such other matters as the city shall specify as being appropriate. The city or renewal agency in an instrument of conveyance to a private purchaser or lessee may provide that such purchaser or lessee may sell any or all of the unimproved property without profit to the seller. The purchaser, after improving a parcel or parcels of land in accordance with the plan of development adopted for the area, may sell the same before he completes the development of the area or tract of land he purchased; provided, however, that such sale of parcel or parcels of improved land will not relieve him from the obligation of completing the development of the area of land that he had purchased. The purchaser likewise may sell a parcel or parcels of land that he has purchased for redevelopment to another person who will be obligated to improve the parcel or parcels purchased by him in accordance with the plan of development for that project; provided, however, that such resale of any unimproved parcel of land will be without profit to the seller and provided that any subsequent purchaser will be obligated to improve the property as provided by the urban renewal plan and the conditions set forth in the deed of conveyance. Real property acquired by a city which, in accordance with the provisions of the urban renewal plan, is to be sold to private developers shall be sold as rapidly as feasible in the public interest consistent with the carrying out of the provisions of this urban renewal plan. Any instrument executed by a city or urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be presumed to be executed in compliance with the provisions of this Act in so far as title or other interest of any bona fide lessees or transferees or purchasers, of such property is concerned.

(b) All sales of real property in an urban renewal area to private persons shall be sold upon competitive sealed bids after advertising in the official publication or newspaper of general circulation, said advertisement to be published once at least fifteen (15) days before such sale, inviting bids for purchase of real estate in the urban renewal area in whole or parcels as the city may determine. Prior to the advertising for bids for the sale of any real estate the city shall adopt as part of the specifications in the general plan of improvement the conditions that will be binding upon the purchaser, his heirs, assigns or successors in title as the case may be. The city or renewal agency shall have the right to accept the highest and best responsible bid and the purchase price

must be paid in cash. If the city or agency shall be of the opinion that the bids are not satisfactory in adequacy of price, or bid, they may reject all and readvertise; provided, however, that the agency will not make a sale of any property unless the price and conditions are approved by the governing body of the city. It is the declared policy of this Act that any real estate acquired in connection with an urban renewal and rehabilitation project shall be sold by the city or urban renewal agency within a reasonable length of time for purposes applicable to each project, save and except that land the city will retain for the use of the general public for municipal purposes. Land to be resold shall be resold within a reasonable time, taking into account the general economic condition at that time.

(c) Any real estate except real property not fit for human habitation or real property declared sub-standard by any governmental agency, acquired in an urban renewal area may be temporarily leased by the city, provided that any such temporary lease shall provide for the right of cancellation so that the city may sell or dispose of the property for the purposes intended by this Act.

(d) Any real property acquired under the terms of this Act which is not, within a reasonable length of time, devoted to a purpose or purposes applicable to the urban renewal project for which it was acquired, may, after notice, be repurchased by the former owner as a matter of right, at the price for which it was acquired from him, less any actual damages sustained by him by virtue of such taking of his land, unless the land be devoted to such purpose or purposes within sixty (60) days after such former owner shall have given the record owner and the city notice in writing of his intention to exercise his right of repurchase; provided, that after such repurchase by such former owner, any building or buildings placed or allowed to remain on such property shall be made to conform to the pattern and intent of the urban renewal project if and when it be carried out.

(e) Any purchaser, lessee, or subsequent purchaser or lessee referred to above as private developers of any portion of the lands acquired under this Act is expressly authorized to give said lands as security for loans for the purpose of financing the development of the property. Such purchasers and lessees are expressly authorized to execute and deliver to any lenders, notes, deeds of trust with powers of sale, mortgages and any other instruments which may be required in connection with obtaining and securing the repayment of such loans, it being the intention of this section that purchasers, and lessees of such lands have all the rights, titles and incidents of ownership therein which are enjoyed by purchasers and lessees of lands generally, and that as such purchasers and lessees they be entitled to mortgage and encumber said lands either for purchase price or for improvements in accord-

ance with the objectives of this Act as any other purchaser or lessee of land in Texas might be entitled to do, and that any subsequent owner or lessee of said land who might acquire title by virtue of a foreclosure of any lien given to secure such indebtedness or by conveyance or assignment in satisfaction of debt shall become the owner or lessee of said land subject only to the restrictive covenants with respect to the use and improvement of said land which might be set forth in the original conveyance from the municipality, and subject in no manner to any condition precedent or condition subsequent which might result in reverter or forfeiture of title and without restraint as to the amount for which said property may thereafter be resold or leased.

**Property Exempt from Taxes and from Levy and Sale
by Virtue of an Execution**

Sec. 12. (a) All property of a city, including funds, owned or held by it for the purposes of this Act shall be exempt from levy and sale by virtue of an execution, and no execution or other judicial process shall issue against the same nor shall judgment against a city be a charge or lien upon such property; provided, however, that the provisions of this Section shall not apply to or limit the right of obligees to pursue any remedies for the enforcement of any pledge or lien given pursuant to this Act by a city on its rents, fees, grants or revenues from urban renewal projects.

(b) Where real estate property in the project area is acquired and is owned as a part of the project by the city or the urban renewal agency and such project is not subject to ad valorem taxes by reason of its ownership due to the provisions of Section 12(a) hereof there may be, as a part of gross project cost, reasonable payments in lieu of taxes.

Co-operation of Public Bodies

Sec. 13. (a) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project located within the area in which it is authorized to act, any public body may, if it determines that such project will benefit and be of advantage to the public body or its residents, upon such terms, with or without consideration, as it may determine:

(1) dedicate, sell, convey or lease any of its interest in any project or grant easements, licenses, or other rights or privileges therein to a city;

(2) incur the entire expense of any public improvements made by such public body in exercising the powers granted in this Section;

(3) do any and all things necessary to aid or co-operate in the planning or carrying out of an urban renewal plan;

(4) lend, grant or contribute funds to a city;

(5) enter into agreements which may extend over any period notwithstanding any provision or rule of law to the con-

trary with a city or other public body respecting action to be taken by such public body pursuant to any of the powers granted by this Act, including the furnishing of funds or other assistance in connection with an urban renewal project; and

(6) cause public buildings and public facilities, including parks, playgrounds, recreational, community, educational, water, sewer, or drainage facilities, or any other works which it is otherwise empowered to undertake to be furnished; furnish, dedicate, pave, install, grade, regrade, plan or replan streets, roads, sidewalks, ways or other places; plan or replan, zone or rezone any part of the public body or make exceptions from building regulations; and cause administrative and other services to be furnished to the city.

If at any time title to or possession of any urban renewal project is held by the Federal Government, the provisions of the agreement referred to shall inure to the benefit of and may be enforced by the Federal Government. As used in this subsection, the term "city" shall also include an urban renewal agency vested with all of the urban renewal project powers pursuant to the provisions of Section 15.

(b) Any sale, conveyance, lease or agreement provided for in this Section may be made by and between public bodies without appraisal, public notice, advertisement or public bidding.

(c) For the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of an urban renewal agency hereunder, a city (in addition to its other powers and upon such terms, with or without consideration, as it may determine) may do and perform any or all of the actions or things which, by the provisions of subsection (a) of this Section, a public body is authorized to do or perform, including the furnishing of financial and other assistance.

(d) For the purpose of this Section or for the purpose of aiding in the planning, undertaking or carrying out of an urban renewal project of a city, such city may in addition to any authority to issue bonds pursuant to Section 15 hereof, issue and sell its general obligation bonds. Any bonds issued by a city pursuant to this Section shall be issued in the manner and within the limitations prescribed by the laws of this State for the issuance and authorization of bonds by such city for public purposes generally.

Title of Purchaser

Sec. 14. Any instrument executed by a city or by an urban renewal agency and purporting to convey any right, title or interest in any property under this Act shall be conclusively presumed to have been executed in compliance with the provisions of this Act in so far as title or other interest of any bona fide purchasers, lessees or transferees of such property is concerned.

Exercise of Powers in Carrying Out Urban Renewal Project

Sec. 15. (a) A city itself may exercise its urban renewal project powers (as herein defined) or may, if the City Council by resolution determines such action to be in the public interest, elect to have such powers exercised by an urban renewal agency created by Section 16 hereof. In the event the City Council makes such determination, the urban renewal agency shall be vested with all of the urban renewal project powers in the same manner as though all such powers were conferred on such agency instead of the city. If the City Council does not elect to make such determination, the city in its discretion may exercise its urban renewal project powers through a board or commission or through such officers of the city as the City Council may by resolution determine.

(b) As used in this Section, the term "urban renewal project powers" shall include the rights, powers, functions and duties of a city under this Act, except the following: the power to determine an area to be a slum or blighted area or combination thereof and to designate such area as appropriate for an urban renewal project; the power to approve and amend urban renewal plans and to hold any public hearings required with respect thereto; the power to establish a general plan for the locality as a whole; the power to establish a workable program under Section 6; the power to make the determinations and findings provided for in Section 5, Section 7(d) and Section 8; the power to issue general obligation bonds; and the power to appropriate funds, to levy taxes and assessments, and to exercise other powers provided for in Section 9(j).

(c) In the event the city elects to create an urban renewal agency under the terms of this Act, no renewal or rehabilitation project shall be undertaken by the agency unless the area proposed to be a renewal or rehabilitation area and the plan of improvement of the project area is approved by the governing body of such city.

(d) An urban renewal agency created by Section 16 hereof, shall, in addition to all other powers which may be vested in it, have power to issue bonds from time to time in its discretion to finance the undertaking of any urban renewal project under this Act, including, without limiting the generality thereof, the payment of principal and interest upon any advances for surveys and plans, and shall also have power to issue refunding bonds for the payment or retirement of such bonds previously issued by it. Such bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the urban renewal agency derived from or held in connection with its undertaking and carrying out of urban renewal projects under this Act; provided, however, that payment of such bonds, both as to principal and interest, may be further secured by a pledge of any loan, grant or contribution from the Federal

Government or other source, in aid of any urban renewal projects of the urban renewal agency under this Act, and by a mortgage of any such urban renewal projects, or any part thereof, title to which is in the urban renewal agency. Bonds issued under this Section of this Act shall not constitute an indebtedness of the State of Texas or any county or political subdivision of such state other than the issuing urban renewal agency, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under this Section of this Act are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempt from all taxes. Bonds issued under this Section shall be authorized by resolution or ordinance of the governing body of the urban renewal agency and may be issued in one or more series and shall bear such date or dates, be payable upon demand or mature at such time or times, bear interest at such rates or rate, not exceeding six per centum (6%) per annum, be in such denomination or denominations, be in such form either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment, at such place or places, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics, as may be provided by such resolution or trust indenture or mortgage issued pursuant thereto. Such bonds may be sold at not less than par at public sales held after notice published prior to such sale in a newspaper having a general circulation in the area of operation and in such other medium of publication as the urban renewal agency may determine or may be exchanged for other bonds on the basis of par; provided, that such bonds may be sold to the Federal Government at private sale at not less than par, and, in the event less than all of the authorized principal amount of such bonds is sold to the Federal Government, the balance may be sold at private sale at not less than par at an interest cost to the urban renewal agency of not to exceed the interest cost to the urban renewal agency of the portion of the bonds sold to the Federal Government. In case any of the officials of the urban renewal agency whose signatures appear on any bonds or coupons issued under this Act shall cease to be such officials before the delivery of such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officials had remained in office until such delivery. Any provision of any law to the contrary notwithstanding, any bonds issued pursuant to this Act shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability of any bond issued under this Act or the security therefor, any such bond reciting in substance that it has been issued by the urban renewal agency in connection with an urban renewal project, as

herein defined, shall be conclusively deemed to have been issued for such purposes and such project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of this Act.

(e) All banks, trust companies, bankers, savings banks and institutions, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all insurance companies, insurance associations, and other persons carrying on an insurance business; and all executors, administrators, curators, trustees, and other fiduciaries, may legally invest any sinking funds, moneys, or other funds belonging to them or within their control in any bonds or other obligations issued by an urban renewal agency pursuant to this Act; provided that such bonds and other obligations shall be secured by an agreement between the issuer and the Federal Government in which the issuer agrees to borrow from the Federal Government and the Federal Government agrees to lend to the issuer, prior to the maturity of such bonds or other obligations, moneys in an amount which (together with any other moneys irrevocably committed to the payment of interest on such bonds or other obligations) will suffice to pay the principal of such bonds or other obligations with interest to maturity thereon, which moneys under the terms of said agreement are required to be used for the purpose of paying the principal of and the interest on such bonds or other obligations at their maturity. Such bonds and other obligations shall be authorized security for all public deposits. It is the purpose of this Section to authorize any persons, political subdivisions and officers, public or private, to use any funds owned or controlled by them for the purchase of any such bonds or other obligations. Nothing contained in this Section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities.

Urban Renewal Agency

Sec. 16. (a) There is hereby created in each city a public body corporate and politic to be known as the "urban renewal agency" of the city; provided, that such agency shall not transact any business or exercise its powers hereunder until or unless the City Council has made the findings prescribed in Section 5 and has elected to have the urban renewal project powers exercised by an urban renewal agency as provided in Section 15, and has submitted such proposition to a vote of the people of said city, and received a favorable vote thereon, as provided in Section 5 of this Act.

(b) If an urban renewal agency is created by the city under this Act to exercise the powers of this Act, the mayor, by and with the advice and consent of the City Council, shall appoint a board of commissioners of the urban renewal agency which shall consist of not less than five (5) members nor more than nine (9) members who shall serve for two (2) years.

The commissioners shall designate one of their number to serve as Chairman and one as Vice-chairman, for terms of one (1) year, respectively. A commissioner must be a resident citizen of the city and a real property owner. The actual number of commissioners of the urban renewal agency shall be determined by the City Council at the time of appointment and the number may not be increased or decreased more than once every two (2) years. At the time of their original appointment, a bare majority of the commissioners shall be designated to serve for one (1) year and the remaining for two (2) years, respectively. In the event of a vacancy caused by death, removal from the city or any valid cause, such vacancy shall be filled in the same manner as the original appointment but only for the unexpired term. A commissioner shall hold office until his successor has been appointed and has qualified.

(c) A commissioner shall receive no compensation for his services but shall be entitled to the necessary expenses, including traveling expenses, incurred in the discharge of his duties. A certificate of the appointment or re-appointment of each commissioner shall be filed with the clerk of the city and such certificate shall be conclusive evidence of the due and proper appointment of such commissioner. A majority of the commissioners shall constitute a quorum; provided, however, that if the agency is composed of five (5), seven (7) and nine (9) members, respectively, any action to be valid must be adopted or rejected by a vote of a majority of the total commissioners of the agency. An urban renewal agency may employ an executive director, technical experts and such other agents and employees, permanent and temporary, as it may require, and determine their qualifications, duties and compensation. For such legal service as it may require, an agency may employ or retain its own counsel and legal staff. An agency authorized to conduct business and exercise powers under this Act shall file with the city on or before March 31st of each year a report of its activities for the preceding calendar year, or quarterly if requested by the City Council. Said report shall include a complete financial statement by the agency setting forth its assets, liabilities, income and operating expense as of the end of such calendar year. At the time of filing the report, the agency shall publish a notice in a newspaper of general circulation in the city that such report has been filed with the city and that the report is available for inspection during business hours in the office of the city secretary and in the office of the agency.

(d) For inefficiency or neglect of duty or misconduct in office, a commissioner may be removed by the City Council only after a hearing and after he shall have been given a copy of the charges at least ten (10) days prior to such hearing and have had an opportunity to be heard in person or by counsel.

Judicial Proceedings

Sec. 17. In all suits brought to review, modify, suspend, or satisfy rules, orders, decisions, or other acts of the City Council, or other agency, the trial shall be de novo, as that term is used and understood in an appeal from a Justice of the Peace Court to the County Court. In such de novo trials, no presumption of validity or reasonableness or presumption of any character shall be indulged in favor of any such order, rule or regulation, nor shall evidence as to the validity or reasonableness thereof be heard, and the determination in respect thereto shall be made upon facts found therein, as in other civil cases, and the procedure for such trials and the determination of the orders and judgments to be entered therein shall be governed solely by the rules of law, evidence and procedure prescribed for the courts of this State by its Constitution, statutes and rules of procedure applicable to the trial of civil actions. It is the intent of the Legislature that such trial shall be strictly de novo and that the decision in each such case shall be made independently of any action taken by the Board, upon preponderance of the evidence adduced at such trial and entirely free of the so-called "substantial evidence" rule enunciated by the courts in respect to orders of other administrative or quasi-judicial agencies.

Interested Public Officials, Commissioners or Employees

Sec. 18. No public official or employee of a city (or board or commission thereof) and no commissioner or employee of an urban renewal agency which has been vested by a city with urban renewal project powers under Section 15 hereof, shall voluntarily acquire any interest, direct or indirect, in any urban renewal project or in any property included or planned to be included in any urban renewal project of such city or in any contract or proposed contract in connection with such urban renewal project. Where such acquisition is not voluntary, the interest acquired shall be immediately disclosed in writing to the City Council and such disclosure shall be entered upon the minutes of the City Council. Such official or employee shall then, within three (3) months after such involuntary acquisition, either resign his position, or divest himself of his interest in such urban renewal project. If any such official, commissioner or employee shall own or control or shall have owned or controlled within the preceding two (2) years, any interest, direct or indirect, in any property which he knows is included or planned to be included in any urban renewal project, he shall immediately disclose this fact in writing to the City Council, and such disclosure shall be entered upon the minutes of the City Council, and any such official, commissioner or employee shall not participate in any action by the City (or board or commission thereof), or urban renewal agency affecting such property. Any disclosure required to be made by this Section to the City Council shall concurrently be made to any ur-

ban renewal agency which has been vested with urban renewal project powers by the city pursuant to the provisions of Section 15. No commissioner or other officer of any urban renewal agency, board or commission exercising powers pursuant to this Act shall hold any other public office under the city other than his commissionership or office with respect to such urban renewal agency, board or commission. Any violation of the provisions of this Section shall constitute misconduct in office.

Separability of Provisions

Sec. 19. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Inconsistent Provisions

Sec. 20. In so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling but shall not repeal any charter provision of any home rule city which provides for the same purposes set forth in this Act and shall be considered cumulative of the powers of the cities.

Additional Conferred Powers

Sec. 21. The powers conferred by this Act shall be in addition and supplemental to the powers conferred upon cities by any provision of the Constitution of Texas, the general laws of the State of Texas, or by the charters of home rule cities of the State of Texas.

Right to Repurchase

Sec. 22. Provided, however, the original owner from which property was acquired hereunder by condemnation or through the threat of condemnation, shall have the first right to repurchase at the price at which same shall be offered.

[Acts 1957, 55th Leg., p. 704, ch. 298; Acts 1967, 60th Leg., p. 1971, ch. 732, §§ 1, 2, eff. June 18, 1967; Acts 1973, 63rd Leg., p. 148, ch. 79, § 1, eff. May 11, 1973; Acts 1973, 63rd Leg., p. 150, ch. 80, § 1, eff. May 11, 1973.]

CHAPTER TWENTY-TWO. CIVIL SERVICE

FIREMEN AND POLICEMEN

Article

- 1269m. Firemen's and Policemen's Civil Service in Cities Over 10,000.
- 1269n. Political Campaigns; Coercing Policeman or Fireman.
- 1269o. Two Platoon Fire System and Hours of Labor in Certain Counties.
- 1269p. Hours of Labor and Vacations of Firemen and Policemen in Certain Cities.
- 1269q. Compensation of Firemen and Policemen in Certain Cities.
- 1269r. Compensation of Firemen and Policemen for Court Appearances.

FIREMEN AND POLICEMEN

Art. 1269m. Firemen's and Policemen's Civil Service in Cities Over 10,000

Creation of Firemen's and Policemen's Civil Service

Sec. 1. There is hereby established in all cities in this State having a population of ten thousand (10,000) or more inhabitants, according to the last preceding Federal Census, and having a paid Fire Department and Police Department, a Firemen's and Policemen's Civil Service.

Definitions

Sec. 2. By the term "Fireman" is meant any member of the Fire Department appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Policeman" is meant any member of the Police Department appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act. By the term "Commission" as used herein is meant the Firemen's and Policemen's Civil Service Commission. The term "Director" means Director of Firemen's and Policemen's Civil Service.

Firemen's and Policemen's Civil Service Commission

Sec. 3. There is hereby established in all such cities a Firemen's and Policemen's Civil Service Commission, which shall consist of three (3) members, to be selected as follows: Members of the Commission shall be appointed by the chief executive of any such city, and such appointment shall be confirmed by the City Council or legislative body of any such city before any such appointments shall be effective. Of the first three (3) Commissioners so selected under the provisions of this Act to comprise the Commission, one (1) shall be appointed for a term of one (1) year, one (1) shall be appointed for a term of two (2) years, and one (1) shall be appointed for a term of three (3) years. Thereafter the term of office of each Commissioner shall be for three (3) years, or until a successor is appointed, confirmed, and qualified. Any such vacancies in said Commission, caused by death, resignation, or otherwise, or by failure of any appointee to qualify within ten (10) days after appointment, shall be filled in the manner hereinabove specified, and such appointment shall be for the unexpired term of the retiring Commissioner of the appointee failing to qualify.

All such Commissioners shall be of good moral character, resident citizens of the particular city for which they are appointed, shall have resided in said city for a period of more than three (3) years, shall each be over the age of twenty-five (25) years, and shall not have held any public office within the preceding three (3) years.

It is provided however, that in all such cities which have in existence a Civil Service Commission, that said Civil Service Commission shall constitute the Firemen's and Policemen's Civil Service Commission of that city, but said Commissioner shall administer the Civil Service of Firemen and Policemen in accordance with this law.

It is further provided that in any such city which has in existence a Civil Service Commission, the appointment of members to such Civil Service Commission shall be made in conformity with provisions of this Act, after the expiration of presently existing term or terms of the members comprising such Civil Service Commission and, if necessary, in such cities having staggered terms of membership on such Civil Service Commission, the first appointment made under the provisions of this Act shall be made for terms of such number of years less than three (3) as will cause a staggered or rotating system of terms to conform with the provisions of this Act.

Organization of Commission

Sec. 4. The Commissioners shall within ten (10) days after the qualification of the membership, and annually thereafter during the month of January, elect a Chairman and a Vice-chairman.

Powers of Commission

Sec. 5. Two (2) members of the said Commission shall constitute a quorum to transact business. The Commission shall make such rules and regulations for the proper conduct of its business as it shall find necessary and expedient, provided that no rules or regulations shall ever be adopted which will permit the appointment or employment of any person without good moral character; or any person unfit mentally or physically; or any person incompetent to discharge the duties of such appointment or employment. Such rules and regulations shall prescribe what shall constitute cause for removal or suspension of Firemen or Policemen, but no rule for the removal or suspension of such employees shall be valid unless it involves one or more of the following grounds:

Conviction of a felony or other crime involving moral turpitude; violations of the provisions of the charter of said city; acts of incompetency; neglect of duty; discourtesy by said employee to the public or to fellow employees while said employee is in line of duty; acts of said employees showing a lack of good moral character; drinking of intoxicants while on duty, or intoxication while off duty; or whose conduct was prejudicial to good order; refusal or neglect to pay just debts; absence without leave; shirking duty, or cowardice at fires; violation of any of the rules and regulations of the Fire Department or Police Department or of special orders, as applicable.

Investigations and Inspections

Sec. 5a. The Commission may make investigations concerning, and report upon all mat-

ters touching, the enforcement and effect of the provisions of this Act, and the rules and regulations prescribed hereunder; shall inspect all institutions, departments, offices, places, positions and employments affected by this Act at least once every year; and shall ascertain whether this Act and all such rules and regulations are being obeyed. Such investigations may be made by the Commission or by any Commissioner designated by the Commission for that purpose. In the course of such investigation the Commission or designated Commissioner shall have the power to administer oaths, subpoena and require the attendance of witnesses and the producing by them of books, papers, documents, and accounts pertaining to the investigation, and also to cause the deposition of witnesses residing within or without the State to be taken in the manner prescribed by law for like depositions in civil actions in the court of original and unlimited jurisdiction to civil suits of the United States; and the oaths administered hereunder and the subpoenas issued hereunder shall have the same force and effect as the oaths administered by a magistrate in his judicial capacity; and the failure upon the part of any person so subpoenaed to comply with the provisions of this Section shall be deemed a violation of this Act, and punishable as such.

Director of Civil Service

Sec. 6. There is hereby created the office of Director of Firemen's and Policemen's Civil Service, which shall be filled by the appointment of the Commission of some person meeting the same requirements as hereinabove provided for members of the Commission. Said Director may be either a member of the Commission, another employee of said city, or some other person. The legislative body of such city shall determine what salary, if any, shall be paid to such Director. Said Director shall at all times, be subject to removal by the Commission. He shall serve as Secretary to the Commission, and shall perform all such work incidental to the Firemen's and Policemen's Civil Service as may be required of him by the Commission.

It is provided, however, that in those cities which have a duly and legally constituted Director of Civil Service, by whatever name he may be called, said Director shall be the Director of the Firemen's and Policemen's Civil Service, but he shall administer civil service pertaining to Firemen and Policemen in accordance with this Law.

Office Space

Sec. 7. The City Council or governing body of any such city shall provide adequate and suitable office space for the conduct of the business of the Commission.

Classification of Firemen and Policemen; Educational Incentive Pay

Sec. 8. The Commission shall provide for the classification of all firemen and policemen. Such classification shall be provided by ordi-

nance of the City Council, or legislative body. Said City Council, or legislative body, shall prescribe by ordinance the number of positions of each classification.

No classification now in existence, or that may be hereafter created in such cities, shall ever be filled except by examination held in accordance with the provisions of this law. All persons in each classification shall be paid the same salary and in addition thereto be paid any longevity or seniority or educational incentive pay that he may be entitled to. This shall not prevent the Head of such Department from designating some person from the next lower classification to fill a position in a higher classification temporarily, but any such person so designated by the Head of the Department shall be paid the base salary of such higher position plus his own longevity pay during the time he performs the duties thereof. The temporary performance of the duties of any such position by a person who has not been promoted in accordance with the provisions of this Act shall never be construed to promote such person. All vacancies shall be filled by permanent appointment from eligibility lists furnished by the Commission within ninety (90) days after such vacancy occurs.

Firemen and policemen shall be classified as above provided, and shall be under civil service protection except the Chief or Head of such Fire Department or Police Department, by whatever name he may be known.

Said Chiefs or Department Heads shall be appointed by the Chief Executive, and confirmed by the City Council or legislative body except in cities where the Department Heads are elected. In those cities having elective Fire and Police Commissioners the appointments for Chiefs and Heads of those Departments shall be made by the respective Fire or Police Commissioners in whose Department the vacancy exists, and such appointments shall be confirmed by the City Council or legislative body.

Said City Council or legislative body may authorize educational incentive pay in addition to regular pay for policemen and firemen within each classification, who have successfully completed courses in an accredited college or university, provided that such courses are applicable toward a degree in law enforcement-police science and include the core curriculum in law enforcement or are applicable toward a degree in fire science. An accredited college or university, as that term is used herein, shall mean any college or university accredited by the nationally recognized accrediting agency and the state board of education in the state wherein said college or university is located and approved or certified by the Texas Commission on Law Enforcement Officer Standards and Education as teaching the core curriculum or its equivalent or, in the case of fire science degree courses, approved or certified by the Texas Commission on Fire Protection, Personnel Standards, and Education. Core curriculum in

law enforcement, as used herein, shall mean those courses in law enforcement education as approved by the Coordinating Board, Texas College and University System and the Texas Commission on Law Enforcement Officer Standards and Education.

Examination for Eligibility Lists

Sec. 9. The Commission shall make provisions for open, competitive and free examinations for persons making proper application and meeting the requirements as herein prescribed. All eligibility lists for applicants for original positions in the Fire and Police Departments shall be created only as a result of such examinations, and no appointments shall ever be made for any position in such Departments except as a result of such examination, which shall be based on the applicant's knowledge of and qualifications for fire fighting and work in the Fire Department, or for police work and work in the Police Department, as shown by competitive examinations in the presence of all applicants for such position, and shall provide for thorough inquiry into the applicant's general education and mental ability.

An applicant who has served in the armed forces of the United States and who received an honorable discharge shall receive five (5) points in addition to his competitive grades.

Appropriate physical examinations shall be required of all applicants for beginning or promotional positions, and the examinations shall be given by a physician appointed by the Commission and paid by such city; and in the event of rejection by such physician, the applicant may call for further examination by a board of three (3) physicians appointed by the Commission, but at the expense of the applicant, and whose findings shall be final. The age and physical requirements shall be set by the Commission in accordance with provisions of this law and shall be the same for all applicants.

No person shall be certified as eligible for a beginning position with a Fire Department who has reached his thirty-sixth birthday. No person shall be certified as eligible for a beginning position with a Police Department who has reached his thirty-sixth birthday unless the applicant has at least five (5) years prior experience as a peace officer. No person shall be certified as eligible for a beginning position with a Police Department who has reached his forty-fifth birthday.

All police officers and firemen coming under this Act must be able to intelligently read and write the English language.

When a Fireman or Policeman is given a physical examination to determine if he is physically able to continue his duties, the physician appointed by the Commission to make such examination shall submit a complete physical report to the Chief of the Fire Department if the person so examined is a Fireman, and to the Chief of the Police Department if the person so examined is a Policeman. The

Chief of each respective Department shall be the sole judge as to whether or not such Fireman or Policeman is able to continue his duties.

Method of Filling Positions

Sec. 10. When a vacancy occurs in the Fire Department or Police Department, the Fire Chief or head of the Fire Department or the Police Chief or head of the Police Department shall request in writing from the Commission the names of suitable persons from the eligibility list, and the Director shall certify to the chief executive of said city, the names of three (3) persons having the highest grades on the eligibility list, and the said chief executive shall thereupon make an appointment from said three (3) names. The appointment shall be of the person with the highest grade, except there be a valid reason why such appointment should be given to the one making the second or third highest grade. Whenever such appointment is made of one not holding the highest grade, such reasons shall be reduced to writing and filed with the Commission, and there shall be set forth plainly and clearly good and sufficient reasons why said appointment was not made to the person holding the highest grade in the event the one holding the third highest grade shall receive the appointment. In the event the person holding the highest is not certified for the appointment, he shall be furnished with a copy of the reasons therefor as filed with the Commission, and in the event the one having the third highest grade is appointed a copy of such reasons shall also be furnished to the one holding the second highest grade. This Section shall be limited by the other provisions hereof relating to promotions.

Certification of Employees

Sec. 11. Whenever a person is certified and appointed in the said Fire Department or Police Department, the Director shall forward a record of the person so certified and appointed to the Fire Chief or head of the Department or Police Chief or head of that Department, forward a similar copy to the chief executive, and retain a copy in the civil service files. The record shall show: The date notice of examination was posted, date on which person certified took examination to be placed on eligibility list, name of person or persons conducting examination, relative position of person on eligibility list, date when person certified took physical examination, name of physician making examination, with information as to whether or not applicant was accepted or rejected, date on which request for filling such vacancy was made, date on which applicant was notified to report for duty and date on which his pay is to start. If the Director shall willfully fail to comply with any provisions of this Section, it shall be the duty of the Commission to forthwith remove him from office. The failure however, of the Director of Civil Service to comply with any of the provisions of this Section shall

in no way impair the civil service standing of any employee.

Probationary and Full-fledged Firemen and Policemen

Sec. 12. A person who has received appointment to the Fire Department or Police Department hereunder, shall serve a probationary period of six (6) months. During such probationary period, it shall be the duty of the Fire Chief or head of the Fire Department or Police Chief or head of the Police Department to discharge all Firemen or Policemen whose appointments were not regular, or not made in compliance with the provisions of this Act, or of the rules or regulations of the Commission, and to eliminate* from the payrolls any such probationary employee. When Firemen or Policemen, however, have served the full probationary period, having been appointed in substantial compliance with Sections 9, 10, and 11 of this Act and not otherwise, they shall automatically become full-fledged civil service employees and shall have full civil service protection. All positions in the Fire Department, except that of Chief or head of the Department, and in the Police Department, except that of Chief or head of the Department, shall be classified by the Commission and the positions filled from the eligibility lists as provided herein.

All offices and positions in the Fire Department or Police Department shall be established by ordinance of the City Council or governing body, provided however that the failure of a City Council or governing body to establish a position by ordinance shall not result in the loss of Civil Service benefits under this Act by any person appointed to such position in substantial compliance with the provisions of Sections 9, 10 and 11 of this Act, or entitled to Civil Service Status under Section 24 of this Act.

Notice of Examinations

Sec. 13. Ten (10) days in advance of any entrance examination or examination for promotion, the Commission shall cause to be posted on a bulletin board located in the main lobby of the city hall, and the office of the Commission, and in plain view, a notice of such examination, and said notice shall show the position to be filled or for which examination is to be held, with date, time, and place thereof, and in case of examination for promotion, copies of such notice shall be furnished in quantities sufficient for posting in the various stations or subdepartments in which position is to be filled. No one under eighteen (18) years of age shall take any entrance examination, and appointees to the Police and Fire Department shall not have reached their thirty-sixth birthday for entrance into the Fire Department or Police Department. The results of each examination for promotion shall be posted on a bulletin board located in the main lobby of the city hall by the Commission within twenty-four (24) hours after such examination.

Promotions; Filling Vacancies

Sec. 14. The Commission shall make rules and regulations governing promotions and shall hold promotional examinations to provide eligibility lists for each classification in the Police and Fire Departments, which examinations shall be held substantially under the following requirements:

A. All promotional examinations shall be open to all policemen and firemen who have held a continuous position for two (2) years or more in the classification immediately below in salary of that classification for which the examination is to be held; except where there is not a sufficient number of members in the next lower position with two (2) years service in that position to provide an adequate number of persons to take the examination, the Commission may extend the examination to the members in the second lower position in salary to that for which the examination is to be held.

B. Each applicant shall be given one (1) point for each year of seniority in his Department, but never to exceed ten (10) points.

C. The Commission shall formulate proper procedure and rules for semi-annual efficiency reports and grade of each member of the Police or Fire Departments, which efficiency reports shall be made on each man by his immediate superior, and each efficiency report shall be based on thirty (30) points as the highest grade in efficiency. The immediate superior officer of each member, after completing such report, shall deliver the original and two (2) copies, with suggestions for improvement and reasons for grade, to his immediate superior officer, who shall correct and approve the same and forward one (1) copy to the member reported on, and forward the original and one (1) copy to the Head of the Department who shall retain one (1) copy and forward the original to the Commission for filing. Upon examination for promotion each applicant shall receive a credit of not to exceed thirty (30) points based on the average of his semi-annual efficiency reports filed with the Commission from the effective date of this Act, but not to exceed the last two (2) semi-annual efficiency reports prior to the time of examination.

D. (1) All applicants shall be given an identical examination in the presence of each other, which promotional examination shall be entirely in writing and no part of which shall be by oral interview, and all of the questions asked therein shall be prepared and composed in such a manner that the grading of the examination papers can be promptly completed immediately after the holding of the examination and shall be prepared so as to test the knowledge of the

applicants concerning information and facts, and all of said questions shall be based upon material which has been made available to all members of the Fire or Police Department involved and shall be based upon the duties of the position sought and upon any study courses given by such Departmental Schools of Instruction and upon the applicant's efficiency. When one of the applicants taking an examination for promotion has completed his answers, the grading of such examination shall begin, and all of the examination papers shall be graded as they are completed, at the place where the examination is given and in the presence of any applicants who wish to remain during the grading.

(2) The grade which shall be placed on the eligibility list for each policeman applicant shall be computed by adding such policeman applicant's points for seniority and his credit based on the average of his last two (2) semi-annual efficiency reports to his grade on such written examination. Grades on such written examinations shall be based upon a maximum grade of seventy (70) points and shall be determined entirely by the correctness of each applicant's answers to such questions.

(3) The grade which shall be placed on the eligibility list for each fireman applicant shall be computed by adding the fireman applicant's points for seniority to his grade on the written examination. Grades on the written examination shall be based on a maximum grade of one hundred (100) points and shall be determined entirely by the correctness of each fireman applicant's answers to the questions. The minimum passing score for the written examination is seventy (70) points.

(4) Each applicant shall have the opportunity to examine his examination and his answers thereto together with the grading thereof and if dissatisfied shall, within five (5) days, appeal the same to the Commission for review in accordance with the provisions of this Act.

(5) No person shall be eligible for promotion unless he has served in such Department for at least two (2) years immediately preceding the day of such promotional examination in the next lower position or other positions specified by the Commission, and no person with less than four (4) years actual service in such Department shall be eligible for promotion to the rank of captain. Provided, however, that the requirement of two (2) years service in the Department immediately preceding the day of promotional examination shall not be applicable to those persons recalled on active military duty for a period not to exceed twenty-four (24) months. Such persons shall be entitled to have time spent on active military duty considered as duty in the Department concerned. How-

ever, any person whose absence for active military duty exceeds twelve (12) months, shall be required to serve ninety (90) days upon returning to the Department before he shall become eligible to participate in a promotional examination, such period being considered essential for bringing him up to date on equipment and techniques.

(6) No person shall be eligible for appointment as Chief or Head of the Fire or Police Department of any city coming under the provisions of this Act who has not been a bona fide fire fighter in a Fire Department or a bona fide law enforcement officer for five (5) years in the State of Texas.

E. Upon written request by the Heads of the Departments for a person to fill a vacancy in any classification, the Commission shall certify to the Head of the Department the three (3) names having the highest grades on such eligibility list for such classification for the vacancy requested to be filled, and the Head of such Department shall appoint the person having the highest grade, except where such Head of the Department shall have a valid reason for not appointing such highest name, and in such cases he shall, before such appointment, file his reasons in writing, for rejection of the higher name or names, with the Commission, which reasons shall be valid and subject to review by the Commission upon the application of such rejected person.

The name of each person on the eligibility lists shall be submitted to the Head of the Department three (3) times; and if passed over three (3) times with written reasons filed thereafter and not set aside by the Commission, he shall thereafter be dropped from the eligibility list. All eligibility lists shall remain in existence for one (1) year unless exhausted, and at the expiration of one (1) year they shall expire and new examinations be given.

F. The Commission shall proceed to hold examinations to create eligibility lists within ninety (90) days after a vacancy in any classification occurs, or new positions are created, unless an eligibility list is in existence.

G. In the event any new classification is established either by name or by increase of salary, the same shall be filled by competitive examination in accordance with this law.

Civil Service Rights of Department Head

Sec. 15. When the services of the Chief or head of the Fire Department or Police Department are terminated as such and he is removed as such Department head, he shall be reinstated in the Department and placed in a position no lower than the rank he held at time of ap-

pointment, and he shall retain all rights of seniority in the Department; provided, that should such Department head be charged with an offense in violation of civil service rules, and be dismissed from the public service, or be discharged from his position, he shall have the same rights and privileges of a hearing before the Commission, and in the same manner and under the same conditions as may classified employees, and if the Commission should find such charges to be untrue, or unfounded, said employee shall thereupon immediately be restored to the Department as above provided, and said employee shall enjoy all the rights and privileges thereunder according to seniority, and shall be paid his fully salary for the time of suspension.

Indefinite Suspensions

Sec. 16. The Chief or Head of the Fire Department or Police Department of the city government shall have the power to suspend indefinitely any officer or employee under his supervision or jurisdiction for the violation of civil service rules, but in every such case the officer making such order of suspension shall, within one hundred and twenty (120) hours thereafter, file a written statement with the Commission, giving the reasons for such suspension, and immediately furnish a copy thereof to the officer or employee affected by such act, said copy to be delivered in person to such suspended officer or employee by said department head. Said order of suspension shall inform the employee that he has ten (10) days after receipt of a copy thereof, within which to file a written appeal with the Commission. The Commission shall hold a hearing and render a decision in writing within thirty (30) days after it receives said notice of appeal. Said decision shall state whether or not the suspended officer or employee shall be permanently or temporarily dismissed from the Fire or Police Department or be restored to his former position or status in the classified service in the department. In the event that such suspended employee is restored to the position or class of service from which he was suspended, such employee shall receive full compensation at the rate of pay provided for the position or class of service from which he was suspended, for the actual time lost as a result of such suspension. All hearings of the Commission in case of such suspension shall be public.

The written statement above provided to be filed by the department head with the Commission, shall not only point out the civil service rule alleged to have been violated by the suspended employee, but shall contain the alleged acts of the employee which the department head contends are in violation of the civil service rules. It shall not be sufficient for the department head merely to refer to the provisions of the rules alleged to have been violated and in case the department head does not specifically point out the act or acts complained of on the part of such employee, it shall be the duty of the Commission promptly to reinstate him.

In any civil service hearing hereunder, the department head is hereby restricted to his original written statement and charges, which shall not be amended, and no act or acts may be complained of by said department head which did not happen or occur within six (6) months immediately preceding the date of suspension by the department head. No employee shall be suspended or dismissed by the Commission except for violation of the civil service rules, and except upon a finding by the Commission of the truth of the specific charges against such employee.

In the event the Commission orders that such suspended employee be restored to his position as above provided, it shall be the duty of the department head immediately to reinstate him as ordered and in event the department head fails to do so, the employee shall be entitled to his salary just as though he had been regularly reinstated.

In the event such department head wilfully refuses to obey the orders of reinstatement of the Commission, and such refusal persists for a period of ten (10) days, it shall be the duty of the chief executive or legislative body of the city to discharge such department head from his employment with the city.

The Commission may punish for contempt any department head who wilfully refuses to obey any lawful order of reinstatement of the Commission, and such Commission shall have the same authority herein to punish for contempt as has the Justice of the Peace.

Purpose of Law; Hearings

Sec. 16a. It is hereby declared that the purpose of the Firemen and Policemen's Civil Service Law is to secure to the cities affected thereby efficient Police and Fire Departments, composed of capable personnel, free from political influence, and with permanent tenure of employment as public servants. The members of the Civil Service Boards are hereby directed to administer the civil service law in accordance with this purpose; and when sitting as a board of appeals for a suspended or aggrieved employee, they are to conduct such hearing fairly and impartially under the provisions of this law, and are to render a fair and just decision, considering only the evidence presented before them in such hearing.

Procedure Before Commission

Sec. 17. In order for a Fireman or Policeman to appeal to the Commission, it shall only be necessary for him to file within ten (10) days with the Commission a statement denying the truth of the charge as made, or a statement taking exception to the legal sufficiency of such charges and asking for a hearing by the Commission. In all hearings, of every kind and character, the employee shall have the right to be represented by counsel, the witnesses may be placed under the rule. All such hearings shall be public. The Commission shall have the authority to issue subpoenas for the attendance of witnesses.

Appeal to District Court

Sec. 18. In the event any Fireman or Policeman is dissatisfied with the decision of the Commission, he may, within ten (10) days after the rendition of such final decision, file a petition in the District Court, asking that his order of suspension or dismissal or demotion be set aside, that he be reinstated in the Fire Department or Police Department, and such case shall be tried de novo. Such cases shall be advanced on the docket of the District Court, and shall be given a preference setting over all other cases.

Demotions

Sec. 19. Whenever the head of the Fire Department or Police Department may desire the demotion to a lower rank of an officer or employee under his supervision or jurisdiction, such Department head may recommend in writing to the Commission that such employee be so demoted, giving his reasons therefor, and requesting that the Commission make such order or demotion, furnishing a true copy of such recommendation immediately, in person, to the employee to be affected by such demotion. Said Commission shall have the authority to refuse to grant said request for demotion. If, however, said Commission feels that probably¹ cause exists for said demotion, they shall give such employee ten (10) days advance written notice to appear before them at a time and place specified in said written notice to the employee, and said employee shall have the right to a full and complete public hearing upon such proposed demotion. The Commission shall not demote any employee without such hearing.

¹ Probably should read "probable".

Disciplinary Suspensions

Sec. 20. The head of either the Fire or Police Department shall have the power to suspend any officer or employee under his jurisdiction or supervision for disciplinary purposes, for reasonable periods, not to exceed fifteen (15) days; provided, that in every such case, the department head shall file with the Commission within one hundred and twenty (120) hours, a written statement of action, and the Commission shall have the power to investigate and to determine whether just cause exists therefor. In the event the department head fails to file said statement with the Commission within one hundred and twenty (120) hours, the suspension shall be void and the employee shall be entitled to his full salary. The Commission shall have the power to reverse the decision of the department head and to instruct him immediately to restore such employee to his position. In the event such department head refuses to obey the order of the Commission, then the provisions with reference to salaries of the employees and to the discharge of the department head as well as the other provisions of Section 16, pertaining to such refusal of the department head, shall apply.

Reduction of Force; Reinstatement List

Sec. 21. In the event that any position in the Fire Department or Police Department is vacated or abolished by ordinance of the City Council, or legislative body, the employee holding such position shall be demoted to the position next below the rank of the position so vacated or abolished; provided that when any position or positions of equal rank may be abolished or vacated, the employee or employees with the least seniority in the said rank shall be the one or ones who are demoted.

In the event that it thereby becomes necessary to demote an employee or employees to the position next below the rank of the position so vacated or abolished, such employee or employees as are involuntarily demoted without charges having been filed against them for violation of civil service rules shall be placed on a position reinstatement list in order of their seniority. If any such position so vacated or abolished is filled or re-created within one (1) year, the position reinstatement list for such position shall be exhausted before any employee not on such list is promoted to such position. Promotions from the position reinstatement list shall be in the order of seniority.

In the event positions in the lowest classifications are abolished or vacated, and it thereby becomes necessary to dismiss employees from the Department, the employee with the least seniority shall be dismissed, but such employees as are involuntarily separated from the Department without charges having been filed against them for violation of civil service rules, shall be placed on the reinstatement list in order of their seniority. The reinstatement list shall be exhausted before appointments are made from the eligibility list. Appointments from reinstatement list shall be in the order of seniority. Those who shall have been on any such reinstatement list for a period of three (3) years shall be dropped from such list but shall be reinstated upon request from the Commission.

Political Activities; Leaves of Absence

Sec. 22. Employees in the Fire Department or Police Department shall not be permitted to take an active part in any political campaign of another for an elective position of the city if they are in uniform or on active duty. The term active part means making political speeches, passing out cards, or other political literature, writing letters, signing petitions, actively and openly soliciting votes and making public derogatory remarks about candidates for such elective positions.

Firemen and Policemen coming under the provisions of this Act are not required to contribute to any political fund or render any political service to any person or party whatsoever; and no person shall be removed, reduced in classification or salary, or otherwise prejudiced by refusing to do so; and any official of any city coming under the provisions of this

Act who attempts the same shall be guilty of violating the provisions of this Act.

No fireman or policeman shall be refused reasonable leave of absence without pay, provided that a sufficient number of employees to carry out the normal functions of the Department shall be provided, for the purpose of attending any fire or police school, conventions, or meetings, the purpose of which is to secure more efficient departments and better working conditions for the personnel thereof, nor shall any rule ever be adopted affecting their constitutional right to appear before or petition the Legislature. Provided however, that no Civil Service Commission or governing body of any city shall further restrict the rights of employees of the Police and Fire Departments to engage in political activities except as herein expressly provided.

Military Leave of Absence

Sec. 22a. The Civil Service Commission on written application of a member of the fire or police department shall grant military leave of absence without pay to such member to enable him to enter military service of the United States in any of its branches, such leave of absence to continue during the period of active military service of such member. The Civil Service Commission shall grant such leave retroactively back to the commencement of the Korean War. Any such member receiving military leave of absence hereunder shall be entitled to be returned to the position in the department held by him at the time the leave of absence is granted, upon the termination of his active military service, provided he receives an Honorable Discharge and remains physically and mentally fit to discharge the duties of that position; and further provided he makes application for reinstatement within ninety (90) days after his discharge. Upon being returned to said position, such member shall receive full seniority credit for the time spent in the military service. During the absence from the department of any such member to whom military leave of absence shall have been granted by the Civil Service Commission the position in the department held by such member shall be filled in accordance with the other provisions of the Firemen's and Policemen's Civil Service Act subject to the person filling such position being replaced by the member to whom military leave of absence has been granted upon his return to active duty with the department. Any person so replaced and remaining with the department and by reason of such replacement being returned to a position lower in grade or compensation shall have a preferential right for subsequent appointment or promotion to the same or similar position of that from which he has been replaced over any eligibility list for such position, provided he remains physically and mentally fit to discharge the duties of such position.

Publishing of Rules; Mailing, Posting and Distribution

Sec. 23. The Commission shall cause to be published all rules and regulations which may

be promulgated by it, and shall publish classification and seniority lists for each department, and such rules and regulations and lists shall be made available upon demand.

Whenever the Commission shall have adopted any such rules or regulations by a majority vote, and shall have caused same to be reduced to writing, typewriting or printing, such rules and such regulations shall thereupon be deemed to be sufficiently published and promulgated within the meaning of this Act and shall be valid and binding, upon the Commission doing or causing to be done the following:

(1) By mailing a copy of such rules and regulations to the Commissioner of Fire and Police, the Chief of the Police Department, and the Chief of the Fire Department.

(2) By posting all such rules and regulations at a conspicuous place for a period of seven (7) days in the Central Police Station and for the same period in the Central Fire Station.

(3) By mailing a copy of all such rules and regulations to each branch fire station.

The Director of Civil Service shall keep on hand copies of said rules and regulations for free distribution to members of the Fire and Police Departments requesting same, and said rules and regulations shall be kept available for inspection by any interested citizen.

No additional publication by way of insertion in a newspaper shall be required and no action need be taken by the City Council or governing body of any such city with reference to said rules or regulations; and in all cities coming under the provisions of this Act, where the Commission has heretofore adopted any such rules and regulations, and has caused same to be reduced to writing, typewriting or printing, and complied with all provisions of this Section, such rules and such regulations are hereby validated ab initio regardless of whether same have been published in a newspaper, or by posting, or otherwise, and regardless of whether any section has been taken with reference thereto by the City Council or governing body of such city.

Status of Present Employees

Sec. 24. Firemen or Policemen in the actual service of each city affected hereby, at the time of the final passage of this Act, and entitled to civil service classification, shall enjoy the status of civil service employees without having to take any competitive examinations for the position occupied at the time, provided such Firemen and Policemen have been in the service of said city for more than six (6) months.

Sec. 25. Repealed by Acts 1957, 55th Leg., p. 1171, ch. 391, § 8.

Sick and Injury Leaves of Absence

Sec. 26. Permanent and temporary employees in the classified service shall be al-

lowed a total of sick leave with full pay computed upon a basis of one and one-fourth ($1\frac{1}{4}$) full working days allowed for each full month employed in a calendar year, so as to total fifteen (15) working days to an employee's credit each twelve (12) months.

Employees shall be allowed to accumulate fifteen (15) working days of sick leave with pay in one (1) calendar year.

Sick leave with pay may be accumulated without limit and may be used while an employee is unable to work because of any bona fide illness. In the event that the said employee can conclusively prove that the illness was incurred while in performance of his duties, an extension of sick leave in case of exhaustion of time shall be granted.

In the event that a Fireman or Policeman for any reason leaves the classified service, he shall receive, in a lump sum payment, the full amount of his salary for the period of his accumulated sick leave, provided that such payment shall not be based upon more than ninety (90) working days of accumulated sick leave. Provided, that in order to facilitate the settlement of the accounts of deceased employees of the Fire or Police Departments, all unpaid compensation due such employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order or precedence and such payments shall be a bar to recovery by any other person of amounts so paid.

First, to the beneficiary or beneficiaries designated by the employee in writing to receive such compensation filed with the Civil Service Commission prior to the employee's death;

Second, if there be no such beneficiary, to the widow or widower of such employee;

Third, if there be no such beneficiary or surviving spouse, to the child or children of such employee, and descendants of deceased children, by representation;

Fourth, if none of the above, to the parents of such employee, or the survivor of them;

Fifth, if there be none of the above, to the duly appointed legal representative of the estate of the deceased employee, or if there be none, to the person or persons determined to be entitled thereto under the laws of descent and distribution of the State of Texas.

Provided that all such cities coming under the provisions of this Act shall provide injury leaves of absence with full pay for periods of time commensurate with the nature of injuries received while in line of duty for at least one (1) year. At the expiration of said one-year period, the City Council or governing body may extend such injury leave, at full or reduced pay, provided that in cities that have a Firemen's or Policemen's Pension Fund, that if said injured employee's salary should be reduced below sixty per cent (60%) of his regular monthly salary, said employee shall be retired on pension until able to return to duty.

Vacations; Accumulations of Vacation Leave

Sec. 26(a). All firemen and policemen in the classified service shall earn a minimum of fifteen (15) working days vacation with pay in each year. In computing the length of time during which a fireman or policeman may be absent from work for the vacation provided by this Section, only those calendar days during which the member would be required to work if he were not on vacation shall be counted as vacation days. Vacation leave may not be accumulated from year to year, except as approved by the governing body of the city.

Termination of Service; Accumulated Sick and Vacation Leave; Lump Sum Payment; Cities of 1,200,000 or More

Sec. 26(b). (a) In any city in this State having a population of one million, two hundred thousand (1,200,000) or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason shall receive in a lump sum payment the full amount of his salary for the period of his accumulated sick leave, provided that the payment shall be based upon not more than ninety (90) working days of accumulated sick leave plus one-fourth ($\frac{1}{4}$) of all remaining working days of accumulated sick leave in excess of the ninety (90). Any fireman or policeman who leaves the classified service or loses his life as the result of a line of duty injury or illness or the beneficiaries of such fireman or policeman shall be paid the full amount of his salary for the total number of his working days of accumulated sick leave.

(b) In any city in this State having a population of one million, two hundred thousand (1,200,000) or more inhabitants, according to the last preceding federal census, a fireman or policeman who leaves the classified service for any reason shall receive in a lump sum payment the full amount of his salary for the period of his accumulated vacation leave, provided that such payment shall be based upon not more than sixty (60) working days of accumulated vacation leave. Any fireman or policeman who leaves the classified service or loses his life as the result of a line of duty injury or illness or the beneficiaries of such fireman or policeman shall be paid the full amount of his salary for the total number of his working days of accumulated vacation leave.

Firemen or Policemen Prohibited from Striking

Sec. 27. It shall be unlawful from and after the passage of this Act for any Fireman or Policeman, coming under the provisions of this Act, to engage in any strike against the agency of the government by which they are employed.

Firemen or Policemen, coming under the provisions of this Act, who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor and shall, after conviction, be fined not less than Ten Dollars (\$10) or more than One Hundred Dollars (\$100), or by confinement in the county jail for not more than thir-

ty (30) days, or by both such fine and imprisonment.

And in addition to such fine and imprisonment, any Fireman or Policeman who has been convicted of the violation of the provisions of this Section of this Act shall thereby be automatically released and discharged from such Police or Fire Department and shall thereafter be ineligible to receive any pay or compensation out of any public funds provided for the support of such Police or Fire Department.

Adoption of Act by Vote or Otherwise

Sec. 27(a). Provided, however, that the provisions of this Act as amended by this House Bill No. 79, passed at the Fifty-fifth Regular Session of the Legislature, shall not apply to any city unless such city has already adopted and has in effect the provisions of this Act before the effective date of this amending Act, or unless first determined at an election at which the adoption or rejection of this Act shall be submitted. Upon receiving a petition signed by qualified voters in said city in number not less than ten per cent (10%) of the total number voting in the last preceding municipal election, the governing body of said city shall call an election within sixty (60) days after said petition has been filed with governing body. If at said election a majority of the votes cast shall favor the adoption of this Act, said governing body shall put such Act into effect within thirty (30) days after the beginning of the first fiscal year of said city after said election. The question shall be submitted for the vote of the qualified electors as follows:

FOR the adoption of the Firemen's and Policemen's Civil Service Act.

AGAINST the adoption of the Firemen's and Policemen's Civil Service Act.

When any election has been held in a city, at which election the adoption or rejection of Chapter 325, Acts of the Fiftieth Legislature, 1947, (Vernon's Annotated Civil Statutes, Article 1269m) has been submitted, whether such election has been held prior to the effective date of this amending Act or subsequent thereto, a petition for another such election shall not be filed for at least one (1) year subsequent to the election so held; and said petition for any such election after the first election shall be signed by qualified voters in said city in number not less than twenty per cent (20%) of the total number voting in the last preceding municipal election; and any such election after the first election shall be held at the next general municipal election to be held in such city after the filing of such petition.

Repeal of Provisions in City by Vote

Sec. 27(b). In any city in which the provisions of this Act have been in effect for a period of one (1) year, if a petition of ten per cent (10%) of the qualified voters of such city shall be presented to the governing body of such city to call an election for the repeal of the provisions of this Act, then and in that

event, the governing body of such city shall call an election of the qualified voters to determine if they desire the repeal of such provisions. Should a majority of the qualified voters so vote to repeal the provisions of this Act, then the provisions shall become null and void as to such city.

Repeal and Saving Clause

Sec. 28. This Act shall supersede all other civil service pertaining to Firemen and Policemen in the cities covered hereby. If any section, paragraph, portion, sentence, line, phrase, clause, or word of this Act should be held to be unconstitutional or invalid, then such unconstitutionality or invalidity of any other section, paragraph, portion, sentence, line, phrase, or word hereof, and it is hereby declared to be the legislative intent that each and all of the said portions as above specified that are not held to be unconstitutional or invalid, shall be and remain in full force and effect, just as though said unconstitutional or invalid portions, if any, were eliminated from the text of this Act.

Emergency Appointment of Persons Over 35

Sec. 28(a). When a city affected by the provisions of this Act is unable to recruit qualified employees in the Fire and Police Departments because of the maximum age limit provided by this Act, and the governing body finds that such condition constitutes an emergency, then the Civil Service Commission of said city shall recommend to the governing body such additional rules and regulations governing the temporary employment of persons in the Fire and Police Departments who are over the age of thirty-five (35) years. Provided, however, that persons employed under the provisions of such rules shall:

- A. Be designated as "temporary" employees.
- B. Be ineligible for pension benefits.
- C. Be ineligible for appointment or promotion when one or more permanent applicants or employees are available.
- D. Be ineligible to become full-fledged Civil Service Employees.
- E. Be terminated before any permanent Civil Service Employee is terminated pursuant to Section 21 of this Act.

[Acts 1947, 50th Leg., p. 550, ch. 325; Acts 1949, 51st Leg., p. 1114, ch. 572, §§ 1 to 6; Acts 1951, 52nd Leg., p. 161, ch. 99, § 1; Acts 1951, 52nd Leg., p. 164, ch. 102, § 1; Acts 1951, 52nd Leg., p. 425, ch. 265, § 1; Acts 1951, 52nd Leg., p. 780, ch. 433, § 1; Acts 1951, 52nd Leg., p. 470, ch. 298, § 1; Acts 1955, 54th Leg., p. 706, ch. 255, §§ 1 to 6; Acts 1957, 55th Leg., p. 1171, ch. 391, §§ 1 to 7(a); Acts 1963, 58th Leg., p. 150, ch. 91, § 1; Acts 1971, 62nd Leg., p. 939, ch. 150, § 1, eff. May 11, 1971; Acts 1971, 62nd Leg., p. 2822, ch. 921, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 300, ch. 140, § 1, eff. May 21, 1973; Acts 1973, 63rd Leg., p. 1247, ch. 451, § 1, eff. June 14, 1973; Acts 1973, 63rd Leg., p. 1255, ch. 457, § 1, eff. Aug. 27, 1973.]

† Savings Clause

Acts 1965, 59th Leg., p. 1158, ch. 546, codified as article 4413 (29aa), provides in section 8 that nothing contained in the Act

should be deemed to limit the powers and duties of municipal or county governments, nor to affect the provisions of this article. See art. 4413 (29aa), § 8.

Art. 1269n. Political Campaigns; Coercing Policeman or Fireman

(a) No person may coerce a policeman or a fireman to participate or to refrain from participating in a political campaign.

(b) Any person who violates Subsection (a) of this section is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$500 nor more than \$2,000 or by confinement in the county jail for not more than two years, or both.

[Acts 1973, 63rd Leg., p. 1255, ch. 457, § 2, eff. Aug. 27, 1973.]

Art. 1269o. Two Platoon Fire System and Hours of Labor in Certain Counties

Sec. 1. In all cities containing more than One Hundred Thousand (100,000) inhabitants and less than One Hundred Twenty Thousand (120,000) inhabitants, in this State, according to the last preceding Federal Census, in counties containing more than Nine Hundred (900) square miles, and in all cities of Two Hundred Sixty-five Thousand (265,000) inhabitants, or more, in this State, according to the last preceding Federal Census, in counties containing more than Fifteen Hundred (1500) square miles, which maintain an organized, paid fire department, there shall be established and maintained two platoon fire system, and no employee of such department shall be compelled to be on duty more than ten (10) consecutive hours during the day time, nor more than fourteen (14) consecutive hours during the night time; provided, that in no event shall employees of such fire departments be required to be on duty more than fourteen (14) hours in any period of twenty-four (24) consecutive hours, except as provided in Section 2 of this Act.

Sec. 2. The head or chief officer of such fire department or companies in such cities shall so arrange the working hours of the employees of such fire department or companies so that each employee shall work, as near as practicable, an equal number of hours per month; provided the two platoons may be so arranged as to work twenty-four (24) hours each on duty and twenty-four (24) hours off duty; provided, that the head or chief officer of such department, his aids or assistants may, in their discretion, in cases of emergency or great conflagrations require such employee, or employees to continue on duty during such conflagration or emergency, for a greater period than specified in Section 1 hereof.

Sec. 3. That any chief of such fire department or companies or any other officer or person who violates or causes to be violated any provision of this Act shall be guilty of a misdemeanor, and shall upon conviction be punished by a fine of not less than ten and No/100

(\$10.00) Dollars, nor more than One Hundred and No/100 (\$100.00) Dollars; each employee required or permitted to work in violation of the provisions hereof and each and every day of such violation shall constitute a separate offense.

[Acts 1933, 43rd Leg., p. 526, ch. 170.]

Art. 1269p. Hours of Labor and Vacations of Firemen and Policemen in Certain Cities

Cities Over 25,000; Hours of Labor

Sec. 1. No member of any fire department or police department in any city of more than twenty-five thousand (25,000) inhabitants shall be required to be on duty more than six (6) days in any one week.

Exception for Emergencies

Sec. 2. The preceding subdivision shall not apply to cases of emergency.

Cities Over 30,000; Vacations

Sec. 3. Each member of any such departments in any city of more than thirty thousand (30,000) inhabitants shall be allowed fifteen (15) days vacation in each year with pay; provided that the provisions of this Section of this Act shall not be applied to any member of any such department in any city of more than thirty thousand (30,000) inhabitants unless such member shall have been regularly employed in such department or departments for a period of at least one (1) year.

Number of Vacation Days and Holidays

Sec. 3a. Firemen and Policemen shall have the same number of vacation days and the same number of holidays, or days in lieu thereof, that is granted to other municipal employees.

Federal Census

Sec. 4. Each preceding Federal Census shall determine the population.

Designation of Vacation Days and Holidays

Sec. 5. The city officials having supervision of the fire department and police department shall designate the days of the week upon which each such member shall not be required to be on duty, and the days upon which each such member shall be allowed to be on vacation.

Cities Over 10,000; Hours of Labor

Sec. 6. It shall be unlawful for any city having more than ten thousand (10,000) inhabitants but not more than sixty thousand (60,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than seventy-two (72) hours during any one calendar week. It shall be unlawful for any city having more than sixty thousand (60,000) inhabitants but not more than one hundred twenty-five thousand (125,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than an average, during

a calendar year, of sixty-three (63) hours per week. It shall be unlawful for any city having more than one hundred twenty-five thousand (125,000) inhabitants, according to the last preceding Federal Census, to require or permit any fireman to work more than an average, during a calendar year, of sixty (60) hours per week.

Provided further, that in any city having more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, the number of hours in the work week of members of the fire department whose duties do not include fighting fires, including but not limited to mechanics, clerks, investigators, inspectors, fire marshals, fire alarm dispatchers and maintenance men, shall not exceed the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen.

Provided further, that in computing the hours in the work week of firemen subject to the provisions of the preceding paragraph, there shall be included and counted any and all hours during which such firemen are required to remain available for immediate call to duty by continuously remaining in contact with a fire department office by telephone or by radio.

Provided, however, that in any such city having more than ten thousand (10,000) inhabitants, in the event of an emergency, firemen may be required to work more than the maximum number of hours herein provided; and in such event firemen working more than the maximum hours herein provided shall be compensated for such overtime at a rate equal to one and one-half times the compensation paid to such firemen for regular hours.

Cities Over 10,000; Overtime

Sec. 6A. It shall be unlawful for any city having more than ten thousand (10,000) inhabitants, according to the last preceding Federal Census, to require or permit any policeman to work more hours during any calendar week than the number of hours in the normal work week of the majority of the employees of said city other than firemen and policemen.

Provided, however, that in any such city having more than ten thousand (10,000) inhabitants, in the event of an emergency, policemen may be required to work more than the number of hours in the normal work week of the majority of other city employees; and in the event policemen are ordered to work a greater number of hours than the number of hours in such normal work week of other city employees, such policemen shall be compensated for any such overtime at a rate equal to one and one-half times the compensation paid to such policemen for regular hours.

Effectiveness of Act

Sec. 6B. The governing body of each city which comes under the provisions of this Act¹ shall put into effect the provisions hereof, without referendum or election, on or before

the first day of the next fiscal year of such city after the effective date of this Act.

Working Extra Hours

Sec. 7. The provisions of this Act shall not be construed to prevent firemen and policemen from working extra hours when exchanging hours of work with each other with the consent of the department head.

Penalty

Sec. 8. The city official having charge of the fire department or police department in any such city who violates any provision of this Act shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars, and each day on which said city official shall cause or permit any Section of this Act to be violated shall constitute and be a separate offense.

Cumulative Effect of Act

Sec. 9. Nothing in this Act shall be construed as amending, altering or changing in any manner whatsoever the provisions of Article 1583, Penal Code of Texas, as amended,² Acts 1935, 44th Legislature, page 377, Chapter 139, Section 1; Acts 1937, 45th Legislature, page 358, Chapter 173, Section 1; Acts 1943, 48th Legislature, page 309, Chapter 201, Section 1. This Act is cumulative and in addition to said laws set out in this Section.

[Acts 1945, 49th Leg., p. 55, ch. 38; Acts 1951, 52nd Leg., p. 436, ch. 270, §§ 1, 2; Acts 1955, 54th Leg., p. 309, ch. 65, § 1; Acts 1959, 56th Leg., p. 781, ch. 356, §§ 1, 2.]

¹ Acts 1959, 56th Leg., p. 781, ch. 356, amending § 6 of this article and adding §§ 6A, 6B.

² Repealed by Acts 1959, 56th Leg., p. 781, ch. 356, § 3.

Art. 1269q. Compensation of Firemen and Policemen in Certain Cities

Sec. 1. It is hereby provided that in any city of this State of not less than one hundred seventy-five thousand (175,000) inhabitants, according to the last preceding Federal Census, or any succeeding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the sum of not less than Two Hundred Twenty (\$220.00) Dollars per month, and the additional sum of Three Dollars and Fifty Cents (\$3.50) per month commencing January 1, 1974, which shall be increased to Four (\$4.00) Dollars per month commencing January 1, 1975, for each year of service in such Police or Fire Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said department.

It is provided further, that in all cities in this State with inhabitants thereof between ten thousand (10,000) and one hundred seventy-five thousand (175,000), according to the last preceding Federal Census, each member of the Fire Department and of the Police Department shall receive and be paid the following sums

per month according to the population of each such city of ten thousand (10,000) or more and up to forty thousand and one (40,001), such salary shall be One Hundred Sixty-five (\$165.00) Dollars per month minimum; in all such cities with inhabitants of forty thousand and one (40,001) to one hundred thousand and one (100,001) inhabitants, such minimum salaries shall be One Hundred Ninety-five (\$195.00) Dollars per month; and in all such cities from one hundred thousand and one (100,001) to one hundred seventy-five thousand (175,000) inhabitants, such minimum salaries shall be Two Hundred Ten (\$210.00) Dollars per month; and in all such cities the additional sum of Three Dollars and Fifty Cents (\$3.50) per month commencing January 1, 1974, which shall be increased to Four Dollars (\$4.00) per month commencing January 1, 1975, for each year of service in such Fire or Police Department up to and including twenty-five (25) years of service in such department, as a minimum wage for the services so rendered. This longevity or service pay shall be paid in addition to all other moneys paid for services rendered in said departments.

Provided, however, that in all cities in this State having a population in excess of ten thousand (10,000), according to the last preceding Federal Census, or any succeeding Federal Census, the minimum salary of each member of the Fire Department and of the Police Department may be increased to not less than the minimum amount stated in a petition signed by qualified voters in said city in number not less than twenty-five (25%) per cent of the total number voting in the last preceding municipal election. Said petition shall state the amount of the proposed minimum salary aforesaid, and when it is filed with the governing body of a city said governing body shall call an election within ninety (90) days after said petition has been so filed to determine whether said proposed minimum salary shall be adopted. If at said election a majority of the votes cast shall favor the adoption of said proposed minimum salary, said governing body shall put such salary into effect on or before the first day of the next fiscal year of said city. No other issue shall be joined on the same ballot with the proposition submitted at the election as herein provided. The question shall be submitted for the vote of the qualified electors and the ballot shall be printed to provide for voting for or against the proposition: "The proposed minimum salary of \$_____ per month for Firemen and Policemen." The requested salary set forth in the petition mentioned above shall be inserted in lieu of the blank space in the proposition. When an election has been held in a city pursuant to the provisions of this Act, a petition for another election in said city shall not be filed for at least one year subsequent to the election so held. Nothing herein shall be construed to prevent the city concerned from adopting under the provisions of this Act without an election the minimum salary set forth in

the petition filed with the governing body of said city.

Sec. 2. Any city official, or officials, who have charge of the Fire Department or Police Department, or who are responsible for the fixing of the wages herein provided in any such city, who violate any provisions of this Act, shall be fined not less than Ten (\$10.00) Dollars nor more than One Hundred (\$100.00) Dollars; and each day on which such city official, or officials, shall cause or permit any violation of this Act shall constitute and be a separate offense.

Sec. 3. Provided further, that all municipal governments affected by this Act, shall, within thirty (30) days following enactment, set up classifications in Police and Fire Departments providing for duties under such classifications and specifying salary for each classification; and thereafter any member of any Fire and Police Department who is called upon to perform the duties under any such classification shall be paid the salary provided therefor for such period as he performs such duties.

[Acts 1947, 50th Leg., p. 246, ch. 143, § 1; Acts 1949, 51st Leg., p. 951, ch. 522, § 1; Acts 1951, 52nd Leg., p. 674, ch. 390, § 1; Acts 1953, 53rd Leg., p. 481, ch.

168, § 1; Acts 1969, 61st Leg., p. 691, ch. 236, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 506, ch. 218, § 1, eff. Aug. 27, 1973.]

Art. 1269r. Compensation of Firemen and Policemen for Court Appearances

Sec. 1. (a) A municipality shall pay firemen and policemen for appearances, made on their time off, as witnesses in criminal suits or in suits in which the municipality or other political subdivision or governmental agency is a party in interest.

(b) Payment for court appearances made on time off shall be at the fireman's or policeman's regular rate of pay and shall be limited to required appearances made by the fireman or policeman in his capacity as a fireman or policeman.

Sec. 2. Payment made under the provisions of this Act may be taxed as court costs in civil suits in which a fireman or policeman appears as a witness.

Sec. 3. Nothing contained herein shall be construed to reduce or prohibit compensation paid in excess of the regular rate of pay.

[Acts 1969, 61st Leg., p. 696, ch. 238, eff. Sept. 1, 1969.]

TITLE 29

COMMISSIONER OF DEEDS

Article

- 1270. Appointment.
- 1271. Oath.
- 1272. Seal.
- 1273. Authority.

Art. 1270. Appointment

The Governor is authorized to biennially appoint and commission one or more persons in each or any of the other states of the United States, the District of Columbia, and in each or any of the territories of the United States, and in each or any foreign country, upon the recommendation of the executive authority of said state, District of Columbia or territory or foreign country to serve as commissioner of deeds. Such commissioner shall hold office for two years.

[Acts 1925, S.B. 84.]

Art. 1271. Oath

Such commissioner, before he shall proceed to perform any duty under and by virtue of this title, shall take and subscribe an oath or affirmation, before the clerk of any court of record in the city, county or country in which such commissioner may reside, well and faithfully to execute and perform all the duties of

such commissioner under the laws of this State; which oath or affirmation, certified to by the clerk under his hand and seal of office, shall be filed in the office of the Secretary of State in this State.

[Acts 1925, S.B. 84.]

Art. 1272. Seal

Every such commissioner shall provide for himself a seal with a star of five points, in the center, and the words, "Commissioner of the State of Texas," engraved thereon, which seal shall be used to certify all the official acts of such commissioner; and without the impress of said seal upon any instrument, or to certify any act of such commissioner, said act shall have no validity in this State.

[Acts 1925, S.B. 84.]

Art. 1273. Authority

The commissioner of deeds shall have the same authority as to taking acknowledgments and proofs of written instruments, administering oaths, and taking depositions to be used or recorded in this State, as is conferred by law upon a notary public of this State.

[Acts 1925, S.B. 84.]

TITLE 29A

COMMISSIONERS ON UNIFORM LAWS

Article

- 1273a. Repealed.
- 1273b. Commission on Uniform State Laws.

Art. 1273a. Repealed by Acts 1951, 52nd Leg., p. 763, ch. 415, § 6

Art. 1273b. Commission on Uniform State Laws

Appointment of Commission

Sec. 1. A Commission is hereby created to be known as the Commission on Uniform State Laws which shall consist of five recognized members of the bar who shall be appointed by the Governor for terms of four years each, or until their successors are appointed; and in addition thereto, any residents of this state who because of long service in the cause of the uniformity of state legislation shall have been elected life members of the National Conference of Commissioners on Uniform State Laws.

Appointments to Fill Vacancies

Sec. 2. Upon the death, resignation, failure or refusal to serve, of any appointed Commissioner, his office becomes vacant; and the Governor shall make an appointment to fill the

vacancy, such appointment to be for the unexpired term of the former appointee.

Meeting and Organization

Sec. 3. The Commissioners shall meet at least once in two years and shall organize by the election of one of their number as Chairman and another as Secretary, who shall hold their respective offices for a term of two years and until their successors are elected.

Duties of Commissioners

Sec. 4. Each Commissioner shall attend the meeting of the National Conference of Commissioners on Uniform State Laws, and both in and out of such National Conference shall do all in his power to promote uniformity in state laws, upon all subjects where uniformity may be deemed desirable and practicable; said Commission shall report to the Legislature at each Regular Session, and from time to time thereafter as said Commission may deem proper, an account of its transactions, and its advice and recommendations for legislation. It shall also be the duty of said Commission to bring about as far as practicable the uniform judicial interpretation of all uniform laws.

[Acts 1951, 52nd Leg., p. 763, ch. 415.]

TITLE 30

COMMISSION MERCHANTS

1. COMMISSION MERCHANTS

Article

- 1274. "Commission Merchant" Defined.
- 1275. Bond of.
- 1275a. Penalty.
- 1276. Suits on Bond.
- 1277. Unlawful Interest in Sales.
- 1278. Account of Sales.
- 1279. False Charges.
- 1280. Duties of Shipper.

2. LIVE STOCK COMMISSION MERCHANTS

- 1281. Live Stock Commission Merchant.
- 1281a. Live Stock Commission Merchant.
- 1282. To Make Bond.
- 1282a. Failure to Give Bond.
- 1283. Conditions and Amount of Bond.
- 1284. Duty of Court, Judge.
- 1285. Bond Recorded.
- 1285a. To Post Copy of Bond.
- 1286. Deposit of Proceeds.
- 1286a. Failure to Remit Promptly.
- 1286b. Appropriating Proceeds.
- 1287. Suit on Bond.
- 1287a. Livestock Auction Commission Merchants.

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

- 1287-1. General Provisions.
- 1287-2. Persons Handling Both Citrus Fruits and Vegetables; One Bond and One License Fee.
- 1287-3. Regulation of Vegetable Producers, Handlers and Dealers.

1. COMMISSION MERCHANTS

Art. 1274. "Commission Merchant" Defined

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

[Acts 1925, S.B. 84.]

Art. 1275. Bond of

Every commission merchant shall make bond in the sum of three thousand dollars, with a solvent surety company doing business in this State or with two or more good and sufficient sureties, who are residents of this State, and who shall make affidavit that they in their own right, over and above all exemptions, are worth the full amount of the bond they sign as sureties, payable to the county judge of each county in which such commission merchant maintains an office, and to the successors in office of such county judge as trustees for all persons who may become entitled to the benefits of this subdivision; conditioned that such commission merchant will faithfully and truly perform all agreements and contracts entered into with consignors for said produce, goods, wares or merchandise, will promptly receive and sell such produce, goods, wares or mer-

chandise, and will on receipt of such produce, goods, wares or merchandise class the same, and if such class as made by such commission merchant is not as high as that made and sent to him by the consignor, he (the commission merchant) will immediately notify the consignor of such fact and of the class made by him; and, as soon as sold will send to the consignor a full and complete account of sales of same, giving an itemized account thereof, and the price received, the dates of sales, and shall, within five days after said produce, goods, wares or merchandise are sold, send to the consignor the full amount received for the same, less the commission due said commission merchant under the contract of assignment, such bond to be approved by the county judge of the county in which said commission merchant maintains an office, and by said judge filed for record in the county clerk's office as chattel mortgages are now authorized to be filed by law.

[Acts 1925, S.B. 84.]

Repeal

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

Art. 1275a. Penalty

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

[1925 P.C.]

Art. 1276. Suits on Bond

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

consignments thereafter entered into by said commission merchant and consignor of such produce, cotton, sugar, goods, wares or merchandise, and upon failure of said commission merchant to give said new bond as above required, he shall cease doing business in this State.

[Acts 1925, S.B. 84.]

Art. 1277. Unlawful Interest in Sales

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

[Acts 1925, S.B. 84.]

Art. 1278. Account of Sales

Upon the shipment of any produce, cotton, sugar, goods, wares or merchandise, consigned for sale to any factor or commission merchant, it is hereby made his duty that such commission merchant will faithfully and truly perform all agreements and contracts entered into with consignors for said produce, cotton, sugar, goods, wares and merchandise; that said commission merchant will promptly receive and sell such produce, cotton, sugar, goods, wares or merchandise, in accord with the contract of consignment and will on receipt of such produce, cotton, sugar, goods, wares or merchandise class the same, and if such class as made by such commission merchant is not as high as that made and sent to him by the consignor, he, (the commission merchant) will immediately notify the consignor of such fact and of the class made by him and as soon as sold will send to the consignor a full and complete account of sales of same, giving an itemized account thereof, and the price received, the dates of sales, and shall, within five days after said produce, cotton, sugar, goods, wares or merchandise are sold, send to the consignor the full amount received for the same, less the commission due said commission merchant under the contract of consignment; and if cotton, sugar, or other produce sold by weight, the weight of same in gross, and the tare allowed, and be accompanied by the certificate or memorandum, signed by the weigher who weighed the same, of the weight and condition as required by law, and upon failure of said commission merchant to comply with any one of the provisions of this article, he and the bonds-

men required by this subdivision shall be liable for all actual damages incurred by the consignor or by reason thereof, and in addition thereto a penalty of not less than one hundred nor more than five hundred dollars, to be recovered by the consignor in a suit filed for said actual damages and for said penalty.

[Acts 1925, S.B. 84.]

Art. 1279. False Charges

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

[Acts 1925, S.B. 84.]

Art. 1280. Duties of Shipper

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

[Acts 1925, S.B. 84.]

2. LIVE STOCK COMMISSION MERCHANTS

Art. 1281. Live Stock Commission Merchant

Any person, firm or corporation, who shall pursue the business of selling live stock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks, and jennets or any of

them, upon consignment for a commission or other charges, or who shall solicit consignment of live stock as a commission merchant or agent, or who shall advertise or hold himself out to be such, shall be deemed and held to be a live stock commission merchant within the meaning of this subdivision and subject to all the provisions and penalties herein prescribed. [Acts 1925, S.B. 84.]

Art. 1281a. Live Stock Commission Merchant

Any person, firm or corporation who pursues the business of selling live stock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks and jennets, or any of them, upon consignment for a commission or other charges, or who solicits consignment of live stock as a commission merchant or agent, or who advertises or holds himself out to be such shall be held to be a live stock commission merchant within the meaning of this chapter. [1925 P.C.]

Art. 1282. To Make Bond

All live stock commission merchants before they shall engage in said business within this State, are hereby required to make bond in an amount hereinafter specified, signed by a solvent surety company authorized to do business in this State and having a paid up capital of not less than five hundred thousand dollars, which said bond shall be payable to the county judge of the county in which such commission merchant has his principal office or place of business, and to his successors in office, as trustee for all persons who may become entitled to the benefits of this law, such bond to be filed by such county judge in the office of the county clerk of the county in which such commission merchant has his principal office or place of business, and in which county suits shall be instituted for any illegal breaches of said bond.

[Acts 1925, S.B. 84.]

Art. 1282a. Failure to Give Bond

Whoever advertises or solicits business as a live stock commission merchant or in any way pursues the occupation of a live stock commission merchant without first having made the bond required by the laws of this State, or fails to keep and maintain said bond in full force and effect as required by such laws, shall be confined in the penitentiary not less than one nor more than two years, or be fined not less than five hundred nor more than five thousand dollars or be both so fined and imprisoned.

[1925 P.C.]

Art. 1283. Conditions and Amount of Bond

Said bond shall be conditioned that such livestock commission merchant will faithfully obey and carry out all the terms and provisions of this law, and will faithfully and truly perform all agreements entered into with all the consignors, owners or those holding valid liens

on said live stock with respect to receiving, handling, selling and making remittances and payments of the net proceeds thereof to the said named parties, or to the person, firm or corporation to whom said consignors, owners or valid lien holders shall direct such payments to be made; and said bond shall further provide and shall be conditioned that such commission merchant shall within forty-eight hours of the sale of live stock so consigned, excluding the day of sale, Sunday, and holidays, remit the net proceeds thereof to the parties rightfully entitled to receive the same, or to such person, firm or corporation to whom such parties shall direct the payment to be made, or shall within forty-eight hours of the sale of such live stock for said parties at interest deposit to the credit of such parties their respective interest in the net proceeds thereof in some State or National Bank in the city or town where such livestock commission merchant has his principal office or place of business, if requested by any or all of the said parties at interest to do so. The amount of such bond shall be not less than the nearest multiple of One Thousand (\$1,000) Dollars above the average amount of sales and/or purchases of live stock by such livestock commission merchants during two business days, based on the total number of the business days, and the total amount of such sales and/or purchases in the preceding twelve (12) months, or in such part thereof in which such livestock commission merchant did business, if any. For the purpose of this computation, three hundred eight (308) shall be deemed the number of business days in a year. In any case, however, the amount of bond shall be not less than Two Thousand (\$2,000) Dollars; and when the sales and/or purchases, calculated as hereinbefore specified, exceed Fifty Thousand (\$50,000) Dollars as to any particular livestock commission merchant, the amount of the bond need not exceed Fifty Thousand (\$50,000) Dollars plus ten (10%) per cent of the excess. Any person, firm or corporation who has not heretofore engaged in the business of a livestock commission merchant shall give bond in an amount adequate to cover the probable volume of business to be done by such merchant, the amount of bond to be fixed by the County Judge of the county in which such livestock commission merchant has his principal office or place of business. After such livestock commission merchant, his successors or assigns, has engaged in such business for a period of twelve (12) months, then, the amount of such bond shall be determined as otherwise provided in this Act. Whenever in the judgment of the County Judge of the county in which such commission merchant has his principal office or place of business, the condition of the business of any such livestock commission merchant is such as to render his bond inadequate, such bond, upon notice, shall be increased to an adequate amount as determined by such County Judge. In case two or more livestock commission merchants are the employees or agents solely of the same princi-

pal, they may be covered by a single bond in an amount based on their combined purchases and/or sales determined in accordance with this Act. In any other case, two or more live-stock commission merchants may be covered by a single bond; provided, however, that the amount of such combined bond shall be not less than the aggregate sum of individual bonds, determined in accordance with this Act. All surety bonds, or their equivalents, shall contain a provision requiring that at least ten (10) days' prior notice in writing be given to the County Judge of the county in which such commission merchant has his principal office or place of business by the party terminating such bonds or equivalents, in order to effect their termination.

[Acts 1925, S.B. 84; Acts 1934, 43rd Leg., 2nd C.S., p. 96, ch. 41, § 1.]

Art. 1284. Duty of Court, Judge

The county judge shall carefully scrutinize said bond when tendered and if satisfied therewith approve said bond. No bond shall be approved by him which is not in the amount prescribed by this law, and conditioned as required by this law and executed by such surety company. The data as to such surety company shall be first duly certified to the said county judge by a certificate to that effect issued by the Commissioner of Insurance.

[Acts 1925, S.B. 84.]

Art. 1285. Bond Recorded

Said bond together with the sworn statement made to the county judge by the applicant seeking the approval of the same and setting forth the average daily sales of such applicant for the twelve months period next prior thereto, shall, as soon as practicable after the approval of said bond by the county judge, be filed for record in the county clerk's office in the county where the principal business of said commission merchant is to be carried on, and shall be recorded at length and properly indexed in a well-bound book kept for that purpose, to be labeled "Bonds of Live Stock Commission Merchants" and shall also file and securely retain in the archives of his office said original bond and sworn statement. Said clerk shall immediately upon the recording and indexing of said bond and statement furnish to the person, firm or corporation filing the same a correctly certified copy thereof. It is also made the duty of said commission merchant to procure said certified copy from said clerk at the earliest practicable date after the filing and recording thereof.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby re-

pealed, to the extent of conflict only, including but not limited to this article.

Art. 1285a. To Post Copy of Bond

Any live stock commission merchant who shall fail at any time to keep conspicuously posted in the main office of his principal place of business a certified copy of the bond furnished to him by the county clerk under the law shall be fined not to exceed one hundred dollars. Each day said copy shall not be so posted is a separate offense.

[1925 P.C.]

Art. 1286. Deposit of Proceeds

If the proceeds of any live stock sold by said live stock commission merchant shall become involved in a dispute between contending claimants or if said live stock commission merchant is notified that other parties are asserting rights to said proceeds, or any part thereof, in opposition to the claim of those shipping said stock to said commission merchant, said live stock commission merchant shall deposit the amount of said net proceeds involved in such contention in some State or National bank in the town or city where said live stock commission merchant has his principal place of business, and promptly notify all interested parties of his said action in the premises; whereupon no further liability as to such funds so deposited shall accrue or continue as to said live stock commission merchant, either personally or on his bond.

[Acts 1925, S.B. 84.]

Art. 1286a. Failure to Remit Promptly

Any person engaged in the business of a live stock commission merchant, as defined by this chapter, who shall intentionally fail and refuse, within forty-eight hours after the sale of any live stock consigned to him to remit the net proceeds thereof to the person rightfully entitled to receive the same, or to such person, firm or corporation as said party rightfully entitled thereto shall direct, shall be fined not less than one hundred nor more than one thousand dollars, or be imprisoned in jail for not less than one nor more than twelve months or both.

[1925 P.C.]

Art. 1286b. Appropriating Proceeds

Any person engaged in the business of live stock commission merchant who shall appropriate or use for any purpose other than remitting to such person, firm or corporation entitled to receive the same, any portion of the net proceeds of live stock so sold by such live stock commission merchant, shall be confined in the penitentiary not less than two nor more than four years.

[1925 P.C.]

Art. 1287. Suit on Bond

The bond provided for by this law may be sued upon and recovery had thereon by any

persons claiming to have been damaged by a breach of its conditions. Said bond shall not become void upon the first recovery thereon but may be sued upon until the amount thereof is exhausted. Upon a reduction of said bond by recoveries thereon to the extent of one-half thereof said live stock commission merchant shall be required forthwith to make and file a new bond conditioned as in the third article of this subdivision so as to restore said bond to the required amount. If it shall come to the knowledge of the county judge that the surety company making such bond has become insolvent or is not financially able to make the said bond ample and sufficient in the opinion of said judge, then said officer shall notify said commission merchant to execute a new bond as herein provided for; whereupon it shall be the duty of such commission merchant to make a new bond the same as originally required by the provisions of this law.

[Acts 1925, S.B. 84.]

Art. 1287a. Livestock Auction Commission Merchants

Definition; Application

Sec. 1. Any person, firm, or corporation pursuing, or who shall pursue the business of selling livestock, cattle, cows, calves, bulls, steers, hogs, sheep, goats, mules, horses, jacks, and jennies, or any of them, at auction, upon consignment for a commission or other charges, or who shall solicit consignments of livestock as a commission merchant or agent, or who shall advertise or hold himself out to be such shall be deemed and held to be a livestock auction commission merchant within the meaning of this subdivision and subject to all the provisions and penalties herein prescribed.

Provided, however, that in all counties in this State containing a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000), according to the last preceding Federal Census, the limitations and conditions imposed by this Act shall not apply to any person, firm, corporation, or association of persons pursuing the business of selling mules, horses, jacks, and jennies.

Bond Required

Sec. 2. All such livestock auction commission merchants, before they shall engage in said business within the State, are hereby required to make bond in an amount specified hereinafter, signed by a solvent surety company authorized to do business in this State, and having a paid up capital of not less than Five Hundred Thousand Dollars (\$500,000), which said bond shall be payable to the County Judge of the county in which such commission auction merchant has his principal office or place of business, and to his successor in office, as trustee for all persons who may become entitled to the benefit of this Law, such bond to be filed by said County Judge in the office of the County Clerk of the county in which such com-

mission auction merchant has his principal office or place of business, and in which suit shall be instituted for any illegal breaches of said bond.

Conditions, Amount and Termination of Bond; Reports

Sec. 3. Said bond shall be conditioned that such livestock commission merchant shall faithfully obey and carry out all the terms and provisions of this law, and will faithfully and truly perform all agreements entered into with all the consignors, owners, or those holding valid lien on said livestock with respect to receiving, handling, selling, and making remittances and payments of the net proceeds thereof to said named parties, or to the person, firm, or corporation to whom said consignor, owner, or valid lien holder shall direct such payments to be made; and said bond shall further provide and shall be conditioned that said auction commission merchant shall, within forty-eight (48) hours of a sale of the livestock so consigned, including the day of sale, Sundays, and holidays, remit the net proceeds thereof to the parties rightfully entitled to receive the same, or to such person, firm, or corporation to whom such parties shall direct the payment to be made, or shall, within forty-eight (48) hours of a sale of such livestock for said parties at interest, deposit to the credit of such parties their respective interests in the net proceeds thereof in some State or National Bank in the city, town, or county where such livestock auction commission merchant has his principal office or place of business, if requested by any or all of said parties at interest to do so. The amount of such bond shall be not less than the nearest multiple of One Thousand Dollars (\$1,000) above the average amount of sales and/or purchases of livestock by such livestock auction commission merchant, during two (2) business days, based on the total number of the business days, and the total amount of such sales and/or purchases in the preceding twelve (12) months, or in such part thereof in which such livestock auction commission merchant did business, if any. For the purpose of this computation, three hundred and eight (308) shall be deemed the number of business days in a year, and all livestock auction commission merchants may in making this computation use three hundred and eight (308) days as the number of business days in a year, regardless of whether livestock auction sales are actually conducted on all of the three hundred and eight (308) days aforesaid. In any case, however, the amount of bond shall be not less than Two Thousand Dollars (\$2,000); and when the sales and/or purchases, calculated as hereinbefore specified, exceed Fifty Thousand Dollars (\$50,000) as to any particular livestock auction commission merchant, the amount of the bond need not exceed Fifty Thousand Dollars (\$50,000) plus ten per cent (10%) of the excess. Any person, firm or corporation who has not heretofore engaged in the business of a livestock auction commission merchant shall

give bond in an amount adequate to cover the probable volume of business to be done by such merchant, the amount of bond to be fixed by the County Judge of the county in which such livestock auction commission merchant has his principal office or place of business. After such livestock auction commission merchant, his successors or assigns, has engaged in such business for a period of twelve (12) months, then, the amount of such bond shall be determined as otherwise provided in this Act. In case two (2) or more livestock auction commission merchants are the employees or agents solely of the same principal, they may be covered by a single bond in an amount based on their combined purchases and/or sales determined in accordance with this Act. In any other case, two (2) or more livestock auction commission merchants may be covered by a single bond; provided, however, that the amount of such combined bond shall be not less than the aggregate sum of individual bonds, determined in accordance with this Act. Said bond shall further provide that the person, firm, or corporation executing the same shall keep a true and accurate record of the description of all such livestock so sold at auction, which record shall be subject to be inspected by any citizen of Texas, which shall give a description of such livestock by color, probable age, and the marks and brands, if any there be, and the location of said marks and brands. Said livestock auction commission merchant executing such bond shall make quarterly report of such livestock so sold, giving the name of the consignor or person purporting to own the same, together with his address and the name and address of the person or persons purchasing the same. All such surety bonds shall contain a provision requiring that at least ten (10) days prior notice in writing be given to the County Judge of the county in which such commission auction merchant has his principal office or place of business by the party terminating such bond, in order to effect its termination.

Exception of Commission or Company Subject to Federal Regulation

Sec. 3a. The provision of Section 3 above shall have no application to any Livestock Auction Commission or Company which is subject to and regulated by the United States Department of Agriculture under the Packers and Stock Yards Act.¹

¹ 7 U.S.C.A. § 181 et seq.

Record of Vehicle in which Transported

Sec. 3a. In addition to the requirements set forth in Section 3 above and the other provisions of this Act, said Livestock Auction Commission Merchant shall keep a true and correct record of livestock received, sold or disposed of by him as follows:

1. On livestock received by him for the purpose of sale or other disposition he shall keep a record of the motor vehicle and the trailer or semi-trailer on which

such livestock was transported to the place where such livestock is sold or to be sold by him; such record of such vehicle or vehicles to be on a form prescribed by the Livestock Sanitary Commission of Texas, which shall show the name of the owner of such vehicle or vehicles, name of the owner of the livestock transported thereon, and the name, make, and current highway registration number of such vehicle or vehicles. Such record must be prepared and made available by such Livestock Auction Commission Merchant for public inspection within twenty-four (24) hours after the receipt of any such livestock by him.

2. On livestock sold or otherwise disposed of by him he shall keep a record of the motor vehicle and the trailer or semi-trailer on which any such livestock was transported or removed from the place of sale; such record shall be on a form prescribed by the Livestock Sanitary Commission of Texas and shall show the name and address of the purchaser of such livestock, the destination thereof, the name and address of the owner of the vehicle or vehicles upon which said livestock is transported from said place of sale. Such record must be prepared and made available by such Livestock Auction Commission Merchant immediately after such livestock is sold and before such livestock is removed from the place of sale. He shall furnish the driver of the vehicle transporting such livestock away from the place of sale with a copy of such record and the driver of such vehicle shall keep the same in his possession while transporting such livestock away from such place of sale and shall exhibit such record to any peace officer or enforcement officer on demand.

3. The records to be made and kept as herein required shall be retained by such Livestock Auction Commission Merchant for at least one (1) year from the date thereof and shall be open to public inspection at all reasonable hours. Provided, however, that the records herein provided for shall not apply to a private sale in which the livestock of only one individual, partnership, firm, or corporation is offered for sale.

Violations of Section 3a

Sec. 3b. Any person who violates any of the provisions of Section 3a shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not more than Two Hundred Dollars (\$200).

Approval of Bond by County Judge

Sec. 4. The County Judge shall carefully scrutinize such bond when tendered and, if satisfied therewith, shall approve said bond. No bond shall be approved by him which is not in the amount prescribed by this Law and conditioned as required by this Act and executed by such surety company.

Bond Filed in Office of County Clerk

Sec. 5. Said bond shall be, as soon as practicable, after the approval of same by the County Judge, filed for record in the office of the County Clerk in the county where the principal business of said commission auction merchant is to be carried on, and shall be recorded at length and properly indexed in a well bound book kept for that purpose, to be labeled "Bonds of Livestock Auction Commission Merchants." It is also made the duty of such auction commission merchant to procure a certified copy of such bond from the said County Clerk at the earliest practicable date, after the filing and recording thereof.

Deposit of Proceeds of Sale in Case of Dispute Between Claimants

Sec. 6. If the proceeds of any livestock so sold at auction by said livestock auction commission merchant shall become involved in a dispute between contending claimants, or if said livestock auction commission merchant is notified that some other party or parties are asserting right to said proceeds, or any part thereof, in opposition to the claim of those consigning said stock to said commission auction merchant, said livestock auction commission merchant shall deposit the amount of such net proceeds involved in such contention in some State or National Bank in the town, city, or county where said livestock commission merchant has his principal place of business and promptly notify all interested parties of his said action in the premises, whereupon no further liability as to such funds so deposited shall accrue or continue as to said livestock auction commission merchant or on his bond.

Suits on Bond

Sec. 7. The bond provided for by this Law may be sued upon and recovery had thereon by any person claiming to have been damaged by a breach of its condition. Said bond shall not become void upon the first recovery thereon, but may be sued upon until the amount thereof is exhausted. Upon a reduction of said bond by recovery thereon, to the extent of one-half thereof, said livestock auction commission merchant shall be required forthwith to make and file a new bond, conditioned as in the third Article of this Subdivision, so as to restore said bond to the required amount. If it shall come to the knowledge of the County Judge that the surety company making such bond has become insolvent, or is not financially able to make said bond ample and sufficient in the opinion of said County Judge, then said officer shall notify said livestock auction commission merchant to execute a new bond as therein provided for; whereupon it shall be the duty of such livestock auction commission merchant to make a new bond the same as originally required by the provisions of this Law.

Persons Included as Commission Merchants

Sec. 8. Any person, firm, or corporation who pursues the business of selling livestock, cattle, cows, calves, bulls, steers, hogs, sheep,

goats, mules, horses, jacks, and jennies, or any of them, upon consignment at auction for a commission or other charges, or who solicits consignments of livestock as an auction commission merchant or agent, or who advertises and holds himself out to be such, shall be held to be a livestock auction commission merchant within the meaning of this Chapter.

Penalty for Failure to Make Bond, Keep Property Description or Make Reports

Sec. 9. Whoever advertises or solicits business as a livestock auction commission merchant, or in any way pursues the occupation of a livestock auction commission merchant, without first having made the bond required by the law of this State, or failed to keep and maintain said bond in full force and effect as required by such law, or who shall fail to keep an accurate description of said property, giving the marks and brands thereon, if any, or who shall fail to make quarterly reports to the Commissioners Court of the county in which he pursues such business, giving such description of said livestock, which shall contain the name of the consignor, together with the name and address of the person or persons purchasing the same, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Twenty-five Dollars (\$25), nor more than One Thousand Dollars (\$1,000), or be confined in the county jail of such county for any period of time not exceeding thirty (30) days, or by both such fine and imprisonment.

Penalty for Failure to Remit Proceeds

Sec. 10. Any person engaged in the business of livestock auction commission merchant, as defined by this Chapter, who shall intentionally fail and refuse, within forty-eight (48) hours after the sale of any livestock consigned to him and sold by him at auction, to remit the net proceeds thereof to the person or persons rightfully entitled to receive the same, or to such person, firm, or corporation as said parties rightfully entitled thereto shall direct, shall be deemed guilty of a misdemeanor, and shall be punished with a fine of not less than Twenty-five Dollars (\$25), nor more than One Hundred Dollars (\$100), or be imprisoned in the county jail for not exceeding thirty (30) days, or by both such fine and imprisonment.

Penalty for Appropriation of Net Proceeds

Sec. 11. Any person engaged in the business of a livestock auction commission merchant, who shall appropriate or use for any purpose, other than remitting to said person, firm, or corporation entitled to receive the same, any portion of the net proceeds of livestock so sold at auction by such livestock auction commission merchant, shall be guilty of a misdemeanor, and upon conviction shall be punished by a fine of not exceeding One Thousand Dollars (\$1,000), and shall be confined in the county jail in said county not exceeding one year.

Penalty for Failure to Post Copy of Bond

Sec. 12. Any livestock auction commission merchant who shall fail at any time to keep conspicuously posted in the main office of his principal place of business a certified copy of the bond furnished to him by the County Clerk, under the provisions of this Act, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not exceeding One Hundred Dollars (\$100), and each day that said copy shall not be so posted is a separate offense.

[Acts 1937, 45th Leg., p. 387, ch. 192; Acts 1937, 45th Leg., 2nd C.S., p. 1963, ch. 53, § 1; Acts 1949, 51st Leg., p. 959, ch. 527, § 1; Acts 1953, 53rd Leg., p. 57, ch. 46, § 1; Acts 1953, 53rd Leg., p. 708, ch. 271, § 1.]

Repeal

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

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

Art. 1287-1. General Provisions

Secs. 1 to 9. Repealed by Acts 1963, 58th Leg., p. 598, ch. 218, § 22.

Disposition of Fees Collected

Sec. 10. All fees collected in the administration of this Act shall be deposited into the Special Department of Agriculture Fund. The entire amount of fees so collected and deposited, or as much thereof as may be necessary, is hereby appropriated to the State Department of Agriculture for the administration of this Act. This appropriation shall not affect any other appropriations heretofore or hereafter made to the State Department of Agriculture, but shall be in addition thereto beginning at the effective date of this Act and shall be for the period ending August 31, 1957.

[Acts 1937, 45th Leg., p. 926, ch. 443; Acts 1937, 45th Leg., 1st C.S., p. 1776, ch. 16, § 1; Acts 1949, 51st Leg., p. 769, ch. 414, § 1; Acts 1957, 55th Leg., p. 745, ch. 306, §§ 1, 2; Acts 1963, 58th Leg., p. 598, ch. 218, § 22.]

Savings Provisions

Acts 1963, 58th Leg., p. 598, ch. 218, § 22, which repealed Acts 1937, 45th Leg., p. 926, ch. 443, §§ 1 to 9, as amended (sections 1 to 9 of this article), provided that any rights accrued under the repealed act should not be impaired, and any judicial or administrative proceedings in progress should be in full force and effect and, further, that nothing in the act should affect Acts 1957, 55th Leg., p. 745, ch. 306, § 2, which added section 10 to this article.

Art. 1287-2. Persons Handling Both Citrus Fruits and Vegetables; One Bond and One License Fee

Any person who comes within any of the classifications set out in either House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature, as amended,¹ or House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature, as amended,² wherein a surety bond is required, shall be permitted to give one Twenty-five Thousand Dollar (\$25,000) surety bond, so worded as to guarantee faithful performance of all the provisions of both House Bill No. 99, Acts of the Regular Session of the Forty-fifth Legislature, as amended, and House Bill No. 557, Acts of the Regular Session of the Forty-fifth Legislature, as amended, such bond to be in such form as the Commissioner of Agriculture may prescribe, and any person who elects to give one surety bond of Twenty-five Thousand Dollars (\$25,000) to guarantee the faithful performance under both of said Acts shall be liable for only one licence fee of Twenty-five Dollars (\$25), and his license shall reflect the fact that he is licensed thereby to handle both citrus fruits and vegetables.

[Acts 1937, 45th Leg., 1st C.S., p. 1776, ch. 16, § 3; Acts 1963, 58th Leg., p. 312, ch. 117, § 9.]

¹ Article 118b.
² Article 1287-1.

Art. 1287-3. Regulation of Vegetable Producers, Handlers and Dealers

Definitions

Sec. 1. As used in this Act:

(a) "Commissioner" means the Commissioner of Agriculture of the State of Texas. The Commissioner is authorized to utilize all employees of the Department of Agriculture in the enforcement of this Act.

(b) "Vegetables" shall include agricultural commodities and mean any and all of the following enumerated commodities: asparagus, beans (string, wax or green), beets (bunched or topped), broccoli (Italian sprouting), cabbage (for sauerkraut), cantaloupes, carrots (bunched or clipped), cauliflower, celery (rough), corn (green), cucumbers (slicing), dewberries and blackberries, eggplant, endive, or escarole or chicory, garlic, kale, lettuce, melons (honey ball and honey dew), mustard greens, okra, onions, parsley, peaches, pears, peas (fresh), peppers (sweet), potatoes, potatoes (sweet), radishes, romaine, shallots, spinach, strawberries, tomatoes (fresh), turnips (bunched or topped), or rutabagas, turnip greens and watermelons.

(c) "Person" means any individual, partnership, group of persons, corporation or business unit handling vegetables.

(d) "Handle" means buying or offering to buy, selling or offering to sell, or shipping for the purpose of selling, whether as owner, agent, or otherwise, any vegetables purchased within the State of Texas. Per-

sons buying or shipping vegetables for canning, processing or handling are defined as handlers.

(e) "Dealer" means any person who handles vegetables.

(f) "Buying agent" means any person authorized by any licensed dealer to act for him in the handling of vegetables.

(g) "Transporting agent" means any person authorized by any dealer to act for said dealer in the transporting of vegetables.

(h) "Warehouseman" means any person who receives and stores vegetables for compensation.

(i) "Packer" means any person who prepares and/or packs vegetables for barter, sale, exchange or shipment.

(j) "Commission merchant" shall include "contract dealer" and means any person who purchases vegetables on credit, or who takes vegetables into his possession for consignment or handling on behalf of the producer or owner, or in any manner which does not require nor result in the payment to the producer, seller or consignor of the full purchase price in current money of the United States at the time of delivery to such commission merchant or when title passes from such producer, seller or consignor to such commission merchant.

(k) "Producer" means any person engaged in the business of growing or producing any vegetables.

License

Sec. 2. No person shall engage in the business of a dealer in vegetables unless such person shall first have procured a license in accordance with the provisions of this Act.

Application for License; Contents

Sec. 3. Any person desiring to engage in business as a dealer in vegetables within the State shall, prior to engaging in such business, file with the Commissioner an application for, and receive a license. Such application shall be made under oath and the Commissioner shall provide forms for such applications.

(a) Such application shall set forth the following specific information:

(1) The full name of the applicant and whether the applicant is an individual, partnership, corporation, exchange or association of persons; the full name and the address of the principal business office of the applicant and the address of the principal business office of applicant within the State of Texas; in the event that the applicant be a foreign corporation, the application shall name the state in which such corporation was chartered.

(2) Foreign corporations filing applications for license under this Act

shall indicate clearly in such application the name and the address of an agent for service within this State upon whom service of legal process may be had in any suit brought against said corporate applicant within the State of Texas.

(3) How long the applicant has been engaged in business in the State of Texas.

(b) In addition the applicant shall answer the following questions which shall be made a part of the application:

(1) Have you heretofore been licensed in the State of Texas as a dealer in vegetables?

(2) If you have answered that you have been so licensed, has any license so granted you within the State of Texas ever been suspended or revoked, or both?

(3) If you have answered that a license so issued you within the State of Texas has been suspended or revoked, or both, you will state when, where and give a short statement of the reason for such suspension or revocation, or both.

Fee; Issuance or Refusal of License; Hearing; Appeal

Sec. 4. All applications for license under this Act shall be accompanied by tender of payment in full of such fee as is required for the license. On receipt of such application and the required fee, the Commissioner or his duly authorized agent or employee shall immediately issue such license, provided that no license shall be issued when the application indicates that such person has had a similar license suspended or revoked, or both, until the Commissioner is furnished with satisfactory proof that the applicant is, on the date of the filing of such application, qualified to receive the license applied for. The issuance of license to persons who have suffered prior suspension or revocation of license in this State shall be discretionary with the Commissioner. In the exercise of such discretion, the Commissioner is authorized to take into consideration the facts and circumstances pertaining to the prior suspension or revocation, the financial condition of the applicant, as of the date of this application, and the obligations due and owing by the applicant to growers and producers of vegetables.

"Obligation" means any judgment of any court in this State or certified claim outstanding against the applicant as of the date of the application under consideration. Prior to refusal of license by the Commissioner, any applicant for license shall be entitled to an open hearing on the facts pertaining to such application, said hearing to be conducted by the Commissioner, or his duly licensed agent. If after such hearing the Commissioner, in the exercise of his discretion, refuses the license

applied for, the applicant shall, within ten (10) days from and after the denial of such license by the Commissioner and not thereafter, file his appeal from the order of the Commissioner denying such license, in any court of competent jurisdiction within this State. If the Commissioner shall determine that the license applied for shall not be granted, the Commissioner shall deduct from the license fee tendered with such application, the sum of Five Dollars (\$5), such sum to be retained by the Commissioner to defray costs and expenses incident to the filing and examination of said application and shall return the balance of the license fee so tendered with such application to the applicant.

Fee Schedule

Sec. 5. The following fees are hereby prescribed and shall be paid by applicants for license under this Act, and the Commissioner, his agents and employees are hereby authorized to collect the same:

- (a) For license as a "dealer" or "handler" of vegetables the sum of Twenty-five Dollars (\$25).
- (b) For license as a "commission merchant" and/or "contract dealer" Twenty-five Dollars (\$25).
- (c) For a license as a "buying agent," the sum of One Dollar (\$1).
- (d) For a license as a "transporting agent," the sum of One Dollar (\$1).

Surety Bond of Commission Merchants; Amount; Form; Actions on Bonds

Sec. 6. (a) All commission merchants shall, in addition to the license fee herein prescribed, deliver to the Commissioner, together with their application for license, a good and sufficient surety bond, payable to the Governor of the State of Texas and his successors in office, for the following amounts, based upon the amount of vegetables purchased by said "commission merchant" during the previous year:

- (1) \$5,000 up to \$25,000 of purchases;
- (2) \$10,000 between \$25,000 and \$100,000 of purchases;
- (3) \$25,000 over \$100,000 of purchases.

(b) In the case of a new business, the bond shall be \$5,000. After experience for six months the amount of the bond shall be re-determined. However, the bond must be obtained before the new "commission merchant" may do business.

(c) The bond furnished shall be in such form as the Commissioner may prescribe and shall be conditioned upon faithful compliance with the terms and provisions of this Act and upon the faithful performance of the conditions and terms of all contracts made by said "commission merchants" pertaining to the handling of vegetables under this Act.

(d) A cause of action may be maintained upon said bond by any person with whom said

applicant deals in purchasing, handling, selling and accounting for sales of vegetables as provided in this Act; the aggregate accumulated liability under such bond shall not exceed the face amount thereof, and each such bond shall continue in full force and effect until notice of termination thereof is given by registered mail to the Commissioner. Such fact shall be set forth in the face of said bond, but such notice shall not affect the liability which may have accrued thereon prior to termination.

(e) No license shall be issued to any "commission merchant" prior to the delivery to the Commissioner and the approval by him of the bond required under the provision of this Section.

Cancellation of License; Complaint; Hearing and Determination

Sec. 7. Any license issued under the provisions of this Act shall remain in full force and effect for a period of twelve (12) months from and after the date of issuance thereof unless said permit shall be cancelled in the manner hereinafter provided and pursuant to the proceedings hereinafter required, to wit:

(a) Any party aggrieved, injured or damaged by virtue of any violations of the terms and provisions of this Act by any licensee or by the transporting or buying agent of any licensee hereunder, may file with the Commissioner or his duly authorized agent or employee a verified complaint, setting out the specific violations complained of.

(b) The Commissioner shall set a date not more than ten (10) days from the receipt of such complaint for the hearing thereof; and notify the person complained of, furnishing him with a copy of such complaint, by registered mail to the last known address of such person.

(c) The Commissioner may, at his discretion, recess the hearing provided for in this Section from day to day if in his discretion the ends of justice demand such continuance; for the purpose of said hearings the Commissioner shall have the authority to summon witnesses; to inquire into matters of fact; to administer oaths, and to issue the subpoena duces tecum, for the purpose of obtaining any books, records, instruments, or writing, and other papers pertinent to the investigation at hand.

(d) Upon the conclusion of said hearing and the introduction of all evidence by the respective parties thereto, the Commissioner shall make his decision on the basis of the evidence introduced therein, and shall, if the evidence warrants, issue his order canceling the license of the person complained of.

Notice of Cancellation; Appeal

Sec. 8. Any licensee, whose license is so cancelled by an order of the Commissioner,

shall be notified in writing by registered mail of the cancellation of said license and it shall be unlawful and a violation of this Act for any licensee or buying or transporting agent to operate from and after said notification of cancellation, provided that said licensee or buying or transporting agent whose license has been so cancelled, shall have the right to appeal from the order of the Commissioner canceling said license, to any court of competent jurisdiction within this State, provided that such appeal shall be filed in said court within ten (10) days from and after receipt by licensee of notice of said cancellation, and provided further that the effect of said appeal by said licensee or licensee's agent shall not act to supersede the order of cancellation issued by the Commissioner, pursuant to final determination of the question of cancellation by said court.

Appeal from Commissioner's Ruling

Sec. 9. Any applicant for license whose application is rejected or any dealer who has been licensed hereunder and whose license is subsequently cancelled, may have an appeal from the Commissioner's ruling to any court of competent jurisdiction.

Contracts of Purchase; Payment to Seller; Demand for Purchase Price

Sec. 10. Any dealer who shall cause a producer or seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any part of his vegetables, and who agrees by his contract of purchase to pay the purchase price upon demand following delivery, shall immediately make payment thereafter to such owner or seller. Demand for the purchase price may be made upon dealer in writing, and the mailing of a registered letter making such demand addressed to said dealer at his business address, shall be prima facie evidence that demand was made upon the mailing of said letter.

Agreement to Part with Control or Possession of Vegetables and to Waive Right to Demand Purchase Price

Sec. 11. When a dealer causes a producer, seller or owner, or agent of producer, seller or owner, to part with the control or possession of all or any portion of his vegetables by means of any agreement under which the producer, seller or owner or agent of producer, seller or owner, has waived the right to demand the purchase price, as and when he parts with said control or possession of vegetables, such agreement for the handling, purchase or sale of vegetables by the dealer and the producer, seller or owner, shall be evidenced in writing in duplicate and shall set out in full the details of such transactions. In the event the agreement does not specify the time and manner of settlement, then the dealer shall settle therefor within thirty (30) days from the delivery of the vegetables into the dealer's control, and the dealer shall then directly account to and pay over to the said producer the full amount called for by the agreement.

Expiration and Renewal of License; Identification Cards; Contents; Return

Sec. 12. (a) Any license issued hereunder will authorize the licensee and none other, to engage in the business as a dealer for one year from date of issuance, at which time said license shall expire and become null and void. Any license issued to applicant under the provisions of this Act, which expired by its own terms, may be renewed upon payment to the Commissioner of Agriculture of the proper license fee as provided for the original issuance thereof. Said license and the identification cards hereinafter provided shall not be assignable and any attempt to assign same shall void such license or identification card. Upon application to the Commissioner by any licensed dealer, a reasonable number of "buying agent" and "transporting agent" identification cards may be issued and credited to such dealer, under such rules and regulations as said Commissioner may prescribe, and said Commissioner is hereby empowered to charge a fee not to exceed One Dollar (\$1) for each card so issued.

(b) Such cards shall bear the name of the licensee, dealer, and the number of his license, also the name of the dealer's agent, and shall state thereon that said licensed dealer, as the principal, has authorized the agent named on the card, the holder thereof, to act for and on behalf of said principal, either as "buying agent" or as "transporting agent" as above defined. "Buying agent" identification cards shall be of a different color from "transporting agent" cards. Such identification cards shall be at all times carried upon the persons of such agents who shall, upon demand, display such cards to the Commissioner or his agents or representatives, or to any person with whom said agent may be transacting business under this Act.

(c) If and when the holder of any identification card ceases to be the agent of the dealer by whom he was employed, it shall be the duty of said agent to return immediately such agent's card to the Commissioner for cancellation, and failure to do so shall constitute a violation of this Act.

Written Statement from Seller; Contents; Records

Sec. 13. It shall be unlawful for any dealer, packer, processor or warehouseman to purchase or receive or handle any vegetables without requiring the person from whom such vegetables are purchased or received, to furnish a statement in writing of

- (a) the owner of such vegetables,
- (b) the grower of such vegetables,
- (c) the approximate location of the land where such vegetables were grown,
- (d) the date such vegetables were gathered, and
- (e) by whose authority such vegetables were gathered.

Such records shall be kept in a permanent book or folder and shall be available to inspection by any interested party.

Investigation of Violations; Hearings; Orders

Sec. 14. For the purpose of enforcing the provisions of this Act, the Commissioner shall, either upon his own initiative or upon the receipt of a properly verified complaint, to investigate all alleged violations of this Act and for the purpose of making such investigation, he shall have, at all times, free and unimpeded access to all books, records, buildings, yards, warehouses, storage, and transportation and other facilities or places in which any vegetables are kept, stored, handled, processed or transported, and in furtherance of such investigation either the Commissioner in person or through his authorized representatives, may examine any portion of the ledger, books, accounts, memorandum, documents, scales, measures and other matters, objects or persons pertinent to such alleged violation under investigation. The Commissioner shall take such action and hold such public hearing as in his judgment are shown to be necessary after such investigations, and shall take the proper action with reference to the cancellation or suspension of the license of any dealer hereunder shown to have been guilty of a violation of the terms of this Act. Such hearings shall be held in the nearest city or town in the county where violations are alleged to have occurred. Any order made by the Commissioner with reference to the revocation or cancellation of any license granted under the provisions of this Act, shall be subject to review by a court of competent jurisdiction.

Consignment or Commission Basis; Record; Contents

Sec. 15. Where any vegetables are handled by any dealer upon a consignment or commission basis, unless otherwise agreed in written contract between the dealer and owner, the dealer shall, upon demand of the seller, or owner, his agent or representative, furnish said owner or seller, his agent or representative, a complete and accurate record showing, among other things, the date of sale, to whom sold, the grade and selling price of said vegetables, together with itemized statement showing what expenses of any kind or character incurred in the sale or handling of said vegetables including the commission, if any, to the dealer, and the failure or refusal of such dealer to furnish such information within ten (10) days after such demand by owner or seller, his agent or representative, shall constitute a violation of this Act.

Contracts Guaranteeing Producer Minimum Price; Commission or Service Charges

Sec. 16. If a dealer handles vegetables guaranteeing a producer or owner a minimum price, but at the same time handles the vegetables for the account of the producer or owner, said dealer shall include in his contract with the producer or owner, the maximum amount which he shall charge for commission or service, or both, in connection with said vegetables so handled.

Consignments Without Price Guarantee; Settlement on Basis of Grade and Quality; Inspection

Sec. 17. All vegetables except those obtained and handled by dealers solely on a consignment basis without any price guarantee shall be settled for by every dealer on the basis of the grade and quality which is referred to in the contract pursuant to which the dealer obtained possession or control of such vegetables, unless such vegetables have been inspected by a State or Federal inspector in the State of Texas and found to be of a different grade or quality than that referred to in said contract, in which event same shall be settled for on the basis of the grade and quality determined by such inspector. But nothing herein shall prevent the parties in lieu of such inspection, from agreeing in writing only that the grade or quality of any of such vegetables was different from that referred to in the contract. Failure of the dealer to settle with a producer or seller on grade and quality in the manner herein provided shall constitute a violation of this Act and be punishable as hereinafter provided, and in addition, shall be cause for revocation of license.

Venue

Sec. 18. The venue of any and all criminal acts and civil suits instituted under the provisions of this Act shall be in the county where the violation occurred or where the vegetables were received by the dealer, packer or warehouseman.

Offenses and Violations; Fines

Sec. 19. From and after the effective date of this Act any person who shall:

(a) Act as a dealer or handler, or both, without first obtaining a license to act as such dealer or handler, or both;

(b) Act or assume to act as a transporting agent or buying agent, without first obtaining from the Commissioner a license or a buying agent's or transporting agent's card as by the terms and provisions of this Act required, shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which any dealer, handler, buying agent, or transporting agent, shall act or assume to act in violation of the requirements of this Act shall constitute a separate offense.

(1) Any buying or transporting agent who ceases to be employed by, or the agent of the dealer or handler to whom such buying agent's or transporting agents' cards were issued and who fails and refuses on the termination of such employment to turn over to the Commissioner of Agriculture the buying or transporting agent's cards issued to such persons shall be fined not to exceed Two Hundred Dollars (\$200).

(2) Any person who shall act or assume to act as a commission merchant without first filing with the

Commissioner of Agriculture of the State of Texas the bond as required by this Act, and obtaining a license to act as such commission merchant shall be fined not to exceed Two Hundred Dollars (\$200), and each day upon which such person shall act or assume to act as such commission merchant shall constitute a separate offense.

(3) Any licensee or any transporting agent or buying agent of any licensee under this Act who shall violate any of the terms and provisions of this Act shall be fined not to exceed Two Hundred Dollars (\$200).

Cash Dealers; License

Sec. 20. Any person who purchases vegetables only from dealers duly qualified as such under this Act, and pays therefor prior to or at the time of delivery or taking possession of such vegetables so purchased, in current money of the United States, shall be exempt from giving the bond provided for in this Act and such person shall indicate on his application for license that he desires to operate as a cash buyer, buying only from dealers duly qualified as such under this Act, in accordance with the provisions of this Section and thereupon such person shall be entitled to a license as a cash dealer, purchasing only from dealers duly qualified under this Act, upon the payment by such applicant of the license fee as required under this Act. Such dealer shall be subject to all the pertinent provisions of this Act. Any violation of this Section shall be deemed a misdemeanor and be punishable, as provided in Section 19 of this Act.

Any producer handling or dealing in his own products exclusively, shall be licensed, upon application, by the Commissioner of Agriculture without charge and without being required to give bond.

Citrus Fruit Dealers; License and Surety Bond

Sec. 21. Any person who comes within any of the classifications set out in House Bill No. 99, Acts, Regular Session, Forty-fifth Legislature, or any amendments thereto,¹ wherein a surety bond of Twenty-five Thousand Dollars (\$25,000) is required of him, that classification shall be permitted to have one Twenty-five Thousand Dollars (\$25,000) surety bond to be

worded as to guarantee faithful performance of all of the provisions of both House Bill No. 99, Acts, Regular Session, Forty-fifth Legislature, as amended, and this Act, and such bond to be in such form as the Commissioner of Agriculture may prescribe, and any person who elects to have one surety bond of Twenty-five Thousand Dollars (\$25,000) to guarantee faithful performance under both of said Acts shall be liable for only one license fee of Twenty-five Dollars (\$25), and his license shall reflect the fact that he is licensed thereby to handle both citrus fruits and vegetables.

Repealer

Sec. 22. Chapter 443, Acts of the Forty-fifth Legislature, 1937, as amended,² is hereby repealed; provided that any rights accrued under such Act shall not be impaired, and any judicial or administrative proceedings in progress shall be in full force and effect. Nothing in this Act shall affect Section 2 of Chapter 306, Acts of the Fifty-fifth Legislature, 1957.³

**Trusts, Monopolies and Conspiracies against Trade;
Conflicts with Laws**

Sec. 23. Nothing in this Act shall ever be construed as amending, modifying, suspending, or repealing any of the laws of this State defining and prohibiting trusts, monopolies, and conspiracies against trade, with particular reference to Chapter 3, Title 19, Penal Code of this State, and Title 126, Revised Civil Statutes of Texas, 1925; and should this Act in any manner conflict with or alter, repeal, change, modify, or affect, or attempt to alter, repeal, change, modify or affect the above-mentioned Statutes or any sentence, section, clause, phrase or word thereof, this entire Act shall fail and be held for naught.

Partial Invalidity

Sec. 24. Should any word, phrase, sentence, paragraph or section of this Act be declared unconstitutional, it is hereby declared to be the intention of the Legislature to have passed the remainder of this Act in its entirety despite any such holding as to unconstitutionality.

[Acts 1963, 58th Leg., p. 598, ch. 218; Acts 1965, 59th Leg., p. 411, ch. 200, § 1, eff. May 18, 1965.]

¹ Article 118b.

² Article 1287-1, §§ 1 to 9.

³ Article 1287-1, § 10.

TITLE 31

CONVEYANCES

Article

- 1288. Instrument of Conveyance.
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- 1290. Partial Conveyances.
- 1291. When an Estate Deemed a Fee Simple.
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- 1301a. Condominium Act.
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Art. 1288. Instrument of Conveyance

No estate of inheritance or freehold, or for a term of more than one year, in lands and tenements, shall be conveyed from one to another, unless the conveyance be declared by an instrument in writing, subscribed and delivered by the party disposing of the same, or by his agent thereunto authorized by writing.

[Acts 1925, S.B. 84.]

Art. 1289. Notice

A conveyance, such as is described in the preceding article, shall not be good and effectual against a purchaser in good faith, without notice thereof and for a valuable consideration, nor against any creditor, unless such conveyance be acknowledged by the party who shall have signed or delivered it, or proved, in the manner required by law, and before some officer authorized by law to take such acknowledgment or proof, and be filed for record with the clerk of the county in which the land, or a part thereof, is situated.

[Acts 1925, S.B. 84.]

Art. 1290. Partial Conveyances

All alienations of real estate, made by any person purporting to pass or assure a greater right or estate than such person may lawfully pass or assure, shall operate as alienations of so much of the right and estate in such lands, tenements or hereditaments as such person might lawfully convey; but shall not pass or bar the residue of said right or estate purporting to be conveyed or assured; nor shall the alienation of any particular estate on which any remainder may depend, whether such alienation be by deed or will, nor shall the un-

ion of such particular estate with the inheritance by purchase or by descent, so operate as to defeat, impair or in any wise affect such remainder.

[Acts 1925, S.B. 84.]

Art. 1291. When an Estate Deemed a Fee Simple

Every estate in lands which shall thereafter [hereafter] be granted, conveyed or devised to one although other words heretofore necessary at common law to transfer an estate in fee simple be not added, shall be deemed a fee simple, if a less estate be not limited by express words or do not appear to have been granted, conveyed or devised by construction or operation of law.

[Acts 1925, S.B. 84.]

Art. 1291a. Abolition of Rule in Shelley's Case, Rule Forbidding Remainder to Grantor's Heirs, and Doctrine of Worthier Title

The rules of the common law known as The Rule in Shelley's Case, the Rule Forbidding a Remainder to the Grantor's Heirs, and The Doctrine of Worthier Title are hereby declared to be no longer operative in this State. If, in any deed, will, or other conveyance of real or personal property in this State, an interest is limited, mediately or immediately, to any particular person or persons, or to any such class as the heirs, heirs of the body, issue, or next of kin of the conveyor or of any person to whom a particular interest in the same property is limited, such conveyance shall be given effect according to the intention of the conveyor. No person's claim of right to take or share in such interest as a conveyee shall be affected by such person's status as heir or next of kin of the conveyor. No person shall be denied the right to take or share in such interest as a conveyance merely by reason of the fact that such person is not identified or described in the conveyance otherwise than as a member of a class of persons, howsoever the class may be designated. Subject to the principle that within the limits prescribed by law the intention of the conveyor shall be controlling, the members of any such class of persons as those heretofore mentioned and their participation in the interest limited to the class shall be ascertained in the light of the statutes of this State governing descent and distribution.

[Acts 1963, 58th Leg., p. 542, ch. 199, § 1, eff. Jan. 1, 1964.]

Acts 1963, 58th Leg., p. 542, ch. 199, §§ 2, 3 provided:
"Sec. 2. This Act shall become effective January 1, 1964.

"Sec. 3. This Act shall not apply to conveyances taking effect prior to the effective date of this Act. The provisions of this Act shall not affect the laws against perpetuities."

Art. 1291b. Reformation of Interests in Violation of Rule Against Perpetuities

Sec. 1. Any interest in real or personal property that would violate the Rule Against Perpetuities shall be reformed, or construed, within the limits of that Rule, to give effect to the general intent of the creator of that interest whenever that general intent can be ascertained. This provision shall be liberally construed and applied to validate such interest to the fullest extent consistent with such ascertained intent.

Sec. 2. To effectuate the provisions hereof, all courts of this state are, within their otherwise jurisdictional limits, hereby granted the power to reform or construe interests in real or personal property, as provided in Section 1 hereof, in accordance with the doctrine of cy pres.

Sec. 3. If an instrument violates the Rule Against Perpetuities, but it can be reformed or construed in accordance with the provisions of this Act, it shall not be declared totally invalid. Rather, the provisions thereof that do not offend the Rule shall be enforced, and only the provisions thereof that do violate, or might violate, the Rule shall be subject to reformation or construction under the doctrine of cy pres within the terms of this Act.

Sec. 4. This Act shall apply only to inter vivos instruments and wills taking effect after the Act becomes effective, and to appointments made after the Act becomes effective, including appointments by inter vivos instruments or wills under powers created before the Act becomes effective. The Act shall apply to both legal and equitable interests.

[Acts 1969, 61st Leg., p. 2020, ch. 693, eff. Sept. 1, 1969.]

Art. 1292. Form of Conveyance

The following form, or the same in substance, shall be sufficient as a conveyance of the fee simple of any real estate with a covenant of general warranty, viz:

“The State of Texas,

“County of

“Know all men by these presents, That I,, of the (give name of city, town or county), in the state aforesaid, for and in consideration of dollars, to me in hand paid by, have granted, sold and conveyed, and by these presents do grant, sell and convey unto the said, of the (give name of city, town or county), in the state of, all that certain (describe the premises). To have and to hold the above described premises, together with all and singular the rights and appurtenances thereto in any wise belonging, unto the said his heirs or assigns forever. And I do hereby bind myself, my heirs, executors and administrators to war-

rant and forever defend all and singular the said premises unto the said, his heirs and assigns, against every person whomsoever, lawfully claiming or to claim the same, or any part thereof.

“Witness my hand, this day of, A.D. 19....

“Signed and delivered in the presence of

[Acts 1925, S.B. 84.]

Art. 1293. Other Forms and Clauses Valid

No person shall be obliged to insert the covenant of warranty, or be restrained from inserting any clause or clauses in conveyances hereafter to be made, that may be deemed proper and advisable by the purchaser and seller; and other forms not contravening the laws of the land shall not be invalidated.

[Acts 1925, S.B. 84.]

Art. 1293a. Invalidity of Deed Restrictions Based on Race, Color, Religion or National Origin

Sec. 1. A provision in any deed conveying real property or any interest in real property, or any restrictions affecting real property, whether stated expressly in the deed or restrictions, or incorporated by reference, which provides that the property may not be sold, leased, or transferred to, or used by, any person because of race, color, religion, or national origin, is void and unenforceable.

Sec. 2. The courts of this state shall dismiss any suit or part of any suit in which a provision, restriction, or covenant declared void by the provisions of Section 1 of this Act is sought to be enforced.

[Acts 1969, 61st Leg., p. 1664, ch. 527, eff. June 10, 1969.]

Art. 1294. Must be Witnessed or Acknowledged

Every deed or conveyance of real estate must be signed and acknowledged by the grantor in the presence of at least two credible subscribing witnesses thereto; or must be duly acknowledged before some officer authorized to take acknowledgments, and properly certified to by him for registration.

[Acts 1925, S.B. 84.]

Art. 1295. Conveyance by Authorized Officer

Every conveyance of real estate by a commissioner, sheriff or other officer legally authorized to sell, under or by virtue of a decree or judgment of any court within this State, shall be good and effectual to pass the absolute title to such real estate to the purchaser thereof; but nothing herein shall be construed to affect the right, title or interest of any person or persons other than the parties to such conveyance, decree or judgment, and those claiming under them.

[Acts 1925, S.B. 84.]

Art. 1296. Estates In Futuro

An estate or freehold or inheritance may be made to commence in futuro, by deed or conveyance, in like manner as by will.

[Acts 1925, S.B. 84.]

Art. 1297. Implied Covenants

From the use of the word "grant" or "convey," in any conveyance by which an estate of inheritance or fee simple is to be passed, the following covenants, and none other, on the part of the grantor for himself and his heirs to the grantee, his heirs or assigns, are implied, unless restrained by express terms contained in such conveyance:

1. That previous to the time of the execution of such conveyance the grantor has not conveyed the same estate, or any right, title or interest therein, to any person other than the grantee.

2. That such estate is at the time of the execution of such conveyance free from incumbrances.

Such covenants may be sued upon in the same manner as if they had been expressly inserted in the conveyance.

[Acts 1925, S.B. 84.]

Art. 1298. Incumbrances Include What

The term "incumbrances" includes taxes, assessments and all liens upon real property.

[Acts 1925, S.B. 84.]

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

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

Art. 1301. Failing as a Conveyance

When an instrument in writing, which was intended as a conveyance of real estate, or some interest therein, shall fail, either in whole or in part, to take effect as a conveyance by virtue of the provisions of this chapter, the same shall nevertheless be valid and effectual as a contract upon which a conveyance may be enforced, as far as the rules of law will permit.

[Acts 1925, S.B. 84.]

Art. 1301a. Condominium Act

Title

Sec. 1. This Act shall be known as the "Condominium Act."

Definitions

Sec. 2. As used in the Act unless the context otherwise requires:

(a) "Property" means and includes the land whether leasehold or in fee simple and the building, all improvements and structures thereon and all easements, rights and appurtenances belonging thereto.

(b) "Building" includes the principal structure or structures erected or to be

erected upon the land described in the declaration provided for in Section 7 which determines the use to be made of the improved land whether or not such improvement is composed of one (1) or more separate buildings containing one (1) or more floors or stories.

(c) "Condominium Project" means a real estate condominium project; a plan, or project whereby four (4) or more apartments, rooms, office spaces, or other units in existing or proposed buildings or structures are offered or proposed to be offered for sale.

(d) "Condominium" means the separate ownership of single units or apartments in a multiple unit structure or structures with common elements.

(e) "Apartment" means an enclosed space consisting of one (1) or more rooms occupying all or part of a floor in a building of one (1) or more floors or stories regardless of whether it be designed for residence, for office, for the operation of any industry business, or for any other type of independent use, provided it has a direct exit to a thoroughfare or to a given common space leading to a thoroughfare.

(f) "Developer" means a person who undertakes to develop a real estate condominium project.

(g) "Master deed" or "Master lease" or "Declaration" means the deed, lease or declaration establishing the property as a condominium regime.

(h) "Co-owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns an apartment or apartments within the condominium project.

(i) "Council of co-owners" means all the co-owners as defined in subsection (h) of this section.

(j) "Majority of co-owners" means the apartment owners with fifty-one percent (51%) or more of the votes weighed so as to coincide with percentages or fractions assigned in the declaration.

(k) "Person" means an individual, firm, corporation, partnership, association, trust or other legal entity or any combination thereof.

(l) "General common elements" means and includes:

(1) The land, whether leased or in fee simple, on which the building stands;

(2) The foundations, bearing walls and columns, roofs, halls, lobbies, stairways, and entrances and exits or communication ways;

(3) The basements, flat roofs, yard, and gardens, except as otherwise provided or stipulated;

(4) The premises for the lodging of janitors or persons in charge of the building, except as otherwise provided or stipulated;

(5) The compartments or installation of central services such as power, light, gas, cold and hot water, refrigeration, central air condition and central heating, reservoirs, water tanks and pumps, swimming pools, and the like;

(6) The elevators and shafts, garbage incinerators and, in general all devices or installations existing for common use; and

(7) All other elements of the building desirable or rationally of common use or necessary to the existence, upkeep and safety of the condominium regime, and any other elements described in the declaration filed pursuant to Section 7.

(m) "Limited common elements" means and includes those common elements which are agreed upon by all of the co-owners to be reserved for the use of a certain number of apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.

(n) "To record" means to record in the office of the County Clerk of the county in which the property is situated in accordance with the provisions of Title 115, Revised Civil Statutes of Texas, 1925, as amended.¹

(o) All pronouns used herein include the singular or plural numbers, as the case may be.

¹ Article 6591 et seq.

Condominium Regime; Declaration

Sec. 3. When a developer, the sole owner, or the co-owners of a building or buildings or proposed building or buildings expressly declares, through the recordation of a master deed, lease, or declaration, which shall set forth the particulars enumerated by Section 7 their desire to submit their property to the regime established by this Act, there shall be thereby established a condominium regime.

Conveyance and Encumbrance of Individual Apartment

Sec. 4. Once the property is submitted to the condominium regime, an apartment in the project may be individually conveyed and encumbered and may be the subject of ownership, possession or sale and of all types of judicial acts, as if it were entirely independent of the other apartments in the project of which they form a part, and the corresponding individual titles and interests shall be recordable.

Joint or Common Ownership of Apartment

Sec. 5. Any apartment may be jointly or commonly owned by more than one person.

Exclusive Ownership of Apartment; Share in Common Elements of Property

Sec. 6. An apartment owner shall have an exclusive ownership to his apartment and shall have a common right to a share, with other co-owners, in the common elements of the property. Each co-owner may use the elements held in common in accordance with the purpose for which they are intended, as shown on the plat or expressed in the declaration or the by-laws, without hindering or encroaching upon the lawful rights of the other co-owners.

Condominium Records; Contents of Declaration; Recordation of Instruments

Sec. 7. (A) Every County Clerk shall provide a suitable well-bound book, to be called "Condominium Records" in which will be recorded Master deeds, Master leases, or Declarations.

(B) The declaration provided for in Section 3 shall contain:

(1) The legal description of the land, which description shall be depicted by a plat showing the land involved and the location of each building or proposed building to be located thereon. Each building to be denoted by Letter, viz: A, B, C, etc.

(2) The general description and the number of each apartment, expressing its square footage, location and any other data necessary for its identification, which information will be depicted by a plat of such floor of each building showing also the letter of the building, the number of the floor and the number of the apartment.

(3) The general description of each garage, carport, or any other area to be subject to individual ownership and exclusive control; which information will be depicted by a plat showing such garage, carport, or other area appropriately lettered or numbered.

(4) The description of the general common elements less paragraph (1) above.

(5) The description of the limited common elements.

(6) The fractional or percentage interest which each apartment bears to the entire condominium regime, the sum of which shall be one (1) if expressed in fractions and one hundred (100) if expressed in percentages.

(7) Any further provisions, matters, or covenants desired.

(C) The County Clerk shall record such plats and instruments without the necessity of prior approval by any other authority of whatsoever character.

Common Elements; Partition or Division; Mortgages

Sec. 8. The common elements, both general and limited, shall remain undivided and shall not be the object of an action for partition or division of the co-ownership so long as suitable

for a condominium regime, and, in any event, all mortgages must be paid prior to the bringing of an action for partition or the consent of all mortgagees must be obtained. Any covenant to the contrary shall be void.

Deed to Apartment; Contents and Interpretation

Sec. 9. The deed to each apartment shall describe the apartment in accordance with the plat and the fractional or percentage therein conveyed and the plats provided in Section 7 shall be included by reference. The deeds shall also express all encumbrances against the property conveyed. An individual apartment shall not be conveyed separate from the undivided interest in the common elements and visa versa, and any conveyance of an individual apartment shall be deemed to convey also the undivided interest of the owner in the common elements, both general and limited, appertaining to said apartment without specifically or particularly referring to the same. The boundaries of the apartment granted shall be and are the interior surfaces of the perimeter walls, floors, ceilings and the exterior surfaces of balconies and terraces; and the unit includes both the portions of the building so described and the airspace so encompassed, excepting common elements. In interpreting deeds, mortgages, deeds of trust and other instruments, the existing physical boundaries of the apartment or of an apartment reconstructed in substantial accordance with the original plans thereof shall be conclusively presumed to be its boundaries regardless of settling, rising, or lateral movement of the building and regardless of variances between boundaries shown on the plat and those of the building.

Loans as Eligible Investments for Lending Institutions

Sec. 10. Loans on the individual apartments and the undivided interest in the common elements appurtenant thereto are hereby declared to be eligible investments for all banks, savings and loan or building and loan associations, trust companies, life insurance companies and all other lending institutions which will include also administrators, guardians, executors, trustees and other fiduciaries, which are now or may be hereafter authorized to make real estate loans. For the purpose of such investments, an apartment and the undivided interest in the common elements appurtenant thereto shall be deemed a single unit as if it were entirely independent of the other units in the project of which it forms a part. In determining eligibility the existence of any prior lien for taxes, assessments (including but not limited to those for administration, maintenance and repairs) or other similar charges not yet delinquent shall not be considered in determining whether a mortgage or deed of trust upon such security is a first lien. This section shall not change any provision of law, which would otherwise be applicable, specifying limitation on mortgage investments based upon a special fraction or percentage of the value of the mortgaged property.

Regrouping and Merger of Estates

Sec. 11. All of the co-owners or the sole owner of a building constituted into a condominium regime may waive this regime and request the County Clerk to regroup or merge the records of the filial estates with the principal property, provided, that the filial estates are unencumbered, or, if encumbered, that the creditors in whose behalf the encumbrances are recorded agree to accept as security the undivided portions of the property owned by the debtors. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common elements.

Reconstitution of Property into Condominium Regime

Sec. 12. The merger provided for in Section 11 shall in no way bar the subsequent constitution of the property into another condominium regime whenever so desired and upon observance of the provisions of this Act.

Administration of Project; By-Laws; Council of Co-owners

Sec. 13. The administration of every building or buildings constituted into a condominium regime shall be governed by the by-laws approved and adopted by the sole owner or owners or the council of co-owners. The by-laws may be amended from time to time by the council.

Board of Administrators; Account of Receipts and Expenditures; Examination; Audit

Sec. 14. The administrator, or board of administration, or the person appointed by the by-laws of the regime shall keep or cause to be kept a book with a detailed account of the receipts and expenditures affecting the building and its administration and specifying the maintenance and repair expenses of the common elements and any other expenses incurred by or in behalf of the regime. Both the book and vouchers accrediting the entries made thereon shall be available for examination by all the co-owners at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good accounting procedures and be audited at least once a year by an auditor outside of the organization.

Pro-rata Contributions of Co-owners Toward Expenses

Sec. 15. All co-owners are bound to contribute pro-rata toward the expense of administration and of maintenance and repairs of the general common elements, and, in the proper case, of the limited common elements of the building, and toward any other expenses lawfully agreed upon by the council of co-owners. No owner shall be exempt from contributing toward such expenses by waiver of the use of enjoyment of the common elements, either general or limited, or by abandonment of the apartment belonging to him.

Actions on Behalf of Two or More Apartment Owners

Sec. 16. Without limiting the rights of any apartment owner, action may be brought by the administrator or other person designated by the by-laws or council of co-owners, in either case in the discretion of the council of co-owners, on behalf of two (2) or more of the apartment owners, as their respective interests may appear, with respect to any cause of action relating to the common elements of more than one (1) apartment.

Home Exemptions from Property Taxes

Sec. 17. The laws relating to home exemptions from property taxes shall be applicable to the individual apartments, which shall be entitled to home exemptions in those cases where the owner of a single family dwelling would qualify.

Payment of Assessments or Charges upon Sale or Conveyance of Apartment; Preferences

Sec. 18. Upon the sale or conveyance of an apartment, all unpaid assessments against a co-owner for his pro-rata share in the expenses to which Section 15 refers shall first be paid out of the sale price or by the purchaser in preference over any other assessments or charges of whatever nature except the following:

- (a) Assessments, liens, and charges in favor of the state and any political subdivision thereof for taxes past due and unpaid on the apartment; and
- (b) Amounts due under mortgage instruments duly recorded.

Insurance

Sec. 19. The co-owners may, upon resolution of a majority, or if required or provided for in the declaration or the by-laws, insure the building and the owners thereof against risks of whatsoever character without prejudice to the right of each co-owner to insure his apartment on his own account and for his own benefit. Such insurance may be written in the name of the council of co-owners, or any person designated in the by-laws or declaration, as trustee for each apartment owner and each apartment owner's mortgagee, if any. Each co-owner and his mortgagee, if any, shall be a beneficiary, even though not named, in the percentages or fractions established in the declaration.

Application of Insurance Proceeds to Reconstruction of Building

Sec. 20. In case of fire or any other disaster, the insurance indemnity shall, except as provided in the next succeeding paragraph of this section, be applied to reconstruct the building.

Reconstruction shall not be compulsory where it comprises the whole or more than two-thirds ($\frac{2}{3}$) of the building as determined by the council of co-owners. In such case, and unless otherwise unanimately agreed upon by the co-owners, the indemnity shall be delivered

pro-rata to the co-owners or their mortgagees, as their interest may appear, entitled to it in accordance with the percentages or fractions set forth in the declaration.

Should it be proper to proceed with the reconstruction, the provisions for such eventuality made in the by-laws shall be observed, or in lieu thereof, the decision of the council of co-owners shall prevail.

Building Costs in Excess of Insurance Proceeds

Sec. 21. Where the insurance indemnity is insufficient to cover the cost of reconstruction and reconstruction is required by Section 20, the building costs in excess of the insurance proceeds shall be paid by all the co-owners directly affected by the damage, in proportion to the percentages or fractions assigned to their respective apartments, or as may be provided by said by-laws; and if any one or more of those composing the minority shall refuse to make such payments the majority may proceed with the reconstruction at the expense of all the co-owners benefited thereby, upon proper resolution setting forth the circumstances of the case and the cost of the work.

The provisions of this section may be changed by unanimous resolution of the parties concerned, adopted subsequent to the date on which the fire or other disaster occurs.

Taxes, Assessments and Charges; Valuation of Apartments; Delinquent Taxes

Sec. 22. Taxes, assessments and other charges of this state, or of any political subdivision, or of any special improvement district, or any other taxing or assessing authority shall be assessed against and collected on each individual apartment, which shall include the garage and its percentage or fractional common elements, each of which shall be carried on the tax books as a separate and distinct entity for that purpose, and not on the building or property as a whole. The valuation of the general and limited common elements shall be assessed separately to each owner in accordance with the fraction or percentage of each owner. There shall be no forfeiture or sale of the building or property as a whole for delinquent taxes, assessments or charges. All assessments, suits and sales shall be of individual apartments, including its garage and its percentage or fractional common elements.

Planning and Zoning Commissions; Supplemental Rules and Regulations

Sec. 23. Whenever they deem it proper, the planning and zoning commission of any county or municipality may adopt supplemental rules and regulations governing a condominium regime established under this Act in order to implement this program; however, local zoning ordinances shall be construed to treat like structures, lots, or parcels in like manner regardless of whether the ownership thereof is divided by sale of condominiums rather than by lease of apartments, offices, stores or industry business.

Conflicting Laws

Sec. 24. Whenever the application of the provisions of this Act or the application thereof to any person or circumstance conflict with the application of other statutory provisions, the provisions or applications of this Act shall prevail for the effective carrying out of the purposes of this Act.

Partial Invalidity

Sec. 25. If any section, paragraph, sentence, clause, or word of this Act is held to be unconstitutional, the remaining portion of the same, nevertheless shall be valid, and the Legislature hereby declares that the Act would have been enacted without such unconstitutional portion.

[Acts 1963, 58th Leg., p. 507, ch. 191, eff. Aug. 23, 1963.]

Art. 1301b. Forfeiture and Acceleration Under Executory Contract for Conveyance; Notice; Avoidance

Sec. 1. A forfeiture of the interest and the acceleration of the indebtedness of a purchaser in default under an executory contract for conveyance of real property used or to be used as the purchaser's residence may be enforced only after notice of seller's intentions to enforce the forfeiture and acceleration has been given to the purchaser and only after the expiration of the periods provided below:

(a) When the purchaser has paid less than 10% of the purchase price, 15 days from the date notice is given.

(b) When the purchaser has paid 10% but less than 20% of the purchase price, 30 days from the date notice is given.

(c) When the purchaser has paid 20%, or more, of the purchase price, 60 days from the date notice is given.

(d) Notice must be by mail or other writing. If by mail, it must be registered or certified and shall be considered given at the time mailed to his residence or place of business, and notification by other writing shall be considered given at the time delivered to the purchaser at his residence or place of business.

(e) Such notice shall be conspicuously set out; shall be printed in 10 point bold face type or upper case typewritten letters; and shall include the following:

NOTICE

YOU ARE LATE IN MAKING YOUR PAYMENT UNDER THE CONTRACT TO BUY YOUR HOME. UNLESS YOU MAKE THE PAYMENT BY (date) THE SELLER HAS THE RIGHT TO TAKE POSSESSION OF YOUR HOME AND TO KEEP ALL PAYMENTS YOU HAVE MADE TO DATE.

Sec. 2. A purchaser in default under an executory contract for the conveyance of real property used or to be used as the purchaser's residence, may at any time prior to expiration of the period provided for in Section 1, avoid the forfeiture of his interest and the acceleration of his indebtedness by complying with the terms of the contract up to the date of compliance notwithstanding any agreement to the contrary.

[Acts 1969, 61st Leg., p. 1991, ch. 680, eff. Sept. 1, 1969.]

TITLE 32

CORPORATIONS

For text of Title 32, Corporations, and the Business Corporations Act, see Volume 2.

TITLE 33

COUNTIES AND COUNTY SEATS

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CHAPTER ONE. CREATION OF COUNTIES

Article
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Art. 1539. Legislature May Create Counties

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

Art. 1540. Area Required

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

Art. 1541. Division of Exterior Territory

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

purposes to the most convenient organized county.

[Acts 1925, S.B. 84.]

Art. 1542. Created Out of Other Counties

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

[Acts 1925, S.B. 84.]

Art. 1543. Line of New County

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

[Acts 1925, S.B. 84.]

Art. 1544. County from Existing County

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

[Acts 1925, S.B. 84.]

Art. 1545. Existing Counties Reduced

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

[Acts 1925, S.B. 84.]

Art. 1546. Liability of New County

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

[Acts 1925, S.B. 84.]

Art. 1547. Pro Rata of Indebtedness

Any county which has been or may hereafter be created by the Legislature out of any other county or counties, shall be held liable for its proportion of all the liabilities of the county or counties from which it was taken, existing at the date of its creation as such new county, according to the proportionate value of the property in the excised territory, and the value of the property remaining in the old county. A suit to recover the same may be brought in the district court by the parent county, either in such parent county, or in the newly created county; and the court shall have power to

make any order or render any judgment necessary to carry out and satisfy its decree therein. The provisions of this article shall not apply to any county, the claims against which have already been placed before courts having jurisdiction thereof and tried or dismissed under laws that were at such time constitutional.

[Acts 1925, S.B. 84.]

Art. 1548. Apportionment of Indebtedness

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

[Acts 1925, S.B. 84.]

Art. 1549. Suits and Special Tax

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

[Acts 1925, S.B. 84.]

Art. 1550. Non-residents to Pay

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

[Acts 1925, S.B. 84.]

Art. 1551. When Territory Added

When the territory taken is added to and made a part of an organized county, the commissioners court of such county shall levy and have collected on all property in such territory a tax sufficient to pay their pro-rata of the indebtedness, said tax not to exceed the constitutional limit; and the commissioners court of

the county to which any unorganized county may be attached for judicial purposes shall levy and have collected on all property in such unorganized county owned or held by resident citizens a tax for the purpose of paying such indebtedness.

[Acts 1925, S.B. 84.]

Art. 1552. Tax for Pro Rata Indebtedness

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

[Acts 1925, S.B. 84.]

Art. 1553. County Bonds Held by School Funds

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

[Acts 1925, S.B. 84.]

Art. 1554. Levy of Tax for Debt

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

[Acts 1925, S.B. 84.]

Art. 1555. Detachment by Vote

No part of any existing county shall be detached from it and attached to another existing county until the proposition for such change has been submitted to a vote of the electors of both counties, and shall have received a majority of those voting on the question in each.

[Acts 1925, S.B. 84.]

Art. 1556. Election Ordered

An election for such purpose shall be ordered by the county judge, or county judges of the county or counties from which it is pro-

posed to detach any proportion¹ thereof, or to attach any portion thereto, upon the written application of not less than fifty qualified voters of said county or counties.

[Acts 1925, S.B. 84.]

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

Art. 1557. Application

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

[Acts 1925, S.B. 84.]

Art. 1558. Notices of Election

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

[Acts 1925, S.B. 84.]

Art. 1559. Question to be Voted Upon

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

[Acts 1925, S.B. 84.]

Art. 1560. Law Governing Such Elections

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

[Acts 1925, S.B. 84.]

Art. 1561. Returns of Election

The returns of such election shall be made to the county judge or county judges of the county or counties in which the election takes place; and such judge or judges shall estimate the vote and make duplicate statements of the same, and shall officially certify to such statements, and one of said statements, together with a copy of the application so certified, he shall seal in an envelope, writing his name across the seal, and endorsing upon the package "Election returns of _____ County," and direct and transmit the same by mail or other safe conveyance to the Speaker of the House of Representatives at the seat of government, in time for the same to be received as early as practicable during the next session of the Legislature.

[Acts 1925, S.B. 84.]

Art. 1562. Subsequent Election

When any such election has been held in a county, and the proposition to detach a portion thereof has been defeated, no other election for

the same purpose shall be ordered or held within five years thereafter.

[Acts 1925, S.B. 84.]

CHAPTER TWO. ORGANIZATION OF COUNTIES

Article

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

Art. 1563. Old County Shall Organize New One

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

[Acts 1925, S.B. 84.]

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

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

[Acts 1925, S.B. 84.]

¹ Probably should read "on".

Art. 1565. County Commissioners May Act

In any case where the office of county judge shall be vacant, any two of the county commissioners shall be authorized to perform each

duty required of the county judge under this chapter.

[Acts 1925, S.B. 84.]

Art. 1566. Unorganized County

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

[Acts 1925, S.B. 84.]

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

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

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

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

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

Art. 1567. Disorganized Counties

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

[Acts 1925, S.B. 84.]

Art. 1568. Organization of Attached County

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

[Acts 1925, S.B. 84.]

Art. 1569. Certificates of Election

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

[Acts 1925, S.B. 84.]

Art. 1570. Delivery to New Officers

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

[Acts 1925, S.B. 84.]

Art. 1571. Elections in Unorganized Counties

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

[Acts 1925, S.B. 84.]

CHAPTER THREE. CORPORATE RIGHTS AND POWERS

Article

- 1572. County a Body Corporate.
- 1573. Suits Against.
- 1574. Jurors.
- 1575. Execution Against County.
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- 1577. Sale or Lease of Real Estate.
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Art. 1572. County a Body Corporate

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

[Acts 1925, S.B. 84.]

Art. 1573. Suits Against

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

[Acts 1925, S.B. 84.]

Art. 1574. Jurors

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

[Acts 1925, S.B. 84.]

Art. 1575. Execution Against County

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

[Acts 1925, S.B. 84.]

Art. 1576. Validity of Deed, etc.

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

[Acts 1925, S.B. 84.]

Art. 1577. Sale or Lease of Real Estate

The Commissioners Court may, by an order to be entered on its minutes, appoint a Commissioner to sell or lease any real estate of the county at public auction, and notice of said public auction shall be advertised at least twenty (20) days before the day of sale, by the officer, by having the notice thereof published in the English language once a week for three (3) consecutive weeks preceding such sale or lease in a newspaper in the county in which the real estate is located and in the county which owns the real estate, if they are not the same. If the real estate is sold, the deed of such Commissioner made in conformity to such order for and in behalf of the county, duly acknowledged and proven and recorded, shall be sufficient to convey to the purchasers all the right, title, and interest and estate which the county may have in and to the premises to be conveyed. Provided, however, that where abandoned seawall or highway right-of-way property is no longer needed for seawall or highway purposes and the county decides to sell or lease said right-of-way property, it shall be sold or leased with the following priorities: (1) to abutting or adjoining landowners; (2) to the original grantor, his heirs or assigns of the original tract from whence said right-of-way was conveyed; (3) for public use only to the United States Government, or to the State of Texas, or to any city within the established limits of which said property is located; or (4) at public auction as provided above; unless in the deed of conveyance under which the county originally acquired title to the property, the sale or lease thereof to the public is restricted or prohibited; provided, however, that where the Commissioners Court determines that the said abandoned seawall or highway right-of-way property shall be sold or leased to an adjoining or abutting landowner, or to the original grantor, his heirs or assigns, then the said Commissioners Court shall in addition to publication of notice of sale as provided above, appoint an appraiser who shall determine and report to the Commissioner of Sale the fair market and fair lease value of the property to be sold or leased, and the Commissioner shall not sell or lease said property for an amount less than that so determined, which said amount shall be reported to the Commissioners Court prior to sale and shall, if deemed reasonable, be approved by them prior to sale, the Commissioners Court being specifically authorized to reject any offers of purchase or sale or lease, whether at public auction or not, if deemed unreasonable, all costs of said sale, including the fee for appraisal, to be added to the price of sale and paid by the purchaser at such sale; provided further, whenever any real property, or interest therein, is owned by any county and is sold, leased, or exchanged hereunder and is being used by a public utility or common carrier having the right of eminent domain for right-of-way and easement purposes, the sale, lease, exchange, conveyance and surrender of possession herein provided

for shall be and remain in all things subject to the right and continued use of such public utility or common carrier. The Commissioners Court may also provide for conveyance of any such real estate of the county subject to such restrictions, conditions, and limitations as the Commissioners Court may deem necessary or proper; however, every such conveyance of seawall right-of-way property shall contain a restriction that no structure may be placed within 50 feet or such greater distance as the Commissioners Court may provide of the landward boundary of the seawall right-of-way retained by the county. In the order and in the notice of public auction, the Commissioners Court shall give a substantial statement of any such restrictions, conditions, and limitations. Nothing contained in this Article shall authorize any Commissioners Court to dispose of any lands given, donated, or granted to such county for the purpose of education in any other manner than shall be directed by law.

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

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

In all cases wherein the Commissioners Court of any county, acting as such court or through some individual or individuals appointed by it for such purpose, has sold, or attempted to sell, any land, or interests in land, belonging to such county; and where such Commissioners Court shall have failed to appoint a Commissioner to sell and dispose of such real estate belonging to said county, at public auction; and where such Commissioners Court gave notice of its intention to sell such lands, describing the same, by publication of such notice in some newspaper published in the county, having a general circulation therein, once a week for a period of three (3) consecutive weeks, designating the time and place after such publication where such Commissioners Court would receive and consider bids for the same; and where, on the date specified in such notice, such Commissioners Court received and considered any and all bids submitted for the purchase of said lands, or any portion thereof which were advertised for sale; and where such Commissioners Court, in its discretion, awarded such land, or any part thereof to the highest bidder submitting a bid therefor; and where the consideration thus bid and accepted was received by such county; and where such Commissioners Court or some person or persons thereunto authorized by order of such Commissioners Court, made, executed, acknowledged and delivered to such successful bidder a deed or other instrument of conveyance purporting to convey to such purchaser the said property; and where more than three years have elapsed since the date of the execution and delivery of such deed or instrument of conveyance: that such sales and conveyances,

or attempted sales and conveyances, are hereby in all things validated. Provided that nothing in this Act shall be construed as validating any sale or attempted sale of any lands given, donated or granted to such county for the purpose of education, made in any other manner than is directed by law; and provided further, that this Act shall not apply to any sale or conveyance the validity of which is involved in any litigation pending at the time this Act becomes effective.

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

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

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

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

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

Sec. 1. In all cases where the Commissioners Court in any county of this State has sold or conveyed or attempted to sell or convey, in accordance with the provisions of and priorities established in Article 1577, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 133, page 447, Acts of the 53rd Legislature, Regular Session, 1953, the right, title and interest of any such county in and to abandoned right-of-way property no longer needed for highway or road purposes, such sales or conveyances and attempted sales and conveyances hereby are in all things validated and the right, title and interest in such abandoned right-of-way property conveyed by any such county hereby are confirmed in the grantee in such sale or conveyance.

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

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

Art. 1578. Contracts with a County Valid

Any note, bond, bill, contract, covenant, agreement or writing, made or to be made, whereby any person is or shall be bound to any county, or to the court or commissioners of any county, or to any other person or persons, in whatever form, for the payment of any debt or duty or the performance of any matter or thing

to the use of any county, shall be valid and effectual to vest in said county any right, interest and action which would be vested in any person if any such contract had been made directly with him.

[Acts 1925, S.B. 84.]

Art. 1578a. Contracts with United States for Improvements in Counties of 240,000 to 250,000

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

Sec. 2. The provisions of this Act shall apply only to counties having a population in excess of 240,000 inhabitants and less than 250,000 inhabitants, according to the latest preceding or any future federal census.

[Acts 1965, 59th Leg., p. 1647, ch. 710, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 1847, ch. 542, § 118 eff. Sept. 1, 1971.]

Art. 1579. Suits on Writings by County

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

[Acts 1925, S.B. 84.]

Art. 1580. Agents to Contract for County

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

[Acts 1925, S.B. 84.]

Art. 1581. Costs in Suit Against County

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

[Acts 1925, S.B. 84.]

Art. 1581a. Ineffective

This article, derived from Acts 1933, 43rd Leg., p. 784, ch. 232, which related to adoption of county home rule charters and which was adopted in anticipation of the amendment to Const. art. IX, section 3 (adopted Aug. 26, 1933) providing for County Home Rule, was made ineffective by Acts 1933, 43rd Leg., 1st C.S. p. 249, ch. 91, § 21, set out as article 1606a § 21, which provides that this article shall not have effect after the instant

at which this Act (article 1606a) may be in effect, but all procedures taken thereunder (relating to the formulation, circulation, presentation and prosecution of petitions, including all orders and notices of commissioners courts relative to such petition conventions held or other acts done) hereby are validated, to the same effect as though the same has been done hereunder.

Art. 1581b. Additional Law Enforcement Officers

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

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

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

[Acts 1943, 48th Leg., p. 389, ch. 262.]

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

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

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

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

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

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

Sec. 3. Commissioners Courts of the respective counties in this State are authorized and empowered to reconvey and relinquish to the donors of such land, or to their successors in the title, all lands which were donated and conveyed to any such counties for county seat, county court, or other county purposes, which lands have been or may be abandoned and unused for such county purpose for a period of more than forty (40) years, as for failure of consideration of such grant to any such county.

[Acts 1947, 50th Leg., p. 378, ch. 212.]

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

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

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

Sec. 3. No airport acquired under this Act shall be located on any land which is owned by

the State of Texas or in which the State of Texas has any interest, mineral or otherwise.

Sec. 4. If any provision of this Act shall be held invalid, such invalidity shall not affect the remaining provisions; and the Legislature hereby declares that it would have enacted such remaining portion despite such invalidity. [Acts 1949, 51st Leg., p. 611, ch. 326.]

Art. 1581d-1. Airstrips; Counties of 18,200 to 18,600

Sec. 1. This Act shall apply in any county having a population of not less than eighteen thousand, two hundred (18,200) nor more than eighteen thousand, six hundred (18,600), according to the last preceding federal census.

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

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

[Acts 1963, 58th Leg., p. 823, ch. 313, eff. May 30, 1963; Acts 1971, 62nd Leg., p. 1829, ch. 542, § 53, eff. Sept. 1, 1971.]

Art. 1581e. Flood Control, Powers Respecting

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

Sec. 2. The proceedings with respect to condemning lands or interests therein, or other property, for the uses above specified shall be controlled by the statutes regulating such proceedings by counties in other cases, as pro-

vided in Article 3264, Revised Statutes of Texas, 1925, et seq.

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

Sec. 3a. Where, in the opinion of the Court, it becomes necessary to condemn an easement, as against persons who also have the power of eminent domain, all expenses involved in the acquisition, construction, and maintenance of the flood control or drainage project shall be the obligation of the county, flood control district or drainage district, as the case may be. [Acts 1949, 51st Leg., p. 759, ch. 407.]

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

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

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

within the boundaries of such county are flood, or rising water prone, areas.

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

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

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

¹ 42 U.S.C.A. § 4011 et seq.

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

The counties of the State of Texas are hereby authorized to pay for the relocation of water lines owned by water control and improvement districts when such relocation is necessary to complete the construction or improvement of Farm-to-Market Roads as defined by Subsection 4-b of Article XX of Chapter 184, Acts of the Forty-seventh Legislature, Regular Session, 1941, as amended,¹ provided the water control and improvement district which owns the water lines to be relocated agrees to repay the county for the cost of relocating the water lines within twenty (20) years with interest thereon at a rate equal to that paid by the county on their Road and Bridge Fund time warrants.

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

¹ Article 7083a.

Art. 1581g. County Industrial Commission in Counties of 75,700 to 80,000 and 150,000 to 170,000

The County Judge of any county having a population of more than 75,700 and less than 80,000, or of more than 150,000 and less than 170,000, according to the last preceding federal census, may appoint a County Industrial Commission to consist of at least seven residents of the county who have exhibited interest in the industrial development of the county to serve for a term of two (2) years. The county is hereby authorized to pay the necessary expenses of such Commission. Such Commission shall investigate, study and undertake ways

and means of promoting and encouraging the prosperous development of business, industry and commerce within said county. Such Commission shall promote and encourage the location and development of new businesses and industries in such county as well as the maintenance and expansion of existing businesses. Such Commission shall cooperate with, and utilize the services of, the Texas Industrial Commission. The data obtained shall be available to the Commissioners Court.

[Acts 1965, 59th Leg., p. 1192, ch. 553, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 821, ch. 347, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1828, ch. 542, § 47, eff. Sept. 1, 1971.]

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

The county judge of any county having a population of not less than 10,300 nor more than 10,372, or not less than 19,800 nor more than 20,150, or not less than 17,299 nor more than 17,325, or not less than 14,350 nor more than 14,400, according to the last preceding federal census, may appoint a County Industrial Commission to consist of at least seven residents of the county and who are currently serving or have served in the past on the Industrial Foundation Committee, Commissioners Court, City Council or school boards, who have exhibited interest in the industrial development of the county to serve for a term of two years. The county is hereby authorized to pay the necessary expenses of such commission. Such commission shall investigate, study, and undertake ways and means of promoting and encouraging the prosperous development of business, industry, and commerce within said county. Such Commission shall promote and encourage the location and development of new businesses and industries in such county as well as the maintenance and expansion of existing businesses. Such commission shall cooperate with, and utilize the services of, the Texas Industrial Commission. The data obtained shall be available to the commissioners court.

[Acts 1971, 62nd Leg., p. 2947, ch. 975, eff. June 15, 1971.]

CHAPTER FOUR. COUNTY LINES

Article

- 1582. Survey Made.
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- 1585. Notice to Other Counties.
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- 1591. Suit to Establish Boundary.
- 1592. Marking Line on Map.
- 1592a. Gulfward Boundary Lines of Counties Bordering on Gulf.

Art. 1582. Survey Made

Whenever it appears to the satisfaction of the county court of any county, or notice shall be given such court by the Land Commissioner that the boundary or any part thereof, of the

county is not sufficiently definite and well defined, such court shall appoint an experienced and competent practical surveyor, whose duty it shall be to ascertain by actual survey the boundary, or any part thereof, of said county, and to make and establish the lines and corners in the manner herein prescribed. The court, in the order making the appointment, shall specify the line or lines to be run, and the corners to be established and marked; and shall in all things conform to the law defining the boundaries of said county.

[Acts 1925, S.B. 84.]

Art. 1583. Marking Boundary

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

[Acts 1925, S.B. 84.]

Art. 1584. Natural Objects

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

[Acts 1925, S.B. 84.]

Art. 1585. Notice to Other Counties

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

[Acts 1925, S.B. 84.]

Art. 1586. Oath and Bond of Surveyors

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

[Acts 1925, S.B. 84.]

Art. 1587. Return and Record of Field Notes

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

[Acts 1925, S.B. 84.]

Art. 1588. Absence of Surveyor

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

[Acts 1925, S.B. 84.]

Art. 1589. Land Commissioner to Direct Survey

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

[Acts 1925, S.B. 84.]

Art. 1590. Division of Expense

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

[Acts 1925, S.B. 84.]

Art. 1591. Suit to Establish Boundary

Notwithstanding any preceding article of this chapter, any county in this State may bring suit against any adjoining county or counties, for the purpose of establishing the boundary line between them. Such suit shall

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

[Acts 1925, S.B. 84.]

Art. 1592. Marking Line on Map

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

[Acts 1925, S.B. 84.]

Art. 1592a. Gulfward Boundary Lines of Counties Bordering on Gulf

Sec. 1. The gulfward boundary lines of all of the counties of this state bordering on the coast line of the Gulf of Mexico are hereby fixed and declared to be the continental shelf in the Gulf of Mexico.

Sec. 2. The Commissioner of the General Land Office is hereby authorized and directed to have the area between the coast line of the Gulf of Mexico and the continental shelf compiled and platted, and fix and locate the boundary lines between the several coastal counties from the coast line to the continental shelf. The boundary lines from the coast line to the continental shelf between the counties shall be fixed and located by the Commissioner of the General Land Office in accordance with established engineering practice. The legal description of the boundary lines as fixed between the counties from the coast line to the continental shelf shall be filed and recorded in the office of the county clerk of the county affected thereby.

Sec. 3. All of the areas within the extended boundaries of said counties as provided in this Act shall become a part of the Public Free School Lands and Domain and shall be subject to the Constitutional and Statutory provisions of this state pertaining to the use, distribution,

sale and lease of Public Free School Lands of this state.

Sec. 4. If any section, provision, or part whatsoever of this Act should be held to be void as in violation of the Constitution, it shall not affect the validity of the remaining portions thereof, it being the express intention that the Legislature would have passed the bill without the presence of the section or part thereof to be invalid.

[Acts 1947, 50th Leg., p. 490, ch. 287.]

CHAPTER FIVE. COUNTY SEATS

Article

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- 1605a-4. Branch Offices for Tax Assessors and Collectors in Counties of 27,700 to 27,900.

Art. 1593. Election for County Seats

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

[Acts 1925, S.B. 84.]

Art. 1594. Vote Necessary

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

[Acts 1925, S.B. 84.]

Art. 1595. Election for Removal of

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

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

Art. 1596. Proceedings for Removal of County Seat

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

[Acts 1925, S.B. 84.]

Art. 1597. Geographical Center

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

[Acts 1925, S.B. 84.]

Art. 1598. Who May Vote and Form of Ballot

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

[Acts 1925, S.B. 84.]

Art. 1599. Election

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

[Acts 1925, S.B. 84.]

Art. 1600. County Seats Removed, When

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

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

Art. 1601. Subsequent Election

Whenever an election for the location or removal of a county seat has been voted on by the electors of any county, and the question settled, it shall not be lawful for a like application to be made for the same purpose within ten (10) years thereafter. Provided that an application may be made and an election held to remove the county seat from a location more than five (5) miles from a railroad operating as a common carrier, to a location on a railroad within two (2) years thereafter; and further provided that no county seat of any county in the State of Texas shall be moved from its present location until all bonds, warrants, and evidence of debt of every kind, character, and description issued by said county and incurred for the construction of existing courthouse or courthouses, shall have been paid in full provided that the provisions of this Act shall not apply to counties where the county seat is at the time of the passage of this Act located more than fifteen (15) miles air-line from a railroad.

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

Art. 1602. Courts Shall Hold at Seat

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

[Acts 1925, S.B. 84.]

Art. 1603. Buildings to be Provided

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

[Acts 1925, S.B. 84.]

Art. 1604. Place of Holding Court

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

[Acts 1925, S.B. 84.]

Art. 1605. Location of Offices

The County Judge, Sheriff, Clerks of the District and of the County Courts, County Treasurer, Assessor and Collector of Taxes, County Surveyor and County Attorney of the several counties of this State, shall keep their offices at the county seats of their respective counties; provided, however, that in all counties having a city or cities, other than the county seats, within their boundaries, having a population of five thousand (5,000) and over, and in counties of over three hundred fifty thousand (350,000), according to the last Federal Census, the Assessor and Collector of Taxes when authorized by order of the Commis-

sioners Court may maintain a branch office in said city or cities, and may appoint one or more Deputies for said offices, and the salaries to be paid said Deputies together with the office rent and other expenses incidental to maintaining said offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes and shall be paid in the manner now provided by law for the payment of the expenses of the Assessor and Collector of Taxes; and provided further that in all counties having a population of more than seventy thousand (70,000), according to the last Federal Census, and containing one or more cities or towns, other than the county seat, which has in excess of one thousand (1,000) inhabitants, according to the last Federal Census, said Tax Assessor and Collector with the consent and approval of the Commissioners Court may maintain a branch office and may appoint a Deputy Tax Collector in each such town or city, who shall have the right to collect taxes from all persons who desire to pay their taxes to him, and to issue a valid receipt therefor. Such Deputy shall enter into such bond, payable to the County Judge of the County, as the Tax Assessor and Collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such Deputy Collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such Deputy Collector shall be subject to all of the terms and provisions of the law relating to Deputy Tax Collectors. The Tax Collector shall remain liable on his bonds for all taxes collected by such Deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the Tax Collector or such Deputy. Nothing contained herein shall be construed as making it mandatory upon the Assessor and Collector of Taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such Deputies, but the establishment of such branch offices and the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a Deputy or Deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the Assessor and Collector of Taxes, and shall be paid as now provided by law for the payment of the expenses of the Assessor and Collector of Taxes.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 338, § 1; Acts 1937, 45th Leg., p. 63, ch. 39, § 1; Acts 1953, 53rd Leg., p. 49, ch. 39, § 1.]

Art. 1605a. Branch Office Buildings in Counties Having City of 20,000 Outside County Seat

Sec. 1. In all counties having a city or cities other than the county seat within their boundaries, of a population of twenty thousand (20,000) and over, according to the last Federal Census, the Commissioners Court of each

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

Sec. 2. Said office building and/or jail may be provided for, maintained and repaired by the issuance of bonds as is provided by Chapters 1 and 2, Title 22, Revised Civil Statutes, 1925, and all amendments thereto,¹ or to provide, maintain, and repair the same through the issuance of evidences of indebtedness in the same manner as courthouses and jails at the county seats, and the taxes may be levied therefor in the same manner and subject to the same limitations as for courthouses and jails at the county seat; provided, however, that no such office building and/or jail shall cost more than Two Hundred Thousand Dollars (\$200,000).

Sec. 3. All acts of the Commissioners Court in any such county ordering an election or elections on the question of the issuance of bonds for the purpose of purchasing a site and erecting and equipping an office building for county officers and a jail in any city other than the county seat of such county, declaring the result of such election or elections, in levying taxes therefor, and all bonds issued and now outstanding, and all bonds heretofore voted for such purpose but not yet issued, are in all things confirmed, approved and validated. The fact that by inadvertence or oversight any act of the Commissioners Court or other county official was omitted in ordering an election or elections, or in declaring the result thereof, or in levying the tax for such bonds, shall in no way invalidate any of such proceedings or any bonds heretofore issued or that have heretofore been voted but not yet issued, but the same shall in all things and respects be deemed valid.

[Acts 1931, 42nd Leg., p. 810, ch. 333; Acts 1933, 43rd Leg., p. 101, ch. 49, § 1; Acts 1963, 58th Leg., p. 12, ch. 10, § 1, eff March 7, 1963.]

¹ Article 701 et seq.

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

Sec. 1. This Act shall apply only to those counties which may now or hereafter have a population in excess of 110,000, and which county, at the same time, contains one or more

incorporated cities whose area is not contiguous to the county seat, which have a population in excess of 10,000.

Sec. 2. The Commissioners Court of any county to which this Act applies is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings and other permanent improvements to be used as a county branch office building; provided that such building may not be located at the county seat or in a city contiguous to the county seat, nor shall such building be constructed in any city having a population of less than 10,000.

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

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

Sec. 5. It is the purpose and intent of this Act to permit the construction of a county branch office building in cities other than the county seat where the administration of the affairs of the county will not be impaired and where the acquisition of such office space can

be located in a city whose population is sufficient to justify the establishment of such facilities. Nothing in this Act shall be construed as permitting a branch office to be established away from the county seat if other provisions of the laws in force and effect prohibit such establishment. The provisions of this Act shall be construed to accomplish this purpose and should any sentence, clause, paragraph or portion of this law be construed as in contravention of the constitution, its invalidity shall not affect the remainder of the provisions of the Act.

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

¹ Article 2368a, § 2.

² Article 2368a, § 4.

Art. 1605a-2. Office Buildings Outside County Seat in Counties of 22,400 to 22,600

Sec. 1. In all counties having a population of more than 22,400 but less than 22,600, according to the last preceding federal census, the Commissioners Court of each said county shall have the power and authority to construct, operate and maintain an office building and/or jail at a city other than the county seat in the same manner as such Commissioners Court may not provide for and maintain a court house and jail at the county seat. The Commissioners Court may authorize the maintenance of a branch office of the county tax assessor and collector, a jail, and a justice court in such buildings. However, all county officers shall keep all original records at the county seat. The Commissioners Court shall have the care and custody of such buildings and may place such limitations as it may see fit on the authorization and maintenance of such facilities. When authorized to maintain such branch office, the assessor and collector of taxes may appoint one or more deputies for said offices. The expenses incidental to maintaining said facilities shall be considered as a part of the necessary expenses of the county. Said deputy assessor-collectors shall have the right to collect taxes from all persons who desire to pay their taxes to them, and to issue a valid receipt therefor. Such deputy shall enter into such bond, payable to the County Judge of the county, as the tax assessor and collector and Commissioners Court of the county may require. The period of time such branch offices shall be maintained, and the salary of such deputy collector and the period of time he shall hold such office shall be fixed by the Commissioners Court and such deputy collector shall be subject to all of the terms and provisions of the law relating to deputy tax collectors. The tax collectors shall remain liable on his bonds for all taxes collected by such deputy, and nothing herein shall be construed as a limitation on the liability of the bonds of either the tax collector or such deputy. Nothing contained herein shall be construed as making it mandatory upon the assessor and collector of taxes and the Commissioners Courts of such counties to maintain such branch offices and appoint such deputies, but the establishment of such branch offices and

the appointment shall wholly be within the discretion of the Commissioners Courts of such counties. When such branch office or offices are established and a deputy or deputies are appointed hereunder, the salary or salaries to be paid and expense necessary to maintain said office or offices shall be considered as a part of the necessary expenses of the assessor and collector of taxes, and shall be paid as now provided by law for the payment of the expenses of the assessor and collector of taxes.

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

[Acts 1961, 57th Leg., p. 103, ch. 57; Acts 1971, 62nd Leg., p. 1841, ch. 542, § 101, eff. Sept. 1, 1971.]

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

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

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

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

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

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

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

Art. 1605a-4. Branch Offices for Tax Assessors and Collectors in Counties of 27,700 to 27,900

Sec. 1. In any county which has a population of not less than 27,700 inhabitants but not more than 27,900 inhabitants according to the last preceding federal census, the Commissioners Court may provide for, operate, and maintain a branch office for the county tax assessor and collector for any length of time the commissioners consider necessary.

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

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

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

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

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

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

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

Sec. 5. Any actions taken by the commissioners court and the county tax assessor and collector and his deputies which relate to pro-

viding, operating, and maintaining a branch tax office before the effective date of this Act and any expenditures made by the county in connection with a branch tax office before the effective date of this Act are validated.

[Acts 1969, 61st Leg., p. 74, ch. 32, §§ 1 to 5, eff. March 26, 1969; Acts 1971, 62nd Leg., p. 1819, ch. 542, § 14, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 1958, ch. 599, § 1, eff. Sept. 1, 1971.]

CHAPTER SIX. COUNTY BOUNDARIES

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

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

[Acts 1925, S.B. 84.]

CHAPTER SEVEN. COUNTY HOME RULE

Article

1606a. County Home Rule.

1606b. Bexar County; Manner of Determining Result.

Art. 1606a. County Home Rule

Purpose of Act

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

Precinct and County Conventions; Delegates to Select Charter Drafting Commission

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

Qualifications of Petitioners and Electors; Notice

Sec. 3. All persons hereinafter referred to as the signers of petitions, as participating in precinct or county conventions and as voting in elections, to be held hereunder, shall be understood to mean resident qualified electors of the affected county. Where the publication of notice is required, unless otherwise provided as to a given case, such notice shall be given by publication in one or more newspapers, having general circulation in the county, at least one day in each of two (2) consecutive weeks, and to give not less than fourteen (14) days from the first day of such publication to the day of any proposed act to which such notice may relate, excluding the day of first publication and the day of the proposed act. The mailing of notice, as later in this Act may be required, unless otherwise provided as to a given case, shall be given by depositing in the United States Mail written notice properly stamped and appropriately addressed to the person or persons proper to have notice of a given matter, giving advice of the time and place at which any given proposed act is to be considered or done. Not less than two (2) nor more than ten (10) business days (to be exclusive of the day of the mailing of the notice and the day of a proposed act) may run between the mailing of such notice and any desired meeting for the performance of an act to be done hereunder, all as hereinafter will be required; provided, however, calls for meetings of the Charter Drafting Commission (hereinafter provided for) shall be as established by it, as being reasonable, fitting and necessary.

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

Sec. 4. Proponents of the adoption of a county charter hereunder, subject to the further provisions of this Section, may procure and present to the commissioners' court of the county (hereinafter designated as the "Court") one or more petitions, bearing the true date upon which the circulation thereof began, seeking the calling of precinct and county conventions (as hereinafter provided for), and identical petitions signed by different qualified persons shall be considered as one petition. Only persons who are resident qualified voters of the county, owning real estate subject to the county's tax, may validly sign the petitions hereby provided for. The minimum number of signatures required upon such petitions shall be determined upon the county population basis, as given in the Federal Census issued next prior to the date of a given petition, and to be as follows: Counties of five thousand (5,000) population or under, one hundred (100); counties of five thousand and one (5,001) to ten thousand (10,000), two hundred (200); counties of ten thousand and one (10,001) to twenty-five thousand (25,000), three hundred (300); counties of twenty-five thousand and one (25,001) to seventy-five thousand (75,000), four hundred (400); counties of seventy-five thousand and one (75,001) to one hundred fifty

thousand (150,000), five hundred (500); counties of one hundred fifty thousand and one (150,001) or more, six hundred (600). Any form of petition which indicates the desire to proceed for adoption of a Home Rule Charter for the county (which hereinafter may be referred to as the "Charter"), under said Section 3 of Article IX of the Constitution shall be sufficient. Upon the delivery of such petition it shall be the duty of the clerk of said court to mark the day of filing thereon, and thereafter, as soon as may be done, to record the same in the minutes of the court as a part of the order which the court must enter in compliance with the petition.

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

Sec. 5. At the first meeting of the court after the filing of any such petition, or at any time not to exceed ten (10) days after the filing of such petition, it shall be the duty of the court to enter its order to execute said petition by calling a precinct charter convention (hereinafter provided for) in each voting precinct of the county, as defined and designated at the time any such petition may bear date, for the purpose of selecting one delegate and an alternate from each precinct to participate in a county convention (hereinafter provided for). The court's call shall fix the time for holding such precinct conventions, for a time not less than twenty (20) days nor more than thirty (30) days after the date of the calling order, and shall fix the time for the holding of the county convention for a time not less than ten (10) days nor more than twenty (20) days after the time set for holding precinct conventions.

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

Form of Notice Calling Precinct Charter Convention; Publication; Errors

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

NOTICE

State of Texas,
County of _____
To Each Resident Qualified Elector of This County:

Complying with a petition seeking the adoption of a County Home Rule Charter, filed with the county commissioners' court of this county on the _____ day of _____, 19____, we is-

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

In the precinct convention each qualified person present and participating (to exclude all persons who are not qualified voters residing in the precinct) shall be entitled to one vote each on each question presented, and all questions shall be determined by a majority of the votes cast. Organization shall be effected by choice of a temporary chairman and a temporary secretary, to be followed by selection of a permanent chairman and a permanent secretary. The procedure shall be under Robert's Rules of Order or other orderly procedure. All votes save those incident to organization shall be by written ballot. The convention by majority vote, will choose one delegate and one alternate to participate in the county convention, both of whom must reside in the county voting precinct to be represented by them. When the delegate and the alternate shall have been chosen, the chairman and the secretary of the convention, in the presence of the convention shall sign the credentials of the delegate and the alternate, both of whom shall countersign the credentials for identification, if required by the county convention. The credentials shall be sufficient if in form substantially as follows:

_____, _____, 19____.

To County Convention:

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

Chairman. Secretary.
Countersigned:

Delegate. Alternate Delegate.

The credentials so executed shall be placed in an envelope bearing the secretary's name written across the closed seal, and delivered by the delegate, or the alternate, to the temporary secretary of the county convention at the time of its con-

vening. Whereupon, the persons so certified shall be entitled to represent your precinct in the county convention. The official county voting precinct numbers and the respective places for holding the several precinct conventions follow, viz.:

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

Attest:

By _____
County Judge.

Clerk.
(Seal.)

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

Precinct Convention

Sec. 7. The precinct convention shall be held, organized and shall proceed to a conclusion as specified in the convention call written in Section 6 hereof.

County Convention; Procedure

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

All questions shall be decided by a majority of the votes cast thereon. An alternate shall be permitted to participate in the proceedings of the convention only in the absence or non-participation of the delegate for whom such alternate was chosen. All votes other than votes on organization shall be by written ballot bear-

ing the voter's name and precinct number. The respective yeas and nays upon every question shall be recorded by name in the presence of the convention, the result of each ballot shall be declared to the convention in an audible voice and shall be recorded in the convention's journal, in a manner showing each issue decided by each ballot taken. The convention may recess from time to time, but may not adjourn, until the work is ended; provided that, the time and place for resuming its session after a recess thereof shall be announced prior to such recess, or written notice of reassembly given as provided in Section 3 of this Act. The business of the convention shall be dispatched with all possible diligence, and no compensation or expense shall be allowed to any member of the convention.

Manner of Choosing Charter Drafting Commission and Number of Members

Sec. 9. (a) When the convention shall have been organized, the members, by ballot shall determine whether the Charter Drafting Commission (which hereinafter may be referred to as the "Commission") to be chosen shall consist of three (3), five (5), seven (7), nine (9), eleven (11), thirteen (13) or fifteen (15) members. This having been determined, the chairman of the convention, from the membership of the convention, shall appoint a nominating committee of five (5) persons, who shall retire and prepare a list, alphabetically arranged, of proposed members of the commission to be chosen, which list shall bear twice as many names of persons as there are to be members of the Drafting Commission, and regional representation may properly be made a consideration in the nominations. The persons to be named by the nominating committee may or may not be members of the convention, but they shall be persons deemed to have peculiar fitness for the drafting of, or to aid in the drafting of, a charter to control the county government.

(b) When the nominating committee shall have reported, they shall be discharged and the secretary of the convention will furnish to each present member of the convention a true copy of the nominations, together with a ballot slip on which shall be written the number of names to be voted for. From the names nominated by the committee, each voting member of the convention shall select from those nominated persons (equal in number to the membership of the Drafting Commission) preferred by the voting member for service on the commission, indicating the choice by crossing out the names of those nominated persons not preferred by the voter. There may be as many ballots as are required to obtain a majority vote for a number of nominees equal to the membership of the Drafting Commission. Those persons receiving in consecutive order from high to low, the highest number of votes shall be elected for service: In case of a tie vote, balloting shall continue until the tie is broken. The results of each ballot shall be tallied and canvassed by the secretary, in the

presence of the convention and the result audibly declared. The Drafting Commission so chosen shall be given their written credentials, signed by the chairman and secretary of the convention. Written minutes of all proceedings of the convention shall be kept in a journal, audibly read in the presence of the convention, and if found without majority sustained objection, they shall be approved and signed by the chairman and the secretary of the convention (safely to be preserved for disposition as later in this Act is provided), and thereupon the convention shall be adjourned, subject to recall only as hereinafter is provided for.

Journals

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

Drafting Commission; Rules; Vacancy in Office; Procedure

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

(b) The Drafting Commission shall be empowered to employ one clerk, who shall be a competent stenographer and who shall fill the office of secretary of the commission. The commission shall be authorized to make reasonable compensation to its secretary, but not, in any event, to exceed Six Dollars (\$6.00) per day of actual service, and ratably for a fraction of a day. The commission shall be authorized to incur all other reasonable expense necessary to facilitate its work, but not in any event to exceed Three Dollars (\$3.00) per day (exclusive of the cost to publish notices, as required by this Act) for the full period from the

first meeting day of the commission until it may have been discharged. The expenses so incurred, and the cost to publish the notices by this Act required, shall be paid under orders signed by the chairman and the secretary of the Drafting Commission, addressed to the commissioners' court of the county, and, if the vouchers accompanying such orders be found to support the same, it shall be the duty of the court promptly to make payment thereof by warrants drawn on the county's General Fund, whether budgeted therein, or not. No member of the Drafting Commission shall have compensation for service on the commission.

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

(d) In the preparation of the charter, any complete section thereof may be written in two (2) alternate and elective forms, for submission to a vote of the people. The proposed charter having been completed, there shall be written at the end thereof the words, "We hereby recommend the adoption of the foregoing proposed charter, subject to such later revisions as may grow out of our public hearings hereon," to be followed by the date of the certificate and the signatures of at least a majority of the Drafting Commission: Substantial compliance as to form of the certificate shall be deemed sufficient.

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

(f) When a proposed charter has been completed and certified, the Drafting Commission, within ten (10) days shall cause the same to be

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

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

Sec. 12. Within five (5) days after a proposed county charter finally has been approved for submission to the qualified electors of the county, it shall be the duty of the Charter Drafting Commission to prepare its report announcing the conclusion of its labors and to make requisition for the holding of a charter election hereunder, which shall be addressed to the commissioners' court of the county and filed with said court within said five (5) days. Such report and requisition in form shall be substantially as follows:

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

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

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

said Section 3, Article IX, of the Constitution.

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

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

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

Charter Election; Procedure

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

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

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

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

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

3. Ballots at least equal to one and one-half the vote cast in the last general election in the county shall be provided for the charter election. Distribution thereof

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

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

"County Home Rule Charter Ballot
for Adoption of Charter
or
Against Adoption of Charter"

Next there shall be printed in full thereon elective alternate charter provisions which may have been submitted for determination by the electors; and, in case any such elective charter provisions have been submitted, the same shall be printed in full on the ballot, in the forward progressive order in which they appear in the proposed charter. Indication of the will of the voter shall be by crossing out those propositions or provisions which are not favored. In case a voter crosses out both of two related alternate provisions, or if the voter fails to cross out one of two related alternate charter provisions, the vote to adopt or reject the charter shall nevertheless be counted on that issue.

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

**Canvassing Returns and Declaring Results of Election;
Contest Procedure**

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

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

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

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

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

Adoption of Charter; Resubmission After Rejection;
Amendments

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

Majority of Votes Cast Outside Cities and Towns
Necessary for Adoption

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

Effect of Amendment on Designation of
Administrative Body

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

Expenses of Proponents

Sec. 17. In case there be not available to a given county funds to liquidate the expenses incurred because of the exercise of power under this Act, the proponents of a proposed charter may, in writing filed with the court, designate a fiscal agent through whom the proponents may pay all such lawful and proper expenses as may accrue, preserving proper vouchers therefor. Upon presentation of the itemized verified account of such expenses, accompanied by the appropriate vouchers, the commissioners court may approve or disapprove the same, or approve the part thereof found to be proper, and on such approval the

court shall pay the same to the designated fiscal agent, or his successor, as soon as money lawfully may be applied thereto, and any other law to the contrary shall be without effect. The county shall have no responsibility for the restitution of such money by the fiscal agent to the several contributing proponents, as their several interests may be.

Constitutional Rights and Powers of Counties
Recognized

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

Charter Provisions Ineffective Against State's
Governmental Powers

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

Partial Unconstitutionality

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

Proceedings Under Anticipatory Enabling Act
Validated

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

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

¹ See article 1581a.

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

Sec. 1. Authority is hereby conferred upon Bexar County to adopt a "Home Rule Charter" in accordance with the provisions of Section 3 of Article IX of the Constitution of Texas by a favoring vote of the resident qualified electors of said County, and it shall not be necessary for the votes cast by the qualified electors re-

siding within the limits of all the incorporated cities and towns of the county to be separately kept nor separately counted from those cast by qualified electors of the county who do not reside within the limits of any incorporated city or town, and a favoring majority of the votes of such electors cast in the county as a whole shall determine the result of such election.

Sec. 2. The authority hereby granted is by a two-thirds ($\frac{2}{3}$) vote of the total membership of each House of the Legislature.
[Acts 1951, 52nd Leg., p. 70, ch. 43.]

**CHAPTER EIGHT. COUNTY
FIRE MARSHAL**

Art. 1606c. Office of County Fire Marshal
Establishment of Office; Compensation; Facilities;
Exemption from Liability

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

Investigation of Fires

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

Record of Fires

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

**Witnesses and Evidence; Filing of Criminal
Charges; Contempt**

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

Privacy of Examinations; Service of Process

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

Oath and Bond; Qualifications

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

**Right of Entry; Investigation of Dangerous
Conditions; Order**

Sec. 7. He shall have the authority to enter and examine any and all buildings or structures where a fire has occurred, in the performance of his duties of office, day or night, and examine any adjacent buildings or premises, but this authority shall be exercised with reason and discretion and with a minimum burden upon the persons living in said buildings.

It shall be his duty when called upon, or when he has reason to believe that it is in the interest of safety and fire-prevention, to enter any premises and inspect the same, and if he find that because of inflammable substance being present, dangerous or dilapidated walls, ceilings or other parts of the structure existing, improper lighting, heating or other facilities being used that endanger life, health or safety, or if because of chimneys, wiring, flues, pipes, mains or stoves, or any substance he shall find stored in any building, he believes that the safety of said building or that of its occupants is endangered and that it will likely promote or cause fire or combustion, he shall be empowered to order the said situation rectified forthwith and the owner or occupant of the said structure shall comply with the orders of the said County Fire Marshal or shall be adjudged guilty of contempt of said order and of a misdemeanor which may be punished in a court of competent jurisdiction by a fine not in excess of One Hundred (\$100.00) Dollars and costs; and each recurring refusal to so rectify such conditions shall be deemed as a separate offense and violation of such order.

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

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

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

Civil Rights and Actions

Sec. 9. No action taken by the County Fire Marshal shall affect the rights of a policyholder or any company in respect to a loss by reason of any fire so investigated; nor shall the result of any such investigation be given in evidence upon the trial of any civil action upon such policy; nor shall any statement made by any insurance company, its officers, agents or adjusters, nor by any policy-holder or anyone representing him, made with reference to the origin, cause or supposed origin or cause of the fire to the Fire Marshal or to anyone acting for him, or under his direction, be admitted in evidence or be made the basis for any civil action for damages.

[Acts 1951, 52nd Leg., p. 548, ch. 323; Acts 1953, 53rd Leg., p. 668, ch. 252, § 1; Acts 1967, 60th Leg., p. 1008, ch. 438, § 1, eff. Aug. 28, 1967.]

TITLE 34

COUNTY FINANCES

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1. GENERAL PROVISIONS

Art. 1607. Finance Ledger

Each commissioners court shall procure a well-bound ledger and index, to be known as the finance ledger, and shall cause to be entered therein a full and orderly statement of the condition of the county finances. The county clerk shall open and keep in said book an account with each officer of the county, district or State, who may be authorized or required by law to receive or collect all money or other property for the use of, or belonging to the county, and shall state at the top of each

page of said account the name of such officer and his office. The clerk shall keep such other accounts as may be necessary to carry out the purposes of this title, and shall conveniently index each. And items shall be entered daily under their respective heads. All reports and vouchers shall be filed with said clerk and carefully preserved, and briefly noted in the proper account upon the ledger. Said finance ledger shall be at all times subject to the inspection of the public.

[Acts 1925, S.B. 84.]

Art. 1608. Quarterly Statement

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

[Acts 1925, S.B. 84.]

Art. 1609. Exhibit Published

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

[Acts 1925, S.B. 84.]

Art. 1610. Account with Tax Collector

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

[Acts 1925, S.B. 84.]

Art. 1611. Receipts for Tax Rolls

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

[Acts 1925, S.B. 84.]

Art. 1612. Collector's Credits

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

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

[Acts 1925, S.B. 84.]

Art. 1613. Indigent and Delinquent Tax Accounts

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

[Acts 1925, S.B. 84.]

Art. 1614. Shall Deliver Tax Rolls to Successor

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

[Acts 1925, S.B. 84.]

Art. 1615. Occupation Tax

Said collector shall collect all occupation taxes due the county without assessment and

give the party paying the tax a written receipt, stating his name, the occupation paid for, the time such occupation is to be pursued, and the amount collected for the State and for the county. On presentation of such receipt, the county clerk shall issue to the payee therein a license in the name of the State or county or both, in accordance with the tax so paid, authorizing said payee to pursue such occupation during the time for which the tax is paid. The clerk shall keep an occupation tax account with the collector of the county, in which he shall charge the collector with all licenses issued for the county. The collector shall have credit in said account for his commissions, and the amount paid into the treasury upon filing the proper receipt of the county treasurer with such clerk. Said clerk shall, at the end of every month, make two reports, one of licenses issued on taxes paid to the State which he shall forward to the Comptroller by mail; the other of licenses issued on taxes paid to the county and file the same in his office. Such reports shall recite the information contained in the tax collector's receipt for such tax, and shall be dated and signed under the clerk's official seal.

[Acts 1925, S.B. 84.]

Art. 1616. Account with Sheriff

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

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

[Acts 1925, S.B. 84.]

Art. 1617. Officers to Report Collections

Each district clerk, county clerk, county judge, county treasurer, sheriff, district and county attorney, constable and justice of the peace, who shall collect or handle any money for the use of the county, shall make a full report to the commissioners court, at each regular term thereof, of all fines imposed and collected and all judgments rendered and collected for the use of the county, and all jury fees collected in their respective courts in favor of, or for the use of the county; and at the same time present their receipts and vouchers showing what disposition has been made of the money collected, fines imposed and judgments rendered. Said court shall carefully examine said reports, receipts and vouchers and, if found correct, shall cause the clerk to enter

the same on the finance ledger, and, if found to be incorrect, shall summon said officer before them, and have the same corrected. Said reports, receipts, and vouchers shall be filed in the county clerk's office.

[Acts 1925, S.B. 84.]

Art. 1618. Collections: Form of Report

The reports required by the preceding article shall state fully:

1. The name of the party fined and the amount of the fine, or the name of the party against whom judgment was rendered and the amount of such judgment.

2. The style and number of the cases in which fines have been imposed or judgments rendered, and the date thereof.

3. The amount of jury fees collected, and the style and number of the case in which each jury fee was collected and from whom collected.

[Acts 1925, S.B. 84.]

Art. 1619. Accounts of Justice

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

[Acts 1925, S.B. 84.]

Art. 1620. Report of Attorneys

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

[Acts 1925, S.B. 84.]

Art. 1621. Judgment Sold

Whenever the proceeds of any judgment revert to and belong to any county, if the principal and sureties thereon are insolvent so that under any existing process of law said judgment or any part thereof cannot be collected, the commissioners court is hereby constituted a board to dispose of such judgment, and may offer for sale, by such advertising as it deems necessary and to the best interests of the county, all the right of the county to such judgment. If the amount bid on same at public sale shall not be deemed sufficient, said court shall refuse to accept the same, and shall dispose of said judgment in any manner deemed most advantageous to the interest of the county. Upon sale said court shall make a proper assignment of said judgment to the purchaser.

[Acts 1925, S.B. 84.]

Art. 1622. Collections: Report to Clerk

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

[Acts 1925, S.B. 84.]

Art. 1623. Estray Account

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

[Acts 1925, S.B. 84.]

Art. 1624. Account with County Treasurer

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

[Acts 1925, S.B. 84.]

Art. 1625. Claim Registers

Each county treasurer shall keep a well-bound book in which he shall register all claims against his county in the order of presentation, and if more than one is presented at the same time he shall register them in the order of their date. He shall pay no such claim or any part thereof, nor shall the same, or any part thereof, be received by any officer in payment of any indebtedness to the county, until it has been duly registered in accordance with the provisions of this title. All claims in each class shall be paid in the order in which they are registered.

[Acts 1925, S.B. 84.]

Art. 1626. Claims Classified

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

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

[Acts 1925, S.B. 84.]

Art. 1627. Registering Claims

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

[Acts 1925, S.B. 84.]

Art. 1628. Classification of County Funds

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

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

[Acts 1925, S.B. 84.]

Art. 1629. Other Classes of Funds

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

[Acts 1925, S.B. 84.]

Art. 1630. Transfer of Funds

The commissioners court by an order to that effect may transfer the money in hand from one fund to another, as it may deem necessary and proper, except that the funds which belong to class first shall never be diverted from the payment of the claims registered in class first, unless there is an excess of such funds.

[Acts 1925, S.B. 84.]

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

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

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

¹ Articles 689a-9 to 689a-12.

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

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

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

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

Sec. 4. The Commissioners Court shall upon recommendation of the County Auditor increase or decrease such change funds at any time.

[Acts 1953, 53rd Leg., p. 376, ch. 100; Acts 1969, 61st Leg., p. 1651, ch. 515, § 1, eff. June 10, 1969.]

Art. 1630c. Change Fund in Counties of 600,000 or Less Population

Sec. 1. The Commissioners Court of any county having a population of not more than six hundred thousand (600,000), by the last preceding Federal Census, may set aside from the General Fund amounts not to exceed One Hundred Dollars (\$100) for any one collecting office for use by any county or district official collecting public funds as a change fund, which said fund is to be used only for making change in connection with collections due and payable to the county, the State of Texas or any political subdivision for which collections are lawfully made by said county or district official.

Sec. 2. The bond of each and every public official who receives such a change fund shall cover his responsibility for the correct accounting and disposition of said change fund.

Sec. 3. It shall be unlawful to use such change fund for making loans or advances, or for cashing checks or warrants of any kind.

Sec. 4. The Commissioners Court shall, within its discretion, have the right to recall any part or all of said change funds at any time.

[Acts 1957, 55th Leg., 2nd C.S., p. 184, ch. 22.]

Art. 1631. Report of Claims

At the end of each month the county treasurer shall file in the office of the county clerk a report showing the total amount of claims registered by him during said months stating each class separately. He shall enter the same upon the ledger under the head of "Registered indebtedness of the county," keeping a separate account of each class of indebtedness, and, from the reports of the treasurer of disbursements made, credit said accounts with the total amount of vouchers of each class of claims paid.

[Acts 1925, S.B. 84.]

Art. 1632. Receipt of Payee

The county treasurer or any other officer disbursing money for the county, or receiving county claims in payment of dues of any kind, shall require the party receiving payment of, or credit for the same, his agent or attorney, to receipt in writing upon the face of such claim for the amount so paid or received thereon.

[Acts 1925, S.B. 84.]

Art. 1633. Report of Claims Collected

Every officer who shall collect any fine, penalty, forfeiture, judgment, tax or other indebtedness due the county in claims against the county, shall keep a descriptive list of such claims, and shall when he reports such collection, file with his report a list stating the party in whose favor each claim was issued, the class and register number thereof, the name of the party paying in such claim, and the amount received, and for what purpose received. Such claims and report shall be turned over to the county treasurer who shall give a proper receipt for the same, and he shall file said list with his report in the office of the county clerk.

[Acts 1925, S.B. 84.]

Art. 1634. Accounts of Treasurer

The county treasurer shall keep accurate detailed accounts showing all the transactions of his office. And all warrants by him paid off shall be punched at the time he pays them; and the vouchers relating to and accompanying each report shall be presented to the commissioners court with the corresponding report, when said court shall compare the vouchers with the report, and all proper vouchers shall

be allowed and the treasurer credited with the amount thereof.

[Acts 1925, S.B. 84.]

Art. 1635. Claim Canceled

When a claim presented as a voucher has been found by the court to be correct, the court shall cause the same to be canceled by writing or stamping upon the fact¹ thereof the word, "canceled," and the clerk shall attest the same by his official signature.

[Acts 1925, S.B. 84.]

¹ So in enrolled bill. Should probably read "face".

Art. 1636. To Inspect Treasurer's Accounts

When the commissioners court has compared and examined the quarterly report of the treasurer, and found the same correct, it shall cause an order to be entered upon the minutes of the court, stating the approval thereof, and reciting separately the amount received and paid out of each fund by the treasurer since the preceding treasurer's quarterly report, and the balance of such fund, if any, remaining in the treasurer's hands and the court shall cause the proper credit to be made in the accounts of the treasurer, in accordance with said order. Said court shall actually inspect and count all the actual cash and assets in the hands of the treasurer belonging to the county at the time of the examination of his said report. Prior to the adjournment of each regular term of the court, the county judge and each commissioner shall make affidavit that the requirements of this article have been in all things fully complied with by them at said term of said court, and that the cash and other assets mentioned in said county treasurer's quarterly report made by said treasurer to said court, and held by him for the county, have been fully inspected and counted by them giving the amount of said money and other assets in his hands. Such affidavits shall be filed with the county clerk and recorded in the minutes of said court the term at which the same were filed; and the same shall be published in some newspaper published in the county if there be a newspaper published in the county, for one time.

[Acts 1925, S.B. 84.]

Art. 1637. To Examine Finance Accounts

The commissioners court shall, at each regular term, examine all accounts and reports relating to the finances of the county, and compare the same with the vouchers accompanying them, and cause such corrections to be made as are necessary, in order to make said accounts and reports correct, and shall cause all orders made by them, appertaining to said accounts and reports, to be properly entered upon the minutes of said court and noted upon said accounts and reports.

[Acts 1925, S.B. 84.]

Art. 1638. Finance Committee

At each term of the district court, the district judge, upon request of the grand jury, may appoint a committee consisting of three

citizens of the county, men of good moral character and intelligence, and experienced accountants, to examine into the condition of the finances of the county. Said committee shall examine all the books, accounts, reports, vouchers and orders of the commissioners court relating to the finances of the county that have not been examined and reported upon by a previous committee; count all the money in the office of the county treasurer belonging to the county, and make such other examination as it deems necessary and proper in order to ascertain the true condition of the finances of the county. The court shall, if necessary, upon the application of said committee, send for persons and evidence to aid in such investigation.

[Acts 1925, S.B. 84.]

Art. 1639. Report of Committee

Said committee shall, at the earliest practicable day after its appointment, make to said district court a detailed written report stating whether the books and accounts required to be kept by the provisions of this title are correctly kept in accordance with said provisions, and setting forth fully the condition of the finances of the county, the state of each officer's account, and specifying all irregularities, omissions and malfeasance of any kind that they may discover. Said report shall be signed and sworn to by said committee and filed in the office of the district clerk, and the attention of the grand jury called thereto as soon after the filing of the same as practicable.

[Acts 1925, S.B. 84.]

Art. 1640. Pay of Committee

Said committeemen shall each be entitled to receive for their services three dollars for each day, not to exceed five days, that they may be engaged in the performance of their duties as such, to be paid out of the county treasury upon the certificate of the district judge stating the number of days served.

[Acts 1925, S.B. 84.]

Art. 1641. Audit by Accountant

Any Commissioners Court, when in its judgment an imperative public necessity exists therefor, shall have authority to employ a disinterested, competent and expert public accountant to audit all or any part of the books, records, or accounts of the county; or of any district, county or precinct officers, agents, or employees, including auditors of the counties, and all governmental units of the county, hospitals, farms, and other institutions of the county kept and maintained at public expense, as well as for all matters relating to or affecting the fiscal affairs of the county. The resolution providing for such audit shall recite the reasons and necessity existing therefor such as that in the judgment of said court there exists official misconduct, willful omission or negligence in records and reports, misapplication, conversion or retention of public funds, failure in keeping accounts, making reports and accounting for public funds by any

officer, agent or employee of the district, county or precinct, including depositories, hospitals, and other public institutions maintained for the public benefit, and at public expense; or that in the judgment of the court, it is necessary that it have the information sought to enable it to determine and fix proper appropriation and expenditure of public moneys, and to ascertain and fix a just and a proper tax levy. The said resolution may be presented in writing at any regular or called session of the Commissioners Court, but shall lie over to the next regular term of said court, and shall be published in one issue of a newspaper of general circulation published in the county; provided if there be no such newspaper published in the county, then notice thereof shall be posted in three public places in said county, one of which shall be at the court house door, for at least ten days prior to its adoption. At such next regular term said resolution shall be adopted by a majority vote of the four Commissioners of the court and approved by the County Judge. Any contract entered into by said Commissioners Court for the audit provided herein shall be made in accordance with the statutes applicable to the letting of contracts by said court, payment for which may be made out of the public funds of the county in accordance with said statutes. The authority conferred on county auditors contained in this title as well as other provisions of statutes relating to district, county and precinct finances and accounts thereof shall be held subordinate to the powers given herein to the Commissioners Court. Provided that in addition to the emergency powers granted herein, there is also conferred upon the Commissioners Court the authority to provide for and cause to be made an independent audit of the aforesaid accounts and officials when the court, by order duly entered at any regular term, finds that the interest of the public would be best served thereby. Any contract entered into by said Commissioners Court for the audit provided herein shall be made in accordance with the statutes applicable to the letting of contracts by said court, payment for which may be made out of the public funds of the county in accordance with said statutes. The authority conferred on county auditors contained in this title as well as other provisions of statutes relating to district, county and precinct finances and accounts thereof shall be held subordinate to the powers given herein to the Commissioners Court.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 78, ch. 50, § 1; Acts 1973, 63rd Leg., p. 752, ch. 327, § 1, eff. June 12, 1973.]

Art. 1641a. Public Accountant in Certain Counties

In counties of a population of not less than 298,000 and not more than 355,000, according to the last Federal Census, that the Grand Jury of any County or the State Auditor when in the judgment of either, an imperative public necessity exists therefor, shall have authority

to employ a disinterested, competent and expert public accountant for the same purposes authorized by Article 1641, or for any other necessary purpose; provided, however, that same shall not be made more than once every two years, except for the purposes of supplementing any audit theretofore made. The same notice shall be given as provided in the preceding Article, one week prior to the making of said contract with such Auditor, and the same shall be paid for out of the general funds of said County.

[Acts 1931, 42nd Leg., p. 842, ch. 353, § 1.]

Art. 1641b. Independent Audit of Finances and Offices in Counties of 40,000 to 100,000

Sec. 1. At any term of the District Court of any county in this State upon request of the grand jury of such county, the district judge of such Court shall appoint an auditor, who shall be of good moral character and intelligence and an experienced accountant, to examine into the condition of the finances of said county. Said auditor shall examine all the books, accounts, reports, vouchers and orders of the Commissioners Court relating to the finances of the county, or such part thereof as may be ordered and directed by said district judge. Said auditor shall count all the money in the office of the county treasurer belonging to the county and make such other examination as he deems necessary and proper, or as may be ordered by said district judge in order to ascertain the true condition of the finances of the county. The Court shall, if necessary, upon the application of such auditor, summons witnesses and compel their attendance and require such witnesses to give such testimony as said auditor may desire; and said judge shall require the production of all books, records and any other evidence that such auditor may request or desire to aid in such investigation; and the said district judge shall have authority to punish for contempt any person violating any of the said orders of said district judge or any process issued under the provisions of this Act.

Sec. 2. Said auditor shall, at the earliest practicable date after his appointment, make to the said District Court a detailed written report stating the true condition of the finances of said county and whether the books and accounts required to be kept by the provisions of law, are correctly kept in accordance with said provisions, and setting forth fully the condition of the finances of the county, and the state of each officer's account included within the scope and provisions of the order of said district judge; and shall point out and specify all irregularities, omissions and malfeasance of any kind that he may discover. Said report shall be signed and sworn to by said auditor and filed in the office of the district clerk of said county and the attention of the grand jury shall be called thereto as soon after the filing of said report as practicable.

Sec. 3. Said auditor shall be entitled to receive for his services a sum not to exceed Twenty-five Dollars (\$25) per day for the time that may be reasonably required in the performance of his duties under the provisions hereof. Said sum shall be paid out of the county treasury upon the certificate of the district judge, stating the number of days served and the total amount due such auditor as herein provided.

Sec. 3a. This Act shall apply in counties having not less than forty thousand (40,000) population nor more than one hundred thousand (100,000) population, according to the last preceding Federal Census.

[Acts 1947, 50th Leg., p. 957, ch. 411.]

Art. 1641c. Special Audit of County Records on Petition of Voters; Employment of Auditor

Sec. 1. In every county of this state there shall be a special audit of all the county records upon the filing of a petition of at least thirty per cent (30%) of the qualified voters residing in such county who voted in the last general election for Governor of Texas, with any district judge having jurisdiction in the county.

Sec. 2. Upon receipt of such petition the district judge shall determine its validity and if he finds that thirty per cent (30%) of the qualified voters residing in the county who voted in the last general election for Governor of Texas have requested an audit of the county records he shall immediately employ a person having the qualifications prescribed by law for county auditors to prepare a special audit of all of the county records. The person so employed to prepare such special audit shall receive as compensation for his services a reasonable fee to be fixed by the district judge and paid out of the general fund or the officers' salary fund of the county.

Sec. 3. After the preparation of the audit it shall be filed with the district judge employing the auditor, and a copy shall be filed with the State Auditor.

Sec. 4. The provisions of this Act shall be cumulative of all other laws.

[Acts 1957, 55th Leg., p. 265, ch. 124.]

Art. 1641d. Annual Independent Audit of Books, Records and Accounts in Counties of 350,000 or More

Sec. 1. In every county in the State of Texas having a population of 350,000 inhabitants or more, according to the last preceding Federal Census, an annual independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions of the county, and all matters pertaining to the fiscal affairs of the county.

Sec. 2. In all counties in which this Act applies, the first independent audit shall be made

in 1960 and completed prior to December 31, 1960, and thereafter an annual independent audit shall be made of all office books and records enumerated in Section 1 of this Act.

Sec. 3. The Commissioners Court in all counties affected by this Act shall employ a disinterested, competent, experienced public accountant or certified public accountant to audit all of the above records and accounts enumerated in Section 1 of this Act.

Sec. 4. At the regular meeting of the Commissioners Court in January, 1960, and at the regular meeting of the Commissioners Court in January each year thereafter, the Court shall enter into a contract with a disinterested, competent, experienced public accountant or certified public accountant to audit all the books and records of the county that are enumerated in Section 1 of this Act. It shall not be necessary that the Commissioners Court advertise for competitive bids before selecting the public accountant or certified public accountant to prepare the audit or audits required by the provisions of this Act, and the consideration specified in each contract shall be paid out of the general fund of the respective county.

Sec. 5. The audits provided for in this Act shall be in addition to any special audits that may be prepared pursuant to the provisions of Articles 1638, 1641 and 1641c, or any regular or special audit report that may be prepared by the regular county auditor.

[Acts 1959, 56th Leg., p. 249, ch. 144.]

Art. 1641e. Biennial Independent Audit of Books, Records and Accounts in Counties of 100,000 to 120,000

Sec. 1. In every county in the State of Texas having a population of not less than 100,000 inhabitants nor more than 120,000 inhabitants according to the last preceding federal census, a biennial independent audit shall be made of all books, records, and accounts of the district, county, and precinct officers, agents or employees, including regular auditors of the counties and all governmental units of the county hospitals, farms, and other institutions of the county, and all matters pertaining to the fiscal affairs of the county.

Sec. 2. In all counties in which this bill applies, the first independent audit shall be made in 1962 and completed prior to December 31, 1962, and thereafter a biennial independent audit shall be made of all office books and records enumerated in Section 1 of this Act. Thereafter, said audit shall be made on the even-numbered years in such counties and the audit report shall be completed before December 31st of such year.

Sec. 3. The Commissioners Court in all counties affected by this Act shall employ a disinterested, competent, experienced public accountant or certified public accountant to audit all of the above records and accounts enumerated in Section 1 of this Act.

Sec. 4. At the first regular meeting of the Commissioners Court in January, 1962, and at the regular meeting of the Commissioners Court in January every two (2) years thereafter, the Court shall enter into a contract with a disinterested, competent, experienced public accountant or certified public accountant to audit all the books and records of the county that are enumerated in Section 1 of this Act. It shall not be necessary that the Commissioners Court advertise for competitive bids before selecting the public accountant or certified public accountant to prepare the audit or audits required by the provisions of this Act, and the consideration specified in each contract shall be paid out of the general fund of the respective county.

Sec. 5. Nothing in this Act shall be construed so as to prevent any county coming under the provisions of this Act from having an annual independent audit made of the records covered by this Act, provided that when such annual independent audit reports covering such books, accounts and records are completed prior to December 31st of each year such annual independent audits may be considered as compliance with the audits provided by this Act.

Sec. 6. The audits provided for in this Act shall be in addition to any special audits that may be prepared pursuant to the provisions of Articles 1638, 1641 and 1641c, or any regular or special audit report that may be prepared by the regular county auditor.

[Acts 1961, 57th Leg., p. 364, ch. 183; Acts 1971, 62nd Leg., p. 1820, ch. 542, § 19, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2373, ch. 734, eff. Sept. 1, 1971.]

Art. 1642. Requisites of Report

All reports required under any provision of this title shall be in writing and sworn to by the officer making the same, before some officer authorized to administer oaths; and all such monthly reports shall be filed within five days after the end of each month.

[Acts 1925, S.B. 84.]

Art. 1643. Warrants Attested

All warrants or scrip issued against the county treasurer by any judge or court shall be signed and attested by the clerk or judge of the court issuing the same, under his official seal. No justice of the peace shall have authority to issue warrants against the treasury for any purpose whatever, except as provided in the Code of Criminal Procedure.

[Acts 1925, S.B. 84.]

Art. 1644. Compensation of Clerk

The clerk shall receive annually as compensation for the labor performed in keeping the finance ledger and making the quarterly statement required by this title, the sum of five dollars for each one thousand dollars tax assessed as due the county, to be paid quarterly on order of the commissioners court out of the general fund of the county; provided, the same be

not less than one hundred nor more than two hundred and fifty dollars per annum.

[Acts 1925, S.B. 84.]

Art. 1644a. Expenses of Survey for Drainage, etc., or Water Control

In any county in this State having taxable values of two hundred ninety million dollars or more, according to the latest approved tax rolls of the county, the Commissioners' Court may spend not to exceed \$15,000.00 in any one year out of the general fund of the county for the purpose of making a preliminary engineering survey relating to drainage, reclamation, conservation, levee improvement, or water control.

[Acts 1929, 41st Leg., p. 342, ch. 159, § 1.]

Art. 1644a-1. Surveys of Water Resources for Use Within County; Expenditure for by Certain Counties; Referendum

Sec. 1. Any county of this State having a river flowing through or forming a part of the boundary of such county is hereby authorized to make expenditures from the General Fund or any other available fund of the county for the purpose of conducting investigations and assembling information relative to the present and prospective water needs of its inhabitants and the feasibility of developing the water resources of the river for uses within the county upon approval of such expenditure at an election as hereinafter provided.

Sec. 2. Before any expenditure authorized in Section 1 is incurred, the Commissioners Court shall fix the maximum amount of the expenditure and shall submit to the qualified tax-paying voters of the county, at an election ordered for that purpose, the proposition of whether such expenditure shall be incurred. The election shall be ordered and conducted in accordance with the General Election laws of this State. The ballots at the election shall have printed thereon the propositions:

"FOR the expenditure of county funds for the purpose of making a survey of water resources, in an amount not to exceed _____ Dollars."

"AGAINST the expenditure of county funds for the purpose of making a survey of water resources, in an amount not to exceed _____ Dollars."

If a majority of the ballots cast are in favor of such expenditure, the Commissioners Court shall have authority to contract for professional services and incur such other expenses as may be necessary, not to exceed the maximum amount fixed for this purpose. If the majority of the ballots cast are opposed to such expenditure, the Commissioners Court shall not be authorized to make any expenditure for this purpose, and no further election shall be held for a period of two (2) years thereafter.

[Acts 1955, 54th Leg., p. 973, ch. 378.]

Art. 1644b. Authorizing Counties to Purchase Property to Satisfy Claims

Sec. 1. That any county in this State whose population according to the last preceding United States Census did not exceed Fifteen Thousand (15,000), having at the time of the passage of this Act, any claim for money against any person, partnership, corporation, joint stock or other association, and whose claim shall amount to at least fifty (50%) per cent of all the claims against such debtor, and the property of such person, partnership, corporation, joint stock or other association shall be sold, within two years from the date this Act shall become effective, under any proceedings in bankruptcy, receivership, or in any other judicial proceeding whatever, and the Commissioners' Court of such county shall be of the opinion that it is necessary or advisable, in the protection of the interests of such county so to do, the said Commissioners' Court be, and is hereby authorized to purchase any or all of the property of such debtor or debtors so sold, within two years from the date this Act shall become effective, when offered for sale by any trustee in bankruptcy, receiver, or by any other officer under the order of any court for such price as the Commissioners' Court may deem advisable and for the best interests of the county, and to have such property by said trustee in bankruptcy, receiver, or other judicial officer conveyed and transferred to the county.

Sec. 2. The Commissioners' Court of any such county is hereby expressly authorized and empowered to borrow money on the credit of the county, and to execute or cause to be executed the obligations of the county therefor, for the purpose of making such purchase or purchases; and it is further expressly authorized to pledge, hypothecate or mortgage any property so purchased to secure the payment of all sums so borrowed.

Sec. 3. The said Commissioners' Court is hereby expressly granted the full power and authority to determine upon what terms, for what length of time and at what rate of interest said sums shall be borrowed.

Sec. 4. Said Commissioners' Court is further hereby expressly authorized to liquidate all assets so purchased for the use and benefit of the county, in any manner that a private individual might liquidate such assets, and to sell and convey all or any of the properties so acquired, either for cash or upon credit, for such length of time and at such rate of interest as said court may deem advisable and to sue upon any obligations so acquired or contracted to said county, and to pay any and all expenses and costs incurred in connection with all or any of the foregoing matters from said property or the proceeds of the sale or liquidation thereof, the net proceeds received by said county to be paid to and for the use and benefit of the respective funds of the county to which said original claim belonged pro rata.

[Acts 1933, 43rd Leg., p. 620, ch. 206.]

Art. 1644c. Counties, Cities, and Other Subdivisions of State Authorized to Borrow Money from Federal Agencies

Sec. 1. All counties of this State in which there has been damage to public and private property from a tropical hurricane during the year, 1933, and cities, towns, independent school districts, common school districts, water improvement districts, water control and improvement districts, navigation districts, drainage districts, and any and all other public municipal corporations, organized and existing under the Constitution and Laws of this State located in such counties; and all private corporations, created under the Laws of Texas, providing for corporations without capital stock, and the share holders of which are prohibited from receiving any income of any kind from such corporation, are hereby expressly authorized and empowered to borrow money, and to receive grants and other aid from the Government of the United States, from the Federal Emergency Administrator of Public Works, the Reconstruction Finance Corporation, the Federal Reserve Banks, and any and all other agencies of the Government of the United States, which now are or hereafter may be authorized to make such loans or grants on such terms and in such amounts as may be agreed upon with the lending agency.

Sec. 2. The several counties, cities, towns, and other public municipal corporations above enumerated and described, are further hereby expressly authorized and empowered to issue warrants or other obligations of such counties, cities, towns or other public municipal corporations, in evidence of money borrowed from the Government of the United States or from its agencies, which warrants or obligations may draw interest at any rate not to exceed six per centum (6%) per annum, and may be payable within such time and on such terms as may be agreed upon between the lending agency and the public municipal corporation to which the loan is made; and such counties, cities, towns, and other public municipal corporations are further expressly authorized to pledge the taxes and/or revenues provided for such counties, cities, towns, and other public municipal corporations, under the Constitution and Laws of this State, in payment of such loans made to them by the Government of the United States, or any agency of such Government. Provided, however, that the powers to issue warrants or other obligations by the governing boards of the public municipal corporations herein enumerated or referred to shall be contingent upon an affirmative authorizing vote by a majority of the qualified voters voting in an election called for that purpose under conditions set forth in the statutes governing special elections, except where the warrants or other evidences of obligations are issued for funds to be used to repair damage caused by any tropical hurricane during the year 1933.

Sec. 3. All funds granted or lent to counties, cities, towns, or other public municipal

corporations of this State by the Government of the United States or any agency of such Government shall be administered by the officers of such public municipal corporation in the same manner that construction and maintenance funds of such corporations are required to be administered under the Constitution and Laws of this State.

Sec. 4. All funds granted or lent to non-profit corporations by the Government of the United States, or any agency of such Government, shall be administered by the officers of such non-profit corporation in accordance with its by-laws and under such rules and regulations as the lending agency may prescribe; and may be lent by such corporations to persons, firms, and corporations that have been injured or damaged by a tropical hurricane during the year, 1933.

[Acts 1933, 43rd Leg., 1st C.S., p. 327 ch. 118.]

Art. 1644c-1. Counties of 8,000 to 8,040 with Taxable Property in Excess of \$45,000,000; Authority to Borrow Money

Sec. 1. All counties of this State having a population of more than eight thousand (8,000) but less than eight thousand and forty (8,040) according to the last preceding United States Census, and which had taxable property in said county in excess of Forty-five Million Dollars (\$45,000,000) according to its last ad valorem tax rolls, are hereby expressly authorized and empowered to borrow money from any source, public or private, in any amount not to exceed the aggregate principal amount of One Hundred and Sixty-five Thousand Dollars (\$165,000). By the term "aggregate principal amount" is meant the total of the sums so borrowed by any county under the provisions of this Act, and not the balance owing and due by any county at any one time.

Sec. 2. Such counties are further hereby expressly authorized and empowered to issue time warrants and/or other obligations of such counties in evidence of money borrowed, which warrants or obligations may draw interest at any rate not to exceed four percent (4%) per annum, and may be payable within such time, not to exceed ten (10) years, and on such terms as may be agreed upon between the lending agency and the county to which the loan is made; and such counties are further expressly authorized to levy taxes and to pledge any taxes and/or revenues provided for such counties, under the Constitution and Laws of this state, in payment of such loans.

Sec. 3. The Commissioners Court of any such county qualifying under Section 1 is empowered with authority to approve the issuance of such warrants or obligations which may be in any amount or amounts, providing that the total of such warrants or obligations does not exceed One Hundred and Sixty-five Thousand Dollars (\$165,000). No such warrants or obligations shall be issued, sold or delivered after five years from the effective date of this Act.

Sec. 4. Such warrants or obligations, upon approval by the Commissioners Court, shall be signed by the county judge and county clerk of such county.

Sec. 5. Such warrants or obligations, when issued and signed in accordance with the provisions of this Act, shall constitute valid obligations of such counties.

Sec. 6. This Act shall be cumulative of all other Laws, General and Special, relating to the subject matter hereof.

[Acts 1961, 57th Leg., p. 445, ch. 218; Acts 1971, 62nd Leg., p. 1821, ch. 542, § 21, eff. Sept. 1, 1971.]

Art. 1644d. Validation of Purchases by Counties to Satisfy Claims

All purchases, pursuant to Legislative enactment of the property of any debtor or debtors, at any sale under any proceedings in bankruptcy, receivership or in any other judicial proceeding whatever, heretofore made by any county in this State whose population did not exceed fifteen thousand (15,000) according to the last United States Census, and which had a claim or claims for money against any such person, partnership, corporation, joint stock or other associations, amounting to at least fifty (50) per cent of all the claims against such debtor, and where the Commissioners Court of any such county has deemed it necessary or advisable to so purchase said property to protect the interest of such county, and all conveyances, transfers and assignments to any such county of real and personal property so purchased, and the liquidation of such assets by the Commissioners Court of any such county heretofore done, and all sales, conveyances, transfers and assignments of real and personal property, oil, gas and mineral leases, and other transfers, conveyances and assignments made by any such county to any and all purchasers in connection therewith, whether such sales were made at public or private sale, be and the same are here and now in all things fully and completely validated, ratified and confirmed.

[Acts 1935, 44th Leg., p. 231, ch. 94, § 1.]

2. COUNTY AUDITOR

Art. 1645. Appointment in Certain Counties; Term of Office; Compensation

In any county having a population of 35,000 inhabitants or over according to the last preceding Federal Census, or having a tax valuation of \$15,000,000 or over according to the last approved tax rolls, there shall be appointed every two years an auditor of accounts and finances, the title of said office to be County Auditor, who shall hold his office for two years and who shall receive as compensation for his services an annual salary from the County General Fund of not more than the amount allowed or paid the Assessor-Collector of Taxes in his county, such salary of the County Auditor to be fixed and determined by the District Judge or District Judges making such appointment and having jurisdiction in

the county, a majority ruling, said annual salary to be paid monthly out of the General Fund of the county. The action of the District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county and the Clerk thereof shall certify the same for observance to the Commissioners Court which shall cause the same to be recorded in its minutes.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., 1st C.S., p. 104, ch. 35, § 1; Acts 1929, 41st Leg., 1st C.S., p. 62, ch. 28, § 1; Acts 1931, 42nd Leg., 2nd C.S., p. 29, ch. 15, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1826, ch. 45, § 3; Acts 1939, 46th Leg., Spec.Laws, p. 595, § 1; Acts 1941, 47th Leg., p. 1331, ch. 601, § 1; Acts 1949, 51st Leg., p. 1068, ch. 552, § 1; Acts 1955, 54th Leg., p. 1117, ch. 414, § 1.]

Art. 1645a. County Auditors in Counties of 19,150 to 19,175 Inhabitants

In any county having a population of not less than nineteen thousand, one hundred and fifty (19,150) nor more than nineteen thousand, one hundred and seventy-five (19,175) according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court.

[Acts 1937, 45th Leg., p. 606, ch. 305, § 1.]

Art. 1645a-1. County Auditors in Certain Counties to Act as Purchasing Agents; Compensation

Sec. 1. That in all counties having a population of not less than twenty-four thousand, one hundred twenty-five (24,125) nor more than twenty-four thousand, one hundred fifty (24,150), according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided that in all counties having a population of not less than forty-three thousand (43,000) and not more than forty-three thousand, one hundred (43,100) according to the last preceding Federal Census, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for the county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent the sum of Six Hundred (\$600.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addi-

tion to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county. Provided further, that in all counties having a population in excess of sixty-five thousand (65,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not more than Forty Million (\$40,000,000.00) Dollars according to the last approved tax rolls, and containing at least two incorporated cities of more than thirteen thousand, five hundred (13,500) population each, according to the last preceding Federal Census, such Auditor shall, in addition to his regular duties as Auditor, constitute the Purchasing Agent of such county when so directed by order of the Commissioners Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed Nine Hundred (\$900.00) Dollars annually, payable in twelve (12) equal monthly installments, and such compensation shall be in addition to that allowed by law for such Auditor, and payable out of the General Revenue of such county.

Sec. 2. That in all counties having a population of not less than ninety thousand (90,000) inhabitants nor more than two hundred twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census, and having a tax valuation of not less than One Hundred Twenty Million (\$120,000,000.00) Dollars and not more than One Hundred Fifty Million (\$150,000,000.00) Dollars, and employing a County Auditor, said County Auditor, in addition to the regular duties performed by him as required by law, shall act as Purchasing Agent for such county when so directed by order of the Commissioners Court of such county, and such Auditor shall receive as compensation for such additional services as Purchasing Agent a sum not to exceed One Thousand Five Hundred (\$1,500.00) Dollars annually, payable in twelve (12) equal monthly installments, such compensation to be in addition to that allowed by law for such Auditor, and to be payable out of the General Revenue of such county.

[Acts 1937, 45th Leg., p. 639, ch. 313, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 600, § 1; Acts 1949, 51st Leg., p. 680, ch. 353, § 1.]

Art. 1645a-2. County Auditor's Office in Counties of 28,700 to 29,000 Abolished; County Auditors in Counties of 27,545 to 27,555 Population

Sec. 1. No county having a population of not less than twenty-eight thousand seven hundred (28,700), nor more than twenty-nine thousand (29,000), according to the last preceding, or any future Federal Census, shall have a county auditor, and the office of county auditor is hereby abolished, in any and all such counties, and the duties of the office of county auditor, in any such counties, shall be performed by such other officers of the county, as may be provided by General Law.

Sec. 1-a. In any county having a population of not less than twenty-seven thousand

five hundred forty-five (27,545), nor more than twenty-seven thousand five hundred fifty-five (27,555), according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services not less than Eighteen Hundred (\$1800.00) Dollars nor more than Twenty-four Hundred (\$2400.00) Dollars per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners' Court.

[Acts 1937, 45th Leg., 1st C.S., p. 1778, ch. 17.]

Art. 1645a-3. Appointment of County Auditors in Counties of 20,100 to 20,150 Population and Less Than \$15,000,000 Tax Valuation

Sec. 1. In any county having a population of not less than twenty thousand, one hundred (20,100) nor more than twenty thousand, one hundred and fifty (20,150), according to the last preceding Federal Census, and having a tax valuation of less than Fifteen Million Dollars (\$15,000,000), according to the last approved tax roll, of the Commissioners Court of such county shall determine that an auditor is a public necessity in the dispatch of the business of the county, such Commissioners Court may enter an order so stating and may appoint an auditor of accounts and finances, the title of said office to be "County Auditor," who shall qualify and perform all the duties required of County Auditors in this State, and who shall receive as compensation for his services a salary not to exceed Eighteen Hundred Dollars (\$1800) annually; said salary to be set by the Commissioners Court and to be paid monthly out of the General Revenue of the county upon order of the Commissioners Court; provided the Commissioners Court may by its order discontinue such office at any time it may find such office is not a public necessity.

[Acts 1937, 45th Leg., 2nd C.S., p. 1951, ch. 50, § 1.]

Art. 1645a-4. Salary of Auditor in Certain Counties

In all Counties containing a population of not less than fifty-one thousand seven hundred seventy-nine (51,779), nor more than fifty-two thousand (52,000) according to the last preceding Federal Census, the County Auditor shall receive a salary of not more than Four Thousand (\$4,000.00) Dollars per annum, payable in equal monthly installments upon order of the Commissioners' Court.

[Acts 1939, 46th Leg., Spec.Laws, p. 598, § 1.]

Art. 1645a-5. Auditors in Counties of 33,200 to 33,600

Auditors in counties of thirty-three thousand, two hundred (33,200) to thirty-three thousand, six hundred (33,600).

In every county in this State having a population of not less than thirty-three thousand,

two hundred (33,200) and not more than thirty-three thousand, six hundred (33,600), according to the last preceding Federal Census, the District Judge having jurisdiction in such county shall, if such reason be good and sufficient, appoint a County Auditor as provided in Article 1646, of the Revised Civil Statutes of Texas, of 1925, and said Auditor shall receive a salary of not less than Three Thousand Dollars (\$3,000) nor more than Thirty-six Hundred Dollars (\$3600) per year, and same shall be paid in the same manner as other county officers are paid in said counties.

[Acts 1939, 46th Leg., Spec.Laws, p. 594, § 1; Acts 1941, 47th Leg., p. 844, ch. 519, § 1; Acts 1949, 51st Leg., p. 941, ch. 515, § 1.]

Art. 1645a-6. County Auditors in Counties of 14,850 to 14,920 Population; Qualification; Salary

Sec. 1. From and after the effective date of this Act in all counties in this State having a population of not less than fourteen thousand, eight hundred and fifty (14,850), and not more than fourteen thousand, nine hundred and twenty (14,920), according to the last preceding Federal Census, or any subsequent Federal Census, the Commissioners Court in such counties, if they shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court, fully setting out the reasons and necessities for such Auditor, and shall cause said order to be certified to the District Judge having jurisdiction in the counties hereinabove set out, said Judge shall, if such reasons be considered good and sufficient, appoint a County Auditor as provided in Article 1647 of the Revised Civil Statutes of Texas of 1925, and upon the appointment by said Judge of such Auditor, such Auditor shall qualify by taking the oath of office and giving the bond as now provided in Article 1649 of the Revised Civil Statutes of Texas of 1925.

Sec. 2. When the Auditor, as hereinabove provided, shall have qualified by taking the oath and giving the bond, as provided in Section 1 hereof, he shall be authorized to perform all the duties now required of Auditors generally in counties of this State, as provided in Title 34 of the Revised Civil Statutes of Texas, 1925, and amendments thereto not in conflict herewith, and shall receive a salary not to exceed Two Thousand, Four Hundred Dollars (\$2,400) per annum, said salary to be paid in equal monthly installments and shall be paid from the County General Fund, of such counties, the Jury Fund, the Road and Bridge Fund, the Permanent Improvement Fund, in proportion and on the percentage of levies made for each respective Fund, and in proportion that such levies bear to the total salary of such Auditor.

Sec. 3. This Act shall be deemed cumulative of all general provisions now authorizing the employment of Auditors, and it is not in-

tended by this Act to repeal any law, or parts of law, not in conflict herewith.

[Acts 1939, 46th Leg., Spec.Laws, p. 591.]

Art. 1645a-7. Abolition of Office of County Auditor in Counties of 25,500 to 25,610

No County having a population of not less than twenty-five thousand five hundred fifty (25,550), nor more than twenty-five thousand six hundred ten (25,610), according to the last preceding or any future Federal Census, shall have a County Auditor, and the office of County Auditor is hereby abolished in any and all such Counties, and the duties of the office of County Auditor in such Counties shall be performed by such other officers of the County, as may be provided by General Law.

[Acts 1941, 47th Leg., p. 36, ch. 22, § 2.]

Art. 1645a-8. County Auditors in Counties of 25,450 to 25,500; Appointment; Compensation; Term of Office

In any county having a population of not less than twenty-five thousand, four hundred and fifty (25,450) nor more than twenty-five thousand, five hundred (25,500) according to the last preceding Federal Census, there shall be biennially appointed an auditor of accounts and finances, the title of said officer to be "County Auditor," who shall hold his office for two (2) years and who shall receive as compensation for his services the sum of Eighteen Hundred Dollars (\$1800) per annum payable in equal monthly installments out of the General Fund of the county upon order of the Commissioners Court.

[Acts 1941 47th Leg., p. 721, ch. 447, § 1.]

Art. 1645a-9. Office Abolished in Counties of 3,000 to 25,500

No County Auditor shall hereafter be appointed in any county having a population of not more than twenty-five thousand, five hundred (25,500) and not less than three thousand (3,000) where no such County Auditor has been appointed by the District Judge prior to the effective date of this Act, except upon the petition of the County Commissioners Court and in all such counties the duties of such County Auditor in such County shall be performed by other officers as may be prescribed by general law.

[Acts 1951, 52nd Leg., p. 693, ch. 399, § 1; Acts 1953, 53rd Leg., p. 574, ch. 217, § 1.]

Art. 1645a-10. Auditors in Counties of 1,500,000 or More; Election by Judges; Term of Office

Sec. 1. In any county having a population of 1,500,000 or more, according to the last preceding federal census, the district judges having jurisdiction in the county, shall nominate candidates for the office of county auditor. Each judge may nominate as many candidates as he wishes. The office of county auditor shall be filled by the candidate receiving a two-thirds vote of the district judges having

jurisdiction in the county at a meeting held for that purpose and the vote of a district judge shall not be counted unless he is present at the meeting.

Sec. 2. The term of office of the county auditor in counties to which this Act applies is two years, beginning on January 1 of odd-numbered years. The initial appointee under this Act shall be appointed within 20 days after this Act takes effect and shall serve for the unexpired portion of the term of office specified in this section.

[Acts 1971, 62nd Leg., p. 2633, ch. 864, eff. June 9, 1971.]

Sections 3 and 4 of the 1971 act provided:

"Sec. 3. As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

"Sec. 4. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 1645a-11. Abolition of Office of County Auditor in Counties of 2,260 to 2,290

Sec. 1. The office of county auditor is abolished in all counties having a population of not less than 2,260 nor more than 2,290 according to the last preceding federal census.

Sec. 2. As used in this Act, "the last preceding federal census" means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

[Acts 1971, 62nd Leg., p. 3036, ch. 1000, eff. Aug. 30, 1971.]

Art. 1645a-12. Abolition of Office of County Auditor in McCulloch County; Election; Audit

Sec. 1. The office of county auditor of McCulloch County is abolished.

Sec. 2. The Commissioners Court of McCulloch County shall require that an annual audit of their books and records be made by an outside Certified Public Accounting Firm selected by the commissioners court with the approval of the district judge of the state judicial district in which McCulloch County is located. Such annual audit shall verify, among other things, that all expenditures of funds authorized by the Court were made according to applicable law.

Sec. 3. This Act takes effect only if and when an election is called and held by the commissioners court in which the ballots are printed to provide for voting for or against the proposition, "Abolishing the office of county auditor," and in which a majority of the qualified voters of the county voting on the proposition vote in favor of the proposition as shown

by the official canvass of the returns of the election by the commissioners court.

[Acts 1973, 63rd Leg., p. 1290, ch. 479, eff. June 14, 1973.]

Art. 1645a-13. Abolition of Office of County Auditor in Culberson County; Election; Audit

Sec. 1. The office of county auditor of Culberson County is abolished.

Sec. 2. The Commissioners Court of Culberson County shall require that an annual audit of their books and records be made by an outside Certified Public Accounting Firm selected by the commissioners court with the approval of the district judge of the state judicial district in which Culberson County is located. Such annual audit shall verify, among other things, that all expenditures of funds authorized by the Court were made according to applicable law.

Sec. 3. This Act takes effect only if and when an election is called and held by the commissioners court in which the ballots are printed to provide for voting for or against the proposition, "Abolishing the office of county auditor," and in which a majority of the qualified voters of the county voting on the proposition vote in favor of the proposition as shown by the official canvass of the returns of the election by the commissioners court.

[Acts 1973, 63rd Leg., p. 1380, ch. 531, eff. Aug. 27, 1973.]

Art. 1645b. County Auditor's Salary in Counties of 42,100 to 42,500

In all counties containing a population of not less than forty-two thousand, one hundred (42,100) nor more than forty-two thousand, five hundred (42,500) according to the Federal Census of 1930, the County Auditor shall receive a salary not less than Three Thousand, Six Hundred (\$3,600) per annum, payable in equal monthly installments upon order of the Commissioners Court.

[Acts 1937, 45th Leg., p. 158, ch. 84, § 1.]

Art. 1645c. Compensation of County Auditors in Counties of 49,010 to 49,100 Population

In every county in this State having a population of not less than forty-nine thousand, ten (49,010) nor more than forty-nine thousand, one hundred (49,100) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum to be paid in equal monthly installments out of funds of said county.

[Acts 1937, 45th Leg., p. 852, ch. 420, § 1.]

Art. 1645c-1. Compensation of County Auditors in Counties of 77,600 to 131,000 Population

In all counties of this State having a population of not less than seventy-seven thousand six hundred (77,600) inhabitants nor more than one hundred thirty-one thousand (131,000) in-

habitants, according to the last Federal Census, as same now exists or may hereafter exist, and having an assessed valuation of not less than Forty-five Million and One Dollars (\$45,000,001.00) nor more than Sixty-three Million Five Hundred Thousand Dollars (\$63,500,000.00), according to the last approved tax rolls, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Forty-two Hundred Dollars (\$4200.00) to be paid in equal monthly installments out of the general revenues of the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 4; Acts 1939, 46th Leg., Spec.Laws, p. 599, § 1.]

Art. 1645c-2. Compensation of County Auditors in Counties of 24,900 to 25,000

From and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty-four thousand, nine hundred (24,900) and not more than twenty-five thousand (25,000), the County Auditors of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars (\$2,400), to be paid in twelve (12) equal monthly installments out of the general fund of such counties.

[Acts 1941, 47th Leg., p. 120, ch. 93, § 1.]

Art. 1645d. Compensation of County Auditors in Counties of 39,100 to 39,200 Population

In all counties in this State having a population of not less than thirty-nine thousand, one hundred (39,100), nor more than thirty-nine thousand, two hundred (39,200), according to the last preceding United States Census, the County Auditor shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, payable in twelve (12) equal monthly installments out of the General Funds of said county.

[Acts 1937, 45th Leg., 2nd C.S., p. 1908, ch. 29, § 1.]

Art. 1645d-1. Compensation of County Auditors in Counties of 45,000 to 50,000 Population

In all counties in this State having a population of not less than forty-five thousand (45,000) inhabitants nor more than fifty thousand (50,000) inhabitants, according to the last Federal Census, as same now exists or may hereafter exist, the County Auditor shall receive an annual salary from county funds of Four Thousand Dollars (\$4,000) to be paid in equal monthly installments out of the general revenues of the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 5.]

Art. 1645d-2. Compensation of County Auditors in Counties of 49,100 to 51,000 Population

In all Counties in this State having a population of not less than forty-nine thousand one hundred (49,100) and not more than fifty-one thousand (51,000) inhabitants according to the 1930 Census of the United States, the County Auditor shall receive a salary of Four Thou-

sand (\$4,000.00) Dollars per annum, to be paid in equal monthly installments out of the General Revenues of the County.

[Acts 1939, 46th Leg., Spec.Laws, p. 597, § 1.]

Art. 1645d-3. Compensation of County Auditor in Counties of 27,250 to 27,490 Population

From and after the effective date of this Act in all counties having a population according to the last Federal Census of not less than twenty-seven thousand, two hundred and fifty (27,250) and not more than twenty-seven thousand, four hundred and ninety (27,490), the County Auditor of such counties shall receive an annual salary of Two Thousand, Four Hundred Dollars (\$2,400) to be paid in twelve (12) equal monthly installments out of the general fund of such counties.

[Acts 1939, 46th Leg., Spec.Laws, p. 593, § 1.]

Art. 1645d-4. Repealed by Acts 1943, 48th Leg., p. 458, ch. 307, § 1

Art. 1645e. Compensation of County Auditors in Counties of 190,000 to 200,000 Population

In every county in this State having a population of not less than one hundred and ninety thousand (190,000) nor more than two hundred thousand (200,000) inhabitants according to the last preceding United States Census, the compensation of each County Auditor shall be Forty-eight Hundred Dollars (\$4800) per annum to be paid in equal monthly installments out of funds of said county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 1.]

Art. 1645e-1. Compensation of County Auditors in Certain Counties

In every county in this State having a population of less than thirty-three thousand (33,000), according to the last preceding Federal Census, and having assessed property valuation of more than Eighty Million Dollars (\$80,000,000), according to the last approved tax rolls, the compensation of each County Auditor shall not exceed Four Thousand, Two Hundred Dollars (\$4,200); and in every county in this State having a population of not less than thirty-four thousand, one hundred and forty-five (34,145), nor more than thirty-four thousand, one hundred and sixty (34,160), according to the last preceding Federal Census, the County Auditor shall not receive more than Three Thousand Dollars (\$3,000) per year; that in every county in this State having a population of not less than forty-six thousand, one hundred and seventy-nine (46,179), nor more than forty-nine thousand, and twenty (49,020), according to the last preceding Federal Census, the compensation of each County Auditor shall be Three Thousand Dollars (\$3,000) per annum; and providing that in counties having a population of not less than forty-eight thousand, six hundred (48,600), nor more than forty-nine thousand (49,000), according to the last preceding Federal Census, the compensation of

each County Auditor shall be Three Thousand, Six Hundred Dollars (\$3,600); such salaries to be payable in equal monthly installments.

[Acts 1937, 45th Leg., 2nd C.S., p. 1902, ch. 25, § 1.]

Art. 1645e-2. Compensation of County Auditors in Certain Counties

In all counties in this State having a population of not less than twenty-four thousand, five hundred (24,500) and not more than twenty-four thousand, seven hundred (24,700) inhabitants, according to the last preceding Federal Census, and having an assessed valuation in excess of Twenty Million Dollars (\$20,000,000) according to the last preceding approved tax roll of such counties, the County Auditor shall receive as compensation for his services a salary of One Hundred and Fifty Dollars (\$150) for each One Million Dollars (\$1,000,000) or major portion thereof on the assessed valuation of said county, such annual salary to be computed from the last approved tax roll, and to be paid in twelve (12) monthly installments or in the same manner as other county officers are paid in said counties.

[Acts 1941, 47th Leg., p. 544, ch. 339, § 1.]

Art. 1645f. Additional Duties of County Auditors in Counties of 190,000 to 200,000 Population Having City and County Hospital

In counties having more than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants according to the last Federal Census where there is a city and county hospital to care for the city and county patients, and where a financial record for such hospital must be kept and reports made to the city and county, the Auditor shall, in addition to the regular duties performed by him as required by law, keep such financial record of such hospital, and make such report to the executive bodies of the city and county, the Mayor and City Councilmen for the city, and the County Judge and County Commissioners for the county.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 2.]

Art. 1645g. Audits and Reports Respecting Certain Monies by County Auditors in Counties of 320,000 to 350,000 Population

All County Auditors in counties having a population of more than three hundred and twenty thousand (320,000) and less than three hundred and fifty thousand (350,000) persons by the last preceding Federal Census or any future Federal Census are hereby authorized, empowered and directed to make a complete audit of any and all monies, property or funds of whatsoever kind or character received, expended or disposed of in any manner by the Superintendent of Public Instruction, the County Board of Trustees and/or County Superintendent of Schools in any such county. A copy of the auditor's report shall be filed with the Commissioners Court and with the County or District Attorney at the end of each fiscal year.

[Acts 1937, 45th Leg., 1st C.S., p. 1798, ch. 24, § 3.]

Art. 1645h. County Auditor as Purchasing Agent in Counties of 41,680 to 42,000; Salary

In all counties having a population according to the last preceding Federal Census of not less than forty-one thousand, six hundred and eighty (41,680) inhabitants and not more than forty-two thousand, one hundred (42,100) inhabitants, the County Auditor, in addition to the regular duties performed by him as now required by law, shall act as Purchasing Agent for the County, and shall receive a salary of Thirty-seven Hundred and Fifty Dollars (\$3750) per annum, payable in twelve (12) equal monthly installments out of the General Revenues of the county.

[Acts 1941, 47th Leg., p. 386, ch. 217, § 1.]

Art. 1646. Auditors for Other Counties

When the Commissioners' Court of a county not mentioned and enumerated in the preceding Article shall determine that an Auditor is a public necessity in the dispatch of the county business, and shall enter an order upon the minutes of said Court fully setting out the reason for and necessity of an Auditor, and shall cause such order to be certified to the District Judge or District Judges having jurisdiction in the county, said Judge or Judges shall, if said reason be considered good and sufficient, appoint a County Auditor as provided in the preceding Article, who shall qualify and perform all the duties required of County Auditors by the laws of this State, and who shall receive as compensation for his services as County Auditor an annual salary of not more than the annual total compensation and/or salary allowed or paid the Assessor and Collector of Taxes in his county, and not less than the annual salary allowed such County Auditor under the General Law provided in Article 1645, Revised Civil Statutes, as said Article existed on January 1, 1940, such salary of the County Auditor to be determined and fixed by the District Judge or District Judges having jurisdiction in the county, a majority thereof ruling, said annual salary to be paid monthly out of the general fund of the county. The action of said District Judge or District Judges in determining and fixing the salary of the County Auditor shall be made by order and recorded in the minutes of the District Court of the county, and the Clerk thereof shall certify the same for observance to the Commissioners' Court which shall cause the same to be recorded in its minutes; after the salary of the County Auditor has been fixed by the District Judge or District Judges, no change in such salary shall thereafter become effective until the beginning of the next ensuing fiscal year of the county; provided, however, any increase in the salary of any such County Auditor, over and above the annual salary allowed such County Auditor under the general law provided in Article 1645, as said Article existed on January 1, 1940, shall only be allowed or permitted with the express consent and approval of the Commissioners' Court of the county whose County Auditor

is affected or may be affected by the provisions of this Act; such consent and approval of such Commissioners' Court shall be made by order of such Court and recorded in the minutes of the Commissioners' Court of such County. Provided, said District Judge or District Judges shall have the power to discontinue the services of a County Auditor as provided for in this Article at any time after the expiration of one (1) year from the appointment, when it is clearly shown that such Auditor is not a public necessity, and his services are not commensurate with his salary.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 687, ch. 308, § 1; Acts 1941, 47th Leg., p. 1331, ch. 601, § 2.]

Art. 1646a. County Auditors

The commissioners' court of any county under twenty-five thousand population according to the last United States census may make an arrangement or agreement with one or more other counties whereby all counties, parties to the arrangement or agreement, may jointly employ and compensate a special auditor or auditors for the purposes specified in Articles 1645 and 1646. The county commissioners' court of every county affected by this article may have an audit made of all the books of the county, or any of them, at any time they may desire whether such arrangements can be made with other counties or not; provided the district judge or grand jury may order said audit if either so desires.

[Acts 1925, S.B. 84.]

Art. 1646b. Joint Employment of County Auditor in Counties Under 25,000 Population

Sec. 1. The Commissioners Court of any county under twenty-five thousand (25,000) population according to the last United States Census may make an arrangement or agreement with one or more other such counties whereby all counties, parties to the arrangement or agreement, may jointly employ and compensate an auditor for said counties, respectively.

After such agreement or arrangement has been entered into by and between the Commissioners Courts of said counties, and they shall have determined that an auditor is a public necessity in the disposition of county business, and shall have entered an order upon the minutes of the Courts to that effect, they shall cause said orders to be certified to the District Judge or District Judges having jurisdiction in the respective counties. Said Judge or Judges shall, if said orders be considered good and sufficient, appoint a qualified person who shall act as county auditor for each of said counties. Such auditor shall qualify and perform all of the duties required of county auditors by the laws of this State, and in addition to the regular duties performed by him as required by law, shall act as purchasing agent for each of said counties.

Such county auditor shall be appointed for a term of two years from and after such appoint-

ment. The annual salary to be paid such county auditor by each county, shall be fixed by the District Judge or District Judges at a sum not in excess of Three Thousand (\$3,000.00) Dollars for each county. Provided, that where such county auditor serves more than two counties under such arrangement or agreement, his total annual compensation shall not exceed Seven Thousand Five Hundred (\$7,500.00) Dollars from all of said counties. Such annual salary shall be paid out of the General Fund of the counties in twelve equal monthly payments.

The action of the District Judge or District Judges in making such appointment and in determining and fixing the salary of the county auditor shall be made by order entered and recorded in the minutes of the District Courts of the counties entering into such arrangement or agreement, and the District Clerk of said counties shall certify the same for observance to the Commissioners Courts of said counties which shall cause the same to be recorded in their minutes. Provided, said District Judge or District Judges shall have the power to discontinue the services of the county auditor at any time after the expiration of one year from his appointment when in their opinion such county auditor is no longer a public necessity and his services are not commensurate with his salary. In all matters herein required to be done by the District Judges a majority action shall control.

Sec. 2. The provisions of this law shall be cumulative of all other provisions of the laws pertaining to county auditors.

[Acts 1949, 51st Leg., p. 414, ch. 221.]

Art. 1647. Appointment

The district judges having jurisdiction in the county, shall appoint the county auditor at a special meeting held for that purpose, a majority ruling; provided, that if a majority of such judges fail to agree upon the selection of some person as auditor, then either of said judges shall certify such fact to the Governor, who shall thereupon appoint some other district judge to act and vote with the aforesaid judges in the selection of such auditor. The action shall then be recorded in the minutes of the district court of the county and the clerk thereof shall certify the same to the commissioners court, which shall cause the same to be recorded in its minutes together with an order directing the payment of the auditor's salary.

[Acts 1925, S.B. 84.]

Art. 1648. Qualification

Said auditor shall be a citizen of the county of at least two years residence, and must be a man of unquestionable good moral character and intelligence, thoroughly competent in public business details; and he must be a competent accountant of at least two years experience in auditing and accounting. The judges making such appointment must first carefully investigate and consider the qualifications of

said person. If no such qualified citizen of the county can be procured, said judges may appoint a qualified citizen from another county. [Acts 1925, S.B. 84.]

Art. 1649. Bond and Oath

The Auditor shall within twenty days of his appointment and before he enters upon the duties of his office make bond with two or more good and sufficient personal sureties or a good and sufficient surety bond in the minimum sum of \$5,000 payable to the District Judge or District Judges conditioned for the faithful performance of his duties to be approved by the District Judge or District Judges having jurisdiction of the county, a majority ruling. He shall also take the official oath and an additional one in writing stating that he is in every way qualified under the provisions and requirements of this title and giving fully the positions of private or public trust he has heretofore held and the length of service under each. He shall further include in his oath that he will not be personally interested in any contracts with the county.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg. p. 1117, ch. 414, § 2.]

Art. 1650. Organization

The County Auditor of any county of this State may, at any time, with the consent of the District Judge or District Judges having jurisdiction as hereinafter provided, appoint a first assistant and other assistants who shall be authorized to discharge such duties as may be assigned to them by the County Auditor and provided for by law. In counties where only one assistant is appointed, such assistant shall be authorized to act for the County Auditor during his absence or unavoidable detention with respect to such duties as are required by law of the County Auditor. In counties in which more than one assistant shall be appointed, the County Auditor may designate the assistant who shall be authorized to act for him during his absence or unavoidable detention. All of said assistants shall take the usual oath of office for faithful performance of duty and may be required to give such bond as the County Auditor may determine, which bond shall be paid for by the County and shall run in favor of the county and of the County Auditor as their interest may appear.

The County Auditor shall prepare a list of the number of deputies sought to be appointed, their duties, qualifications and experience, and the salaries to be paid each, and shall certify the list to the District Judge, or in the event of more than one District Judge in the county, to the District Judges, and the District Judge or the District Judges shall then carefully consider the application for the appointment of said assistants and may make all necessary inquiries concerning the qualifications of the persons named, the positions sought to be filled and the reasonableness of the salaries requested, and if, after such consideration, the District Judge, or in the event of more than one District

Judge, a majority of the District Judges shall approve the appointments sought to be made or any number thereof, he or they shall prepare a list of the appointees so approved and the salaries to be paid each and certify said list to the Commissioners Court of said county. The Commissioners Court shall thereupon order the amount paid from the General Fund of said county upon the performance of the services; and said Court shall appropriate adequate funds for the purpose. Temporary assistants as may be needed may be appointed in cases of bona fide emergencies, the number of such temporary assistants, their salaries and the duration of employment to be recommended by the County Auditor but to be determined by the District Judge or by a majority of the District Judges as the occasion may require; in like manner the District Judge or a majority of the District Judges may authorize the appointment of additional regular assistants when in their judgment a necessity exists therefor. The County Auditor shall have the right to discontinue the services of any assistant employed in accordance with the provisions of this Article, but no assistant shall be employed except in the manner herein provided. The District Judge or District Judges giving consent to the Auditor to appoint an assistant or assistants shall annually have the right to withdraw such consent and change the number of assistants permitted.

The County Auditor shall be authorized to provide himself with all necessary ledgers, books, records, blanks, stationery, equipment, telephone and postage at the county's expense, but all purchases thereof shall be made in the manner provided for by law.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 763, ch. 333, § 1; Acts 1963, 58th Leg., p. 1148, ch. 445, § 1, eff. June 10, 1963; Acts 1973, 63rd Leg., p. 765, ch. 339, § 1, eff. June 12, 1973.]

Art. 1650a. Mileage Expenses

The commissioners court may reimburse the county auditor for expenses incurred in traveling to and from the county seat in his personal automobile to perform his official duties and to attend conferences and seminars relating to the performance of his official duties. However, the commissioners court may not reimburse the auditor for expenses incurred in traveling between his personal residence and county office, or for expenses incurred in any other travel of a personal nature. The commissioners court by order shall fix the rate of reimbursement, not to exceed 10 cents a mile. Reimbursement shall be made monthly from the appropriate county funds on submission of sworn expense reports by the county auditor.

[Acts 1967, 60th Leg., p. 852, ch. 361, § 1, eff. Aug. 28, 1967.]

Art. 1651. General Duties; Destruction of Ancient Records

The Auditor shall have a general oversight of all the books and records of all the officers of the county, district or state, who may be authorized or required by law to receive or col-

lect any money, funds, fees, or other property for the use of, or belonging to, the county; and he shall see to the strict enforcement of the law governing county finances.

Upon the expiration of ten (10) years from their original date, the County Auditor with the consent of the Commissioners Court, may destroy the papers, cancelled checks and vouchers, accounts and records which are in the control and custody of his office. Bound volumes and ledgers shall not be destroyed in any event.

The necessary consent of the Commissioners Court shall be obtained by filing an application in writing and sworn to by the County Auditor, with the Commissioners Court setting out the classification of the papers, cancelled checks and vouchers, accounts, and records, and the years included, and that said papers, cancelled checks and vouchers, accounts, and records have been on file for not less than ten (10) years.

The Commissioners Court shall approve the application filed by the County Auditor by order and said order shall be spread upon the minutes of the Commissioners Court.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 539, ch. 241, § 1.]

Art. 1652. Repealed by Acts 1969, 61st Leg., p. 514, ch. 178, § 1, eff. Sept. 1, 1969

Art. 1653. To Examine Accounts

He shall have continual access to and shall examine all the books, accounts, reports, vouchers and other records of any officer, the orders of the commissioners court, relating to finances of the county, and all vouchers given by the trustee of all common school districts of the county and shall inquire into the correctness of same.

[Acts 1925, S.B. 84.]

Art. 1654. To Examine Reports

All reports of collections of money for the county required to be made to the commissioners court shall also be carefully examined and reported on by him. He shall at least once in each quarter check the books and examine all the reports of the tax collector, the treasurer and all other officers, in detail, verifying the footings and correctness of same, and shall stamp his approval thereon, or note any differences, errors or discrepancies. He shall carefully examine the quarterly report of the treasurer, of all the disbursements, together with the canceled warrants which have been paid, and shall verify the same with the register of warrants issued as shown on the books of the auditor.

[Acts 1925, S.B. 84.]

Art. 1655. To Count Cash

The auditor, without giving any notice beforehand, shall examine fully into the condition of, or inspect and count the cash in the hands of the county treasurer, or in the bank

in which he may have placed same for safe keeping, not less than once in each quarter, and oftener if desired, and shall see that all balances to the credit of the various funds are actually on hand in cash, and that none of said funds are invested in any manner, except as the law may authorize.

[Acts 1925, S.B. 84.]

Art. 1656. To Prescribe Forms and Rules

He shall prescribe and prepare the forms to be used by all persons in the collection of county revenues, funds, fees and all other moneys, and the mode and manner of keeping and stating their accounts, and the time, mode and manner of making their reports to the auditor, also the mode and manner of making their annual report of office fees collected and disbursed, and the amount refunded to the county in excess of those allowed under the general fee bill law. He shall have power to adopt and enforce such regulations not inconsistent with the constitution and laws, as he may deem essential to the speedy and proper collection, checking and accounting of the revenues and other funds and fees belonging to the county.

[Acts 1925, S.B. 84.]

Art. 1656a. County Auditor in Certain Counties to Prescribe Accounting System; Deposit of Funds in County Depository

The County Auditor in counties having a population of one hundred ninety thousand (190,000) or more according to the last preceding or any future Federal Census shall prescribe the system of accounting for the county and the forms to be used by the District Clerk, the District Attorney and all county and precinct officers and by all persons in the collection and disbursement of county revenues, funds, fees, and all other moneys collected in an official capacity whether belonging to the county, its subdivisions or precincts, or to, or for the use or benefit of, any person, firm, or corporation; he shall prescribe the mode and manner in which the District Clerk, the District Attorney and all county and precinct officers shall keep their accounts, and he shall have the power to require all officers to furnish monthly, annual, or other reports under oath of all moneys, taxes, or fees of every nature received, disbursed, or remaining on hand; and in connection with such reports he shall have the right to count the cash on hand with such officer, or to verify the amount on deposit in the bank in which such officer may have placed the same for safekeeping. He shall have the power to adopt and enforce such regulations not inconsistent with the Constitution and laws as he may deem essential to the speedy and proper collection and checking of, and accounting for, the revenues and other funds and fees belonging to the county or to any person, firm, or corporation for whom any of said officers may have made collections, or for whose use or benefit they may have received or may hold such funds. All of the fees, commissions, funds, and moneys herein

referred to shall be turned over to the County Treasurer by such officer as collected, and such money shall be deposited in the county depository in a special fund to the credit of such officer and draw interest for the benefit of the county, which funds, when so deposited in such depository, shall be secured by the bond of such depository. Thereafter the officer may draw checks on the County Treasurer to disburse said funds in the payment of salaries and expenses authorized by law or in payment to the county or to the persons, firms, or corporations to whom said funds may belong. The Treasurer and the depository shall make no payment unless such check is countersigned by the County Auditor. The deposit of funds in the County Treasury shall not in any wise change the ownership of any fund so deposited except to indemnify said officer and his bondsmen or other owners of such funds for such funds during the period of deposit with the county: At the close of any fiscal year or accounting period now or hereafter fixed by law, the County Auditor shall audit, adjust, and settle the accounts of such officer. In the event the County Auditor shall be unable to obtain proper reports or an adequate accounting from any District Attorney, District Clerk, county or precinct officer as herein provided, either during or after his term of office, the County Auditor shall have authority to enforce an accounting thereof, and to take such steps at the expense of the county as are necessary in his judgment to protect the interests of the county or of the persons, firms, or corporations entitled to such funds.

[Acts 1933, 43rd Leg., p. 217, ch. 98; Acts 1935, 44th Leg., p. 330, ch. 122, § 1.]

Art. 1656b. Reports to County Auditor by County and District Clerks as to Trust Funds; Countersigning Checks

In all counties having a population of one hundred ninety thousand (190,000) or more, according to the last preceding or any future Federal Census, and in which the Commissioners Court may have provided, or shall hereafter provide, for a depository for the trust funds of the County Clerk and of the District Clerk, said officers shall each make to the County Auditor in such form as he may prescribe such monthly or other reports under oath as he may require to reflect properly all trust funds received and disbursed by such officer, including all moneys remaining on hand at the time of such report. All checks issued for the disbursement of said funds shall be issued in accordance with the laws providing for trust fund depositories and such checks shall be submitted to the County Auditor for his countersignature prior to delivery or payment, and said County Auditor shall countersign said checks only upon written evidence of the order of the Judge of the Court in which said funds have been deposited, authorizing the disbursement of such funds.

[Acts 1933, 43rd Leg., p. 217, ch. 98.]

Art. 1656c. State Comptroller of Public Accounts to Prescribe Uniform System of Accounts

Sec. 1. The State Comptroller of Public Accounts shall prescribe and prepare the forms to be used by all county officials in the collection of county revenues, funds, fees, and other moneys, and in the disbursement of all funds, and shall prescribe the mode and manner of keeping and stating their accounts, which forms shall be so prepared, as in the judgment of the Comptroller will meet the needs of counties of different sizes in the State.

Sec. 2. In order that a modern and uniform system of accounts, properly suited to the needs of the counties in keeping their financial records may be prescribed, the Comptroller is hereby authorized and directed to make a survey and study of the financial records, reports, books and forms now in use by the counties of this State and to make such revisions and prescribe such forms as he may deem necessary. [Acts 1933, 43rd Leg., 1st C.S., p. 183, ch. 66.]

Art. 1657. Deposits

Sec. 1. Except as provided in Section 2 of this article, all deposits that are made in the county treasury shall be upon a deposit warrant issued by the county clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; and the duplicate shall be signed and returned to the county clerk for the county auditor and the triplicate signed and returned to the depositor. The auditor shall then enter same upon his books, charging the amounts to the county treasurer and crediting the party depositing same. The treasurer shall not, under any circumstances, receive any money in any other manner than that named herein.

Sec. 2. The commissioners court of a county may adopt an order relieving the county clerk of all duties prescribed in Section 1 of this article. If an order of that type is adopted, the county treasurer shall receive all deposits that are made in the county treasury. The county treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt, and transmit the original to the county auditor and a copy to the depositor. The county auditor shall prescribe for the county treasurer a system for receiving and depositing all moneys received which is not inconsistent with this section.

[Acts 1925, S.B. 84; Acts 1973, 63rd Leg., p. 220, ch. 99, § 1, eff. Aug. 27, 1973.]

Art. 1657a. Relieving Clerk of Certain Duties Prescribed by Article 1657 in Counties of Over 1,500,000

In counties containing a population in excess of 1,500,000 inhabitants according to the last preceding federal census, the county clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of the State of

Texas, 1925. The county treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt, and transmit the original and duplicate to the county auditor and the depositor, respectively. The county auditor shall prescribe for the county treasurer a system for receiving and depositing all moneys received; provided that such system shall not be inconsistent with the provisions of this Act.

[Acts 1967, 60th Leg., p. 540, ch. 235, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1846, ch. 542, § 115, eff. Sept. 1, 1971.]

Art. 1658. Bids for Supplies

Bids shall be asked for all supplies of stationery, books, blanks, records, and other supplies for the various officers for which the county is required to pay, and the purchase made from the lowest bidder, after filing said bid with the auditor for record.

[Acts 1925, S.B. 84.]

Art. 1659. Bids for Material

Supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. The county auditor shall advertise the bidding at least once a week for two consecutive weeks in at least one daily newspaper published and circulated in the county. The advertisements shall state where the specifications are to be found, and shall give the time and place for receiving the bids. Publication of the first advertisement shall precede the last day for receiving bids by at least 14 days. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by any one desiring to see them. Copies of all bids received shall be furnished by the county auditor to the county judge and to the commissioners court; and when the bids received are not satisfactory to the said judge or county commissioners, the auditor shall reject said bids and readvertise for new bids. In cases of emergency, purchases not in excess of \$300 may be made upon requisition to be approved by the commissioners court without advertising for competitive bids.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 115, ch. 66, § 1; Acts 1965, 59th Leg., p. 944, ch. 458, § 1, eff. Aug. 30, 1965.]

Art. 1659a. Counties of 800,000; Bids for Supplies or Materials; Advertisement; Filing

In all counties having a population of eight hundred thousand (800,000) or more, according to the last preceding or any future Federal Census, supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competi-

tive bids, the contract to be awarded to the party who, in the judgment of the Commissioners Court, has submitted the lowest and best bid. Where the total expenditure for any such purchase or any such contract shall exceed One Thousand Dollars (\$1,000), advertisements for bids for such supplies and material, according to specifications giving in detail what is needed, shall be made by the county auditor once each week for two (2) successive weeks in a daily newspaper published and circulated in the county. Such advertisements shall state where the specifications are to be found, and shall give the time and place for receiving such bids. Where the amount to be expended shall be One Thousand Dollars (\$1,000), or less, it shall not be necessary to advertise for bids, but sealed bids shall be asked from as many as three (3) persons, firms or corporations, or as many more as shall offer to bid, based on written specifications filed with the county auditor at least forty-eight (48) hours before the time of opening said sealed bids. All such competitive bids shall be kept on file by the county auditor as a part of the records of his office, and shall be subject to inspection by anyone desiring to see them. Copies of all bids received shall be furnished by the county auditor to the Commissioners Court; and when the bids received are not satisfactory to the Commissioners Court, the auditor shall reject said bids and readvertise for new bids, where the amount to be expended exceeds One Thousand Dollars (\$1,000), or ask for new bids, where the amount to be expended shall be One Thousand Dollars (\$1,000), or less. In cases of emergency, purchases or contracts not in excess of Five Hundred Dollars (\$500), may be made upon requisition to be approved by the Commissioners Court, without advertising for competitive bids or asking for competitive bids.

[Acts 1959, 56th Leg., p. 187, ch. 105, § 1.]

Art. 1659b. Counties of 700,000 to 800,000; Bids for Supplies or Materials; Advertising; Filing

In all counties having a population of not less than 700,000 nor more than 800,000, according to the last preceding federal census, and having an assessed valuation of \$800,000,000 or more, supplies of every kind, road and bridge material, or any other material, for the use of said county, or any of its officers, departments, or institutions must be purchased on competitive bids, the contract to be awarded to the party who, in the judgment of the commissioners court, has submitted the lowest and best bid. Where the total expenditure for any such purchase or any such contract shall exceed \$1,000, advertisements for bids for such supplies and material, according to purchasing specifications giving in detail what is needed, shall be made by the purchasing agent, if the county has no purchasing agent then by the county auditor, once each week for two successive weeks in a daily newspaper published and circulated in the county. Such advertisements

shall state where the specifications are to be found, and shall give the time and place for receiving such bids. Where the amount to be expended shall be \$1,000, or less, it shall not be necessary to advertise for bids, but sealed bids shall be asked from as many as three persons, firms, or corporations, or as many more as shall offer to bid, based on written specifications filed with the purchasing agent or auditor as the case may be, at least 48 hours before the time of opening said sealed bids. All such competitive bids shall be kept on file by the purchasing agent or auditor, as the case may be, as a part of the records of his office, and shall be subject to inspection by anyone desiring to see them. Copies of all bids received shall be furnished by the purchasing agent or auditor to the commissioners court; and when the bids received are not satisfactory to the commissioners court, the purchasing agent or auditor shall reject said bids and readvertise for new bids, where the amount to be expended exceeds \$1,000, or ask for new bids, where the amount to be expended shall be \$1,000 or less. In cases of emergency, purchases or contracts not in excess of \$1,000 may be made upon requisition to be approved by the commissioners court, without advertising for competitive bids or asking for competitive bids.

[Acts 1969, 61st Leg., p. 70, ch. 28, § 1 emerg. eff. March 26, 1969; Acts 1973, 63rd Leg., p. 614, ch. 261, § 1, eff. June 11, 1973.]

Art. 1660. Approval of Claims

All claims, bills and accounts against the county must be filed in ample time for the auditor to examine and approve same before the meetings of the commissioners court. No claim, bill or account shall be allowed or paid until it has been examined and approved by the county auditor. The auditor shall examine the same and stamp his approval thereon. If he deems it necessary, all such accounts, bills, or claims must be verified by affidavit touching the correctness of the same. The auditor is hereby authorized to administer oaths for the purposes of this law.

[Acts 1925, S.B. 84.]

Art. 1661. Requisites of Approval

Sec. 1. He shall not audit or approve any such claim unless it has been contracted as provided by law, nor any account for the purchase of supplies or materials for the use of said county or any of its officers, unless, in addition to other requirements of law, there is attached thereto a requisition signed by the officer ordering same and approved by the county judge. Said requisition must be made out and signed and approved in triplicate by the said officers, the triplicate to remain with the officer desiring the purchase, the duplicate to be filed with the county auditor, and the original to be delivered to the party from whom said purchase is to be made before any purchase shall be made. All warrants on the county treasurer, except warrants for jury service, must be countersigned by the county auditor.

Sec. 2. The county judge of a county having an auditor may waive by his own written order the approval of the county judge on requisitions. The order shall be recorded in the minutes of the Commissioners Court. If the county judge's approval is waived, all claims must be approved by the Commissioners Court in open court.

[Acts 1925, S.B. 84; Acts 1973, 63rd Leg., p. 357, ch. 155, § 1, eff. May 23, 1973.]

Art. 1662. Register of Warrants

He shall keep a register of all warrants issued by the judges or the district or county clerks on the county treasurer, and their dates of payment by the treasurer. Such clerks or judges shall daily furnish the auditor an itemized report specifying the warrants that have been issued, their numbers, their several amounts, the names of the persons to whom payable, and for what purpose, on forms prepared by the auditor.

[Acts 1925, S.B. 84.]

Art. 1663. Accounts with Officers

He shall keep an account with each person named in the preceding articles and in doing so he shall relieve the county clerk of keeping the finance ledger. His books shall show the detailed items of the indebtedness against all of said officers and the manner of discharging same. He shall require all persons who shall have received any moneys belonging to the county, or having the disposition or management of any property of the county to render statements to him.

[Acts 1925, S.B. 84.]

Art. 1663a. Penalty

A county official or other person from whom the county auditor is entitled to receive reports, statements, or other information under the provisions of Subdivision 2 of this Title who willfully refuses to comply with any reasonable request of the county auditor concerning those reports, statements, or other information is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$25 nor more than \$200, removal from office, or both a fine and removal from office.

[Acts 1967, 60th Leg., p. 1766, ch. 668, § 1, eff. Aug. 28, 1967.]

Art. 1663b. Private Business Operation on Public Property; Records and Reports of Receipts and Disbursements

Sec. 1. No county official, his agents, servants, deputies, or employees shall operate a private business on public property unless he shall:

(a) keep an accurate and detailed record of all monies received and disbursed by him; and

(b) file with the county auditor, or the auditing authority of the county, a report covering all of said receipts and disbursements during the immediately preceding

calendar year on or before January 1 of each year; and

(c) make available to the county auditor all records of said receipts and disbursements,

provided however that this Act shall not apply to compensation received by justices of the peace and official court reporters for performance of an act not required by law of such official.

Sec. 2. Any and all monies received and required to be reported under Section 1 of this Act together with any interest thereon which has been paid by any financial institution as a result of the deposit of said funds over and above any disbursements required to be reported under Section 1 of this Act shall be delivered to the county treasurer at the time of filing said report or at such other regular intervals throughout the year as may be prescribed by the county auditor or auditing authority of the county, provided, however, that this section shall not be applicable to any person, firm or corporation operating or doing business under or by virtue of any written contract with the county.

Sec. 3. If any county official covered by Section 1 of this Act has not complied with Sections 1 and 2 of this Act by February 1 of each year the county auditor shall notify the county or district attorney. The county or district attorney shall, or any qualified voter of the county may, file in the district court of the county a petition for a writ of mandamus to compel compliance with Sections 1 and 2 of this Act.

Sec. 4. In addition to the remedies provided in Section 3 of this Act, any county official, his agents, servants, deputies, or employees, failing to comply with any provision of Section 1 or 2 of this Act or falsifying any records or reports required in Section 1 or 2 of this Act shall be guilty of official misconduct and subject to removal under Title 100, Revised Civil Statutes of Texas, 1925 as amended.¹

[Acts 1971, 62nd Leg., p. 2433, ch. 780, eff. Aug. 30, 1971.]

¹ Article 5961 et seq.

Art. 1664. General Accounts

He shall keep a general set of books showing all the transactions of the county relating to accounts, contracts, indebtedness of the county, and its receipts and disbursements of all kinds, and shall make tabulated reports of said funds and accounts for each regular meeting of the commissioners court.

[Acts 1925, S.B. 84.]

Art. 1665. Reports to Commissioners

The County Auditor shall make monthly and annual reports to the Commissioners Court and District Judge or District Judges of his county setting forth all the facts of interest and showing the aggregate amounts received and disbursed out of each fund, the condition of each account on the books, the amounts of county,

district and school funds on deposit in the County Depository, showing further the amount of bonded and other indebtedness of the county, together with such other information and suggestions as he may deem proper or that said Commissioners Court or District Judge or District Judges may require. Said annual report shall be made to include all transactions during the year ending December 31st of each year and shall be completed and filed at a regular or special term of the Commissioners Court in the following April and copies of such reports shall be filed with the District Judge or District Judges of said county. Each time an annual audit is delivered to the Commissioners Court and the District Judge or District Judges, as the case may be, the County Auditor shall send a report to the bonding company of each district, county or precinct officer showing the condition of that particular office.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 378, ch. 149; Acts 1955, 54th Leg., p. 1117, ch. 414, § 3.]

Art. 1666. Budget

He shall prepare an estimate of all the revenues and expenses, and annually submit it to the commissioners court, which court shall carefully make a budget of all appropriations to be set aside for the various expenses of the county government in each branch and department. He shall open an account with each appropriation in said budget, and all warrants drawn against same shall be entered to said account. He shall carefully keep an oversight of same to see that the expenses of any department do not exceed said budget appropriations, and keep said court advised of the condition of said appropriation accounts from time to time.

[Acts 1925, S.B. 84.]

Art. 1666a. Budget; Counties Over 225,000

The County Auditor in all counties having a population in excess of two hundred and twenty-five thousand (225,000) as shown by the last preceding or any future United States Census shall serve as the budget officer for the Commissioners Courts in each county, and on or immediately after January 1st of each year he shall prepare a budget to cover all proposed expenditures of the county government for the current fiscal and calendar year. Such budget shall be carefully itemized so as to make possible as clear a comparison as practicable between expenditures included in the proposed budget and actual expenditures for the same or similar purposes for the preceding year. The budget shall be so prepared as to show with reasonable accuracy each of the various projects for which appropriations are set up in the budget, and the estimated amount of money carried in the budget for each of such projects. The budget shall contain a complete financial statement of the county, showing all outstanding obligations of the county, the cash on hand to the credit of every and each fund of the county government, the funds received from all sources during the previous year, the funds

and revenue estimated by the Auditor to be received from all sources during the previous year, the funds and revenue estimated by the Auditor to be received from all sources during the ensuing year, together with a statement of all accounts and contracts on which sums are due to or by the county as of December 31st of the year preceding, except taxes and court costs. Until a budget has been adopted by the Commissioners Court no payments shall be made during the current year except for emergencies and for obligations legally incurred prior to January 1st of such year for salaries, utilities, materials, and supplies. A copy of the budget shall be filed with the Clerk of the County Court, and it shall be available for inspection by the taxpayer.

The Commissioners Court in each county shall provide for a public hearing on the county budget, which hearing shall take place on some date to be named by the Commissioners Court within seven (7) calendar days after the filing of the budget and prior to January 31st of the current year. Public notice shall be given that on the date of said hearing the budget as prepared by the County Auditor will be considered by the Commissioners Court. Said notice shall name the hour, the date, and the place the hearing shall be conducted, and shall be published once in a newspaper of general circulation in said county. Any taxpayer of such county shall have the right to be present and participate in said hearing. At the conclusion of the hearing, the budget as prepared by the County Auditor shall be acted upon by the Commissioners Court. The Court shall have authority to make such changes in the budget as in its judgment the facts and the law warrant and the interest of the taxpayers demand, provided the amounts budgeted for current expenditures from the various funds of the county shall not exceed the balances in said funds as of January 1st plus the anticipated revenue for the current year for which the budget is made, as estimated by the County Auditor. Upon final approval of the budget by the Commissioners Court, a copy of such budget as approved shall be filed with the County Auditor, the Clerk of the Court, and the State Auditor, and no expenditures of the funds of the county shall thereafter be made except in strict compliance with said budget. Said Court may upon proper application transfer an existing budget surplus during the year to a budget of like kind and fund, but no such transfer shall increase the total of the budget.

In like manner when any bond issue of the county is submitted at an election or anticipation warrants are to be issued against future revenues and a tax levied for said warrants a budget of proposed expenditures shall be adopted and upon the receipt of the proceeds of the sale of any bonds or warrants expenditures shall be made therefrom in the manner hereinafter provided for expenditures for general purposes.

Upon the adoption of any general or special budget as hereinbefore provided and its certification, the County Auditor of each county thereupon shall open an appropriation account for each main budgeted or special item therein and it shall be his duty to charge all purchase orders or requisitions, contracts, and salary and labor allowances to said appropriations. Requisitions issued or contracts entered into conformably to the laws of the State of Texas by proper authority for work, labor, services, or materials and supplies shall nevertheless not become effective and binding unless and until there has been issued in connection with such item the certificate of said County Auditor that ample budget provision has been made in the budget therefor and funds are, or will be, on hand to pay the obligation of the county or officer when due. The amount set aside in any budget for any purchase order or requisition, contract, special purpose, or salary and labor account shall not be available for allocation for any other purpose unless an unexpended balance remains in the account after full discharge of the obligation or unless the requisition, contract, or allocation has been cancelled in writing by the Commissioners Court or county officer for a valid reason.

The County Auditor shall make to the Commissioners Court not less than monthly a complete report showing the financial condition of the county. Said report shall be in such form as may be prescribed by said County Auditor and shall set forth all facts of interest concerning the financial condition of the county and shall contain a consolidated balance sheet. The report shall contain a complete statement of the balances on hand at the beginning and close of the month and the aggregate receipts to and aggregate disbursements from each fund, the transfers to and from each fund, the bonded and warrant indebtedness with the rates of interest due thereon, a summarized budget statement showing for each officer, department, or institution budgeted the expenses paid from the budget during the month and for the period of the fiscal year inclusive of the month for which said report is made, also the encumbrances against said budgets, and the amounts available for further expenditures, together with such other information as such officer may deem necessary to reflect the true condition of the finances of such county or the Commissioners Court thereof may require. The County Auditor shall publish once in a daily newspaper published in said county a condensed copy of said report showing the condition of funds and budgets together with such recommendations as he may deem desirable.

In the preparation of the budget, the County Auditor shall have authority to require of any district, county, or precinct officer of the county such information as may be necessary to properly prepare the budget.

[Acts 1939, 46th Leg., p. 144, § 1; Acts 1945, 49th Leg., p. 93, ch. 65, § 1.]

Art. 1667. Improvement District Finances

In all counties which have or may have a County Auditor and containing a population of one hundred ten thousand (110,000) or more, as shown by the preceding Federal Census, and in all counties having a population of not less than thirty-eight thousand (38,000) nor more than thirty-eight thousand three hundred fifty (38,350), according to the last Federal Census, and in which counties there exists or in which there may be created any improvement, navigation, drainage, or road or irrigation district, or any other character of district having for its purpose the expenditure of public funds for improvement purposes, or for improvements of any kind whether derived from the issuance of bonds or through any character of special assessment, the County Auditor shall exercise such control over the finances of said district as hereinafter provided.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., 2nd C.S., p. 62, ch. 38; Acts 1933, 43rd Leg., p. 364, ch. 140; Acts 1939, 46th Leg., Spec.Laws, p. 610, § 1; Acts 1941, 47th Leg., p. 841, ch. 516, § 1.]

Art. 1668. Improvement Districts: Supplies

All purchases for supplies and materials, and all contracts for labor on behalf of any such districts shall be made in accordance with the law governing such districts, provided, that the commissioners or other governing body be authorized, without the taking of bids in cases of emergency to make purchases or contracts not to exceed the sum of fifty dollars, upon requisition signed by at least two members of the governing body of such district. A requisition shall be issued therefor, executed in triplicate, one copy to be delivered to the person or corporation from whom the purchase is made, one to be delivered to the county auditor, and one to remain on file with the governing body of such district before any purchase shall be made.

[Acts 1925, S.B. 84.]

Art. 1669. Improvement Districts: Expenditures

All bills for supplies, materials, labor, work or anything necessary to the carrying out of the purposes of any such district shall be contracted in accordance with the law creating and governing such district, except as may be otherwise provided herein. The proper officers of said districts shall file all bills with the county auditor before payment, and he shall audit and approve the same, provided said bills have been contracted in accordance with law and are found by him to be correct, and no bill shall be paid until the same has been audited and approved by the county auditor as provided by this article. All warrants in payment of bills of any such districts shall be drawn and signed in accordance with the law governing the issuance of warrants of such district, and shall be countersigned by the county auditor, and no treasurer or other depository of any such districts shall pay out any money except upon warrants so duly countersigned. He

shall countersign warrants for the investment of funds only when invested in the manner authorized by law. He shall keep an accurate account of all balances on hand in the various district funds.

[Acts 1925, S.B. 84.]

Art. 1670. Improvement Districts: Forms; Regulation of Collections and Disbursements

The county auditor, in counties having a population of 330,000 or more, as shown by the last preceding Federal Census, or which may hereafter have such population, shall be required to prescribe the accounting system for all navigation, drainage, and other improvement districts in such county and to revise such systems from time to time when he shall deem it necessary. He shall prescribe the forms to be used by the officers and employees of such districts in the payment of all bills, the collection and disbursement of moneys, the keeping of accounts, and he shall prescribe the time, mode, and manner of making reports to the auditor of collections, disbursements, and statistics. The county auditor shall have the power to adopt such regulations not inconsistent with the Constitution and Laws of this State as he may deem essential to the speedy and proper collection of, and accounting for, the revenues of such districts, and the checking of their disbursements. He shall make monthly and annual reports similar in all respects to those required of him concerning county finances.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 544, ch. 175, § 1.]

Art. 1671. Improvement Districts: Reports

The county auditor shall check all reports required by law to be filed by any district officer, and within thirty days after the filing thereof shall make a detailed report to the commissioners court showing his finding thereon and the condition of such district as shown by said report, and as shown by the records of his office. He shall keep a set of books, showing all receipts and expenditures of the funds of such districts. It shall not be lawful for the treasurer or other depository to receive money for said district without executing proper receipts upon forms to be provided by the county auditor. All books, accounts, records, bills and warrants in the possession of any officer of any such district, or in the possession of any other person legally charged with their custody, shall at all times be subject to the inspection of the county auditor.

[Acts 1925, S.B. 84.]

Art. 1672. Improvement Districts: Compensation

The county auditor shall receive for his services in auditing the affairs of such districts, such compensation as the commissioners court may prescribe, which shall be paid by the county out of the general fund and repaid to the county by such districts by warrants drawn

upon the proper funds of such district. In such counties which have or may have as many as five such districts, the compensation allowed the county auditor for his services on behalf of such districts shall be not less than the sum of twelve hundred dollars per annum, to be prorated among the districts in such proportion as the commissioners court may determine.

[Acts 1925, S.B. 84.]

Art. 1673. Pay of Assistants

In all counties having a population of 330,000 or more, as shown by the preceding Federal Census, the county auditor is authorized to apply to the district judges of his county for such assistants as may be needed by him to enable him to properly keep the financial accounts of such districts, and to audit their receipts and disbursements, and to make such reports as are required by law, or as may be necessary. Said application shall be made under oath, stating the necessity for such assistants and the salaries authorized. The district judges shall hear such application and designate the number of assistants to be allowed and their rates of pay. Such assistants shall take the usual oath of office and shall be paid from the funds of the navigation district or from the funds of the other improvement districts, as may be designated in the order of the district judges allowing such assistants.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 544, ch. 175, § 2.]

Art. 1674. Provisions Controlling

The provisions of this subdivision are cumulative, and, where conflicting with any existing law, the provisions of this subdivision shall control.

[Acts 1925, S.B. 84.]

Art. 1675. County Clerk's Duties

Where the provisions of this subdivision impose upon the auditor like duties as are required of the county clerk, the provisions of this law shall prevail, and to such extent only is the county clerk relieved of his duties.

[Acts 1925, S.B. 84.]

Art. 1676. Removal of Auditor

An auditor appointed under the provisions of law, who has been sufficiently proven guilty of official misconduct, or has proven to be incompetent to faithfully discharge the duties required of him, after due investigation by the same power which appointed him, may be removed, and his successor appointed.

[Acts 1925, S.B. 84.]

Art. 1676a. Auditors in Certain Counties: Duties, Powers, Reports

Sec. 1. In all counties having a County Auditor and containing a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), as shown by the last preceding Federal Census, and in

which there are Navigation Districts, Water Improvement Districts and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Court of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills and warrants of any such District for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Sec. 2. The officers and directors of each such District shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such District for the calendar month next preceding.

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other Districts created for improvement and conservation purposes in counties containing a population of not less than seventy-five thousand (75,000), nor more than eighty thousand (80,000), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Court of such counties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Sec. 4. Only the provisions of this Act and of Articles 1672 and 1673 shall apply in counties having a population of not less than seventy-five thousand (75,000), and not more than eighty thousand (80,000), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Sec. 5. If any provision of this Act is held to be unconstitutional or otherwise invalid, same shall not affect the validity of any other provision hereof.

[Acts 1933, 43rd Leg., p. 306, ch. 118.]

Art. 1676b. Auditors in Counties of 83,000 to 83,350 Having Navigation Districts and Other Districts

Audit; Report

Sec. 1. In all counties having a County Auditor and containing a population of not less than eighty-three thousand (83,000) and not more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and in which there are Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts, the County Auditor shall not exercise control over the finances and affairs of such

Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts (or other districts created for improvement or conservation purposes, which are not administered by the Commissioners Courts of such counties), but he shall annually, between July 1st and October 1st, carefully audit all books, accounts, records, bills, and warrants of any such district for the year ending the 30th of June preceding, and file his report of such audit with the County Clerk of such county.

Monthly Report

Sec. 2. The officers and directors of each such district shall, on or before the 10th of each month, make and file with the County Auditor a report in writing, authenticated by such officers and directors, showing the total amount of moneys collected for and expended from the various funds of such district for the calendar month next preceding.

Other Laws Superseded—Repeal

Sec. 3. The method of audit hereby provided for Navigation Districts, Water Improvement Districts, Water Control and Improvement Districts, and all other districts created for improvement and conservation purposes in counties containing a population of not less

than eighty-three thousand (83,000), nor more than eighty-three thousand, three hundred and fifty (83,350), as shown by the last preceding Federal Census, and not directly administered by the Commissioners Courts of such counties, shall supersede all other provisions for auditing the receipts and expenditures of such districts otherwise prescribed by law, and all laws and parts of laws in conflict herewith are hereby repealed.

Exclusiveness of Provisions

Sec. 4. Only the provisions of this Act and of Articles 1667, 1672, and 1673 of the Revised Civil Statutes of Texas of 1925 shall apply in counties having a population of not less than eighty-three thousand (83,000), and not more than eighty-three thousand, three hundred and fifty (83,350), according to the last preceding Federal Census, which contain Navigation Districts, Water Improvement Districts, and Water Control and Improvement Districts.

Partial Invalidity

Sec. 5. If any provision of this Act is held to be unconstitutional, or otherwise invalid, same shall not affect the validity of any other provision hereof.

[Acts 1941, 47th Leg., p. 409, ch. 238.]

TITLE 35

COUNTY LIBRARIES

1. COUNTY FREE LIBRARIES

Article

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- 1678. Territory.
- 1679. Tax for Maintenance.
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1. COUNTY FREE LIBRARIES

Art. 1677. Authority to Establish

The commissioners court of any county may establish, maintain, and operate within their

respective counties, county free libraries in the manner and with the functions prescribed in this title. The said court shall also have the power and authority to establish in co-operation with another county or counties a joint free county library for the benefit of the co-operative counties.

[Acts 1925, S.B. 84.]

Art. 1678. Territory

The commissioners court of any county may establish county free libraries for that part of such county lying outside of the incorporated cities and towns already maintaining free public libraries and for such additional parts of such counties as may elect to become a part of or to participate in such county free library system. On their own initiative, or when petitioned to do so by a majority of the voters of that part of the county to be affected, said court shall proceed to establish and provide for the maintenance of such library according to the further provisions of this title. The county library shall be located at the county seat in the court house, unless more suitable quarters are available.

[Acts 1925, S.B. 84.]

Art. 1679. Tax for Maintenance

The Commissioners Courts are hereby authorized to set aside annually from the General Tax Fund, or the Permanent Improvement Fund of the county, as the said Court may determine, sums for the maintaining of free county libraries and for the erection of permanent improvements and the securing of land for free county libraries, but not to exceed twelve cents (12¢) on the One Hundred Dollar (\$100) valuation of all property in such county outside of all incorporated cities and towns already supporting a free public library, and upon all property within all incorporated cities and towns already supporting a free library, and upon all property within all incorporated cities and towns already supporting a free public library which have elected to become a part of such free library systems provided in Title 35 of the Revised Civil Statutes, for the purpose of maintaining county free libraries and for purchasing property therefor.

[Acts 1925, S.B. 84; Acts 1947, 50th Leg., p. 765, ch. 378, § 1; Acts 1959, 56th Leg., p. 282 ch. 158 § 1.]

Art. 1680. Gifts and Bequests

The commissioners court is authorized and empowered to receive on behalf of the county any gift, bequest, or devise for the county free library, or for any branch or subdivision thereof. The title to all property belonging to the county free library shall be vested in the coun-

ty, but where the gifts or bequests shall be made for the benefit of any branch or branches of the county free library, such gifts or bequests shall be administered as designed by the donor.

[Acts 1925, S.B. 84.]

Art. 1681. Existing Libraries

In any county where a farmers' county library has been established as provided by former laws the same shall continue to operate as a farmers' county library, unless a county free library shall be established as provided for in this title, in which case the former shall merge with and become a part of the latter.

[Acts 1925, S.B. 84.]

Art. 1682. Board of Examiners

A commission is hereby created to be known as the State Board of Library Examiners, consisting of the State Librarian, who shall be ex-officio chairman of the Board; the Librarian of the State University, who shall be an ex-officio member; and three other well trained librarians of the State who shall at first be selected by the State Librarian and the Librarian of the State University. The term of each shall be for six years, one of the appointive members retiring every two years. His successor shall be chosen by the remaining members of the Board in executive session. The members of said board shall receive no compensation for their services except actual and necessary traveling expenses paid out of the State library fund. Said Board shall arrange for an annual meeting and for such other meetings as may be necessary in the pursuance of its duties. Said Board shall pass upon the qualifications of all persons desiring to become county librarians in the State of Texas, and may in writing adopt rules and regulations not inconsistent with the law for its government and for carrying out the purposes of this title.

[Acts 1925, S.B. 84.]

Art. 1683. County Librarian

Upon the establishment of a county free library the Commissioners Court shall biennially appoint a County Librarian who shall hold office for a term of two (2) years subject to removal for cause after a hearing by said Court. No person shall be eligible to the office of County Librarian unless prior to his appointment he has received from the State Board of Library Examiners a certificate of qualification for office; and when any County Librarian has heretofore received a certificate of qualification for office from the State Board of Library Examiners, and has served as County Librarian for any county in this State, said Librarian may be employed or reemployed by any county as Librarian without further examination and issuance of certificate from said State Board of Library Examiners. The County Librarian shall, prior to entering upon the duties of his office, file with the County Clerk the official oath and make a bond upon the

faithful performance of his duties with sufficient sureties approved by the County Judge of the county of which the Librarian is to be the County Librarian, in such sum as the Commissioners Court may determine.

[Acts 1925, S.B. 84; Acts 1935, 44th Leg., p. 115, ch. 41, § 1.]

Art. 1684. Salary and Expenses

The salary of the librarian and assistants shall be fixed by said court at the time they fix the salary of the appointive county officers. The county librarian and assistants shall be allowed actual and necessary traveling expenses incurred in the business of the library.

[Acts 1925, S.B. 84.]

Art. 1685. Duty of Librarian

The librarian shall endeavor to give an equal and complete service to all parts of the county through branch libraries and deposit stations in schools and other locations where suitable quarters may be obtained, thus distributing printed matter, books, and other educational matter as quickly as circumstances will permit. The county librarian shall have the power to make rules and regulations for the county free library, to establish branches and stations throughout the county, to determine the number and kind of employes of such library, and, with the approval of the commissioners' court, to appoint and dismiss such employes. The county librarian shall, subject to the general rules adopted by the commissioners' court, build up and manage according to accepted rules of library management, a library for the people of the county and shall determine what books and other library equipment shall be purchased.

[Acts 1925, S.B. 84.]

Art. 1686. Report of Librarian

The librarian of each county library shall, on or before the first day of October in each year, report to the commissioners court and to the State Librarian the operation of the county library during the year ending August 31st preceding. Such report shall be made on blanks furnished by the State Librarian, and shall contain a statement of the condition of the library, its operation during the year, and such financial and book statistics as are kept in well regulated libraries.

[Acts 1925, S.B. 84.]

Art. 1687. Supervision of Library

The county library shall be under the general supervision of the commissioners court. Such libraries shall also be under the supervision of the State Librarian, who shall, from time to time, either personally or by one of his assistants, visit the county free libraries and inquire into their condition, advising with the librarians and said court and rendering such assistance in all matters as he may be able to give.

[Acts 1925, S.B. 84.]

Art. 1688. Repealed by Acts 1969, 61st Leg., p. 362, ch. 130, § 1, eff. Sept. 1, 1969

Art. 1689. Funds for Library

All funds of the county free library shall be in the custody of the county treasurer, or other county official, who may discharge the duties commonly delegated to the county treasurer. They shall constitute a separate fund to be known as the county free library fund, and shall not be used except for library purposes. The Commissioners Court may contract with privately-owned libraries which serve areas within the county not adequately served by the county free library to provide county free library services in such areas, and may require by such contract that such library submit to such reasonable regulation as is required of governmental libraries.

[Acts 1925, S.B. 84; Acts 1963, 58th Leg., p. 750, ch. 284, § 1, eff. Aug. 23, 1963.]

Art. 1690. Joinder with City

After the establishment of a county free library the governing body of any incorporated city or town in the county, maintaining a free public library, may notify the commissioners court that such city or town desires to become a part of the county free library system, and thereafter such city or town shall be a part thereof, and its inhabitants shall be entitled to the benefits of such county free library, and the property within such town or city shall be included in computing the amount to be set aside as a fund for county free library purposes.

[Acts 1925, S.B. 84.]

Art. 1691. Contract with City

The commissioners court wherein a county free library has been established under the provisions of this title, shall have full power and authority to enter into contracts with any incorporated city or town maintaining a public free library, and such incorporated city or town shall through its governing body, have full power to enter into contracts with such county to secure to the residents of such incorporated city or town the same privileges of the county free library as are enjoyed by the residents of such county outside of such incorporated city or town, or such privileges as may be agreed upon in such contract, upon such consideration to be named in the contract as may be agreed upon, the same to be paid into the county library fund, and thereupon the residents of such incorporated city or town shall have the same privileges with regard to said county free library as are had by the residents of such county outside of such incorporated city or town, or such privileges as may be agreed upon by contract.

[Acts 1925, S.B. 84.]

Art. 1692. Withdrawal of City

The governing body of such incorporated city or town may at any time after two years notify the commissioners court that such city or town

no longer desires to be a part of the county free library system and thereafter such city or town shall cease to participate in the benefits of such county free library system, and the property situated in said city or town shall no longer be assessed in computing the fund to be set aside for county free library purposes. The governing body of such city or town shall give the commissioners court six months notice and publish at least once a week for six successive weeks prior to either giving or withdrawing such notice in a county newspaper designated by the governing body, and circulated throughout such city or town, notice of such contemplated action, giving date and place of meeting at which such contemplated action is proposed to be taken.

[Acts 1925, S.B. 84.]

Art. 1693. Contract with Another County

The commissioners court of any county, wherein a county free library has been established under the provisions of this title, shall have full power and authority to enter into contracts or agreements with the commissioners court of any other county to secure to the residents of such other county such privileges of such county free library as may, by such contract, be agreed upon, the same to be paid into the county free library fund, and thereupon the inhabitants of such other county shall have the privilege of such county free library as may by such contract be agreed upon; and the commissioners court shall have full power and authority to enter into a contract with the commissioners court of another county wherein a county free library has been established, under the provisions of this title and shall have power to provide for and to set aside a county free library fund, in the manner already set out, for the purpose of carrying out such contract. But the making of such contract shall not bar the commissioners court of such county from establishing a county free library therein, and upon the establishment of such county free library such contract may be terminated upon such terms as may be agreed upon by the parties thereto, or may continue for the term thereof.

[Acts 1925, S.B. 84.]

Art. 1694. Contract with Established Library

Instead of establishing a separate county free library, upon petition of a majority of the voters of the county, the commissioners court may contract for library privileges from some already established library. Such contract shall provide that such established library shall assume the functions of a county free library within the county with which the contract is made, including incorporated cities and towns therein, and shall also provide that the librarian of such established library shall hold or secure a county librarian's certificate from the State Board of Library Examiners. Said court may contract to pay annually into the library fund of said established library such sum as may be agreed upon, to be paid out of the

county library fund. Either party to such contract may terminate the same by giving six months notice of intention to do so. Property acquired under such contract shall be subject to division at the termination of the contract upon such terms as are specified in such contract.

[Acts 1925, S.B. 84.]

Art. 1695. Combined Counties

Where found to be more practicable, two or more adjacent counties may join for the purposes of this law and establish and maintain a free library under the terms and provisions above set forth for the establishment and maintenance of a county free library. In such cases the combined counties shall have the same powers and be subject to the same liabilities as a single county as provided in this law. The commissioners courts of the counties which have combined for the establishment and maintenance of a free library shall operate jointly in the same manner as does the commissioners court of a single county in carrying out the provisions of this law. If any county desires to withdraw from such combination it shall be entitled to a division of property in such proportion as agreed upon in the terms of combination at the time such joint action was taken.

[Acts 1925, S.B. 84.]

Art. 1696. Termination of Library

A county free library may be disestablished upon petition of a majority of the voters of that part of the county maintaining a county free library, asking that said library system be no longer maintained. The commissioners court upon the termination of existing contracts shall call in all books and movable property of the defunct county free library, and have same inventoried and stored under lock and seal in some dry and suitable place in the county court house.

[Acts 1925, S.B. 84.]

Art. 1696a. Acquisition of Land; Construction, Repair, Equipment and Improvement of Buildings; Bond Issues; Taxes

Sec. 1. The Commissioners Court of any county in this State is hereby authorized to acquire land for and to purchase, construct, repair, equip and improve buildings, and other permanent improvements to be used for county library purposes. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such buildings and repairs and improvements and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay the costs of acquiring land for and of purchasing, constructing, repairing, equipping and improving such buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue ne-

gotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ governing the issuance of bonds by cities, towns, and/or counties in this State.

[Acts 1955, 54th Leg., p. 585, ch. 194.]

¹ Article 701 et seq.

2. LAW LIBRARY

Art. 1697. Establishment of Library

A county law library may be established at the county seat by the commissioners court of any county containing a city of over 160,000 population according to the preceding Federal census.

[Acts 1925, S.B. 84.]

Art. 1698. Appropriation for Library

The commissioners court of any such county may establish and provide for the maintenance of such law library on its own initiative and appropriate therefor the sum of \$20,000.00 or such part thereof as it deems necessary, and shall appropriate each [year] such sum as may be necessary to properly maintain and operate such library.

[Acts 1925, S.B. 84.]

Art. 1699. Rules and Regulations

Said court may make all rules and regulations necessary or proper for the establishment, maintenance, operation and use of said library not in conflict with the laws of this State.

[Acts 1925, S.B. 84.]

Art. 1700. Custodian

Upon the establishment of a county law library the commissioners court shall employ a custodian or custodians of such library, who shall receive such pay as said court may fix. Each custodian shall execute a bond in the sum fixed by the court payable to and to be approved by the county judge of said county, conditioned that such custodian will faithfully perform his duties.

[Acts 1925, S.B. 84.]

Art. 1701. Gifts and Bequests

The commissioners court may receive on behalf of the county any gift or bequest for such library. The title to all such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

[Acts 1925, S.B. 84.]

Art. 1702. Funds of Library

All funds of such library shall be in custody of the county treasurer of such county. They shall be a separate fund and shall be used for no purpose other than for such library. Each

claim against the county law library shall be acted upon in like manner as other claims against the county.

[Acts 1925, S.B. 84.]

Art. 1702a. Repealed by Acts 1943, 48th Leg., p. 297, ch. 192, § 4

Art. 1702a-1. County Law Libraries in Certain Counties; Management

Sec. 1. For the purpose of establishing and maintaining a "County Law Library" for each county coming within the terms of this Act there shall be charged as costs, and taxed, collected, and paid as other costs, the sum of Two Dollars and Fifty Cents (\$2.50) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court, in each county having seven (7) or more District Courts and three (3) or more County Courts including County Courts at Law; except that in each county having fifteen (15) or more District Courts, including Criminal District Courts, the sum shall be fixed by the Commissioners Court, not to exceed Two Dollars and Fifty Cents (\$2.50). Provided, however, that in no case shall the county be liable for said cost in any civil cases. Such costs shall be collected by the Clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the "County Law Library Fund"; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a law library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants in such courts, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Sec. 2. The Provisions of this Act may be adopted by any county in this state having five (5) or more District Courts, by the passage of a Resolution to that effect by the Commissioners Court of such county at a regular session thereof with all members of such Court present.

Sec. 3. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the

remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional.

[Acts 1943, 48th Leg., p. 297, ch. 192, §§ 1 to 3; Acts 1957, 55th Leg., p. 446, ch. 218, § 1; Acts 1967, 60th Leg., p. 762, ch. 317, § 1, eff. Aug. 28, 1967.]

Art. 1702b. County Law Libraries in Certain Counties

Sec. 1. For the purpose of establishing "County Law Libraries" there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, Civil or Criminal, except suit for delinquent taxes, hereafter filed in every county and/or District Court, Civil or Criminal, in each county now or hereafter having three (3) or more District Courts, one of which sits and has jurisdiction in not less than two (2) other counties and none of which have more than four (4) terms a year; provided, however, that in no event shall the county be liable for said costs in any Civil or Criminal case, such costs shall be collected by the Clerk of the respective Courts in said counties and when collected, shall be paid by him to the County Treasurer to be kept by him in a separate fund to be known as the "County Law Library Fund"; such funds shall be administered by the Commissioners Court for the purchase and maintenance of a law library and the furniture and equipment necessary thereto in a place convenient and accessible to the Judges and litigants of such counties and for the payment of a salary to a librarian to be appointed by the Commissioners Court; provided, however, that said counties shall not use the funds collected under the provisions of this Act for any other purposes except the purposes above indicated. The Commissioners Court of counties affected by this Act shall make rules for the use of books in said library and provide space for housing same.

The salary of the custodian or librarian here-in provided for shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

Sec. 2. This Act shall not have the effect of repealing or modifying any Act now in force respecting the establishment and maintenance of County Law Libraries in any county in this State but such Acts shall remain in full force and effect as to counties affected thereby.

[Acts 1937, 45th Leg., p. 602, ch. 303.]

Art. 1702b-1. County Law Libraries in Counties of 11,300 to 12,500 Population and Fulfilling Certain Other Requirements; County Law Library Fund

For the purpose of establishing "County Law Libraries" there shall be taxed, collected, and paid as other costs in the sum of One Dollar (\$1) in each case, civil or criminal, except suits for delinquent taxes hereafter filed in every County and/or District Court in each county now having an area of not less than one thousand, one hundred and thirty (1,130) and not more than one thousand, five hundred (1,500) square miles, and with a population ac-

ording to the last Federal Census of not less than eleven thousand, three hundred (11,300) and not more than twelve thousand, five hundred, (12,500), and whose county seat is in a city of not less than two thousand, two hundred (2,200) and not more than three thousand (3,000) according to the last Federal Census; providing, however, that in no event shall the County be liable for said cost in any civil or criminal case. Such cost shall be collected by the Clerk of the respective Courts in said county, and when collected shall be paid by him to the County Treasurer to be kept by him in a separate fund to be known as the "County Law Library Fund." Such funds shall be administered by the Commissioners Court for the purchase and/or maintenance of a law library, and the furniture and equipment necessary thereto, the same to be placed in convenient and accessible quarters for the use of Judges and litigants of such counties.

For the purpose of protecting said libraries as hereinabove set out, the Commissioners Court may provide if necessary for a custodian or librarian appointed by said Commissioners Court, and may fix salaries therefor, providing, however, that the counties come under the provisions of this Act and shall not use the funds collected for any other purposes except the purposes above set out.

The Commissioners Court of counties affected by this Act shall make rules for the use of books in said libraries and provide space for housing the same. The salaries for custodian or librarian here provided for shall be fixed by the Commissioners Court and be paid out of the funds collected under this Act.

[Acts 1939, 46th Leg., Spec.Laws, p. 614, § 1.]

Art. 1702b-2. County Law Libraries in Counties of 50,000 to 78,000; County Law Library Fund

Sec. 1. The Commissioners Courts of all counties within this State, having a population of not less than fifty thousand (50,000) inhabitants nor more than seventy-eight thousand (78,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing "County Law Libraries" after the entry of such order, there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, civil or criminal, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the Clerks of the respective Courts in said counties and paid by said Clerk to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said Courts for the purchase and

maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act.

[Acts 1939, 46th Leg., Spec.Laws, p. 612.]

Art. 1702b-3. Law Libraries in Counties of 75,000 to 95,000; County Law Library Fund

Sec. 1. The Commissioners Courts of all counties within this State having a population of not less than seventy-five thousand (75,000) inhabitants nor more than ninety-five thousand (95,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Sec. 2. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the Clerks of the respective Courts in said counties and paid by said Clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such Fund shall be administered by said Courts for the purchase and maintenance of a Law Library in a convenient and accessible place, and said Fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said Library and the use of the books thereof, and to carry out the terms and provisions of this Act.

[Acts 1945, 49th Leg., p. 229, ch. 173; Acts 1947, 50th Leg., p. 543, ch. 320, § 1.]

Art. 1702b-4. Law Libraries in Counties of 30,000 to 39,000; County Law Library Fund; Rules

Sec. 1. The Commissioners Courts of all counties within this state, having a population of not less than thirty thousand (30,000) inhabitants nor more than thirty-nine thousand (39,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing county law libraries after the entry of such order, there shall be taxed, collected, and paid as

other costs the sum of One Dollar (\$1.00) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerk to the county treasurer to be kept by said treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said courts for the purchase and maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act.

[Acts 1945, 49th Leg., p. 230, ch. 174.]

Art. 1702b-5. Law Libraries in Counties of 50,420 to 50,430; County Law Library Fund; Salaries; Management

For the purpose of establishing a "County Law Library" there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each civil case except suit for delinquent taxes, hereafter filed in every County or District Court, in each county having two (2) or more District Courts and one (1) or more County Courts including County Courts at Law, and having a population of not less than fifty thousand, four hundred and twenty (50,420) and not more than fifty thousand, four hundred and thirty (50,430) according to the 1940 Census for the State of Texas. Provided, however, that in no case shall the county be liable for said costs in any civil case. Such costs shall be collected by the Clerk of the respective Courts, and when collected shall be paid to the County Treasurer, to be kept by him in a separate fund to be known as the "County Law Library Fund"; such fund shall be administered by the Commissioners Court for the purchase, lease or maintenance of a Law Library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county, and for the payment of salaries to employees to be appointed by the Commissioners Court; the Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act.

The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such com-

mittee shall be subject to the approval of the Commissioners Court.

[Acts 1947, 50th Leg., p. 475, ch. 275, § 1.]

Art. 1702b-6. Repealed by Acts 1949, 51st Leg., p. 98, ch. 58, § 4

Art. 1702c. Law Libraries in Certain Counties

Sec. 1. The Commissioners' Court of all counties within this State, where said counties contain in excess of fifty-three thousand five hundred (53,500) and less than fifty-seven thousand (57,000) inhabitants shall have the power and the authority by an order for that purpose to provide for, maintain and establish a County Law Library.

Sec. 2. Said library shall be established and maintained by a trial fee which shall be assessed and collected as a part of the court costs in all cases filed in the County or District Courts in such counties and said trial fee which may not exceed One (\$1.00) Dollar in any case, shall be provided for by an order of the said Court, the amount of same shall be fixed by the said Court and an order to such effect be spread upon the Commissioners' Court Minutes in said Counties.

Sec. 3. Said Commissioners' Court is granted all necessary power and authority to make this Act effective and to carry out the terms and provisions hereof.

[Acts 1939, 46th Leg., Spec.Laws, p. 611.]

Art. 1702d. Law Libraries in Counties of 80,000 to 225,000; Library Fund

Sec. 1. The Commissioners Courts of all counties within this State, having a population of not less than eighty thousand (80,000) inhabitants nor more than two hundred and twenty-five thousand (225,000) inhabitants, according to the last preceding Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing "County Law Libraries" after the entry of such order, there shall be taxed, collected, and paid as other costs the sum of One Dollar (\$1) in each case, civil or criminal, except suits for delinquent taxes, hereafter filed in every County or District Court; provided however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the Clerks of the respective Courts in said counties and paid by said Clerk to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said Courts for the purchase and maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to

said library and the use of the books thereof, and to carry out the terms and provisions of this Act.

Sec. 4. This Act shall not have the effect of repealing or modifying any existing law in regard to county law libraries; but such Acts shall remain in full force and effect as to all counties affected thereby; and this Act shall be cumulative.

[Acts 1941, 47th Leg., p. 1315, ch. 589.]

Art. 1702e. Law Libraries in Counties of 30,000 to 250,000

Sec. 1. The Commissioners Courts of all counties within this State having a population of not less than thirty thousand (30,000) inhabitants nor more than two hundred and fifty thousand (250,000) inhabitants, according to the last preceding or any future Federal Census, and in which there is located a Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Sec. 2. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each civil case, except suits for delinquent taxes, hereafter filed in every county or district court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties and paid by said clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such Fund shall be administered by said Courts for the purchase and maintenance of a Law Library in a convenient and accessible place, and said Fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said Library and the use of the books thereof, and to carry out the terms and provisions of this Act.

[Acts 1949, 51st Leg., p. 98, ch. 58.]

Art. 1702f. Law Libraries in Counties of 27,000 Located in Two Judicial Districts of Four Counties Only

Sec. 1. The Commissioners Courts of any county in the State which is located in two (2) judicial districts only, each of which said judicial districts is composed of four (4) counties only; which said county has a population in excess of twenty-seven thousand (27,000) persons, according to the last or any future Federal Census, shall have the power to establish, maintain and operate a law library in said county.

Sec. 2. The Commissioners Court of any such county may establish and provide for the maintenance of such county law library on its own initiative, and appropriate the sum of

Twenty Thousand Dollars (\$20,000) or such part thereof as it may deem necessary, to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such county law library, which shall be established, maintained and operated at the county seat.

Sec. 3. Upon the establishment of a county law library the Commissioners Court shall employ a custodian or custodians of such library and shall require such custodians to execute and deliver a bond or bonds in such sum as may be fixed by such court payable to the County Judge, and his successors in office, of such county, and conditioned upon the faithful performance of his duties by the principal obligor. Such custodians shall receive such compensation as may be fixed by the Commissioners Court.

Sec. 4. The Commissioners Court shall have power to make all rules and regulations necessary or proper for the establishment, maintenance, operation and use of said library not in conflict with the Constitution and laws of this State.

Sec. 5. The Commissioners Court of any such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such county law library. The title to all of such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Sec. 6. All funds of the county law library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to county treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such county law library. Each claim against the county law library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Sec. 7. In case any section or part thereof in this Act is found unconstitutional or invalid for any reason, such invalid section or part thereof shall in no manner be held to affect any other section or portions of said Act.

[Acts 1949, 51st Leg., p. 331, ch. 161.]

Art. 1702g. Law Libraries in Counties of 29,500 to 30,000

Sec. 1. The Commissioners Courts of all counties within this State having a population of not less than twenty-nine thousand, five hundred (29,500) inhabitants nor more than thirty thousand (30,000) inhabitants, according to the last preceding or any future Federal Census, and in which there is located no Court of Civil Appeals, shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a county law library.

Sec. 2. For the purpose of establishing county law libraries after the entry of such order, there shall be taxed, collected, and paid as

other costs, the sum of One Dollar (\$1) in each civil case, except suits for delinquent taxes, hereafter filed in every County or District Court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective Courts in said counties and paid by said clerks to the county treasurer to be kept by said treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall be administered by said Courts for the purchase and maintenance of a law library in a convenient and accessible place, and said fund shall not be used for any other purpose.

Sec. 3. Said Courts are granted all necessary power and authority to make this Act effective, to make reasonable rules in regard to said library and the use of the books thereof, and to carry out the terms and provisions of this Act.

[Acts 1949, 51st Leg., p. 768, ch. 413.]

Art. 1702h. County Law Libraries in All Counties

Authority to Establish

Sec. 1. The Commissioners Courts of all counties within this State shall have the power and authority, by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Establishment on Initiative of Commissioners Court; Appropriations

Sec. 2. The Commissioners Court of any county may establish and provide for the maintenance of such County Law Library on its own initiative, and appropriate the sum of Ten Thousand Dollars (\$10,000) or such part thereof as it may deem necessary, to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such County Law Library, which shall be established, maintained and operated at the county seat.

Gifts and Bequests

Sec. 3. The Commissioners Court of such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such County Law Library. The title of all of such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Costs; Law Library Fund

Sec. 4. For the purpose of establishing County Law Libraries after the entry of such order, there shall be taxed, collected, and paid as other costs, the sum of One Dollar (\$1) in each civil case, except suits for delinquent taxes, hereafter filed in every county or district court; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the clerks of the respective courts in said counties

and paid by said clerks to the County Treasurer to be kept by said Treasurer in a separate fund to be known as the "County Law Library Fund." Such fund shall not be used for any other purpose.

Managing Committee

Sec. 5. The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Salaries

Sec. 6. The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act, or from appropriations made under this Act.

Administration of Fund; Rules; Space and Shelving

Sec. 7. Such fund shall be administered by the Commissioners Court, or under its direction, for the purchase, lease or maintenance of a Law Library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county; and Commissioners Court of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

Custody and Use of Funds; Claims

Sec. 8. All funds for the County Law Library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to county treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such County Law Library. Each claim against the County Law Library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Partial Invalidity

Sec. 9. If any section, paragraph, clause, phrase, sentence, or portion of this Act be held invalid or unconstitutional, such invalidity shall not affect the remainder thereof.

[Acts 1951, 52nd Leg., p. 777, ch. 429.]

Art. 1702i. County Law Libraries in Counties of 350,000 or Less

Authority to Establish

Sec. 1. The Commissioners Court of all counties within this State having a population of three hundred fifty thousand (350,000) or less shall have the power and authority by first entering an order for that purpose, to provide for, maintain and establish a County Law Library.

Establishment on Initiative of Commissioners Court; Appropriations

Sec. 2. The Commissioners Court of any county may establish and provide for the main-

tenance of such County Law Library on its own initiative, and appropriate the sum of Ten Thousand (\$10,000.00) Dollars or such part thereof as it may deem necessary, to establish properly such library, and shall appropriate each year such sum as may be necessary to properly maintain and operate such County Law Library, which shall be established, maintained and operated at the county seat.

Gifts and Bequests

Sec. 3. The Commissioners Court of such county is hereby authorized and empowered to receive on behalf of such county any gift or bequest for such County Law Library. The title of all such property shall be vested in the county. Where any gift or bequest is made with certain conditions, and accepted by the county, these conditions shall be administered as designated by the donor.

Costs; Law Library Fund

Sec. 4. For the purpose of establishing County Law Libraries after the entry of such order, there may be taxed, collected and paid as other costs in each civil case, except suits for delinquent taxes, hereafter filed in every county or District Court, a sum to be fixed by the Commissioners Court of the respective counties within the State of Texas, not to exceed Five (\$5.00) Dollars in each case; provided, however, that in no event shall the county be liable for said costs in any case. Such costs shall be collected by the Clerks of the respective Courts in said counties and paid by said Clerks to the County Treasurer, to be kept by said Treasurer in a separate fund to be known as "County Law Library Fund". Such fund shall not be used for any other purpose.

Managing Committee

Sec. 5. The Commissioners Court of such counties may vest the management of such library in a committee to be selected by the Bar Association of such county, but the acts of such committee shall be subject to the approval of the Commissioners Court.

Salaries

Sec. 6. The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under this Act, or from appropriations made under this Act.

Administration of Fund; Rules; Space and Shelving

Sec. 7. Such fund shall be administered by the Commissioners Court, or under its direction, for the purchase, lease or maintenance of a Law Library, and furniture and equipment necessary thereto, in a place convenient and accessible to the Judges and litigants of such county; the Commissioners Courts of counties affected by this Act shall make rules for the use of books in said library, and shall provide suitable space and shelving for housing same.

Custody and Use of Funds; Claims

Sec. 8. All funds for the County Law Library shall be in the custody of the County Treasurer of such county, or other official who may discharge the duties commonly delegated to County Treasurers. They shall constitute a separate fund and shall not be used for any other purpose than those of such County Law Library. Each claim against the County Law Library shall be acted upon and allowed or rejected in like manner as other claims against the county.

Partial Invalidity

Sec. 9. If any section, paragraph, clause, phrase, sentence, or portion of this Act shall be held invalid or unconstitutional, such invalidity shall not affect the remainder thereof. [Acts 1953, 53rd Leg., p. 1014, ch. 416.]

Art. 1702j. Law Libraries in Counties of 750,000 to 1,000,000

Application of Act; Costs

Sec. 1. For the purpose of establishing and maintaining a county law library for each county coming within the terms of this Act, there shall be charged as costs, and taxed, collected, and paid as other costs, a sum to be fixed by order of the Commissioners Court, of not more than \$5, in each civil case, except suits for delinquent taxes, hereafter filed in every district or county court, including county courts at law, in each county having a population of not less than 750,000 nor more than 1,000,000, according to the last preceding federal census. In no case shall the county be liable for the cost imposed by this Act.

Collection of Costs; Law Library Fund

Sec. 2. The costs imposed by this Act shall be collected by the clerks of the respective courts. When collected, the funds shall be paid to the county treasurer and shall be kept by him in a separate fund to be known as the County Law Library Fund.

Administration of Fund; Payment of Employees' Salaries

Sec. 3. The fund authorized by Section 2 of this Act shall be administered by the Commissioners Court for the purchase, lease, or maintenance of a law library and furniture and equipment necessary for the library, in a place convenient and accessible to the judges and litigants in the district and county courts, including county courts at law. The fund may also be expended for the payment of salaries to employees to be appointed by the Commissioners Court.

Rules; Space and Shelving

Sec. 4. The Commissioners Court shall make rules for the use of books in the county law library and shall provide suitable space and shelving for housing the library.

Salaries

Sec. 5. The salary of the custodian or librarian and such other employees or assistants as may be necessary shall be fixed by the Commissioners Court and shall be paid out of the funds collected under authority of this Act.

Managing Committee

Sec. 6. The Commissioners Court may vest the management of the county law library in a committee to be selected by the bar association

of the county, but the acts of the committee shall be subject to the approval of the Commissioners Court.

[Acts 1971, 62nd Leg., p. 1417, ch. 394, eff. May 26, 1971.]

Section 7 of the 1971 act provided: "As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general State and local governmental purposes."

TITLE 36

COUNTY TREASURER

Article

- 1703. Election and Term.
- 1704. Bond.
- 1704-A. Premium on Bond; Payment by Commissioners' Courts of Certain Counties.
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Art. 1703. Election and Term

A county treasurer shall be elected at each regular general election for a term of two years.

[Acts 1925, S.B. 84.]

Art. 1704. Bond

The county treasurer before entering upon the duties of his office, and within twenty days after he has received his certificate of election, shall give a bond payable to the county judge of his county, to be approved by the commissioners court, in such sum as such court may deem necessary, conditioned that such treasurer shall faithfully execute the duties of his office and pay over according to law all moneys which shall come into his hands as county treasurer, and render a true account thereof to said court at each regular term of said court.

[Acts 1925, S.B. 84.]

Art. 1704-A. Premium on Bond; Payment by Commissioners' Courts of Certain Counties

In every county in the State of Texas having a population of not less than nineteen thousand ten (19,010), nor more than nineteen thousand seventy (19,070), and not less than twenty-three thousand eight hundred (23,800), nor more than twenty-four thousand (24,000), and not less than fifty-four thousand (54,000), nor more than fifty-four thousand five hundred (54,500), according to the last preceding Federal Census, the Commissioners' Court of such counties is hereby authorized to pay out of the General Funds of such counties the premium on the official surety bond now required of such County Treasurers.

[Acts 1941, 47th Leg., p. 1316, ch. 590, § 1.]

Art. 1705. New Bond

The commissioners court, whenever they may consider the bonds, or either of the bonds, of a county treasurer, from any cause, insufficient or doubtful, shall require such treasurer to

give another bond or bonds, or to give additional bond or bonds, as the case may be.

[Acts 1925, S.B. 84.]

Art. 1706. Office Declared Vacant

If the person elected treasurer fails to give the bonds required by this title and take the official oath within twenty days after receiving his certificate of election, it shall be the duty of the county judge to declare the said office vacant; and, should a treasurer fail to give another or an additional bond or bonds when required to do so, as provided in the preceding article, within twenty days after notice of such requirement, he shall be removed from said office in the manner provided by law.

[Acts 1925, S.B. 84.]

Art. 1707. Vacancy, How Filled

In case of vacancy in the office of the county treasurer, the commissioners court of the county in which such vacancy occurs shall fill such vacancy by appointment, such appointment to be made by a majority vote of the commissioners present, at a regular or special term of such court. Such appointment shall continue in force until the next general election.

[Acts 1925, S.B. 84.]

Art. 1708. Appointee: Oath and Bond

The person appointed to fill the vacancy, as provided in the preceding article, shall, before entering upon the discharge of the duties of such office, and within twenty days after he has been notified of such appointment, take the oath and give the bonds required, as in the case of an election to such office.

[Acts 1925, S.B. 84.]

Art. 1709. Duties

The County Treasurer, as chief custodian of county finance, shall receive all moneys belonging to the county from whatever source they may be derived; keep and account for the same in a designated depository or depositories; and pay and apply or disburse the same, in such manner as the Commissioners Court may require or direct, not inconsistent with constituted law. Said court may provide funds for adequate personnel and proper media that would enable the treasurer to perform such constituted duties. Upon failure to perform such duties the treasurer shall be guilty of dereliction of duty and subject to prosecution.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 1654, ch. 467, § 1, eff. May 27, 1971.]

Art. 1709a. Receipt, Safekeeping and Disbursement of Moneys

Sec. 1. [Amends article 1709].

Sec. 2. From and after the effective date of this Act, the County Treasurer in each county

of this State shall receive all moneys belonging to the county from whatever source they may be derived. Clarification as to moneys and mode and manner of receipt thereof not inconsistent with existing laws follows:

(a) All fees, commissions, funds and moneys belonging to the county shall be turned over to the County Treasurer by the officer who collected them, in the manner prescribed in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes). Such deposit of funds in the county treasury shall not in any wise change the ownership of any fund so deposited, except to indemnify said officer and his bondsman or other owners of such funds during the period of deposit with the county.

(b) All deposits that are made in the county treasury shall be upon deposit warrant issued by the County Clerk in triplicate; said warrants shall authorize the treasurer to receive the amount named, for what purpose, and to which fund the same shall be applied. The treasurer shall retain the original; the duplicate shall be signed and returned to the clerk and the triplicate signed and returned to the depositor as provided in Article 1657, Revised Civil Statutes of Texas, 1925. In each county of this State having a County Auditor the County Clerk shall give his copy to the auditor, who then shall enter same upon his books as a check and balance, charging the amounts to the County Treasurer and crediting the same to the depositing party. The treasurer shall not under any circumstances receive any money in any other manner than that named herein; except that in counties of whose population exceeds 1,200,000 the County Clerk is relieved of all duties prescribed by Article 1657, Revised Civil Statutes of Texas, 1925. In such counties the County Treasurer shall prepare a triplicate receipt for all moneys received, retain one copy of the receipt and transmit the original and the duplicate to the county auditor and the depositor respectively, as provided in Chapter 235, Acts of the 60th Legislature, 1967 (Article 1657a, Vernon's Texas Civil Statutes).

Sec. 3. From and after the effective date of this Act, the County Treasurer in each county of this State shall safekeep and account for all moneys belonging to the county; clarification as to mode and manner of safekeeping not inconsistent with existing laws follows:

(a) All moneys deposited with the County Treasurer by such officer as collected shall be deposited in the county depository, in a special fund to the credit of such officer as provided in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes); any interest accrued therefrom shall benefit the county in accordance with all laws.

All such funds so deposited shall be secured by the bond of such depository.

(b) Liability of Treasurer. The County Treasurer shall not be responsible for any loss of the county funds through failure or negligence of any depository; but nothing in this Act shall release any County Treasurer, for any loss resulting from any official misconduct or negligence on his part, nor from any responsibility for the funds of the county until a depository shall be selected and the funds deposited therein, nor for any misappropriation of such funds by him (Article 2557, Revised Civil Statutes of Texas, 1925, as amended).

(c) The County Treasurer before entering upon the duties of his office, and within twenty days after he has received his certificate of election, shall give a bond payable to the County Judge of his county, to be approved by the Commissioners Court, in such sum as such court may deem necessary, conditioned that such treasurer shall faithfully execute the duties of his office and pay over according to law all moneys which shall come into his custody as County Treasurer and render a true account thereof to said court in accordance with Article 1704, Revised Civil Statutes of Texas, 1925.

(d) In counties having auditors, all reports of collections of moneys for the county required to be made to the Commissioners Court shall also be carefully examined and reported on by the auditor as provided in Article 1654, Revised Civil Statutes of Texas, 1925. He shall at least once in each quarter check the books and examine all reports of the treasurer, in detail, verifying the footings and correctness of same, and shall stamp his approval thereon, or note any difference, errors or discrepancies; he shall carefully examine the quarterly report of the treasurer, of all the disbursements, together with the cancelled warrants which have been paid, and shall verify the same with the register of warrants issued, as shown in the accounts of the auditor.

(e) Furthermore, the auditor, without giving any notice beforehand, shall examine fully into the condition of, or inspect and count the cash in the hands of the treasurer, or in the banks in which he may have placed same for safekeeping, not less than once each quarter and oftener if desired in accordance with Article 1655, Revised Civil Statutes of Texas, 1925; and shall see that all balances to the credit of the various funds are actually on hand in cash and that none of said funds are invested in any manner except as the law may authorize.

Sec. 4. From and after the effective date of this Act the County Treasurer in each county shall disburse all moneys belonging to the county, for whatever purpose they may be

claimed, and shall pay and apply the same as required by law. No moneys shall be expended or withdrawn from the county treasury except by checks or warrants drawn on the county treasury, whether such moneys are in a county depository as required by law or not. Clarification of mode and manner of disbursement not inconsistent with existing laws follows:

(a) Claims: The County Treasurer shall enter each claim in a permanent bound register, in the manner provided in Article 1627, Revised Civil Statutes of Texas, 1925, stating the class, the name of the payee, and the number of the claim. On the face of such claim shall be placed the word "Registered," the date actually registered, and the official signature or approved facsimile of the County Treasurer.

(b) The treasurer shall pay no such claim, nor shall any part thereof be received by any officer in payment of any indebtedness to the county, until it has been duly registered, in accordance with the provisions of Article 1625, Revised Civil Statutes of Texas, 1925. All claims in each class shall be paid in the order in which they are registered.

(c) In counties having a County Auditor, all claims, bills, and accounts against the county must be filed in ample time for the auditor to examine and approve same before the meetings of the Commissioners Court. No claim, bill, or account shall be allowed or paid until it has been examined and approved by the County Auditor as provided in Article 1660, Revised Civil Statutes of Texas, 1925. Said auditor shall examine the same and stamp his approval thereon.

(d) Warrants: It shall be the duty of the County Treasurer, upon presentation to him of any warrant, check, voucher, or order drawn by the proper authority, if there be funds sufficient for payment thereof on deposit in the account against which such warrant is drawn, to endorse upon the face of such instrument his order to pay same to the payee named therein and to charge the same on his books to the fund upon which it is drawn as provided in Article 2554, Revised Civil Statutes of Texas, 1925, as amended. The County Treasurer is not authorized to issue nor is the county depository authorized to pay a check drawn on the county depository to take up a warrant drawn by a proper authority, but the County Treasurer must, when such a warrant is presented to him, endorse it and deliver it to the payee for the payee to present to the county depository for payment. The County Treasurer shall not make any endorsement upon any instrument designated as a "time deposit" until after the notice is duly given and the time has expired as required in the contract with said depository which designated said funds as "time deposits." In case any bonds, coupons, or

other instruments of any county by the terms thereof are payable at any place other than the county treasury nothing herein contained shall prevent the Commissioners Court of such county from so ordering the treasurer to place a sufficient sum at the place where such debts shall be payable at the time and place of their maturity, provided such payments shall be made in the manner prescribed by law. All warrants issued or drawn by any officer under the provisions of this Act shall be subject to all laws and regulations providing for auditing and countersigning and all such laws and regulations are hereby continued in full force and effect.

(e) All warrants issued against the County Treasurer by any judge or court shall be signed and attested by the clerk or judge of the court issuing the same under his official seal as provided in Article 1643, Revised Civil Statutes of Texas, 1925. No Justice of the Peace shall have authority to issue warrants against the County Treasurer for any purpose whatever, except as provided in the Code of Criminal Procedure.

(f) In each county having an auditor, the County Treasurer and the depository shall make no payment unless such warrant is countersigned by the auditor as provided in Chapter 98, Acts of the 43rd Legislature, 1933, as amended (Article 1656a, Vernon's Texas Civil Statutes) to validate the same as a proper and budgeted item of expenditure.

(g) The only exception to the auditors' countersigning is that of warrants for jury service, as provided in Article 1661, Revised Civil Statutes of Texas, 1925.

Sec. 5. All existing laws pertaining to the duties and responsibilities of the County Auditors of the State of Texas shall in no way be affected or changed by this law. Reference to various articles mentioned herein pertaining to County Auditors is intended for the purpose of clarification only and for no other reason.

Sec. 6. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications thereto, and the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1654, ch. 467, §§ 2 to 6, eff. May 27, 1971.]

Art. 1710. Accounts

The county treasurer shall keep a true account of the receipts and expenditures of all moneys which shall come into his hands by virtue of his office, and of the debts due to and from his county; and direct prosecutions according to law for the recovery of all debts that may be due his county, and superintend the collection thereof.

[Acts 1925, S.B. 84.]

Art. 1711. Report to Commissioners Court

He shall render a detailed report at every regular term of the commissioners court of his county of all the moneys received and disbursed by him, of all debts due to and from his county, and of all other proceedings in his office, and shall exhibit to said court at every such term all his books and accounts for their inspection and all vouchers relating to the same, to be audited and allowed.

[Acts 1925, S.B. 84.]

Art. 1712. Deliver Money, etc., to Successor

He shall deliver the moneys, securities, and all other property of the county in his hands, together with all documents, instruments of writing, papers and books belonging to, or for the use of the county, to his successor in office, and perform all such other acts as may be required of him by said commissioners court.

[Acts 1925, S.B. 84.]

Art. 1713. Shall Not Pay Out Money, Except

The county treasurer shall not pay any money out of the county treasury except in pursu-

ance of a certificate or warrant from some officer authorized by law to issue the same; and, if such treasurer shall have any doubt of the legality or propriety of any order, decree, certificate or warrant presented to him for payment, he shall not pay the same, but shall make report thereof to the commissioners court for their consideration and direction.

[Acts 1925, S.B. 84.]

Art. 1714. To Examine Dockets, Accounts, etc.

He shall examine the accounts, dockets and records of the clerks, sheriff, justices of the peace, constables and tax collector of his county, for the purpose of ascertaining whether any moneys of right belonging to his county are in their hands which have not been accounted for and paid over according to law, and shall report the same to the commissioners court at their next term, to the end that suit may be instituted for the recovery thereof.

[Acts 1925, S.B. 84.]

TITLE 37

COURT—SUPREME

Chapter	Article
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CHAPTER ONE. JUDGES

Article

- 1715. Judges.
- 1716. Qualifications.
- 1717. Disqualification.

Art. 1715. Judges

The Supreme Court shall consist of a Chief Justice and two Associate Justices, any two of whom shall be a quorum. The concurrence of two judges shall be necessary to the decision of a case. One Justice of said Court shall biennially be elected for a term of six years, the classification to be as now constituted by law. In case of a vacancy in the Supreme Court, the Governor shall fill such vacancy until the next general election, and at such election the vacancy for the unexpired term shall be filled by election by the qualified voters of the State.

[Acts 1925, S.B. 84.]

Art. 1716. Qualifications

No person shall be eligible to be a Justice of the Supreme Court, unless he be, at the time of his election, at least thirty years of age, a citizen of the United States and of this State, and has been a practicing lawyer or a judge of a court in this State, or such lawyer and judge together, at least seven years.

[Acts 1925, S.B. 84.]

Art. 1717. Disqualification

When the Court or any two of its members shall be disqualified to hear and determine any cause in said Court, or when the Judges of said Court shall be equally divided in opinion by reason of the absence or disqualification of one of its members, the same shall be certified by the presiding Judge to the Governor who shall immediately commission the requisite number of persons possessing the qualifications prescribed for Judges of the Supreme Court to try and determine said cause.

[Acts 1925, S.B. 84.]

CHAPTER TWO. CLERK, EMPLOYÉS AND REPORTER

Article

- 1718. Appointment of Clerk.
- 1719. Vacancy in Vacation.
- 1720. Duties of Clerk.
- 1721. Deputy Clerks.
- 1722. Repealed.
- 1723. Stenographers and Bailiff.
- 1724. Reporter.
- 1725. Reports.

Art. 1718. Appointment of Clerk

The Supreme Court shall appoint for a term of four years one clerk who shall reside at Austin. Such appointment shall be recorded in the proceedings of the Court. Such appointee shall first give bond in the sum of five thousand dollars, to be approved by the Court, payable to the Governor and conditioned for the faithful performance of the duties of his office. He may be removed by the Court for neglect of duty or misconduct in office, after ten days' previous notice of the motion specifying the particular charges of negligence or misconduct in office preferred, and the Court shall determine the law and facts. The Court may whenever necessary appoint a clerk pro tempore.

[Acts 1925, S.B. 84.]

Art. 1719. Vacancy in Vacation

If the office of clerk becomes vacant in vacation, an appointment shall be made by the Chief Justice and one of the Associates. The appointee shall give the prescribed bond and oath, the bond to be approved by any judge of the Court. Such appointment shall continue until a regular appointment shall be made.

[Acts 1925, S.B. 84.]

Art. 1720. Duties of Clerk

The clerk shall:

1. Collect and pay into the State Treasury all fees and costs collected by him over and above the salaries allowed him and his deputies, under rules prescribed by the Comptroller and approved by the Judges of the Supreme Court and recorded in the minutes of the Court.

2. Procure a seal for the use of the Court, which shall have a star of five points, with the words, "Supreme Court of the State of Texas" engraved thereon.

3. File and carefully preserve the transcripts of all records certified to said

Court, and all papers relative thereto, and shall docket all causes in the order in which the Court shall direct, and shall faithfully record the proceedings and decisions of said Court, and certify its judgments to the courts from which the cases were brought.

[Acts 1925, S.B. 84.]

Art. 1721. Deputy Clerks

When authorized by the Court by an order recorded in the minutes, the clerk may appoint three deputies, who may discharge the duties required by Law of the clerk, and who shall give bond in like sum and conditions required by the clerk, to be approved by the Court. The compensation of such deputies shall be unanimously agreed upon by the Judges and their action recorded in the Minutes of the Court, such compensation not to exceed Two Thousand Dollars a year for each of said deputies, to be paid out of the fees collected by the clerk of the Supreme Court. The Court in its discretion may dispense with the services of one or more of such deputies, temporarily or permanently.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 468, ch. 218, § 1.]

Art. 1722. Repealed by Acts 1971, 62nd Leg., p. 2360, ch. 722, § 10, eff. June 8, 1971

See, now, article 5444b.

Art. 1723. Stenographers and Bailiff

The Court may appoint not more than three stenographers, at a salary to be fixed by the Court, not exceeding one hundred and fifty dollars per month, and may appoint a bailiff to attend the sitting of the Court.

[Acts 1925, S.B. 84.]

Art. 1724. Reporter

The Court shall appoint to serve at the will of the Court one or more licensed attorneys to report the decisions of the Supreme Court. The reporter shall obtain from the proper clerk the records of cases to be reported, with the briefs and opinions therein, as soon as such cases are finally disposed of and the opinions are recorded, which shall be returned after the report thereof is completed. He shall under the direction of the Court, without delay, prepare for publication such decisions with appropriate syllabus and statements when necessary, with proper index, table of cases cited and cases reported, and shall, from time to time, deliver the same to the Board of Control for publication.

[Acts 1925, S.B. 84.]

Art. 1725. Reports

The Court shall designate the cases to be reported; and only those designated shall be reported and published. Only the main propositions made in the briefs and considered by the Court in the opinion, with the authorities cited in support of such propositions, shall be incorporated in the report. Each volume shall be

copyrighted in the name of the reporter, who shall immediately on delivery of the edition transfer and assign the same to the State. It shall be electrotyped, and the plates shall be owned by the State and preserved by the Board of Control.

[Acts 1925, S.B. 84.]

CHAPTER THREE. TERMS AND JURISDICTION

Article

- 1726. Terms of Supreme Court.
- 1727. Adjournment.
- 1728. Appellate Jurisdiction.
- 1729. Writ of Error or Certificate.
- 1730. Court to Make Rules.
- 1731. Rules of Practice.
- 1731a. Rules of Practice; Power of Supreme Court in Civil Judicial Proceedings.
- 1732. Jurisdictional Facts.
- 1733. May Issue Writs.
- 1734. May Issue Mandamus, etc.
- 1735. To Issue Only by Supreme Court.
- 1735a. Mandamus in Connection with Elections and Political Party Conventions.
- 1736. Repealed.
- 1737. Habeas Corpus.
- 1738. Transfer of Causes.
- 1738a. Direct Appeals in Injunction Cases Involving Validity of Statute or Administrative Order.

Art. 1726. Terms of Supreme Court

The Supreme Court shall hold one term each year at the city of Austin, commencing on the first Monday in October, and ending on the last Saturday in the next June.

[Acts 1925, S.B. 84.]

Art. 1727. Adjournment

The Court may adjourn from day to day, or for such period as it deems necessary to the ends of justice and the determination of the business before them; and there shall be no discontinuance of any suit, process or matter returned to, or pending in, the Supreme Court, although a quorum of the Court may not be in attendance at the commencement or on any other day of the term. If a sufficient number of the judges shall not attend on any day of the term, any judge of the Court, or the bailiff attending, may adjourn the Court from time to time.

[Acts 1925, S.B. 84.]

Art. 1728. Appellate Jurisdiction

The Supreme Court shall have appellate jurisdiction co-extensive with the limits of the State, extending to all questions of law arising in the following cases when same have been brought to the Courts of Civil Appeals from appealable judgment of trial courts:

1. Those in which the judges of the Courts of Civil Appeals may disagree upon any question of law material to the decision.
2. Those in which one of the Courts of Civil Appeals holds differently from a prior decision of another Court of Civil

Appeals, or of the Supreme Court upon any question of law material to a decision of the case.

3. Those involving the construction or validity of statutes necessary to a determination of the case.

4. Those involving the revenues of the State.

5. Those in which the Railroad Commission is a party.

6. In any other case in which it is made to appear that an error of substantive law has been committed by the Court of Civil Appeals which affects the judgment, but excluding those cases in which the jurisdiction of the Court of Civil Appeals is made final by statute.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 214, ch. 144, § 1; Acts 1953, 53rd Leg., p. 1026, ch. 424, § 1.]

Art. 1729. Writ of Error or Certificate

All causes mentioned in the preceding article may be carried to the Supreme Court either by writ of error or by certificate from the Court of Civil Appeals, but the Court of Civil Appeals may certify any question of law arising in any such case at any time they may choose, whether before or after the decision of the case in said Court.

[Acts 1925, S.B. 84.]

Art. 1730. Court to Make Rules

The Supreme Court shall from time to time make and promulgate suitable rules, forms and regulations for carrying into effect the articles in this title relating to the jurisdiction and practice of said Court.

[Acts 1925, S.B. 84.]

Art. 1731. Rules of Practice

The Court may make and enforce all necessary rules of practice and procedure, not inconsistent with the law, for the government of said Court and all other courts of the State, so as to expedite the dispatch of business in said courts.

[Acts 1925, S.B. 84.]

Art. 1731a. Rules of Practice; Power of Supreme Court in Civil Judicial Proceedings

Repeal of Practice and Procedure Laws

Sec. 1. In order to confer upon and relinquish to the Supreme Court of the State of Texas full rule-making power in civil judicial proceedings, all laws and parts of laws governing the practice and procedure in civil actions are hereby repealed, such repeal to be effective on and after September 1, 1941. Provided, however, that no substantive law or part thereof is hereby repealed.

Supreme Court to Make Rules for Practice and Procedure

Sec. 2. The Supreme Court is hereby invested with the full rule-making power in the practice and procedure in civil actions. Such

rules shall not abridge, enlarge or modify the substantive rights of any litigant. Such rules, after promulgation by the Supreme Court, shall be filed with the Secretary of State and a copy thereof mailed to each elected member of the Legislature on or before December 1st immediately preceding the next Regular Session of the Legislature and shall be reported by the Secretary of State to the Legislature, and, unless disapproved by the Legislature, such rules shall become effective upon September 1, 1941; provided, however, the Supreme Court may, from time to time after September 1, 1941, promulgate any specific rule or rules or any amendment or amendments to any specific rule or rules and make the same effective, except as hereinafter provided, at such time as the Supreme Court may deem expedient in the interest of a proper administration of justice, the same to remain in effect unless and until disapproved by the Legislature. Any such specific rule or rules, or any such amendment or amendments to any specific rule or rules, shall be filed by the Clerk of the Supreme Court with the Secretary of State, and a copy thereof mailed by the said Clerk to each registered member of the State Bar of Texas, at least sixty (60) days before the effective date thereof, and reported by the Secretary of State to the next succeeding Regular Session of the Legislature in the same manner as hereinabove provided.

Supreme Court to File List of Laws Repealed by Its Rules

Sec. 3. At the time it files the rules, the Supreme Court shall file with the Secretary of State a list of all articles or sections of the General Laws of the State of Texas, and parts of articles and sections of such General Laws, which, in its judgment, are repealed by Section 1 of this Act. Such list giving the construction of the Supreme Court as to the General Laws and parts of laws repealed by Section 1 shall constitute, and have the same weight and effect, as any other decision of the Supreme Court.

Rules to be Published with Supreme Court Reports

Sec. 4. Such rules shall be published in the official reports of the Supreme Court; and the Supreme Court is authorized to adopt such method as it may deem expedient for the printing and distributing of such rules.

Severability of this Act

Sec. 5. If any sentence, paragraph or section of this Act shall be held invalid or unconstitutional, such holding shall not invalidate any other sentence, paragraph or section hereof, and the Legislature hereby expressly declares that it would have passed such remaining sentences, paragraphs, and sections despite such invalidity.

[Acts 1939, 46th Leg., p. 201.]

Art. 1732. Jurisdictional Facts

It shall have the power upon affidavit or otherwise, as the Court may determine, to as-

certain such matters of fact as may be necessary to the proper exercise of its jurisdiction. [Acts 1925, S.B. 84.]

Art. 1733. May Issue Writs

The Supreme Court or any Justice thereof, shall have power to issue writs of procedendo, certiorari and all writs of quo warranto or mandamus agreeable to the principles of law regulating such writs, against any district judge, or Court of Civil Appeals or judges thereof, or any officer of the State Government, except the Governor.

[Acts 1925, S.B. 84.]

Art. 1734. May Issue Mandamus, etc.

Said Court or any judge thereof in vacation may issue the writ of mandamus to compel a judge of the district court to proceed to trial and judgment in a cause agreeably to the principles and usages of law, returnable to the Supreme Court on or before the first day of the term, or during the session of the same, or before any judge of the said Court as the nature of the case may require.

[Acts 1925, S.B. 84.]

Art. 1735. To Issue Only by Supreme Court

The Supreme Court only shall have power, authority or jurisdiction to issue the writ of mandamus or injunction or any other mandatory or compulsory writ or process against any of the officers of the executive departments of the government of this state and also the Board of County and District Road Indebtedness to order or compel the performance of any act or duty which, by the laws of this state, they, or either of them, are authorized to perform, whether such act or duty be judicial, ministerial or discretionary.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 354, ch. 232, § 1.]

Art. 1735a. Mandamus in Connection with Elections and Political Party Conventions

The Supreme Court or any court of civil appeals shall have jurisdiction and authority to issue the writ of mandamus, or any other mandatory or compulsory writ or process, against any public officer or officer of a political party, or any judge or clerk of an election, to compel the performance, in accordance with the laws of this state, of any duty imposed upon them, respectively, by law, in connection with the holding of any general, special, or primary election or any convention of a political party. Any proceeding seeking to obtain such a writ shall be conducted in accordance with the rules pertaining to original proceedings in the court wherein the petition is filed. When presented to a court of civil appeals, any petition pertaining to an election on an office or proposition which is voted on by the voters of the entire state shall be presented to the court of the supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one, and any petition pertaining to an election on an office or

proposition which is voted on by the voters of only a portion of the state shall be presented to the court of a supreme judicial district in which the territory covered by the election or a portion thereof is located. A petition presented to a court of civil appeals which pertains to a precinct or county convention shall be presented to the court of the supreme judicial district in which the precinct or county is located; a petition pertaining to a district convention shall be presented to the court of a supreme judicial district in which the district or a portion thereof is located; and a petition pertaining to a state convention shall be presented to the court of a supreme judicial district in which the respondent resides, or in which one of the respondents resides, if there is more than one.

[Acts 1930, 41st Leg., 4th C.S., p. 4, ch. 4, § 1; Acts 1967, 60th Leg., p. 1932, ch. 723, § 76, eff. Aug. 28, 1967.]

Art. 1736. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

Art. 1737. Habeas Corpus

The Supreme Court or any of the Justices thereof, either in term time or in vacation, may issue writs of habeas corpus in any case where any person is restrained in his liberty by virtue of any order, process or commitment issued by any court or judge on account of the violation of any order, judgment or decree theretofore made, rendered or entered by such court or judge in any civil cause. Said Court or any Justice thereof, either in term time or in vacation, pending the hearing of application for such writ, may admit to bail any person to whom the writ of habeas corpus may be so granted.

[Acts 1925, S.B. 84.]

Art. 1738. Transfer of Causes

The Supreme Court may, at any time, order cases transferred from one Court of Civil Appeals to another, when, in the opinion of the Supreme Court, there is good cause for such transfer. And the Courts of Civil Appeals to which such cases shall be transferred shall have jurisdiction over all such cases so transferred, without regard to the District in which the cases were originally tried and returnable upon appeal. Provided that the Justices of the Court to which such cases are transferred shall, after due notice to the parties or their counsel, hear oral argument on such cases at the place from which the cases have been originally transferred. Provided further, that there shall be but one sitting for oral argument at the place from which cases are transferred for each equalization, and all cases so transferred at any one equalization must be orally argued at such sitting, or at the regular place of sitting of the Court to which said cases are transferred. All opinions, orders and decisions in such transferred cases shall be delivered, entered and rendered at the place where the

Court to which such cases are transferred regularly sits as the law provides. The actual and necessary travelling and living expenses of the Justices of said Courts in hearing oral arguments at the place from which such cases are transferred shall be borne by the state, and for payment thereof the Legislature shall make appropriation.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 115, ch. 76, § 1; Acts 1927, 40th Leg., 1st C.S., p. 148, ch. 51, § 1; Acts 1933, 43rd Leg., p. 380, ch. 151, § 1; Acts 1941, 47th Leg., p. 762, ch. 476, § 1; Acts 1963, 58th Leg., p. 10, ch. 8, § 1, eff. Aug. 23, 1963.]

Art. 1738a. Direct Appeals in Injunction Cases Involving Validity of Statute or Administrative Order

From and after January 1, 1944, appeals may be taken direct to the Supreme Court of this State from any order of any trial court granting or denying an interlocutory or permanent injunction on the ground of the constitutionality or unconstitutionality of any statute of this State, or on the ground of the validity or invalidity of any administrative order issued by any State Board or Commission under any statute of this State. It shall be the duty of the Supreme Court of this State to prescribe the necessary rules of procedure to be followed in perfecting such an appeal.

[Acts 1943, 48th Leg., p. 14, ch. 14, § 1.]

CHAPTER FOUR. WRIT OF ERROR

Article

1739 to 1747. Repealed.

1748. Designation of Civil Appeals Justices.

1749. Justices to Assemble.

1750. Effect of Granting or Denying Writ.

1751. Disqualification of Justice.

1752. Supreme Court May Also Act.

1753. Powers.

1754. Expenses of Designated Justices.

Arts. 1739 to 1747. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1748. Designation of Civil Appeals Justices

The Chief Justice of the Supreme Court or any two Justices thereof may, by a writing recorded in the minutes of the Supreme Court, designate three of the Justices of the Courts of Civil Appeals to act as hereinafter provided. Such powers may be exercised from time to time in the same manner as long as reason therefor may exist, and the personnel of the designated Justices of the Courts of Civil Appeals may be changed as often as may be advisable, by relieving one, or more, and designating another, or others, in order to interfere as little as possible with the work of the Courts of Civil Appeals. Not more than one Justice shall be designated to serve at any one time from any one of these courts.

[Acts 1925, S.B. 84.]

Art. 1749. Justices to Assemble

The Justices of the Courts of Civil Appeals so designated, upon receiving notice thereof, shall assemble together at the State Capitol and take up, consider and act upon applications for writs of error as may be so referred to them, by granting, refusing or dismissing the same in accordance with the practice of the Supreme Court; and then such designated Justices may make such orders and give such directions, incidental to the consideration and disposition of the application.

[Acts 1925, S.B. 84.]

Art. 1750. Effect of Granting or Denying Writ

The granting of an application shall admit the cause into the Supreme Court to be proceeded with by the Court as provided by law. The refusal or dismissal of an application shall have the effect of denying the admission of the cause into the Supreme Court, except that motions for rehearing may be made to such designated Justices in the same way as such motions to the Supreme Court have been heretofore allowed. The refusal or dismissal of any application shall not be regarded as a precedent or authority.

[Acts 1925, S.B. 84.]

Art. 1751. Disqualification of Justice

No one of such Justices shall participate in acting upon an application in a cause decided during his incumbency by the court of which he is a member.

[Acts 1925, S.B. 84.]

Art. 1752. Supreme Court May Also Act

The Supreme Court shall still have power to act upon applications for writs of error, when deemed by it expedient. In any cause in which the Judges of the Courts of Civil Appeals shall have disagreed or shall have declared void a statute of the State, the application for writ of error shall be passed upon by the Supreme Court.

[Acts 1925, S.B. 84.]

Art. 1753. Powers

The powers herein conferred upon the Justices of the Supreme Court and of the Courts of Civil Appeals are declared to be incidental to the offices held by them respectively.

[Acts 1925, S.B. 84.]

Art. 1754. Expenses of Designated Justices

Such designated Justices shall have all actual and necessary expenses incurred in the discharge of such additional duties, paid out of the State Treasury from warrants drawn by the Comptroller, upon itemized accounts of such expenses, verified by the affidavit of the claimant.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. PROCEEDINGS IN THE SUPREME COURT

Article

1755 to 1759. Repealed.
1760. Death of Parties No Abatement.
1761 to 1765. Repealed.

Arts. 1755 to 1759. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1760. Death of Parties No Abatement

If any party to the record in a cause pending in the Supreme Court dies after the writ of error has been served and before such cause has been decided by the Supreme Court, such cause shall not abate by such death; but the court shall proceed to adjudicate such cause and render judgment therein as if all the parties thereto were living, and such judgment shall have the same force and effect as if rendered in the life time of all the parties thereto.

[Acts 1925, S.B. 84.]

Arts. 1761 to 1765. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. JUDGMENT

Arts. 1766 to 1780. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SEVEN. COMMISSION OF APPEALS

Article

1781 to 1800. Expired or Repealed.
1800a. Appointment of Members of Commission of Appeals; Salaries.

Arts. 1781 to 1788. Expired

Arts. 1789 to 1791. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Arts. 1792 to 1798. Expired

Art. 1799. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1800. Expired

Art. 1800a. Appointment of Members of Commission of Appeals; Salaries

Composition; Qualifications; Duties; Salaries

Sec. 1. The Supreme Court of this State is hereby authorized to appoint a Commission, to be composed of six attorneys at law, having those qualifications fixed by the laws and Constitution of this State for the judges of the Supreme Court of Texas, which Commission shall be for the aid and assistance of said court in disposing of the business before it; and such Commission shall discharge such duties as may be assigned it by said Court. Each member of

said Commission shall receive for his services the same salary, paid in the same manner as are the salaries of the members of the present Commission of Appeals.

Present Members Continued Until Expiration of Terms; Appointments by Supreme Court

Sec. 2. The present members of the Commission of Appeals shall continue in office until the expiration of the terms for which each of them has been appointed. Upon the expiration of the terms of office of the present members of the Commission of Appeals the Supreme Court of this State shall appoint six Commissioners hereinbefore provided for, two of whom shall serve for a period of two years, two for four years and two for six years from the date of their appointment, such terms to be designated by the Supreme Court, and thereafter the Supreme Court shall every two years appoint two Commissioners whose terms of office shall be for a period of six years.

Vacancy Filled by Supreme Court

Sec. 3. In case of a vacancy on said Commission of Appeals by the death, resignation or removal of any member thereof, it shall be the duty of the Supreme Court to fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office had been appointed.

Supreme Court to Prescribe Rules and Regulations and Adopt Opinions

Sec. 4. The Commission of Appeals shall hear the submission of causes under such rules and regulations as may be prescribed by the Supreme Court and such court may adopt the opinion prepared by any member of the said Commission and make the same the judgment of the Supreme Court.

Hearing Applications for Writs of Error

Sec. 5. Two of said Commissioners designated by the Supreme Court acting with one member of the Supreme Court shall be authorized to pass upon all applications for writs of error presented from the Courts of Civil Appeals, and the action of said two Commissioners and one member of the Supreme Court in passing upon such applications shall be given the same force and effect as if the same were passed upon by the Supreme Court; provided, upon any application in which the three judges are not unanimous, the same shall be determined by the Supreme Court.

Additional Costs

Sec. 6. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Vernon's Texas Rules of Civil Procedure, Rule 519 (Repealed, effective Feb. 1, 1946).

Term and Place of Sessions

Sec. 7. The Commission shall hold its sessions in Austin at the same time and place as the Supreme Court, but it shall continue work during the vacation of the Supreme Court in

midsummer. The judges of the Commission may take a vacation, not to exceed eight weeks during said period.

Stenographers; Salaries

Sec. 8. The Commission shall appoint stenographers not exceeding four, each of whom shall receive an annual salary not to exceed Fifteen Hundred Dollars, to be paid in monthly installments, on warrants approved by the Chief Justice of the Supreme Court.

Additional Compensation of Clerk of Supreme Court

Sec. 9. The Clerk of the Supreme Court shall perform the duties of clerk of said Commission and shall be allowed for services rendered to said Commission by him and his deputies, an additional compensation of Fifteen Hundred Dollars per annum, to be paid out of the fees of his office.

Seal

Sec. 10. Said Commission of Appeals shall have a seal, being a star with five points and the words "Commission of Appeals of the State of Texas" around the same.

Dockets; Certiorari; Procedure

Sec. 11. Regular dockets and minutes of all proceedings by or before said Commission of Appeals shall be kept and the records and proceedings of courts of record and all cases shall be docketed in the order in which they are transferred or referred by the Supreme Court. Said Commission shall have the right to issue writs of certiorari to perfect the record, and such process as the Supreme Court might issue to make parties, and shall have power to pun-

ish for contempt. All laws and rules regulating practice and procedure in the Supreme Court shall be of force in the practice and proceedings of the Commission of Appeals so far as applicable. It is the intention of this Act to make more elastic the operation of the Commission of Appeals in order to expedite the disposition of causes in the Supreme Court and the Supreme Court is given full authority to assign such duties to the Commission of Appeals or the members thereof as it may deem proper in order to facilitate the dispatch of business before the Supreme Court.

Salaries of Commissioners and Clerical Help

Sec. 12. The salaries of the six Commissioners, stenographers, porters, clerical help and other expenses essential to carry on the work of the Commission of Appeals shall be paid out of the appropriation made to take care of the salaries and expenses of the present Commission as it now exists.

[Acts 1930, 41st Leg., 5th C.S., p. 112, ch. 2.]

Abolition

Const. art. 5, § 2, as amended Aug. 25, 1945, in effect, abolished the Commission of Appeals and provided that the "judges of the Commission of Appeals who may be in office at the time this amendment takes effect shall become Associate Justices of the Supreme Court and each shall continue in office as such Associate Justice of the Supreme Court until January 1st next preceding the expiration of the term to which he has been appointed and until his successor shall be elected and qualified."

TITLE 38

COURT OF CRIMINAL APPEALS

Article

- 1801. Judges.
- 1802. Presiding Judge.
- 1803. Disqualification of Judge.
- 1804. Term of Court.
- 1805. Seal of Court.
- 1806. May Ascertain Facts.
- 1807. Mandate.
- 1808. Clerk.
- 1809. Deputy Clerk.
- 1810. Reporter and Reports.
- 1811. State Prosecuting Attorneys.
- 1811a, 1811b. Repealed.
- 1811bb. Vacancy Filled by Court of Criminal Appeals.
- 1811c, 1811d. Repealed.
- 1811e. Appointment of Commissioners and Commission of Court of Criminal Appeals.

Art. 1801. Judges

The Court of Criminal Appeals shall consist of three judges, two of whom shall be a quorum. The concurrence of two judges shall be necessary to a decision of said court. Said judges shall have the same qualifications as judges of the Supreme Court. At each biennial general election one judge for said court shall be elected for a term of six years, the division into classes to remain as now provided by law.

[Acts 1925, S.B. 84.]

Number of Judges

Const. art. 5, § 4 was amended in November 1966, to provide for a Court of Criminal Appeals of five judges.

Art. 1802. Presiding Judge

The judges of said court shall choose a presiding judge from their number at such times as they deem proper. All writs and processes issuing from said court shall bear test in the name of said presiding judge and the seal of the court.

[Acts 1925, S.B. 84.]

Art. 1803. Disqualification of Judge

When any member thereof shall be disqualified under the Constitution and laws of this State to hear and determine any case in said court, the same shall be certified to the Governor who shall immediately commission a person learned in the law to act instead.

[Acts 1925, S.B. 84.]

Art. 1804. Term of Court

Said court shall hold one term each year at the city of Austin, commencing on the first Monday in October of each year, and shall continue until the last Saturday in June next succeeding.

[Acts 1925, S.B. 84.]

Extension of Term

Const. art. 5, § 5 was amended in 1966 to extend the term of court from the last Saturday of June in each year to the last Saturday in September in each year.

Art. 1805. Seal of Court

The court shall use a seal having thereon a star with five points with the words, "Court of Criminal Appeals of Texas" engraved thereon.

[Acts 1925, S.B. 84.]

Art. 1806. May Ascertain Facts

Said court shall have power upon affidavit or otherwise to ascertain such matters of fact as may be necessary to the exercise of its jurisdiction.

[Acts 1925, S.B. 84.]

Art. 1807. Mandate

When the court from which an appeal has or may be taken has been or shall be deprived of jurisdiction over any case pending such appeal, and when such case has or may be determined by the Court of Criminal Appeals, the mandate of said appellate court shall be directed to the court to which jurisdiction has been, or may be, given over such case.

[Acts 1925, S.B. 84.]

Art. 1808. Clerk

Said court shall appoint a clerk for said court, who shall:

1. Hold his office for four years unless sooner removed by the court for good cause, entered in its minutes.

2. Take and subscribe the official oath and give the same bond to be approved by said court as may be required of the clerk of the Supreme Court.

3. Perform as such clerk the like duties and be subject to the same liabilities as may be required of or prescribed for the clerk of the Supreme Court.

[Acts 1925, S.B. 84.]

Art. 1809. Deputy Clerk

The court, or such clerk with the approval of the court, may designate any stenographer employed by said court to act as deputy clerk during the absence, illness or disability of said clerk. Such stenographer shall receive no extra compensation for such services, and shall discharge the duties of the clerk in the name of his principal as deputy clerk, signing his name after that of said principal as deputy clerk.

[Acts 1925, S.B. 84.]

Art. 1810. Reporter and Reports

Said court shall appoint a reporter of such of its decisions as the law requires to be published, and may remove him for inefficiency or neglect of duty. The clerk shall deliver to the reporter the original opinions when recorded and the record in each case to be reported, taking receipt therefor, and the reporter shall return them when he finishes using them. The volumes of such decisions shall be numbered in continuation of the present reports, styled Texas Criminal Reports, and be printed and disposed of in like manner as the reports of the Supreme Court.

[Acts 1925, S.B. 84.]

Art. 1811. State Prosecuting Attorneys

The Court of Criminal Appeals shall appoint an attorney to represent the State in all proceedings before said Court, to be styled "State Prosecuting Attorney," who shall take and subscribe the official oath, hold office for a term of two (2) years and until his successor is appointed and qualified, and who shall have had at least five (5) years experience as a practicing attorney in this State in criminal cases. The State Prosecuting Attorney may also appoint one or more Assistant State Prosecuting Attorneys. Assistant State Prosecuting Attorneys shall have the same qualifications, the same duties, and the same term of office as the State Prosecuting Attorney. For good cause, the Court of Criminal Appeals shall have power to remove from office State Prosecuting Attorneys.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 234, ch. 139, § 1; Acts 1973, 63rd Leg., p. 1328, ch. 498, § 1, eff. June 14, 1973.]

Arts. 1811a, 1811b. Repealed by Acts 1971, 62nd Leg., p. 1647, ch. 462, § 3, eff. May 27, 1971

The subject matter of these articles is now covered by article 1811e.

Art. 1811bb. Vacancy Filled by Court of Criminal Appeals

In case of a vacancy on said Commission in aid of the Court of Criminal Appeals of Texas by the death, resignation, or removal of any member thereof, it shall be the duty of the Court of Criminal Appeals to fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office has been appointed.

[Acts 1934, 43rd Leg., 3rd C.S., p. 14, ch. 9, § 3.]

Arts. 1811c, 1811d. Repealed by Acts 1971, 62nd Leg., p. 1647, ch. 462, § 3, eff. May 27, 1971

The subject matter of these articles is now covered by article 1811e.

Art. 1811e. Appointment of Commissioners and Commission of Court of Criminal Appeals

Sec. 1. (a) The presiding judge of the Court of Criminal Appeals may, with the con-

currence of a majority of the judges of the Court of Criminal Appeals, designate and appoint a retired appellate judge or district judge who has consented to be subject to appointment, or an active appellate judge or district judge, to sit as a commissioner of the Court of Criminal Appeals, with the designated judge's consent. The presiding judge of the Court of Criminal Appeals may designate and appoint as many commissioners as he deems necessary to aid and assist the court in disposing of the business before it.

(b) A commissioner shall discharge the duties which may be assigned him by the court and may be appointed to serve either for a certain period of time or for a particular case or cases.

(c) All opinions of the commissioner shall be submitted to the Court of Criminal Appeals and shall receive the approval of the court, or a majority of the court. When approved by the court, the opinion shall have the same weight and legal effect as if prepared by the Court of Criminal Appeals of Texas.

(d) The compensation of a judge while sitting as a commissioner of the court shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount equal to the salary of the judges of the Court of Criminal Appeals, in lieu of retirement allowance or in lieu of the compensation he receives as an active judge of another court. A judge sitting as a commissioner of the court also shall receive his actual travel expense to and from Austin, Texas, and per diem of \$25 per day while he is assigned to the Court of Criminal Appeals in Austin.

Sec. 1a. (a) In addition to the authority granted under the provisions of Section 1 of this Act, the Court of Criminal Appeals of this State may appoint a Commission to be composed of two attorneys-at-law, having those qualifications fixed by the laws and Constitution of this State for the Judges of the Court of Criminal Appeals of Texas, which Commission shall be for the aid and assistance of said Court in disposing of the business before it; and such Commission shall discharge such duties as may be assigned it by the said Court. On September 1, 1971, and thereafter every two years, the Court of Criminal Appeals may appoint two Commissioners for terms of two years each. Each member of said Commission shall receive for his services such salary as is now or may hereafter be provided by law. Two stenographers for said Commission shall be appointed by the court.

(b) In case of a vacancy on said Commission in aid of the Court of Criminal Appeals of Texas by the death, resignation, or removal of any member thereof, the Court of Criminal Appeals may fill the same by appointment, and the person so appointed shall continue in office for the unexpired portion of the term for which the Commissioner so vacating his office has been appointed.

(c) All opinions of said Commissioners shall be submitted to the Court of Criminal Appeals and shall receive the approval of said Court, or a majority of them, before handed down as opinions of said Court, and when so approved and handed down, shall have the same weight and legal effect as if originally prepared and handed down by said Court of Criminal Appeals of Texas.

[Acts 1971, 62nd Leg., p. 1646, ch. 462, § 1, eff. May 27, 1971; Acts 1971, 62nd Leg., 1st C.S., p. 14, ch. 2, § 1, eff. Sept. 3, 1971.]

TITLE 39

COURTS OF CIVIL APPEALS

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CHAPTER ONE. TERMS AND JURISDICTION

Article
1812. Three Justices.
1813. Election and Term of Office; Special Commissioner Appointed When Justice Disabled or Called into Active Military Service.
1814. Qualifications of Judges.
1815. Special Judge.
1816. Terms of Court.
1817. Location of Courts.
1817a. First and Fourteenth Judicial Districts, Places Where Business Transacted: Dockets Equalized.
1818. Adjournment.
1819. Jurisdiction Defined.
1820. Judgment Conclusive on Facts.
1821. Judgment Conclusive on Law.
1822. Inquiry into Jurisdiction.
1823. Writs of Mandamus, etc.
1824. May Mandamus District Courts.
1824a. May Issue Writs of Habeas Corpus.
1825, 1826. Repealed.

Art. 1812. Three Justices

Each Court of Civil Appeals shall consist of a Chief Justice and two Associate Justices. A majority shall be a quorum for the transaction of business, and the concurrence of two Justices shall be necessary to a decision.

[Acts 1925, S.B. 84.]

Art. 1813. Election and Term of Office; Special Commissioner Appointed When Justice Disabled or Called into Active Military Service

(a) The Justices of each Court of Civil Appeals shall be elected at the general election by the qualified voters of their respective districts. Upon their qualification, after the first election after the creation of any Court of Civil Appeals, the Justices shall draw lots for the terms of office; those drawing number one (1) shall hold for the term of two (2) years; those drawing number two (2) shall hold for a term of four (4) years; and those drawing number three (3) shall hold office for six (6) years. Each of said offices shall be filled by election at the next general election before the respective terms expire; and the person elected

shall thereafter hold his office for six (6) years.

(b) After any Justice of any Court of Civil Appeals has become totally disabled to discharge any of the duties of his office, by reason of illness, physical or mental, and has remained in such condition continuously for a period of not less than one (1) year, and if it is probable that such illness will be permanent, and is of such a nature that it will probably continue to incapacitate such Justice for the balance of his term of office, it shall be the duty of the other two Justices of the Court of which such incapacitated Justice is a member to certify such facts to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(c) The Commissioner herein provided for, when appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Civil Appeals, and he shall serve until the death or expiration of the term of the disabled member; provided that in no event shall the term of service continue for a longer time than two (2) years under the same appointment; and provided further, that in the event the disabled Justice shall recover from his disability, the term of such Special Commissioner shall immediately end. In the event of such recovery two (2) Justices of said Court shall certify such fact to the Governor, and such certificate shall be conclusive evidence of the recovery of said disabled Justice.

(d) Whenever any Justice of any Court of Civil Appeals is called or ordered into the active military service of the United States, it shall be the duty of the other two Justices of the Court of which such Justice is a member, to certify that fact to the Governor. Upon receipt of such certificate by the Governor, he shall make proper investigation touching the matters therein contained, and if he shall determine that the facts contained in such certificate are true, and that a necessity exists therefor, he shall forthwith appoint a Special Commissioner having the requisite qualifications of a member of such Court to assist the same. Such Special Commissioner, when so

appointed, may sit with such Court, hear arguments on submitted cases, and write opinions thereon if directed to do so by the Court; and said opinions, if adopted by the Court, shall become thereupon the opinions of the Court.

(e) Such Special Commissioner, when so appointed by the Governor, shall receive the same compensation as the regular Justices of the Court of Civil Appeals, and shall serve until the Justice who has been so called or ordered into the active military service of the United States is discharged from such military service, or until the expiration of the term of office of such Justice; provided that in no event shall the term of service of such Special Commissioner continue for a longer period than two (2) years under the same appointment; and provided further that when such Justice so called or ordered into the active military service of the United States is discharged from such active military service, the term of such Special Commissioner shall immediately end. When the active military service of such Justice shall have terminated, the other two Justices of such Court of Civil Appeals shall certify that fact to the Governor, and their certificate shall be conclusive evidence of the facts so certified.

(f) Nothing in this Act shall be considered as giving any two (2) members of any Court of Civil Appeals, or the Governor, the power or authority to remove or suspend any member of the Court of Civil Appeals from office, or to in any manner interfere with him in his Constitutional rights and powers.

[Acts 1925, S.B. 84; Acts 1936, 44th Leg., 3rd C.S. p. 2108, ch. 509, § 1; Acts 1937, 45th Leg., p. 297, ch. 154, § 1; Acts 1941, 47th Leg., p. 170, ch. 123, § 1.]

Art. 1814. Qualifications of Judges

No person shall be eligible to the office of Justice of a Court of Civil Appeals, unless he be at the time of his election thirty years of age or over, a resident of the district from which he is elected, and has been a practicing lawyer or a judge of a court of this State, or such lawyer and judge together, at least seven years.

[Acts 1925, S.B. 84.]

Art. 1815. Special Judge

If all or any two members of any Court of Civil Appeals shall be disqualified to determine any cause in such court, that fact shall be certified to the Governor, who shall immediately commission the requisite number of persons, learned in the law, to try and determine said cause.

[Acts 1925, S.B. 84.]

Art. 1816. Terms of Court

The term of each Court of Civil Appeals of the State of Texas shall begin on the first Monday in October of each year and shall continue in session until the first Monday in October the next succeeding year; provided that the Justices of each of said Courts shall be

permitted to take a vacation of eight weeks during each year at such time as the Court may fix, during which period the Court shall not be adjourned but shall be in recess and may be called together by the Chief Justice or by the two Associate Justices in case business requiring immediate disposal should arise.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 120, ch. 79, § 1; Acts 1927, 40th Leg., 1st C.S., p. 147, ch. 50, § 1.]

Art. 1817. Location of Courts

A Court of Civil Appeals shall be held at the following places, respectively:

1. In the First Supreme Judicial District, in the city of Houston;
2. In the Second Supreme Judicial District, in the city of Fort Worth;
3. In the Third Supreme Judicial District, in the city of Austin;
4. In the Fourth Supreme Judicial District, in the city of San Antonio;
5. In the Fifth Supreme Judicial District, in the city of Dallas;
6. In the Sixth Supreme Judicial District, in the city of Texarkana;
7. In the Seventh Supreme Judicial District, in the city of Amarillo;
8. In the Eighth Supreme Judicial District, in the city of El Paso;
9. In the Ninth Supreme Judicial District, in the city of Beaumont;
10. In the Tenth Supreme Judicial District, in the city of Waco;
11. In the Eleventh Supreme Judicial District, in the city of Eastland;
12. In the Twelfth Supreme Judicial District, in the city of Tyler;
13. In the Thirteenth Supreme Judicial District, in the city of Corpus Christi; and
14. In the Fourteenth Supreme Judicial District, in the city of Houston.

The cities of Beaumont, Waco, and Eastland, respectively, shall furnish and equip suitable rooms for the respective Courts of Civil Appeals therein, and the justices thereof, and the County of Harris shall furnish and equip suitable rooms in Houston for the Courts of Civil Appeals for the First and Fourteenth Supreme Judicial Districts, and for the justices thereof, all without cost or expense to the state. The city of Tyler and Smith County and the city of Corpus Christi and Nueces County, respectively, shall furnish and equip suitable rooms and a library for the respective Courts of Civil Appeals located therein, and for the justices thereof, all without cost or expense to the state.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., p. 1263, ch. 421, § 1; Acts 1963, 58th Leg., p. 539, ch. 198, § 2; Acts 1967, 60th Leg., p. 1953, ch. 728, § 2, eff. Sept. 1, 1967.]

Art. 1817a. First and Fourteenth Judicial Districts, Places Where Business Transacted: Dockets Equalized

From and after the passage of this Act, the Courts of Civil Appeals for the First and the Fourteenth Supreme Judicial Districts may transact their business either at the city of Galveston or the city of Houston, as the court shall determine it necessary and convenient; providing, that all cases originating in Galveston County may be heard and tried in such county. Subject to the provisions of Article 1738, Revised Civil Statutes of Texas, 1925, as amended, the clerks of the First and the Fourteenth Supreme Judicial Districts shall also from time to time equalize by lot or chance the dockets of the two courts.

[Acts 1957, 55th Leg., p. 1263, ch. 421, § 2; Acts 1967, 60th Leg., p. 1954, ch. 728, § 3, eff. Sept. 1, 1967.]

Acts 1967, 60th Leg., p. 1952, ch. 728, §§ 1, 2 amended articles 198 and 1817; sections 4 to 6 of the act provided:

"Sec. 4. (a) On or before the 10th day after this Act takes effect, the Governor shall, by and with the consent of the Senate if in session, appoint one chief and two associate justices for the Fourteenth Supreme Judicial District.

"(b) To be eligible for appointment to the court, a person must possess the qualifications prescribed by Article 1814, Revised Civil Statutes of Texas, 1925.

"(c) The justices appointed hold their offices until the next general election at which justices shall be elected and qualify in accordance with Article 1813, Revised Civil Statutes of Texas, 1925, as amended.

"Sec. 5. The following sums or as much of them as may be necessary for the objectives and purposes shown are appropriated from the General Revenue Fund for the expenses of the Fourteenth Supreme Judicial District for the fiscal year ending August 31, 1968.

Fourteenth District, Houston	
Personal Services—	
1. Judges, 3 at \$24,000	\$72,000
2. Clerk	10,000
3. Deputy Clerk	5,616
4. Stenographer III	5,616
	<hr/>
Subtotal, Personal Services	\$93,232
5. Consumable supplies and materials, current and recurring operating expenses (excluding travel expense), and capital outlay	3,400
	<hr/>
Total, Fourteenth District, Houston	\$96,632
	<hr/>

"Sec. 6. This Act takes effect on September 1, 1967."

Art. 1818. Adjournment

Such courts may adjourn from day to day or for such time as they may deem proper. If a quorum is not present at the first or any day of the term, any judge of the court or the bailiff thereof may adjourn the court from time to time until a quorum shall be in attendance, but the court shall not be finally adjourned for the term.

[Acts 1925, S.B. 84.]

Art. 1819. Jurisdiction Defined

The appellate jurisdiction of the Courts of Civil Appeals shall extend to all civil cases within the limits of their respective districts of which the District Courts and County Courts have or assume jurisdiction with the amount in controversy or the judgment rendered shall exceed One Hundred Dollars (\$100) exclusive of interest and costs; provided, however, that if any Court of Civil Appeals having jurisdiction

of a cause, matter or controversy requiring immediate action shall, by reason of the illness or absence or unavailability of at least two (2) of the Judges thereof, be unable to take such immediate action, then the nearest available Court of Civil Appeals may take such action as may be required in regard to said cause, matter or controversy under such rules as the Supreme Court may prescribe.

[Acts 1957, 55th Leg., p. 1279, ch. 426, § 1.]

Art. 1820. Judgment Conclusive on Facts

The judgments of the Courts of Civil Appeals shall be conclusive in all cases on the facts of the case.

[Acts 1925, S.B. 84.]

Art. 1821. Judgment Conclusive on Law

Except as herein otherwise provided, the judgments of the Courts of Civil Appeals shall be conclusive on the law and facts, nor shall a writ of error be allowed thereto from the Supreme Court in the following cases, to wit:

1. Any civil case appealed from the County Court or from a District Court, when, under the Constitution a County Court would have had original or appellate jurisdiction to try it, except in probate matters, and in cases involving the Revenue Laws of the State or the validity or construction of a Statute.
2. All cases of slander.
3. All cases of divorce.
4. All cases of contested elections of every character other than for State officers, except where the validity of a Statute is questioned by the decision.
5. In all appeals from interlocutory orders appointing receivers or trustees, or such other interlocutory appeals as may be allowed by law.
6. In all other cases as to law and facts except where appellate jurisdiction is given to the Supreme Court and not made final in said Courts of Civil Appeals.

It is provided, however, that nothing contained herein shall be construed to deprive the Supreme Court of jurisdiction of any case brought to the Court of Civil Appeals from an appealable judgment of the trial court in which the judges of the Courts of Civil Appeals may disagree upon any question of law material to the decision, or in which one of the Courts of Civil Appeals holds differently from a prior decision of another Court of Civil Appeals or of the Supreme Court upon a question of law, as provided for in Subdivisions (1) and (2) of Article 1728.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 68, ch. 33, § 1; Acts 1953, 53rd Leg., p. 1026, ch. 424, § 2.]

Art. 1822. Inquiry into Jurisdiction

Said courts shall have power, upon affidavit or otherwise as by the courts may be thought proper, to ascertain such matters of fact as

may be necessary to the proper exercise of their jurisdiction.

[Acts 1925, S.B. 84.]

Art. 1823. Writs of Mandamus, etc.

Said courts and the judges thereof may issue writs of mandamus and all other writs necessary to enforce the jurisdiction of said courts.

[Acts 1925, S.B. 84.]

Art. 1824. May Mandamus District Courts

Said Courts or any Judge thereof, in vacation, may issue the writ of Mandamus to compel a Judge of the District or County Court to proceed to trial and judgment in a cause, returnable as the nature of the case may require.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 68, ch. 33, § 1.]

Art. 1824a. May Issue Writs of Habeas Corpus

Whenever any person is restrained in his liberty within a supreme judicial district, the court of civil appeals of such district, or any of the justices thereof, shall have concurrent jurisdiction with the supreme court to issue the writ of habeas corpus whenever it appears that such restraint of liberty is by virtue of any order, process, or commitment issued by any court or judge on account of the violation of any order, judgment, or decree theretofore made, rendered, or entered by such court or judge in a divorce case, wife or child support case, or child custody case. Said court or any justice thereof, pending the hearing of application for such writ, may admit to bail any person to whom the writ of habeas corpus may be so granted.

[Acts 1969, 61st Leg., p. 249, ch. 96, § 1, eff. April 28, 1969.]

Art. 1825. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1826. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

CHAPTER TWO. CLERKS AND EMPLOYÉS

Article

- 1827. Appointment of Clerk.
- 1828. Bond.
- 1829. Removal.
- 1830. Seal of Court.
- 1831. Records and Judgments.
- 1832. Librarian.
- 1833. Deputy Clerks.
- 1834. Disposition of Costs.
- 1835. Report of Costs Collected.
- 1836. Stenographers.
- 1836a. Compensation of Clerk, Deputy and Stenographer.
- 1836b. Copy of Opinion to Clerk of Lower Court and Attorneys.
- 1836c. Appellate Court Opinions to be Furnished Trial Courts.

Art. 1827. Appointment of Clerk

Each Court of Civil Appeals shall appoint for a term of two years one Clerk who shall re-

side within a county which is a part of the Supreme Judicial District of the Court of Civil Appeals making the appointment. Such appointment shall be recorded in the minutes of the court. Whenever the necessity occurs, the court may appoint a Clerk Pro Tem.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1828. Bond

The clerk shall first make a bond for five thousand dollars payable to the Governor, conditioned for the faithful performance of the duties of his office, to be approved by any judge of his court.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1829. Removal

The clerk may be removed by the court for neglect of duty or malfeasance in office on motion specifying the particular charge preferred. In such case the court shall determine the law and the facts after having given such clerk ten days previous notice of the hearing.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1830. Seal of Court

Each clerk shall procure a seal for the use of the court, which shall have a star of five points with "Court of Civil Appeals of the State of Texas" engraved thereon.

[Acts 1925, S.B. 84; Acts 1957, 55th Leg., 2nd C.S., p. 173, ch. 16, § 1.]

Art. 1831. Records and Judgments

Each clerk shall file and carefully preserve all records certified to his court and all papers relative thereto; docket all causes in the order in which they are filed; record the proceedings of said court, except opinions, and certify their judgments to the proper courts. He shall annually have bound in one or more volumes, to be preserved as a permanent record, the original opinions of the judges of said court, shall number the pages thereof consecutively, prepare and attach to each volume an index showing the style, number and page where each opinion is found, also prepare a general index showing the volume and page where each opinion can be found; the expense of which shall be paid out of the fund provided by the Legislature for the purchase of record books for said court.

He may, after ascertaining that any case filed in said court has been finally disposed of for a period of ten years, destroy all records filed in said court in connection therewith except indexes, original opinions, and records of the minutes.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 540, ch. 263, § 1; Acts 1971, 62nd Leg., p. 2350, ch. 713, § 1, eff. June 8, 1971.]

Art. 1832. Librarian

Each clerk shall be librarian in charge of the library of his court, and shall take charge of,

keep in good order and make catalogs of the books thereof.

[Acts 1925, S.B. 84.]

Art. 1833. Deputy Clerks

Each clerk may appoint one chief deputy. With the approval of the court he may appoint additional deputies who shall be paid out of the fees collected by the clerk, not to exceed one hundred dollars a month. Each deputy shall give bond to the clerk for the faithful discharge of his duty.

[Acts 1925, S.B. 84.]

Art. 1834. Disposition of Costs

Each clerk of a Court of Civil Appeals shall collect and pay into the State Treasury all costs collected by him, under such regulations as the Comptroller may prescribe and the judges of said Court approve.

[Acts 1925, S.B. 84.]

Art. 1835. Report of Costs Collected

Each clerk shall, within ten days after the first day of January and July, make a sworn report to his court showing the amount of costs collected by him during the previous six months, the causes in which the same were collected, and the disposition made of such costs. This report shall be filed and recorded in the minutes of said court.

[Acts 1925, S.B. 84.]

Art. 1836. Stenographers

Each court may appoint one stenographer who shall be sworn to keep secret all matters which may come to his knowledge as such stenographer, and who shall give bond for two thousand dollars payable to the State of Texas, conditioned for the faithful performance of his duties, to be approved by the Chief Justice of said Court.

[Acts 1925, S.B. 84.]

Art. 1836a. Compensation of Clerk, Deputy and Stenographer

Additional Compensation to Clerk or Deputy

Sec. 1. Each clerk of a Court of Civil Appeals, and clerk of the Court of Criminal Appeals, each chief deputy clerk, and each stenographer in the office of any such clerk shall receive such compensation, in addition to the salary prescribed by law, as the court may allow, to be paid from fees collected by the clerk of said court, but in no event shall the salary plus the additional compensation exceed the following:

Clerk	\$4,000.00 per year
Chief Deputy Clerk	200.00 per month
Stenographer	1,800.00 per year

Provided, however, that the Clerk or Chief Deputy Clerk may be allowed by the Court for any year the Supreme Court directs, the transfers of cases from said Court to other Courts, as provided by law, additional compensation

for the extra services that may be rendered incidental to said transfer, a sum not exceeding \$300.00 per year to be paid monthly from the fees collected by the Clerk of said Court, who is hereby authorized to pay same if and when approved by the Court of Civil Appeals and the Court of Criminal Appeals. All fees collected by the clerk of said court, or said Chief Deputy Clerk, or stenographer in excess of said salaries shall be paid over to the State Treasurer for the General Revenue Fund.

Purchase of Law Books from Fees

Sec. 1-a. The Clerks of the Courts of Civil Appeals shall be and are hereby authorized to purchase additional law books for the use of said Courts out of the fees collected by said Courts; such expenditures shall not exceed annually the specific amounts of such fees additionally authorized for such purpose in the General Appropriation Acts of the Legislature made biennially for the support and maintenance of the Judiciary Department of the State Government. Provided, however, that all such fees collected by any clerk or other officer of any Court of Civil Appeals within this State shall be deposited in the State Treasury to the credit of the court so collecting and depositing same, and the expenditures out of said fund for the foregoing purposes shall be upon a warrant drawn upon the State Treasury by the State Comptroller, as may be provided for in the General Appropriation Bill for the Judiciary of this State.

[Acts 1929, 41st Leg., p. 233, ch. 98, § 1; Acts 1935, 44th Leg., p. 287, ch. 104, § 1.]

Art. 1836b. Copy of Opinion to Clerk of Lower Court and Attorneys

It shall be the duty of the Clerk of each Court of Civil Appeals, as soon as any opinion is rendered by the Court of Civil Appeals, to immediately mail free of charge, a copy of said opinion, to the clerk of the court from which the appeal was taken, one copy for appellant and one for appellee. The Clerk of the Court of Criminal Appeals shall upon the delivery of a decision furnish one copy of such opinion to the appellant's attorney and when requested by State Attorney one copy of opinion free of charge to him.

[Acts 1929, 41st Leg., p. 233, ch. 98, § 2.]

Partial Repeal

Repealed insofar as article relates to the Civil Appellate Courts, see Vernon's Texas Rules of Civil Procedure, Rule 456.

Art. 1836c. Appellate Court Opinions to be Furnished Trial Courts

Sec. 1. That hereinafter it shall be the duty of the Clerk of each of the Courts of Civil Appeals, the Court of Criminal Appeals, and the various Commissions of Appeals, and the Clerk of the Supreme Court, within three days after the rendition of a decision by such Court, to mail to the Judge before whom the case was tried in the Trial Courts, a legible and clear

copy of the opinion rendered by such Appellate Court.

Sec. 2. For such duty the Clerk of the Civil Appellate Courts shall receive a fee not to exceed \$1.00, which such fee shall be charged as costs in the Appellate Court.

[Acts 1930, 41st Leg., 4th C.S., p. 86, ch. 45.]

Partial Repeal

Repealed insofar as article relates to the Civil Appellate Courts, see Vernon's Texas Rules of Civil Procedure Rule 456.

CHAPTER THREE. PROCEEDINGS

Article

- 1837, 1838. Repealed.
- 1839. Time to File Transcript.
- 1840. Repealed.
- 1840-A. Amendment of Appeal Bonds.
- 1841 to 1849. Repealed.
- 1850. Death Does Not Abate.

Arts. 1837, 1838. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1839. Time to File Transcript

In appeal or writ of error the appellant or plaintiff in error shall file the transcript and statement of facts with the Clerk of the Court of Civil Appeals within sixty (60) days from the final judgment or order overruling motion for new trial, or service of the writ of error; provided, by motion filed before, at, or within a reasonable time, not exceeding fifteen (15) days, after the expiration of such sixty-day period, showing good cause to have existed within such sixty-day period, why said transcript and statement of facts could not be so filed, the Court of Civil Appeals may permit the same to be thereafter filed upon such terms as it shall prescribe.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 100, ch. 66; Acts 1933, 43rd Leg., p. 142, ch. 67; Acts 1939, 46th Leg., p. 58, § 1.]

Art. 1840. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1840-A. Amendment of Appeal Bonds

When an appeal has been or shall be taken from the judgment of any of the courts of this State by filing a bond or entering into a recognizance within the time prescribed by law in such cases, and it shall be determined by the court to which appeal is taken that such bond or recognizance is defective in form or substance; such Appellate Court may allow the appellant to amend such bond or recognizance by filing a new bond on such terms as the court may prescribe.

[Acts 1931, 42nd Leg., p. 315, ch. 187, § 1.]

Partial Repeal

Repealed insofar as article relates to the Civil Appellate Courts, see Vernon's Texas Rules of Civil Procedure, Rule 430.

Arts. 1841 to 1849. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1850. Death Does Not Abate

If any party to the record in a cause pending in a Court of Civil Appeals shall die after the appeal bond is filed and approved or after the writ of error has been served, and before the cause has been decided, such cause shall not abate, but the court shall proceed to adjudicate the case and render judgment therein as if all parties thereto were still living. Such judgment shall have the same force and effect as if rendered in the lifetime of all the parties thereto.

[Acts 1925, S.B. 84.]

CHAPTER FOUR. CERTIFICATION OF QUESTIONS

Article

- 1851. Repealed.
- 1851a. Trial Judge May Certify Question of Constitutionality of Law to Court of Civil Appeals; Procedure.
- 1852 to 1855. Repealed.

Art. 1851. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1851a. Trial Judge May Certify Question of Constitutionality of Law to Court of Civil Appeals; Procedure

Cases in Which Question May be Certified

Sec. 1. In any case hereafter pending in any District or County Court in this State, wherein the constitutionality of any law or any order, rule or regulation of any officer, board, or other State Commission is attacked as being violative of either the State or Federal Constitution, and wherein a decision on the same is material to the deciding of said case finally on its merits, the Judge of said Court shall have the power and authority to certify any such question or questions of law involved in said case directly to the Court of Civil Appeals in said District before trial on the merits for its decision.

Incorporation of Pleadings in Certificate

Sec. 2. The trial court, in certifying such question or questions, may incorporate in such certificate any or all of the pleadings of the parties therein, and in the event all of the pleadings are not set forth therein, then upon the certification of such question either party may have the right to file in the Court of Civil Appeals or the Supreme Court a certified copy of any such pleadings for the consideration of the Court.

Certification of Questions to Supreme Court

Sec. 3. In order to expedite the final determination of such questions with dispatch, the Court of Civil Appeals may forthwith certify said question or questions immediately to the Supreme Court, as provided by Article 1758 of the Revised Civil Statutes of 1925, and other

Articles relating to certifying questions to the Supreme Court. When the Supreme Court, on receiving such record, shall render an opinion thereon, such opinion shall be final and shall be the law on the question involved until overruled by it, or otherwise abrogated by law. After the questions are decided the Supreme Court and the Court of Civil Appeals shall notify the Court of Civil Appeals and the trial court respectively. Either of said Appellate Courts shall give such time as it may deem advisable for the filing of briefs.

Trial May be Held in Abeyance

Sec. 4. The trial court may hold the trial of said case in abeyance until its questions have been certified and answered. Provided, however, that such trial court, if it so desires, may hold hearing on general and special demurrers involving questions of the constitutionality of any such law, order, rule, or regulation and an appeal be perfected in the same manner and time as provided by law for appealing from the granting or denying of a temporary injunction, and upon perfecting such appeal to the Court of Civil Appeals, such Court may immediately certify such questions to the Supreme Court, as hereinbefore provided, and the trial court may hold such trial in abeyance pending the determination of such questions, and if the Court of Civil Appeals shall fail to certify any such question to the Supreme Court, then such case may be carried to the Supreme Court by writ of error or appeal, as in cases where temporary injunctions are denied or granted.

Precedence Over Other Cases

Sec. 5. All such appeals and certified questions shall be given precedence over all other cases as now provided by law. The law and the rules of the various courts in reference to certifying questions by the Court of Civil Appeals to the Supreme Court and taking appeals from orders granting or denying temporary injunctions shall govern and control where not in conflict with the provisions hereof.

Application to Pending Causes

Sec. 5a. This Act shall not apply to any cause pending on the effective date hereof unless the parties each and all agree in writing to the certification to the Appellate Court and the agreement approved by the trial judge.

[Acts 1933, 43rd Leg., p. 147, ch. 71.]

Arts. 1852 to 1855. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

**CHAPTER FIVE. JUDGMENT
OF THE COURT**

Arts. 1856 to 1872. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

**CHAPTER SIX. CONCLUSIONS OF
FACT AND LAW**

Arts. 1873 to 1876. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SEVEN. REHEARING

Arts. 1877 to 1880. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

**CHAPTER EIGHT. WRIT OF ERROR
TO SUPREME COURT**

Article

1881 to 1883. Repealed.

1883a. Transferred to Article 2249a.

Arts. 1881 to 1883. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1883a. Transferred to Article 2249a

TITLE 40

COURTS—DISTRICT

Chapter	Article
1. The Judge	1884
2. District Clerk	1894
3. Powers and Jurisdiction	1906
4. Terms of Court	1919
5. Criminal District Courts	1926-1

CHAPTER ONE. THE JUDGE

Article

1884. Election and Qualification.
1885. Disqualification.
1886. Record of Agreement.
1887. Special Judge, When.
1888. Voting for Special Judge.
1889. Election for Special Judge.
1890. Failure of Officers to Act.
1891. Record of the Election.
1892. Effect of Such Record.
1893. Other Elections for Special Judge.

Art. 1884. Election and Qualification

For each judicial district there shall be elected at the general election for a term of four years a judge who shall be at least twenty-five years of age, a practicing attorney or a judge of a court in this State for four years and a resident of the district in which he is elected for two years next before his election. He shall reside in his district during his term of office.

[Acts 1925, S.B. 84.]

Art. 1885. Disqualification

No change of venue shall be necessary because of the disqualification of a district judge, but he shall immediately certify his disqualification to the Governor, whereupon the Governor shall designate some district judge in an adjoining district to exchange and try such case or cases, and he shall notify both of said judges of such order; and such judges shall exchange districts for the purpose of disposing of such case or cases. If said judges be prevented from exchanging districts, the parties or their counsels may agree upon an attorney of the court for the trial thereof, and failing to agree, such fact shall be certified to the Governor by the district judge, or the special judge, whereupon the Governor shall appoint a person legally qualified to act as judge in the trial of the case.

[Acts 1925, S.B. 84.]

Art. 1886. Record of Agreement

Whenever a special judge is agreed upon for the trial of a particular cause, the clerk shall enter in the minutes of the court, as a part of

the proceedings in such cause, a record showing:

1. That the judge of the court was disqualified to try the cause; and
2. That such special judge (naming him) was, by consent agreed upon by the parties to try the cause; and
3. That the oath prescribed by law has been duly administered to him.

[Acts 1925, S.B. 84.]

Art. 1887. Special Judge, When

Should the judge of a district court on the first or any future day of a term, fail or refuse to hold the court, the practicing lawyers of the court present may elect from among their number a special judge who shall hold the court and proceed with the business thereof.

[Acts 1925, S.B. 84.]

Art. 1888. Voting for Special Judge

Such election shall be by ballot, and each practicing lawyer in attendance at such court shall be entitled to participate in such election and shall be entitled to one vote. A majority of the votes of the lawyers participating shall be necessary to the election of such special judge.

[Acts 1925, S.B. 84.]

Art. 1889. Election for Special Judge

The election shall be conducted as follows: The sheriff or constable shall make proclamation at the court house door that the election of a special judge of the court is about to be made by the practicing lawyers present; the clerk shall then make a list of the practicing lawyers present; and such lawyers shall then organize and hold the election.

[Acts 1925, S.B. 84.]

Art. 1890. Failure of Officers to Act

Should the sheriff, constable, and clerk, or either of them, fail or refuse to act, the said practicing lawyers may nevertheless proceed to organize themselves into such electoral body, and appoint a sheriff and clerk pro tempore to do the duties of such officers respectively.

[Acts 1925, S.B. 84.]

Art. 1891. Record of the Election

The clerk shall enter upon the minutes of the court a record of the election of such special judge, showing:

1. The names of all the practicing lawyers present and participating in such election.
2. The fact that the public proclamation was made at the court house door that such election was about to take place.

3. The number of ballots polled at such election and the number polled for each person, and the result of the election.

4. That the oath prescribed by law has been duly administered to the special judge.
[Acts 1925, S.B. 84.]

Art. 1892. Effect of Such Record

The record of such proceedings, substantially complying with the requirements of the law, shall be conclusive evidence of the election and qualification of such special judge.

[Acts 1925, S.B. 84.]

Art. 1893. Other Elections for Special Judge

Like elections may be held from time to time during the term of the court to supply the absence, failure or inability of the judge, or of any special judge, to perform the duties of the office.

[Acts 1925, S.B. 84.]

CHAPTER TWO. DISTRICT CLERK

Article

1894. Election and Power.

1895. Vacancy.

1896. Clerk Pro Tem.

1897. Bond and Oath.

1898. Deputies.

1899. To Record Proceedings.

1899a. Records of District Clerk.

1900. Report of Fines and Jury Fees.

1901. Custody and Care of Records; Removal of Old Records; Deposit in Museum.

1901a. Destruction of Records by Shredding.

1902. Indexes to Judgments.

1903. Joint Clerk, Separation of County and District Clerk Offices; Election.

1904. Use of Court Seal.

1905. Seal of the Court.

Art. 1894. Election and Power

A clerk of the district court of each county shall be elected at each general election for a term of two years. Each such clerk shall have power to administer oaths and affirmations required in the discharge of their official duties, to take the depositions of witnesses, and generally to perform all such duties as are or may be imposed upon them by law.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 572, ch. 277, § 1.]

Increase in Term of Office

Const. art. 5, § 9 was amended in November, 1954, to increase the term of office of clerks of district court from two to four years.

Art. 1895. Vacancy

Whenever a vacancy occurs in the office of district clerk, it shall be filled by the district judge of such county; and such appointee shall give bond and qualify and may hold his office until the next general election. Where a vacancy occurs in a county having two or more district courts, the vacancy shall be filled by the judges of such courts; and if they fail to

agree, the Governor, upon the certificate of such judges, shall order a special election to fill such vacancy.

[Acts 1925, S.B. 84.]

Art. 1896. Clerk Pro Tem

Where a district clerk is a party to any pending or proposed suit, motion or proceeding in his court, the district judge in whose court the same may be pending or proposed, shall, on application of any person interested, or on his own motion, appoint a clerk pro tempore for the purposes of such suit, motion or proceeding. Such temporary clerk shall take an oath to faithfully and impartially perform the duties of such appointment, and shall also enter into bond, payable to the State of Texas, in an amount to be fixed by the judge and to be approved by him, conditioned for the faithful performance of his duties under such appointment. Such appointee shall perform each duty required by law of the clerk in the particular suit, motion or proceeding in which he may be appointed.

[Acts 1925, S.B. 84.]

Art. 1897. Bond and Oath

Each district clerk, before entering upon his official duties, shall give bond, to be set by the Commissioners Court of the county payable to the Governor, in a sum of not less than five thousand dollars, conditioned for the faithful discharge of the duties of his office, and shall also take and subscribe the official oath which shall be indorsed upon the bond. Such bond and oath shall be filed and recorded in the office of the county clerk.

[Acts 1925, S.B. 84; Acts 1969, 61st Leg., p. 1711, ch. 561, § 1, eff. Sept. 1, 1969.]

Art. 1898. Deputies

The district clerk may, in writing, under his hand and the seal of his court, appoint one or more deputies. The appointment shall be recorded in the office of the county clerk. Such deputies shall take the official oath, and shall act in the name of their principal, and may do and perform all such official acts as may be lawfully done and performed by such clerk in person. If the clerk does not reside at the county seat he shall have a deputy residing there.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 277, ch. 123, § 1.]

Art. 1899. To Record Proceedings

Such clerks shall keep a fair record of all the acts done, and proceedings had, in their respective courts; enter all judgments of the court, under direction of the judge, and keep a record of all executions issued and the returns thereon, in record books to be kept for the purpose.

[Acts 1925, S.B. 84.]

Art. 1899a. Records of District Clerk

Sec. 1. The District Clerk may, pursuant to his duty to keep a fair record of acts and pro-

ceedings, provide a plan for the reproduction by microfilm or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing all records, acts, proceedings held, minutes of the court or courts, and including all registers, records, and instruments for which the District Clerk is or may become responsible by law. The plan shall be in writing and shall include provisions for maintenance, retention, security, and retrieval of all records so microfilmed or otherwise duplicated.

Sec. 2. Any such plan shall provide for the following requirements:

(1) All original instruments, records, and minutes shall be recorded and released into the file system within a specified minimum time period after presentation to the clerk;

(2) Original paper records may be used during the pendency of any legal proceeding;

(3) The plan shall include setting standards for organizing, identifying, coding, and indexing so that the image produced during the microfilming or other duplicating process can be certified as a true and correct copy of the original and may be retrieved rapidly.

(4) All materials used in the microfilming or other process which correctly and legibly reproduces or which forms a medium of copying or reproducing all public records, as herein authorized, and all processes of development, fixation, and washing of said photographic duplicates, shall be of quality approved for permanent photographic records by the United States Bureau of Standards.

(5) The plan shall provide for permanent retention of the records and shall provide security provisions to guard against physical loss, alterations, and deterioration.

Sec. 3. The clerk may present such plan in writing to the District Judge or Judges of the county in which the clerk is located. If the Judge, or a majority of the Judges, determine that the plan meets the requirements set forth in Section 2 of this Act, they shall so inform the clerk in writing, and the clerk may adopt the plan. The decision of the Judge or Judges shall be entered in the minutes of the court or courts, and thereafter all recordings and orders of the court in accordance with the plan shall be considered to be the original records for all purposes and shall be so accepted by courts and administrative agencies in this State. All transcripts, exemplifications, copies, or reproductions on paper or on film of an image or images of any microfilmed or otherwise duplicated record shall be deemed to be certified copies of the original for all purposes.

Sec. 4. In any hearing, proceeding, or trial in which instruments and records have been filed with or left in the possession of the District Clerk, and upon certification of the clerk to the Librarian of the State that all requirements have been met and are on record as pro-

vided by this plan, the clerk may destroy such instruments and records after one year has elapsed following the time at which the judgment has become final and times for appeal, writ of error, bill of review under Rule 329, Texas Rules of Civil Procedure and certiorari has expired without having been perfected, or mandate which is finally decisive of such matters has been issued, further providing, that after these requirements are reached and prior to the actual destruction of the instruments and records by the clerk, any party or parties or the State Librarian by petitioning the court may move for the return of such instruments and records.

[Acts 1971, 62nd Leg., p. 2831, ch. 926, § 1, eff. June 15, 1971.]

Art. 1900. Report of Fines and Jury Fees

On the last day of each term of the court, the clerk shall make a written statement showing all moneys received by him for jury fees and fines, with the name of each party from whom received, up to the date of such statement, and since his previous statement; and also the name of each juror who has served at such term, the number of days he served, and the amount due him for such services. Such statement shall be examined, corrected, approved, and signed by the presiding judge. Such statement, when so approved and signed shall be recorded in the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 1901. Custody and Care of Records; Removal of Old Records; Deposit in Museum

District Clerks shall have the custody of records pertaining to or lawfully deposited in their offices and shall carefully attend to the arrangement and preservation of the same; provided however, that records dated before 1860 in counties having a population of not less than ninety-eight thousand, two hundred and ten (98,210) and not more than ninety-nine thousand, two hundred and ten (99,210) according to the last preceding Federal Census may be removed under the following conditions:

That upon the application of the curator of any museum located in the county where the records are deposited, said museum to be maintained and operated by or in connection with a recognized higher educational institution of learning and upon the proper substitution of certified copies by the curator making application to the District Clerk, said records may be removed and placed in the care and custody of such curator, or his successor, all of which shall be without expense to the State.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., p. 219, § 1.]

Art. 1901a. Destruction of Records by Shredding

Any records, ballots, stubs, lists, or papers which the district clerk or county clerk of any county in this state is required or authorized to destroy by burning may alternatively be de-

stroyed by shredding at the discretion of the clerk.

[Acts 1971, 62nd Leg., p. 2452, ch. 792, eff. June 8, 1971.]

Art. 1902. Indexes to Judgments

They shall provide and keep in well bound books, as part of the records, full and complete alphabetical indexes of the names of the parties to all suits filed in their courts; showing in full the names of all the parties, indexed and cross-indexed, so as to show the name of each party under the proper letter; and a reference shall be made opposite each name to the page of the minute book upon which is entered the judgment in each case.

[Acts 1925, S.B. 84.]

Art. 1903. Joint Clerk; Separation of County and District Clerk Offices; Election

In counties having a population of less than eight thousand (8,000), according to the last preceding Federal Census, there shall be elected a single clerk who shall perform the duties of the district clerk and the county clerk, unless a majority of the qualified voters of the county who participate in a special election, called by the Commissioners Court for that purpose, vote to keep the offices of county and district clerk separate. The Commissioners Court may submit to the qualified voters of such counties, at an election held at least thirty (30) days before any regular primary election immediately preceding the expiration of the constitutional term of office of said clerk, the question of whether the offices of district and county clerk shall be separate or joint. The same question may again be submitted immediately prior to the expiration of each subsequent constitutional term of office of the separate clerk. Notice of such special election shall be published in a newspaper of general circulation in the county at least twenty (20) days prior to such election. No special election as provided herein shall prevent any county clerk, district clerk or joint clerk from serving the full term of office to which he was elected.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 73, ch. 49, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 159, ch. 54, § 1.]

Art. 1904. Use of Court Seal

When a joint clerk has been elected, he shall, in performing the duties of district clerk use the seal of said court to authenticate his official acts as clerk of the district court.

[Acts 1925, S.B. 84.]

Art. 1905. Seal of the Court

Each district court shall be provided with a seal, having engraved thereon a star of five points in the center and the words, "District Court of _____ County, Texas." The impress of which shall be attached to all process, except subpoenas, issued out of such court, and shall be kept by the clerk and used to authenticate his official acts.

[Acts 1925, S.B. 84.]

CHAPTER THREE. POWERS AND JURISDICTION

Article

- 1906. Original Jurisdiction.
- 1906a. Computation of Amount in Controversy Where Parties Properly Joined.
- 1907. Matters of Probate.
- 1908. Over Commissioners Courts.
- 1909. General Jurisdiction.
- 1910. Motions Against Sheriffs, Attorneys, etc.
- 1911. Repealed.
- 1911a. Contempt; Power of Courts; Penalties.
- 1912. Judgments Transferred and Enforced.
- 1913. Other Jurisdiction.
- 1914. To Grant all Remedial Writs.
- 1915. Powers in Vacation.
- 1916. May Alternate, etc.
- 1917. Appointing Attorney.
- 1918. Repealed.

Art. 1906. Original Jurisdiction

The district court shall have original jurisdiction in civil cases of:

1. Suits in behalf of the State to recover penalties, forfeitures and escheats.
2. Cases of divorce and dissolution of marriage.
3. Suits to recover damages for slander or defamation of character.
4. Suits for the trial of title to land and for the enforcement of liens thereon.
5. Suits for trial of right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars.
6. Suits, complaints or pleas, without regard to any distinction between law and equity, when the matter in controversy [controversy] shall be valued at or amount to five hundred dollars exclusive of interest.
7. Contested elections.

[Acts 1925, S.B. 84.]

Art. 1906a. Computation of Amount in Controversy Where Parties Properly Joined

Where two or more persons originally and properly join in one suit, the suit for jurisdictional purposes shall be treated as if one party were suing for the aggregate amount of all their claims added together, exclusive of interest and cost; provided that this statute shall not prevent jurisdiction from attaching on any other ground. Provided further, that the passage of this Act shall not affect any pending litigation.

[Acts 1945, 49th Leg., p. 543, ch. 329, § 1.]

Art. 1907. Matters of Probate

District courts shall have appellate jurisdiction and general control in probate matters over the county courts, for appointing guardians, granting letters testamentary and of administration, probating wills, settling accounts of executors, administrators and guardians, and for the transaction of business appertaining to estates. The district court shall also

have such original jurisdiction and general control over executors, administrators, guardians and minors as provided by law.

[Acts 1925, S.B. 84.]

Art. 1908. Over Commissioners Courts

Such court shall also have appellate jurisdiction and general supervisory control over the commissioners court, with such exceptions and under such regulations as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 1909. General Jurisdiction

Such court shall have general original jurisdiction over all causes of action, for which a remedy or jurisdiction is not provided by law or the constitution, and such other jurisdiction, original and appellate as may be provided by law.

[Acts 1925, S.B. 84.]

Art. 1910. Motions Against Sheriffs, Attorneys, etc.

The district court shall have power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys, collected under the process of said court, or other defalcation of duty in connection with such process and of motions against attorneys for moneys collected by them and not paid over.

[Acts 1925, S.B. 84.]

Art. 1911. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

Art. 1911a. Contempt; Power of Courts; Penalties

Inherent Power and Authority of Courts

Sec. 1. A court possesses inherently all powers necessary for the exercise of its jurisdiction and the enforcement of its lawful orders, including authority to issue such writs and orders as may be necessary or proper in aid of its jurisdiction. It has the duty to require that proceedings shall be conducted with dignity and in an orderly and expeditious manner and to so control the proceedings that justice is done. A court has the power to punish for contempt.

Penalties for Contempt

Sec. 2. (a) Every court other than a justice court or municipal court may punish by a fine of not more than \$500, or by confinement in the county jail for not more than six months, or both, any person guilty of contempt of the court.

(b) A justice court or municipal court may punish by a fine of not more than \$100, or by confinement in the county or city jail for not more than three days, or both, any person guilty of contempt of the court.

(c) Provided, however, an officer of a court held in contempt by a trial court, shall, upon proper motion filed in the offended court, be

released upon his own personal recognizance pending a determination of his guilt or innocence by a judge of a district court, other than the offended court. Said judge to be appointed for that purpose by the presiding judge of the Administrative Judicial District wherein the alleged contempt occurred.

Confinement to Enforce Order

Sec. 3. Nothing in this Act affects a court's power to confine a contemner in order to compel him to obey a court order.

[Acts 1971, 62nd Leg., p. 2535, ch. 831, §§ 1 to 3, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1784, ch. 657, § 1, eff. Aug. 27, 1973.]

Art. 1912. Judgments Transferred and Enforced

When a district clerk shall receive from the county clerk a certified copy of a judgment rendered in any civil or criminal case in the county court where the civil and criminal jurisdiction, or either, of the county court has been transferred to the district court, he shall immediately record such judgments in the minutes of the district court; and the said district court shall enforce said judgments by execution or otherwise, as other judgments rendered in said district court are enforced.

[Acts 1925, S.B. 84.]

Art. 1913. Other Jurisdiction

Subject to the limitations stated in this chapter, the district court is authorized to hear and determine any cause which is cognizable by courts, either of law or equity, and to grant any relief which could be granted by said courts, or either of them.

[Acts 1925, S.B. 84.]

Art. 1914. To Grant All Remedial Writs

Judges of the district courts may either in term time or in vacation, grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the court.

[Acts 1925, S.B. 84.]

Art. 1915. Powers in Vacation

Judges of the district courts may in vacation, by consent of the parties, exercise all powers, make all orders, and perform all acts, as fully as in term time, and may, by consent of the parties, try any civil case, except divorce cases, without a jury and enter final judgment. All such proceedings shall be conducted under the same rules as if done in term time; and the right of appeals and writ of error shall apply as if the acts had been done in term time.

[Acts 1925, S.B. 84.]

Art. 1916. May Alternate, etc.

A judge of the district court may hold court for or with any other district judge; and the judges of such courts may exchange districts whenever they deem it expedient.

[Acts 1925, S.B. 84.]

Art. 1917. Appointing Attorney

Judges of district courts may appoint counsel to attend to the cause of any party who makes affidavit that he is too poor to employ counsel to attend to the same.

[Acts 1925, S.B. 84.]

Art. 1918. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**CHAPTER FOUR. TERMS OF COURT****Article**

- 1919. Terms of Court; Continuous Sessions; Rules and Regulations; Proceedings Validated.
- 1919a. Terms of District Court in Unorganized County Being Organized.
- 1920. Special Terms.
- 1921. Summoning Juries.
- 1922. Repealed.
- 1923. Extension of Term.
- 1924. Extension in Certain Counties.
- 1925. Effect of Extension.
- 1926. Repealed.

Art. 1919. Terms of Court; Continuous Sessions; Rules and Regulations; Proceedings Validated

Sec. 1. All district courts in this State, including all criminal district courts, whenever and however created, shall hold at least two (2) terms of court per year in each county wherein they sit. Notwithstanding the provisions of any law, the terms of all district courts in the State, civil and criminal, shall be continuous and shall begin on the day now or hereafter fixed by law and shall continue until the day fixed by law for the beginning of the next succeeding term. It shall be no objection to the commencement of a term of court that the first day falls upon a legal holiday, nor that the Judge is not present in the county upon the day set for the commencement of the term of court. The Judge of the district may hold as many sessions of court in any county as is deemed proper and expedient for the dispatch of business, and may adopt such rules and regulations relating thereto as are permitted by, and not contrary to, the Statutes of this State and the Texas Rules of Civil Procedure prescribed by the Supreme Court of Texas.

Sec. 2. In all judicial districts in Texas containing more than one (1) county, the district court may hear and determine all preliminary and interlocutory matters in which a jury may not be demanded, and unless there is objection from some party to the suit, hear and determine any noncontested or agreed cases and contests of elections, pending in his district, and may sign all necessary orders and judgments therein in any county in his judicial district, and may sign any order or decree in any case pending for trial or on trial before him in any county in his district at such place as may be convenient to him, and forward such order or decree to the clerk for filing and en-

try. Any district judge assigned to preside in a court of another judicial district, or who may be presiding in exchange or at the request of the regular Judge of said court may in like manner hear, determine and enter any such orders, judgments and decrees in any such case which is pending for trial or has been tried before such visiting judge; provided that all contested divorce cases, all default judgments, and all cases in which any of the parties have been cited by publication shall be tried in the county in which filed.

[Acts 1925, S.B. 84; Acts 1951, 52nd Leg., p. 341, ch. 212; Acts 1955, 54th Leg., p. 806, ch. 297, § 1; Acts 1969, 61st Leg., p. 1658, ch. 523, § 1, eff. June 10, 1969.]

Art. 1919a. Terms of District Court in Unorganized County Being Organized

Whenever any unorganized county within this State has become organized or may hereafter become organized, there being no time fixed by law for holding District Court in such counties, the District Judge in whose Judicial District such county is situated shall fix times to hold at least two terms of court each year in each of such counties, by a written declaration, to be forwarded by the District Judge to the District Clerk of the County, and by him spread on the minutes of the District Court. When the times are so fixed they shall not be changed, except by an act of the Legislature.

[Acts 1927, 40th Leg., p. 132, ch. 85, § 1.]

Art. 1920. Special Terms

Whenever a district judge deems it advisable to hold a special term of the district court in any county in his district, such special term may be held; and such judge may convene such term at any time which may be fixed by him. Such district judge may appoint jury commissioners, who may select and draw grand and petit jurors in accordance with the law. Such jurors may be summoned to appear before such district court at such time as may be designated by the judge thereof. In the discretion of the district judge, a grand jury need not be drawn or empaneled. No new civil cases can be brought to a special term of the district court.

[Acts 1925, S.B. 84.]

Art. 1921. Summoning Juries

The juries for a special term shall be summoned in accordance with the law regulating juries at regular terms of court. At a special term all proceedings may be had in any case which could be had at any regular term of such court. All process issued to a previous regular term or to such special term, and all orders, judgments and decrees, and all proceedings had in any case, civil or criminal, which would be lawful if had at a regular term, shall have the same force and effect; and any proceeding had may be appealed from as if the case were tried at a regular term.

[Acts 1925, S.B. 84.]

Art. 1922. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1923. Extension of Term

Whenever a district court shall be in the midst of the trial of a cause when the time for the expiration of the term of said court arrives, the judge presiding shall have the power and may, if he deems it expedient, extend the term of said court until the conclusion of such pending trial. The extension of such term shall be shown in the minutes of the court before they are signed. If the term is extended as herein provided, no term of court in any other county shall fail because thereof, but the term of court therein may be opened and held as provided by law when the district judge fails to appear at the opening of a term of court.

[Acts 1925, S.B. 84.]

Art. 1924. Extension in Certain Counties

A district court in a judicial district composed of more than one county and having terms of court fixed by law in counties in which there is a city of one hundred and thirty-five thousand population, or over, according to the preceding Federal census, may, by an order of the judge thereof made and entered of record in the minutes of said court, have any of such terms of court in such last described counties extended for such length of time as such judge may deem advisable for the transaction of the business of such court.

[Acts 1925, S.B. 84.]

Art. 1925. Effect of Extension

If any term of court is extended as provided in the preceding article, no term of such court as fixed by law shall fail, but same shall be opened and held as provided by law. When a new term shall run concurrently in time and in the same county, with an extended term, the minutes of both such terms may be recorded together during the time such terms so run concurrently. While such new term is open, each entry made in the minute records of said court, during such time shall be presumed to be the minutes of proceedings of such new term unless otherwise shown in such minutes.

[Acts 1925, S.B. 84.]

Art. 1926. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. CRIMINAL DISTRICT COURTS

IN GENERAL

Article

1926-1. Certain Courts Continued.

DALLAS COUNTY

- 1926-11. Dallas Criminal District Court.
- 1926-12. Criminal Judicial District of Dallas County.
- 1926-13. Criminal District Court No. 2 of Dallas County.
- 1926-14. Criminal District Court No. 3 of Dallas County.
- 1926-15. Criminal District Court No. 5 of Dallas County.
- 1926-16. Special Criminal District Court at Dallas County.

JURISDICTION

Article

- 1926-21. Concurrent Jurisdiction of Criminal District Courts with County Court at Law.
- 1926-22. Jurisdiction Increased.

JUDGES; CRIMINAL DISTRICT ATTORNEYS

- 1926-26. Judges of Criminal District Courts May Sit in Either Court.
- 1926-27. Criminal District Attorney; Duties; Salary; Fees; Accounting; Assistants; Oath; Powers; Report of Expenses; Election.

HARRIS COUNTY

- 1926-31 to 1926-35. Transferred.

TARRANT COUNTY

- 1926-41. Criminal District Court for Tarrant County.
- 1926-42. Criminal District Court No. 1 of Tarrant County.
- 1926-42a. Change of Name to Criminal District Court No. Counties.
- 1926-43. Criminal District Court No. 2 of Tarrant County.
- 1926-44. Criminal District Court No. 3 of Tarrant County.
- 1926-45. Criminal District Court No. 4 of Tarrant County.

TRAVIS COUNTY

- 1926-51. Criminal District Court of Travis County.

JEFFERSON COUNTY

- 1926-61. Criminal District Court of Jefferson County.
- 1926-62. Jurisdiction Increased.
- 1926-63. Criminal Judicial District of Jefferson County.

IN GENERAL

Art. 1926-1. Certain Courts Continued

Each of the following courts shall continue with the jurisdiction, organization, terms and powers now existing until otherwise provided by law:

1. Criminal District Court of Dallas County.
2. Criminal District Court No. 2 of Dallas County.
3. Criminal District Court of Harris County.
4. Criminal District Court of Tarrant County.
5. Criminal District Court of Travis County.
6. Criminal District Court for the Counties of Nueces, Kleberg, Kennedy, Willacy and Cameron.
7. All County Courts at Law.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

DALLAS COUNTY

Art. 1926-11. Dallas Criminal District Court

Sec. 1. There is hereby created and established at the city of Dallas a criminal district court, which shall have and exercise all the criminal jurisdiction heretofore vested in and exercised by the district courts of Dallas county. All appeals from the judgments of said

court shall be to the court of criminal appeals, under the same regulations as are now or may hereafter be provided by law for appeals in criminal cases from district courts.

Sec. 2. The district courts of Dallas county shall not have nor exercise any criminal jurisdiction.

Sec. 3. The judge of said criminal district court shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of a judge of the district court, and shall receive the same salary as is now, or may hereafter, be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges in criminal cases. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of the judge, a special judge may be selected, elected, or appointed, as provided by law in cases of district judges.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments, and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, the county attorney, and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney, and clerk, respectively, of said criminal district court, under the same rules and regulations as are now, or may hereafter be, prescribed by law for the government of sheriffs, county attorneys, and clerks in the district courts of the state; and said sheriff, county attorney, and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the state, to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of January, one term beginning the first Monday of April, one term beginning the first Monday of July, and one term beginning the first Monday of October. A grand jury shall be impaneled in said court for each term thereof; and jury commissioners shall be appointed for drawing jurors for said court, as is now or may hereafter be

required by law in district courts, and under like rules and regulations.

Sec. 7. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice, and proceedings in criminal cases in the district courts. [1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-12. Criminal Judicial District of Dallas County

There is hereby created and established a Criminal Judicial District of Dallas County, Texas, to be composed of the County of Dallas, Texas, alone, and the Criminal District Court of Dallas county, and the Criminal District Court No. 2 of Dallas county, Texas, shall have and exercise all the Criminal Jurisdiction of such courts, of and for said Criminal District of Dallas county, Texas; that are now conferred by law on said Criminal District Courts.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-13. Criminal District Court No. 2 of Dallas County

Sec. 1. There is hereby created and established at the city of Dallas a criminal district court to be known as the "Criminal District Court No. 2 of Dallas County," which court shall have and exercise concurrent jurisdiction with the criminal district court of Dallas county, Texas, as now given and exercised by the said criminal district court of Dallas county under the Constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect the criminal district court of Dallas county, and the criminal district court No. 2 of Dallas county shall have and exercise concurrent jurisdiction with each other in all felony causes and in all matters and proceedings of which the said criminal district court of Dallas county now has jurisdiction; and either of the judges of said criminal district court may in their discretion transfer any cause or causes that may at any time be pending in his court to the other criminal district court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the clerk of such district court shall enter such cause or causes upon the docket to which such transfer or transfers are made, and, when so entered upon the docket, the judge shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court.

Sec. 3. The judge of said criminal district court No. 2 of Dallas county shall be elected by the qualified voters of Dallas county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is

now or may hereafter be paid to the district judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of the criminal district court of Dallas county. The judge of said court may exchange with any district judge, as provided by law in cases of district judges, and, in case of disqualification or absence of a judge, a special judge may be selected, elected or appointed as provided by law in cases of district judges; provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court, who shall hold the office until the next general election, after the passage of this law, and until his successor shall have been elected and qualified.

Sec. 4. Said court shall have a seal of like design as the seal now provided by law for district courts, except that the words "Criminal District Court No. 2 of Dallas County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seals of the district courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the clerk and attested by the seal of said court, shall be admissible in evidence in all the courts of this State in like manner as similar certified copies from courts of record are now or may hereafter be admissible.

Sec. 5. The sheriff, county attorney and the clerk of the district court of Dallas county, as heretofore provided for by law, shall be the sheriff, county attorney and clerk, respectively, of said criminal district court under the same rules and regulations as are now or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the district courts of the State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now or may hereafter be prescribed by law for such officers in the district courts of the State to be paid in the same manner.

Sec. 6. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, and one term beginning the first Monday of January. The grand jury shall be impaneled in said court for each term thereof unless otherwise directed by the judge of said court, and the procedure for drawing jurors for said court shall be the same as is now or may hereafter be required by law in district courts, and under the same rules and regulations. The trials and proceedings in said court shall be conducted according to the laws governing the pleadings, practice and proceedings in criminal cases in the district courts.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-14. Criminal District Court No. 3 of Dallas County

Sec. 1. The Special Criminal District Court of Dallas County, heretofore established as a temporary District Court under the terms and provisions of Senate Bill No. 21, Acts of the 53rd Legislature, First Called Session, 1954, Chapter 51, page 105, is hereby established as a permanent Criminal District Court, the limits of which district shall be co-extensive with the limits of Dallas County, Texas, and shall be known as the Criminal District Court No. 3 of Dallas County.

Sec. 2. The present District Judge of the Special Criminal District Court of Dallas County, duly elected and acting as such, shall be the District Judge of the Criminal District Court No. 3 of Dallas County until the time for which he has been elected expires and until his successor is duly elected and qualified.

[Acts 1955, 54th Leg., p. 711, ch. 256.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-15. Criminal District Court No. 5 of Dallas County

A. There is hereby created, effective October 1, 1965, in and for Dallas County, Texas, one additional Criminal Judicial District to be known as Criminal Judicial District No. 5, and the court of said district shall be known as the Criminal District Court No. 5 of Dallas County, Texas. The limits of said district shall be coextensive with the limits of Dallas County, Texas.

B. The Criminal District Court No. 5 shall have and exercise the powers conferred by the constitution and laws of the State of Texas on the judges of the existing Criminal District Courts of Dallas County, Texas, and the jurisdiction of said court shall be concurrent with that of the existing Criminal District Courts of Dallas County, Texas. The said court shall have and exercise, in addition to the jurisdiction now conferred by law on said court, concurrent jurisdiction coextensive with the limits of Dallas County in all actions, proceedings, matters and causes, both civil and criminal, of which district courts of general jurisdiction are given jurisdiction by the constitution and laws of the State of Texas.

C. The terms of said Criminal District Court No. 5 shall begin on the first Monday of January, April, July, and October of each year respectively, and each of said terms of said court shall continue until the convening of the next succeeding term.

D. The Judge of said Criminal District Court No. 5 is authorized to appoint an official court reporter for such court, and said court reporter shall have the qualifications now required by law for official shorthand reporters. Such reporter shall perform the duties as required by law and such duties as may be assigned to the court reporter by the judge of such court and shall receive as compensation

for his services the compensation now allowed or hereinafter allowed for the official shorthand reporters for the District Courts of Dallas County, Texas, under the laws of this state.

E. The district clerk shall equalize the dockets of the Criminal District Courts of Dallas County by transferring cases from the Criminal District Court, the Criminal District Court No. 2, the Criminal District Court No. 3, and the Criminal District Court No. 4 to the Criminal District Court No. 5 hereby created.

F. The judge of any of the District Courts in Dallas County may in his discretion try and dispose of any causes, matters or proceedings for any other judge of said courts. Either of the judges of said District Courts of Dallas County may at his discretion at termtime or in vacation transfer a case or cases to said other district court with the consent of the judge of said other district court by order entered in the minutes of his court. When such transfer is ordered, the District Clerk of Dallas County shall certify all orders made in said case and such certified copies of such orders together with the original papers shall be filed among the papers of the case thus transferred and the fees thereof shall be taxed as part of the costs of said suit and the clerk of said court shall docket any such case in the court to which it shall have been transferred, and when so entered, the court to which same shall have been thus transferred shall have like jurisdiction therein as in cases originally filed in said court. All process and writs issued out of the district court from which any such transfer is made shall be returnable to the court to which said transfer is made.

G. The District Attorney of Dallas County shall also be the district attorney for the additional Criminal District Court hereby created.

H. The District Clerk of Dallas County, Texas shall also act as District Clerk for the Criminal District Court No. 5 hereby created.

I. The Sheriff of Dallas County, either in person or by deputy shall attend the Criminal District Court No. 5 as required by the judge thereof, and the sheriff and constables of the several counties of this state, with executing processes issued out of said court, shall receive fees as provided by General Law for executing processes issued out of district courts.

J. All processes, writs, bonds, recognizances or other obligations issued out of the District Courts or Criminal District Courts of Dallas County are hereby made returnable to the said District Courts of Dallas County as required by law and all bonds executed and recognizances entered by and in said courts shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of such courts as fixed by law and this Act, and all processes heretofore returned or hereafter returned to the District Courts of Dallas County shall be valid.

K. Except as herein otherwise provided, the laws and parts of laws applicable to District

Courts and Criminal District Courts of Dallas County shall be applicable to the Criminal District Court No. 5 created by this Act.

L. If any provision of this Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to Judicial District Courts and Criminal District Courts of Dallas County shall apply respectively to the Criminal District Court No. 5 created by this Act.

M. The Governor shall appoint a suitable person as Judge of the Criminal Court No. 5 of Dallas County created by this Act, who shall hold office until the next general election and until his successor has been duly elected and qualified. At the first general election after the creation of said court provided for herein, the judge of said court shall be elected for a term of four (4) years. Such person so appointed and elected shall have the qualifications provided by the constitution and the laws of this state for district judges.

A sum of \$16,000 for the fiscal year ending August 31, 1966, and a sum of \$16,000 for the fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal Court No. 5 of Dallas County. The salary shall be paid as provided by law.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10a, eff. Sept. 1, 1965.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-16. Special Criminal District Court at Dallas County

There is hereby created and established at the City of Dallas a Special Criminal District Court to be known as the "Special Criminal District Court of Dallas County," which court shall have and exercise concurrent jurisdiction with the Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, as is now given and exercised by the said Criminal District Court of Dallas County, Texas, and the Criminal District Court No. 2 of Dallas County, Texas, under the Constitution and laws of the State of Texas.

[Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 1, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

The Special Criminal District Court of Dallas County, a temporary court under Acts 1954, 53rd Leg., 1st C.S., p. 105, ch. 51, art. 3, § 1 which provided that such court should cease to exist on Aug. 31, 1956, was established as permanent criminal District Court No. 3 of Dallas County by Acts 1955, 54th Leg., p. 711, ch. 256, § 1 (art. 1926-14, ante). See, also, Article 199, Judicial District 14, etc.

JURISDICTION

Art. 1926-21. Concurrent Jurisdiction of Criminal District Courts with County Court at Law

Sec. 1. The Criminal District Court and Criminal District Court No. 2 of Dallas County shall have and exercise original concurrent jurisdiction with each other and with the County Court of Dallas County at Law in all matters and proceedings relative to misdemeanor causes of which the County Court of Dallas County at Law now has jurisdiction and either of the judges of said Criminal District Courts and the judge of said County Court of Dallas County at Law may, in his discretion, or upon the motion of the county attorney of Dallas county, transfer by written order or orders, entered upon the minutes of said court, any misdemeanor cause or misdemeanor causes that may at any time be pending in either of said courts to either of the other of said courts, as should, in his discretion, be transferred or as may be prayed for in the motion of the county attorney.

Sec. 2. Upon the transfer of any such cause or causes from said County Court of Dallas County at Law to either of said Criminal District Courts it shall be the duty of the county clerk of Dallas County to prepare and forward with the papers in said cause or causes so transferred a bill of the cost then accrued which said cost shall follow said cause or causes, and be taxed in said cause or causes with any other cost that may accrue in said cause or causes in either of said Criminal District Courts to which said cause or causes may be transferred; provided that the county clerk of Dallas County making such a bill of cost shall receive the sum of 50 cents for the preparation and forwarding of said bill of cost, in each cause so transferred, which said sum and cost shall be taxed in said cause and collected as other cost in the manner now provided by law; and the clerk of the District Court of Dallas County shall likewise, upon the transfer of any such cause from either of said Criminal District Courts to the County Court of Dallas County at Law, prepare such bill of cost and forward same as provided therein, and shall receive the same compensation as herein provided for the county clerk of Dallas County in such cases.

Sec. 3. The clerk of the District Court of Dallas County shall keep for each of said Criminal District Courts a misdemeanor docket and a misdemeanor motion docket in like manner as is now provided for by law for the County Court of Dallas County at Law, and upon any such cause or causes being transferred from the County Court of Dallas County at Law or from one of said Criminal District Courts to the other, said cause or causes shall be docketed as now provided by law for the County Court of Dallas County at Law.

Sec. 4. In trial of causes transferred to either of the Criminal District Courts of Dallas

County from the County Court of Dallas County at Law, the trials, pleadings and practice shall be the same as in trial of other causes over which the Criminal District Courts of Dallas County now have jurisdiction.

Sec. 5. The county attorney of Dallas county and all other officers shall receive the same fees in misdemeanor causes in said Criminal District Courts as are now provided by law in the County Court of Dallas County at Law and in all other matters of cost tax in said causes in said Criminal District Courts, the item shall in no event be greater than that provided by law for such items in the County Court of Dallas County at Law, and all such cost in such causes shall be paid to the officers of the court in which same is accrued.

Sec. 6. [General repealer.]

Sec. 7. All misdemeanor causes of which the County Court of Dallas County now has jurisdiction may be filed originally with the clerk of the district [court] of Dallas¹ county, in either the Criminal District Court of Dallas County or the Criminal District Court No. 2 of Dallas County, in the same manner as is now provided by law for the filing of such causes with the county clerk of Dallas county in the County Court of Dallas County at Law.

Sec. 7a. Said Criminal District Courts shall have jurisdiction on all bail bonds and recognizances taken in proceedings had before such courts; in all causes transferred to said courts from either of them or that may be transferred to said courts from the County Court of Dallas County at Law; and may enter forfeitures thereof; and final judgment and enforce the collection of same by proper process in the manner as provided by law in said bail bond proceedings; and all bail bonds, recognizances or other obligations taken for the appearance of defendants, parties and witnesses, in either the County Court of Dallas County at Law or Criminal District Court of Dallas County or Criminal District Court No. 2 of Dallas County, shall be binding on all such defendants, parties and witnesses and their sureties for appearance in either of said courts in which said cause may be pending or to which same may be transferred.

[1925 C.C.P.]

¹ So in Session Laws. Enrolled bill reads "clerk of district of or Dallas."

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-22. Jurisdiction Increased

Sec. 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Dallas County, and upon the Criminal District Court No. 2 of Dallas County, by the Constitution and laws of the State of Texas, said Courts shall hereafter have and exercise civil jurisdiction in suits, causes and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas, of 1925, and any amendments thereof, heretofore or hereafter made thereto.

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas, of 1925, and any amendments thereof, heretofore or hereafter made thereto.

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas, of 1925, and any and all amendments heretofore or that may hereafter be made thereto.

(4) Habeas Corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Courts, all the officers of said Courts shall have the same powers, rights and duties that are now or that may hereafter be conferred upon the same or similar officers in the other District Courts of Dallas County, Texas; and all fees and costs in such matters shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Dallas County, Texas.

Sec. 3. Any Judge of any District Court of Dallas County may at his discretion transfer any cause or causes set out in Section 1 hereof that may at any time be pending in his Court to any other District Court of Dallas County by an order or orders entered upon the minutes of his Court; and the presiding Judge of the District Courts of Dallas County may in like manner assign any case in his Court or in any of the District Courts in Dallas County involving or pertaining to the matters set out in Section 1 hereof to any other Judge or Court, including the Criminal District Courts of Dallas County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case. When such transfer or transfers are made the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law.

[Acts 1935, 44th Leg., p. 604, ch. 243.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

JUDGES; CRIMINAL DISTRICT ATTORNEYS

Art. 1926-26. Judges of Criminal District Courts May Sit in Either Court

From and after the time this law shall take effect the Criminal District Court of Dallas County, Texas, and the Criminal District Court Number Two of Dallas County, Texas, and the respective judges thereof, shall have and exercise concurrent jurisdiction with each other in all felony cases, and in all misdemeanor cases in which said courts have, or may hereafter have, concurrent jurisdiction with the County Court of Dallas County at Law, and in all matters and proceedings of which either of said criminal district courts of Dallas County, Texas, now have jurisdiction; and either of the judges of said criminal district courts may, in his discretion, in the absence of the judge of the other criminal district court from his courtroom, or from the County of Dallas, Texas, try and dispose of any cause or causes that may be pending in such criminal district court as fully as could such absent judge were he personally present and presiding. And either of said judges may receive in open court from the foreman of the grand jury any bill or bills of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any impaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such absent district judge could do if personally present and presiding over such court; and may make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto, as the regular judge of said criminal district court could make if personally present and presiding.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-27. Criminal District Attorney; Duties; Salary; Fees; Accounting; Assistants; Oath; Powers; Report of Expenses; Election

Sec. 1. See article 199 (14th Dist.).

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Dallas county, Texas, an attorney for said district, who shall be styled the "Criminal District Attorney of Dallas county," and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other district attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants, as hereinafter provided to be in attendance upon each term of the "Criminal Court of Dallas County" and the "Criminal District Court No. 2 of Dallas County" and to represent the state in all matters pending before said courts. And he shall have exclusive control of all criminal cases wherever pending, or in whatever court in Dallas County that now has jurisdiction of criminal cases, as well as any or all courts that may hereafter be created and given jurisdiction in criminal cases, and he shall have the fees therefor fixed by law. He shall also have control of any and all cases heard on habeas corpus before any civil district court of Dallas County, as well as before the Criminal Court of said county. The Criminal District Attorney of Dallas County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within said Criminal District of Dallas County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state.

It is further provided that he and his assistants shall have the exclusive right and it shall be their sole duty to perform the duties provided for in this Act, except in cases of absence from the county of the Criminal District Attorney and his assistants, or their inability or refusal to act; and no other person shall have the power to perform the duties provided for in this Act, or to represent the state in any criminal case in Dallas County, except in case of the absence from Dallas County, or the inability or refusal to act of the Criminal District Attorney and his assistants.

Sec. 4. The said Criminal District Attorney of Dallas County shall be commissioned by the Governor and shall receive a salary of \$500.00 per annum, to be paid by the state, and in addition thereto shall receive the following fees in felony cases, to be paid by the state; for each conviction of felonious homicide, where the defendant does not appeal or dies, or escapes after appeal and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of forty dollars. For all other convictions in felony cases, where the defendant does not appeal, or dies, or escapes, after appeal, and before final judgment of the Court of Criminal Appeals, or where, upon appeal, the judgment is affirmed, the sum of thirty dollars; provided, that in all convictions of felony, in which punishment is fixed by the verdict and judgment by confinement in the House of Correction and Reformatory, his fee shall be fifteen dollars. For representing the state in each case of habeas corpus where the defendant is charged with felony, the sum of twenty dollars. For representing the state in examining trials, in felony cases, where indictment is returned, in each case, the sum of five dollars. The Criminal District Attorney shall also receive such fees for other services rendered by him as is now, or may

hereafter be authorized by law to be paid to other district and county attorneys in this state for such services.

Sec. 5. The Criminal District Attorney of Dallas County shall retain out of the fees earned and collected by him the sum of three thousand five hundred dollars per annum and in addition thereto one fourth of the gross excess of all such fees in excess of three thousand five hundred dollars per annum to an amount not in excess of two thousand dollars. The three fourth remaining to be applied first to the payment of the salaries of the Assistant District Attorneys and extra assistant District Attorneys and stenographer as hereinafter provided for. The remainder to be paid into the treasury of Dallas County; provided that in arriving at the amount collected by him he shall include the fees arising from all classes of criminal cases whether felony or misdemeanor arising in any of the courts in Dallas County now existing, or which may hereafter be created including habeas corpus hearing and fines and forfeitures; provided that after the 30th day of November and before the first day of January following of each year, he shall make a full and complete report and accounting to the county judge of Dallas County of all of such fees so collected by him; provided that in addition to the above he shall receive ten per cent. for the collection of delinquent fees as is now provided by law relating to the collection of delinquent fees by county and district attorneys. Such fees however, to be included in the reports herein provided for and to be taken into consideration in arriving at the total maximum compensation provided in this Act.

Sec. 6. The Criminal District Attorney of Dallas County may appoint two assistant criminal district attorneys who shall each receive a salary of not to exceed eighteen hundred dollars per annum payable monthly, and four additional assistant district attorneys who shall each receive a salary of not to exceed fifteen hundred dollars a year payable monthly. He may appoint a stenographer who shall receive a salary of not more than twelve hundred dollars per annum payable monthly.

In addition to the assistant criminal district attorneys and stenographer above provided for, said Criminal District Attorney of Dallas County may, with the approval of the county judge and commissioners court of Dallas county, appoint as many additional extra assistant district attorneys as may be necessary to properly administer the affairs of the office of Criminal District Attorney and enforce the law, upon the Criminal District Attorney making application under oath addressed to the county judge of Dallas county, setting out the need therefor; provided, the county judge, with the approval of the commissioners court, may discontinue the services of any one or more of said extra assistant criminal district attorneys so appointed, the salary of said extra

assistant criminal district attorney to be fixed by the commissioners court of Dallas county.

Sec. 7. The assistant criminal district attorneys and the extra assistant criminal district attorneys above provided for, when so appointed, shall take oath of office and be authorized to represent the state before said criminal district court, and in all other courts of Dallas county, in which the criminal district attorney of Dallas county is authorized by this Act to represent the state, such authority to be exercised under the direction of said criminal district attorney, and which said assistants shall be subject to removal at the will of the said criminal district attorney. Each of said assistant criminal district attorneys shall be authorized to administer oaths, file information, examine witnesses before the grand jury and generally perform any duty devolving upon the criminal district attorney of Dallas county, and to exercise any power conferred by law upon the said criminal district attorney when by him so authorized. The criminal district attorney of Dallas county shall be paid the same fees for services rendered by his assistants as he would be entitled to receive if the services shall have been rendered by himself.

Sec. 8. The criminal district attorney of Dallas county is authorized, with the consent of the county judge and county commissioners of Dallas county, to appoint not to exceed two assistants in addition to his regular assistant criminal district attorneys, provided for in this Act, which two assistants shall not be required to possess the qualifications prescribed by law for district or county attorneys, and who shall perform such duties as may be assigned to them by the criminal district attorney, and who shall receive as their compensation one hundred dollars per month each, to be paid in monthly installments out of the county funds of Dallas county, Texas, by warrants drawn on such county fund; and provided further, that the criminal district attorney of Dallas county shall be allowed a sum of money by order of said commissioners court of Dallas county, as in the judgment of the commissioners court may be deemed necessary, to the proper administration of the duties of such office not to exceed, however, the amount of fifty dollars per month. Such amount as may be thus necessarily incurred shall be paid by the commissioners court upon affidavit made by the criminal district attorney of Dallas county, showing the necessity for such expenditure and for what the same was incurred. The commissioners court may also require any other evidence as in their opinion may be necessary to show the necessity for such expenditure, but they shall be the sole judge as to the necessity for such expenditure and their judgment allowing same shall be final.

Sec. 9. The criminal district attorney shall at the close of each month of the tenure of such office make, as a part of the report required by this Act, an itemized and sworn statement of the actual and necessary expenses

incurred by him in the conduct of his said office, such as stamps, stationery, books, telephone, traveling expenses and other necessary expenses. If such expenses be incurred in connection with any particular case such statement shall name such case. Such expense account shall be subject to the audit of the county auditor and if it appears that any item of such expenses was not incurred by such officer or that such item was not necessary thereto, such item may be by the said auditor rejected, in which case the correction of such item may be adjudicated in any court of competent jurisdiction. The amount of such expense shall be deducted by the criminal district attorney of Dallas county in making such a report from the amount if any due by him to the county under the provisions of this Act.

Sec. 10. The criminal district attorney of Dallas county, as provided for in this Act, shall be elected by the qualified electors of the criminal judicial district of Dallas county at the next general election, and it is provided and directed that the present county attorney of Dallas county, Texas shall continue in office and assume the duties and be known as the criminal district attorney of Dallas county, Texas, and proceed to organize and arrange the affairs of the office of criminal district attorney of Dallas county, and appoint assistants as provided for in this Act and receive the fees provided for in this Act for such office until the next general election and until the criminal district attorney of Dallas county shall be elected and qualified.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

HARRIS COUNTY

- Art. 1926-31. Transferred to Article 199(174)
- Art. 1926-32. Transferred to Article 199(176)
- Art. 1926-33. Transferred to Article 199(177)
- Art. 1926-34. Transferred to Article 199(178, 179)
- Art. 1926-35. Transferred to Article 199(180)

TARRANT COUNTY

Art. 1926-41. Criminal District Court for Tarrant County

Sec. 1. There is hereby created and established at the city of Ft. Worth a Criminal District Court to be known as "Criminal District Court of Tarrant County,"¹ which Court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the county of Tarrant of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concur-

rent jurisdiction with the county court of Tarrant county over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect, the county court of Tarrant county and the Criminal District Court of Tarrant county¹ created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the county court of Tarrant county may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said county court on appeal from justices' or recorders' courts; and either the judge of said Criminal District Court, or the judge of said county court of Tarrant county, may upon motion of the county attorney of Tarrant county, or other officer representing the State in said courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers, are made, the clerk of the court making such transfer shall certify to the clerk of the court to which such transfer is made a statement of the cause or causes so transferred giving the style and number of the same to the clerk of the court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the clerk of the court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said court.

Sec. 3. Said court shall have jurisdiction over all bail bonds and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments, and enforce the collection of the same by proper process in the same manner as is provided by law in district courts.

Sec. 4. The said Criminal District Court of Tarrant county¹ shall have a seal similar to the seal of the district court with the words "Criminal District Court of Tarrant county"¹ engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the clerk of said court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the district court, and the rules of pleading and evidence in the district court shall govern insofar as the same may be applicable.

Sec. 6. All laws regulating the selection, summoning and impaneling of grand and petit jurors in the district court shall govern and

apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the district and county courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Tarrant County¹ shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impanelled in said court for each term thereof, unless otherwise directed by the judge of said Court.

Sec. 10. Whenever the Criminal District Court of Tarrant County¹ shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the judge presiding shall have the power, and may, if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the court before they are signed.

Sec. 11. The sheriff, county attorney, and the clerk of the district court of Tarrant county shall be the sheriff, county attorney and clerk, respectively, of said Criminal District Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys, and clerks of the district courts of this State; and said sheriff, county attorney and clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the district courts of the State, to be paid in the same manner, provided that the clerk of the court herein created, shall receive as compensation for his services the sum of \$125.00 (one hundred and twenty-five dollars) per month, to be paid as all the salaries of other clerks of criminal district courts in this State.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said district as is conferred by law upon the district court, and shall be governed by the same rule in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the court of criminal appeals in criminal cases and to the courts of civil appeals in the same manner and form as from district courts in like cases.

Sec. 14. From and after the taking effect of this Act, the district courts of Tarrant coun-

ty as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Tarrant county¹ by this Act, and all criminal causes pending in said district courts at the time of the taking effect of this Act and all matters pertaining to criminal cases pending therein over which the court herein created is given jurisdiction, shall be, by the judges of the other district courts ordered transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judge of said Criminal District Court shall try and dispose of same in the same manner as if such cases were originally instituted therein. Provided that the other district courts of Tarrant county shall have jurisdiction concurrently with this court to empanel grand juries and to receive their bills of indictment and make proper transfer of same to the Criminal District Court.

Sec. 15. The judge of said Criminal Court of Tarrant county¹ shall be elected by the qualified voters of Tarrant county for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the judge of a district court, and shall receive the same salary as is now, or may hereafter be paid, to the district judges to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by district judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a judge of said court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The judge of said criminal district court may exchange districts with or hold court for any district judge, as provided by law in cases of district judges, and in case of disqualification or absence of a judge, a special judge may be selected.

Sec. 17. All orders heretofore made and all process heretofore issued in any criminal cause so transferred are hereby validated and made of full force and effect in the Criminal District Court of Tarrant county.¹

[Acts 1917, 35th Leg., p. 144, ch. 77.]

¹Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-42. Criminal District Court No. 1 of Tarrant County

Sec. 1. There is hereby created and established a Criminal Judicial District of Tarrant County, Texas, to be composed of the County of Tarrant, Texas, alone and which shall be co-extensive with the territorial boundaries and limits of said Tarrant County, and the Criminal District Court of Tarrant County, Texas,¹ shall have and exercise all of the criminal jurisdic-

tion of and for said Criminal District of Tarrant County, Texas, which is now conferred by law on said Criminal District Court.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Tarrant County, Texas, an Attorney for said District who shall be styled the "Criminal District Attorney of Tarrant County" and who shall hold his office for a period of two years and until his successor is elected and qualified. The said Criminal District Attorney shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State, of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney or his assistants as herein provided to be in attendance upon each term and all sessions of the Criminal District Court of Tarrant County¹ and of all sessions and terms of the County Court of Tarrant County, Texas, held for the transaction of criminal business, and to represent the state in all matters pending before said courts, and to represent Tarrant County in all matters pending before such courts, the Commissioners Court of Tarrant County and Justice Courts and any other courts where said Tarrant County has pending business of any kind or matter of concern or interest; provided, however, the Commissioners Court may employ the services of the Criminal District Attorney or his assistants, or if the court elects to do so it may employ special counsel of its own choice, learned in the law, to represent the county in all condemnation proceedings for the acquisition of right-of-way for highways and proper purposes where the right of eminent domain is given to the county; and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain right-of-way for state highways, or to assist in the acquisition of such rights-of-way. Such employment may be made for such time and on such terms as the Commissioners Court may deem proper and expedient; provided, however, that the compensation for such employment shall be paid out of the Road and Bridge fund of Tarrant County. The Criminal District Attorney of Tarrant County shall have and exercise in addition to the specific powers given and the duties imposed upon him by this Act, all such powers, duties and privileges within such criminal district of Tarrant County as are by law now conferred, or which may hereafter be conferred upon district and county attorneys in the various counties and judicial districts of this state except in regard to condemnation proceedings where the Commissioners Court elects to hire a special counsel.

Sec. 4. Said Criminal District Attorney of Tarrant County shall be commissioned by the

Governor and shall receive as salary and compensation the following and no more:

A salary of Five Hundred (\$500.00) Dollars from the State of Texas, as provided in the Constitution of the State of Texas, for the salary of District Attorney, and so much of the fees, commissions and perquisites earned by said office to make up the total compensation to the sum of Six Thousand (\$6,000) Dollars; provided, that the amount of such salary, fees and perquisites to be received and retained by him shall never exceed the sum of Six Thousand (\$6,000) Dollars in any one year; and, provided, further, that all salaries, fees, commissions and perquisites so earned and received by such office in excess of \$6,000 during each and every fiscal year shall be paid into the County Treasury of said county in accordance with the terms and provisions of the maximum fee bill, except as to such portion of such excess as shall be used and expended in the payment of salaries to deputies, as hereinafter provided.

Sec. 5. The Criminal District Attorney of Tarrant County, for the purpose of conducting the affairs of such office, shall be and is hereby authorized, by and with the written consent of the county judge of said county, to appoint such assistant district attorneys who shall have all the qualifications of the criminal district attorney, as are necessary to perform the duties and affairs of such office, not to exceed six in number, two of whom shall receive a salary not to exceed three thousand dollars each per annum; two of whom shall receive a salary not to exceed twenty-five hundred dollars each per annum; one of whom shall receive a salary not to exceed twenty-one hundred dollars per annum; one of whom shall receive a salary not to exceed fifteen hundred dollars per annum. Said criminal district attorney shall also be authorized, with the consent of the county judge of said county, to appoint, not to exceed two assistants who shall not be required to possess the qualifications prescribed by law for criminal district attorneys, who shall perform such duties as may be assigned to them by said criminal district attorney, and who shall receive as their compensation a salary not to exceed twenty-one hundred dollars each per annum. All salaries above mentioned shall be payable monthly, and the said salaries to be paid only out of the fees of office collected by said district attorney, said fees of office to be the same as are now allowed and permitted by law to be paid to the county and district attorneys of this State. The fixing of the amount of salaries to be paid by said criminal district attorney to said assistants shall be fixed and regulated by the commissioners court of said county by an order passed at a regular session of said court and duly spread upon the minutes of said court; provided that the two assistants to the district attorney who are not required to have the qualifications of a criminal district attorney shall, so far as Tarrant

County is concerned, be in lieu of the assistants of like character provided for in any statutes of this State.

Sec. 6. The Assistant Criminal District Attorneys above provided for when so appointed shall take the oath of office as such, and be authorized to represent the State before the Criminal District Court of Tarrant County¹ in which the Criminal District Attorney of Tarrant County is authorized by this Act to represent the State, or to represent Tarrant County. Each of said Assistant Criminal District Attorneys shall be authorized to administer oaths, file information, examine witnesses before the Grand Jury, and generally to perform any duty devolving upon the Criminal District Attorney of Tarrant County, and to exercise any power conferred by law upon such Criminal District Attorney when by him so authorized and directed.

Sec. 7. Said Criminal District Attorney of Tarrant County shall be clothed with all the powers and vested with all the rights and privileges conferred upon County Attorneys and District Attorneys of this state, and shall receive no salary or compensation or perquisites or fees of any character save those provided in Section 4 of this Act. All fees or commissions from all sources, including fees and commissions in all criminal and civil cases, and for the prosecution of all tax suits, and from every other source, shall be turned over to the County Treasurer of said County by the said District Attorney, subject only to the payment of the salary of himself and his deputies, as provided in this Act.

Sec. 8. The Criminal District Attorney of Tarrant County, as provided for in this Act shall be elected by the qualified voters of the Criminal Judicial District of Tarrant County at the next general election, but it is provided and directed that the present County Attorney of Tarrant County shall continue in office and assume the duties and be known as the "Criminal District Attorney of Tarrant County" and shall proceed to organize and arrange the affairs of the office of the Criminal District Attorney of Tarrant County, and appoint Assistants as provided for in this Act, and receive the compensation and salary provided for in this Act for such office until the next general election, and until his successor shall be elected and qualified. Provided this Act shall not be construed as, creating any Court additional to those now existing in Tarrant County.

[Acts 1919, 36th Leg., 2nd C.S., p. 246, ch. 80; Acts 1920, 36th Leg., 3rd C.S., ch. 6, § 1 (§ 5); Acts 1963, 58th Leg., p. 860, ch. 329, § 1.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-42a. Change of Name to Criminal District Court No. 1 of Tarrant County

(a) The name of the Criminal District Court of Tarrant County, created by Chapter 80, General Laws, Acts of the 36th Legislature, 2nd

Called Session, 1919 (Articles 52-64 through 52-87, Vernon's Texas Code of Criminal Procedure),¹ is changed to the Criminal District Court No. 1 of Tarrant County.

(b) Wherever the name "Criminal District Court of Tarrant County" appears in the statutes of this state, or in any document, the name refers to the Criminal District Court No. 1 of Tarrant County.

[Acts 1967, 60th Leg., p. 1792, ch. 682, § 1, eff. Aug. 28, 1967.]

¹ See, now, articles 1926-41 and 1926-42.

Art. 1926-43. Criminal District Court No. 2 of Tarrant County

Sec. 1. That there is hereby created and established at the City of Fort Worth, a Criminal District Court to be known as the "Criminal District Court No. 2 of Tarrant County", which Court shall have and exercise concurrent jurisdiction with the Criminal District Court of Tarrant County¹ under the constitution and laws of the State of Texas.

Sec. 2. From and after the time this law shall take effect, the Criminal District Court of Tarrant County¹ and the Criminal District Court No. 2 of Tarrant County shall have and exercise concurrent jurisdiction with each other in all felony and misdemeanor causes, and in all matters and proceedings of which the said Criminal District Court of Tarrant County¹ has jurisdiction; and either of the Judges of said Criminal District Courts may in their discretion transfer any cause or causes that may at any time be pending in his court to the other Criminal District Court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made the Clerk of such Criminal District Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and, when so entered upon the docket, the Judge of that court shall try and dispose of said causes in the same manner as if such causes were originally instituted in said court; and the said Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction over misdemeanor cases as is hereafter provided by this Act.

Sec. 3. From and after the date this Act shall take effect the Criminal District Court No. 2 of Tarrant County, Texas, shall have and exercise original and concurrent jurisdiction of all misdemeanor cases of which the County Courts at Law Nos. 1 and 2 now have concurrent jurisdiction, and of such misdemeanor cases as shall be filed in said County Courts at Law of Tarrant County, Texas, on appeal from Justices or Records Courts and either the Judge of said Criminal District Court No. 2 or the Judge of said County Court at Law, may, upon motion of the District Attorney of Tarrant County, or other officer representing the state in said court, in his discretion, transfer any cause or causes that may at any time be pending in his court to the other court by an

order or orders upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the court making such transfer shall certify to the Clerk of the court to which such transfer or transfers are made, and when so entered upon the docket the Judge of the court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said court.

Sec. 4. Immediately after this Act takes effect the Clerk of the County Courts at Law Nos. 1 and 2, Tarrant County, Texas, shall transfer all civil cases which may be pending in the County Court at Law No. 1 to the County Court at Law No. 2, and all misdemeanor cases which may be pending in said County Courts at Law Nos. 1 and 2 to the Criminal District Court No. 2 of Tarrant County, Texas; and the office of Judge of the County Court at Law No. 1 of Tarrant County, Texas, shall be abolished and the said County Court at Law No. 2 shall hereafter be known as the County Court at Law of Tarrant County, Texas. All process and orders issued by the court transferring any case under the provisions of this Act shall be valid for all purposes in the court to which such case is transferred as if originally issued or made by the court to which such case is transferred.

Sec. 5. The Judge of the said Criminal District Court No. 2 of Tarrant County, Texas, shall be elected by the qualified voters of Tarrant County for a term of four years, and shall hold his office until his successor shall have been elected and qualified. He shall possess the same qualifications as required of the Judge of a District Court, and shall receive the same salary as is now or may hereafter be paid to the District Judges and to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of the Criminal District Court of Tarrant County.¹ The Judge of said court may exchange with any District Judge, as provided by law in cases of District Judges, and, in case of disqualification or absence of a Judge, a Special Judge may be selected, elected or appointed as provided by law in cases of District Judges; provided, that the Governor, under the authority now provided by law, upon this Act becoming effective shall appoint a Judge of said court, who shall hold the office until the next general election after the passage of this law, and until his successor shall have been elected and qualified. Either of the Judges of said Criminal District Courts may, in his discretion, in the absence or inability to serve of the Judge of the other Criminal District Court from his court room or from the County of Tarrant, Texas, try and dispose of any cause or causes that may be pending in such Criminal District Court as fully as could such absent Judge were he personally present and presiding. And either of said Judges may receive in open court from the Foreman of the grand jury any bill or bills

of indictment in the court to which such bill or bills of indictment may be returnable, entering the presentment of such bill or bills of indictment in the minutes of the proceedings of such court, and may hear and receive from any empaneled petit jury any report, information or verdict, and make and cause to be entered any order or orders in reference thereto, or with reference to the continuation of the deliberation of such petit jury or their final discharge, as fully and completely as such other District Judge could do if personally present and presiding over such court; and make any other order or orders in such courts respecting the causes therein pending or the procedure pertaining thereto as the regular Judge of said Criminal District Court could make if personally present and presiding.

Sec. 6. Said court shall have a seal of like design as the seal now provided by law for District Courts, except that the words "Criminal District Court No. 2 of Tarrant County" shall be engraved around the margin thereof, which seal shall be used for all the purposes for which the seal of the District Courts are required to be used; and certified copies of the orders, proceedings, judgments and other official acts of said court, under the hand of the Clerk and attested by the seal of said court shall be admissible in evidence in all the courts of this state in like manner as similar certified copies from the courts of record are now or may hereafter be admissible.

Sec. 7. The Sheriff, Criminal District Attorney and Clerk of the District Courts of Tarrant County, as heretofore provided by law, shall be the Sheriff, District Attorney and Clerk, respectively, of said Criminal District Court No. 2 of Tarrant County under the same rules and regulations as are now or may hereafter be prescribed by law for the government of Sheriffs, District Attorneys and Clerks of the District Courts of the state; and said Sheriff, Criminal District Attorney and Clerk shall, respectively, receive such fees as are now or may hereafter be prescribed by law for such offices in the District Courts of the state and to be paid in the same manner.

Sec. 8. The County Commissioners Court shall have authority to authorize the employment of such additional Deputy District Clerks as in their judgment shall be required, and to pay out of the General Fund of the county for their services such Deputy or Deputies to be appointed by the District Clerk of Tarrant County, Texas, and to be removable at the will of the Clerk, and to be paid a salary not to exceed the compensation allowed by law to other Deputy District Clerks. The Criminal District Attorney may appoint an Assistant Criminal District Attorney, in addition to those now provided by law, to attend said court. Said Assistant shall have the authority and shall qualify as provided by law for Assistant Criminal District Attorneys, and shall be removable at the will of the Criminal District Attorney, and shall receive a salary not to exceed the maxi-

imum salary allowed Assistant Criminal District Attorneys; said salary to be payable as is provided by law.

Sec. 9. Said court shall hold four terms each year for the trial of causes and the disposition of business coming before it; one term beginning the first Monday in January, one term beginning the first Monday in April, one term beginning on the first Monday in July, and one term beginning the first Monday in October, of each year. The trials and proceedings in said court shall be conducted according to the law governing the practice and proceedings in felony and misdemeanor cases. The District Judges of the Criminal District Courts of Tarrant County¹ may alternately appoint Grand Jury Commissioners and empanel grand juries.

Sec. 10. All laws regulating the selection, summoning and empaneling of grand and petit jurors in the District Courts shall govern and apply in the Criminal District Court No. 2 of Tarrant County, insofar as the same may be applicable. Provisions of the articles commonly known as the "Jury Wheel Law" shall remain in full force and effect insofar as the same may be applicable.

Sec. 10a. The salary for such District Judge shall be the same as the salary provided for other District Judges in this state. There is hereby appropriated to pay the salary of such Judge for the biennium beginning September 1, 1947, the sum of Six Thousand (\$6,000.00) Dollars for each year of such biennium, which said salary shall be paid in monthly installments out of the General Revenue Fund of the state in the same manner as provided for other District Judges in House Bill No. 244, Acts of the Regular Session, 50th Legislature, 1947.

[Acts 1947, 50th Leg., p. 636, ch. 337.]

¹Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-44. Criminal District Court No. 3 of Tarrant County

A. Creation and Jurisdiction. The Criminal District Court No. 3 of Tarrant County is created. Its jurisdiction is identical with that provided by law for the Criminal District Court of Tarrant County¹ and the Criminal District Court No. 2 of Tarrant County and shall be exercised concurrently.

B. Terms of Court. The terms of the Criminal District Court No. 3 begin on the first Monday in April, the first Monday in July, the first Monday in October, and the first Monday in January of each year. Each term of court continues until the next succeeding term convenes.

C. Judge. As soon as practicable after the effective date of this Act, the Governor shall appoint to the Criminal District Court No. 3 a person qualified to serve as a District Judge under the Constitution and laws of this state.

The judge appointed holds office until the next general election at which his successor is duly elected and until he qualifies; and each elected successor holds office for a term of four years. The judge appointed and his successor is entitled to the same compensation and allowances provided by law for District Judges of Tarrant County, Texas.

D. Appropriation. A sum of \$16,000.00 for the fiscal year ending August 31, 1966, and a sum of \$16,000.00 for fiscal year ending August 31, 1967, is hereby appropriated from the General Revenue Fund for the salary of the Judge of the Criminal District Court No. 3 of Tarrant County. The salary shall be paid as provided by law.

E. Court Officials. (a) The Judge of the Criminal District Court No. 3 may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the same compensation, fees, and allowances provided by law for the official district court reporters of Tarrant County, Texas.

(b) The Sheriff, Criminal District Attorney, and District Clerk of Tarrant County, Texas, shall serve as Sheriff, Criminal District Attorney, and Clerk, respectively, of the Criminal District Court No. 3. The Commissioners Court of Tarrant County, Texas, may employ as many additional deputy sheriffs, assistant criminal district attorneys, and deputy clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the same compensation, fees, and allowances, prescribed by law for their respective offices in Tarrant County, Texas.

F. Practice. (a) The rules of practice and procedure applicable to the District Courts of this state govern practice in the Criminal District Court No. 3, and the judge of said court shall have the same power as any other District Judge in Tarrant County.

(b) The judges of all three criminal district courts in Tarrant County may freely transfer causes to and from the dockets of their respective courts. The judges may also freely exchange benches and courtrooms with each other and with the judges of the 17th, 48th, 67th, 96th, and 153rd judicial districts and with any other District Court in Tarrant County, so that if a judge is ill, disqualified, or otherwise absent, another judge may hold court for him without the necessity of transferring the cause involved.

(c) The Criminal District Judges of Tarrant County shall each appoint two officers of each of the said courts to act as Bailiffs for said courts and no less than three (3) Bailiffs shall be assigned regularly to each of the Criminal District Courts of Tarrant County, Texas, with the judge of each court, respectively, appointing two (2) Bailiffs and the Sheriff of such county appointing one (1) Bailiff for each of said courts, and the Sheriff of such county

shall appoint such Bailiff for each court in the same manner as is now authorized by law.

The Judges of County Criminal Courts Nos. 1 and 2 of Tarrant County shall each appoint one officer to act as a Bailiff for said courts and no less than two (2) Bailiffs shall be assigned regularly to each of the said County Criminal Courts, with the judge of each of said courts respectively appointing one (1) Bailiff for each of said courts and the Sheriff of Tarrant County shall appoint one (1) Bailiff for each of said courts in the same manner as now authorized by law. The Bailiffs appointed under the provisions hereof by the said courts shall be paid a salary out of the general fund of the county of such courts as may be set by the judges of said courts with the approval of the Commissioners Court of Tarrant County. The Bailiffs so appointed by each of the said courts of Tarrant County shall perform such duties as are required by the judges. The said Bailiffs thus appointed by each of the judges, under the provisions hereof, are subject to removal without cause at the will of the judge in whose court such Bailiff or Bailiffs may be assigned. Bailiffs thus appointed by any such judge or judges, under the provisions hereof shall be duly deputized by the Sheriff of such county upon the request of the Criminal District Judges in the manner now authorized by law, and such Bailiffs shall be in addition to all other deputies now authorized by law.

[Acts 1965, 59th Leg., p. 895, ch. 442, § 10d, eff. Sept. 1, 1965; Acts 1967, 60th Leg., p. 1792, ch. 682, §§ 2, 3, eff. Aug. 28, 1967.]

¹ Name changed to Criminal District Court No. 1 of Tarrant County. See article 1926-42a.

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-45. Criminal District Court No. 4 of Tarrant County

(a) The Criminal Judicial District No. 4 of Tarrant County is hereby created. It is composed of the County of Tarrant.

(b) The Criminal District Court No. 4 of Tarrant County shall give preference to criminal cases.

[Acts 1969, 61st Leg., 2nd C.S., p. 94, ch. 23, § 3.025, eff. Sept. 19, 1969.]

TRAVIS COUNTY

Art. 1926-51. Criminal District Court of Travis County

Secs. 1 to 4. See Art. 199 (26th and 53rd Dists.).

Sec. 5. The criminal district court of Travis and Williamson Counties, as now created by law shall when this bill takes effect, be known as the Criminal District Court of Travis County, Texas, and shall exercise, have and enforce all the powers and jurisdiction which it now has within and for Travis County and, in addition thereto, shall have and exercise all of the jurisdiction, powers, and functions of a district court under the Constitution and laws of the State of Texas; provided, however, that it

shall not exercise or have any jurisdiction or powers as such other than is incident to a district court of general jurisdiction, it being the purpose of this Act to take Williamson County out of the district of said criminal district court as now organized and confine its jurisdiction exclusively to Travis County. The said criminal district court, when this bill becomes effective, shall have the right and power to certify and transfer to the Fifty-third Judicial District Court either civil or criminal cases and the Fifty-third Judicial District Court shall have the right to certify and transfer to the criminal district court of Travis County for trial civil cases. Civil cases may be filed or instituted in either the criminal district court of Travis County or in the Fifty-third Judicial District Court in Travis County and both of said courts, or either of them, shall have the right, power and jurisdiction to try either civil or criminal cases within its jurisdiction under the Constitution and General Laws of the State. The Criminal District Court of Travis County shall continue, as now provided by law, to select jury commissioners and impanel grand juries and exercise all of the other powers, functions and jurisdiction now conferred upon it by law, it being the purpose of this Act, not to repeal the Act hereby amended otherwise than is herein specifically done, and this Act is in addition to and cumulative of the Act hereby amended.

Sec. 5a. The Criminal District Court of Travis County shall hold its terms at the following time, to-wit: On the first Monday in February and may continue in session to and including the last Saturday in March; on the first Monday in April and may continue in session to and including the last Saturday in May; on the first Monday in June and may continue in session to and including the last Saturday in August; on the first Monday in October and may continue in session to and including the last Saturday in November; on the first Monday in December and may continue in session to and including the last Saturday in January.

Sec. 6. The district clerk of Travis County shall be the clerk of the district courts for the Fifty-third Judicial District and of the Criminal District Court of Travis County and shall perform all of the duties of clerk of the said two courts.

Sec. 7. [Not included.]

Sec. 8. At the general election, next preceding the taking effect of this Act, there shall be elected, a district judge for the Criminal District Court of Travis County who shall qualify as soon as the Act takes effect, and his term of office shall be four years, and he shall continue in office until his successor is elected and qualified.

Sec. 9. Upon the taking effect of this Act, the respective judges of each of the said three district courts shall, each for his respective court, appoint an official court reporter who shall have the qualifications and be subject to

the same regulations and receive the same compensation as is now, or may hereafter be, fixed by law, for court reporters in district courts.

Sec. 10. The office of district attorney of Travis and Williamson Counties from and after the first day of January, 1927, shall cease to exist, and there shall be elected a district attorney for the Fifty-third Judicial District at the next general election after the passage of this Act, and at each general election thereafter. He shall represent the State in all criminal cases in all of the district courts of Travis County, and perform such other duties as are or may be provided by law governing district attorneys; and he shall receive, in addition to the five hundred (\$500.00) dollars per annum allowed by law to district attorneys, the same per diem and compensation provided by law for district attorneys in judicial districts of this State composed of two or more counties.

Sec. 11. Grand juries for the Criminal District Court of Travis County shall be organized at each of the terms of said court. And grand juries for the Twenty-sixth Judicial District Court shall be organized at the January, May and September terms of the said court; provided, however, that the judge of the district court for the Twenty-sixth Judicial District may, when deemed necessary, organize and impanel grand juries at any other term of said court by entering an order therefor.

Sec. 12. [Not included.]

Sec. 13. Upon the taking effect of this Act the district clerk of Williamson County shall transfer all causes pending on the docket of the said Criminal District Court in Williamson County to the docket of the Twenty-sixth Judicial District Court; and that all causes so transferred shall be disposed of as though originally filed in the said court to which they were so transferred.

Sec. 14. Either judge of the Fifty-third Judicial District or the Criminal District Court of Travis County may, in his discretion, at any time, transfer any cause pending on the docket of his court to the other District Court in Travis County, and when the said transfer is so made the said cause so transferred shall be disposed of by the court to which the same was so transferred as though originally filed in the said court.

Sec. 15. All writs, processes, bonds, recognizances and orders in civil and criminal cases and matters, issued, executed, entered into, or required prior to the taking effect of this Act, in the Twenty-sixth Judicial District Court, and in the Criminal District Court of Travis and Williamson Counties, respectively, and returnable to terms of said courts, as heretofore fixed by law, in the counties of Travis and Williamson, are hereby made returnable to the next ensuing terms of the respective courts to which they are required to be transferred, under the provisions of this Act, and shall be as valid and binding as if no change had been made in said courts, or in the time of holding

same; and all juries drawn and selected under existing laws shall be as valid as if no change had been made in said courts or in the time of holding same; and at the last term of the Criminal District Court for Travis and Williamson Counties held in Williamson and Travis Counties, under existing laws, the judge of said criminal district court shall provide for the drawing and selection of a grand jury for the proper terms of court in Travis and Williamson Counties, to be held after this Act takes effect; and the said petit and grand juries so drawn and selected shall be required to appear and serve and their acts shall be valid as if no change had been made in said courts, or in the times of holding said courts.

Sec. 16. This Act shall not be construed to in anywise or in any manner affect judgments or orders rendered or made in the Twenty-sixth Judicial District Court in Travis County, or rendered or made in the Criminal District Court for Travis and Williamson Counties, in either of said counties prior to the taking effect of this Act; but it is provided that after this Act becomes effective as a law the Twenty-sixth Judicial District shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court of Travis and Williamson Counties had or could exercise jurisdiction in Williamson County under the law as it now exists; and after this Act becomes effective as a law the Fifty-third Judicial District Court and the Criminal District Court of Travis County shall have jurisdiction of all judgments, orders and matters over which the Criminal District Court for Travis and Williamson Counties and the Twenty-sixth Judicial District had or could exercise jurisdiction in Travis County under the law as it now exists.

Sec. 17. It is provided that this Act shall take effect and be in force on and after January first, 1925.

[Acts 1923, 38th Leg., ch. 68; Acts 1925, 39th Leg., p. 355, ch. 147, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

JEFFERSON COUNTY

Art. 1926-61. Criminal District Court of Jefferson County

Sec. 1. That there is hereby created and established at the County Seat of Jefferson County, a criminal District Court to be known as "Criminal District Court of Jefferson County," which court shall have and exercise, from and after the taking effect of this Act, original and exclusive jurisdiction over all criminal cases of the grade of felony in the County of Jefferson of which district courts, under the Constitution and laws of this State, have original and exclusive jurisdiction, and shall have and exercise such concurrent jurisdiction with the county court of Jefferson County at law over misdemeanor cases as is hereinafter provided by this Act.

Sec. 2. From and after the time this Act shall take effect the County Court of Jefferson County at Law and the Criminal District Court of Jefferson County created by this Act, shall have and exercise concurrent jurisdiction with each other in all misdemeanor cases of which the County Court of Jefferson County at Law may now, or may hereafter have exclusive jurisdiction; and of such misdemeanor cases as shall be filed in said County Court on appeal from Justices' or Recorders' Courts; and either the Judge of said Criminal District Court, or the Judge of said County Court of Jefferson County at Law may upon motion of the County Attorney of Jefferson County, or other officer representing the State in said Courts, in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered upon the minutes of his court; and where such transfer or transfers are made, the Clerk of the Court making such transfer shall certify to the Clerk of the Court to which such transfer is made, a statement of the cause or causes so transferred, giving the style and number of the same to the Clerk of the Court to which such transfer is made and shall accompany such statement with all the papers in said cause or causes so transferred and upon receipt of such statement and the papers in such cause or causes so transferred, the Clerk of the Court to which such transfer is made shall enter such cause or causes upon the docket of the court to which such transfer or transfers are made, and when so entered upon the docket, the Judge of the Court to which such transfer or transfers are made, shall dispose of said cause or causes in the same manner as if such cases were originally instituted in said Court.

Sec. 3. Said Court shall have jurisdiction over all bail, bond and recognizances taken in proceedings had before said court, or that may be returned to said court from other courts, and may enter forfeitures thereof and final judgments and enforce the collection of the same by proper process in the same manner as is provided by law in District Courts.

Sec. 4. The said Criminal District Court of Jefferson County shall have a seal similar to the seal of the District Court with the words "Criminal District Court of Jefferson County" engraved thereon, an impression of which seal shall be attached to all writs and other processes, except subpoenas, issuing from said court, and shall be used in the authentication of the official acts of the Clerk of said Court.

Sec. 5. The practice in said court shall be conducted according to the laws governing the practice in the District Court, and the rules of pleading and evidence in the District Court shall govern in so far as the same may be applicable.

Sec. 6. All laws regulating the selecting, summoning and impaneling of grand and petit jurors in the District Court shall govern and apply in the Criminal District Court in so far as the same may be applicable.

Sec. 7. All rules of criminal procedure governing the District and County Courts shall apply to and govern said Criminal District Court.

Sec. 8. Said Criminal District Court of Jefferson County shall try all misdemeanor cases coming before it with six jurors instead of twelve jurors, unless a jury be waived by the defendant.

Sec. 9. Said Court shall hold four terms each year for the trial of causes and the disposition of business coming before it, one term beginning the first Monday of April, one term beginning the first Monday of July, one term beginning the first Monday of October, one term beginning the first Monday of January. Each term shall continue until the term ends by operation of law or the business is disposed of. The grand jury shall be impaneled in said Court for each term thereof, unless otherwise directed by the Judge of said Court.

Sec. 10. Whenever the Criminal District Court of Jefferson County shall be engaged in the trial of any cause when the time for expiration of the terms of said court as fixed by law shall arrive, the Judge presiding shall have the power, and may if he deems it expedient, continue the term of said court until the conclusion of such pending trial; in such case, the extension of such term shall be shown on the minutes of the Court before they are signed.

Sec. 11. The Sheriff, County Attorney, and the Clerk of the District Court of Jefferson County shall be the sheriff, County Attorney and Clerk, respectively, of said Criminal Court under the same rules and regulations as are now, or may hereafter be prescribed by law for the government of sheriffs, county attorneys and clerks of the District Courts of this State; and said Sheriff, County Attorney and Clerk shall respectively receive such fees as are now, or may hereafter be prescribed for such officers in the District Courts of the State, to be paid in the same manner.

Sec. 12. In all such matters over which said Criminal District Court has jurisdiction, it shall have the same power within said District as is conferred by law upon the District Court, and shall be governed by the same rules in the exercise of said power.

Sec. 13. Appeals and writs of error may be prosecuted from said Criminal District Court to the Court of Criminal Appeals and to the Courts of Civil Appeals in the same manner and form as from the District Courts in like cases.

Sec. 14. From and after the taking effect of this Act, the District Courts of Jefferson County as now constituted, shall be, and they are hereby deprived and divested of all jurisdiction in all criminal cases, and of all jurisdiction given the Criminal District Court of Jefferson County by this Act, and all criminal cases pending in said District Courts at the time of the taking effect of this Act, and all matters pertaining to criminal cases pending

therein over which the Court herein created is given jurisdiction, shall be, by the Clerk of the District Courts transferred to and entered upon the docket of said Criminal District Court, and when so entered upon the docket, the judges of said Criminal District Court shall try and dispose of same in the same manner as if such cases were originally instituted therein.

Sec. 15. The Judges of said Criminal District Court of Jefferson County shall be elected by the qualified voters of Jefferson County for a term of four years, and shall hold office until his successor shall have been elected and qualified. He shall possess the same qualifications as are required of the Judge of the District Court, and shall receive the same salary as is now, or may hereafter be paid, to the District Judges, to be paid in like manner. He shall have and exercise all the powers and duties now or hereafter to be vested in and exercised by District Judges of this State in criminal cases. Provided, that the Governor, by and with the consent of the Senate, if in session, shall appoint a Judge of said Court who shall hold the office until the next general election after the passage of this Act, and until his successor shall have been elected and qualified.

Sec. 16. The Judge of said Criminal District Court may exchange Districts with or hold court for any District Judge, as provided by law in cases of District Judges, and in case of disqualification or absence of a Judge, a special Judge may be selected.

[Acts 1929, 41st Leg., p. 374, ch. 170.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-62. Jurisdiction Increased

Sec. 1. In addition to the jurisdiction now conferred upon the Criminal District Court of Jefferson County by the Constitution and laws of the State of Texas, said Court shall hereafter have and exercise civil jurisdiction in suits, causes, and matters of:

(1) Divorce, as provided in Chapter 4, Title 75, of the Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(2) Dependent and delinquent children, as provided in Title 43, Revised Civil Statutes of Texas of 1925, and any amendments thereof, heretofore or hereafter made thereto;

(3) Adoption, as provided in Title 3, Revised Civil Statutes of Texas of 1925, and any and all amendments heretofore or that may hereafter be made thereto;

(4) Habeas corpus proceedings in civil matters.

Sec. 2. In all matters pertaining to the additional jurisdiction herein conferred upon said Court, all the officers of said Court shall have the same powers, rights, and duties that are now or that may hereafter be conferred upon the same or similar officers in the other Dis-

trict Courts of Jefferson County, Texas, and all fees and costs in such matters shall be the same as now or that may hereafter be provided in the same or similar matters in the other District Courts of Jefferson County, Texas.

Sec. 3. The Judges of the District Courts of Jefferson County and the Judge of the Criminal Court of Jefferson County shall elect one of their number as the presiding Judge of all the District Courts of Jefferson County including the Criminal District Court of Jefferson County; and the presiding Judge of the District Courts of Jefferson County may assign any cases in his Court, or in any of the District Courts in Jefferson County involving or pertaining to the matters set out in Section 1 hereof to any Judge or Court, including the Criminal District Court of Jefferson County, or may assign any Judge to try any of said causes in any of said Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case. When such transfer or transfers are made, the Clerk of such Court shall enter such cause or causes upon the docket to which said transfer or transfers are made, and when so entered upon the docket, the Judge shall try and dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 4. The trials and proceedings in said Courts in such matters shall be conducted according to the laws governing the pleadings, practice, and proceedings in civil cases in the District Courts and in conformity with the provisions of Article 2092, Revised Civil Statutes of Texas, of 1925, and all appeals in such civil cases shall be to the Court of Civil Appeals for the Ninth Supreme Judicial District of Texas in the manner now or that may hereafter be provided by law.

Sec. 5. During each term of said court the court may sit at any time in Port Arthur, Texas to try, hear and determine any civil non-jury cases over which it has jurisdiction as to the matters set out in Section 1, 3, and 4 hereof, and may hear and determine motions, arguments and such other non-jury civil matters over which said court may have jurisdiction; provided further, that nothing herein shall be construed to deprive the court of jurisdiction to try non-jury civil cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

The District Clerk of Jefferson County or his deputy shall wait upon the said court when sitting at Port Arthur, Texas and shall be permitted to transfer all necessary books, minutes and records to Port Arthur, Texas while the court is in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas to Beaumont, Texas at the end of each session in Port Arthur, Texas.

The Sheriff of Jefferson County or his deputy shall be in attendance upon the court while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under order of the court.

The official court reporter of said court shall be in attendance upon the court while sitting at Port Arthur, Texas and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

The Commissioners Court of Jefferson County, Texas is hereby authorized to provide suitable quarters for said court while sitting at Port Arthur, Texas, which said quarters shall be located within the sub-courthouse in Port Arthur, Jefferson County, Texas.

[Acts 1939, 46th Leg., p. 193; Acts 1955, 54th Leg., p. 603, ch. 209, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1926-63. Criminal Judicial District of Jefferson County

Sec. 1. There is hereby created and established a Criminal Judicial District of Jefferson County, Texas, to be composed of the County of Jefferson, State of Texas alone, and which District is coextensive with the territorial boundaries and limits of Jefferson County, Texas.

Sec. 2. There shall be elected by the qualified electors of the Criminal Judicial District of Jefferson County, Texas, at the regular election in November, 1950, and at the regular November election each four (4) years thereafter, an attorney for said District who shall be styled "Criminal District Attorney of Jefferson County" and who shall hold his office for a period of four (4) years and until his successor is elected and qualified. The said Criminal District Attorney of Jefferson County shall possess all the qualifications and take the oath and give the bond required by the Constitution and laws of this State of other District Attorneys.

Sec. 3. It shall be the duty of said Criminal District Attorney of Jefferson County, or his assistants, as herein provided, to be in attendance upon each term and all sessions of the Criminal District Court of Jefferson County, all other District Courts in Jefferson County, Texas, and of all inferior courts of Jefferson County, except corporation or municipal courts of Jefferson County, held for the transaction of criminal business, and to represent the State of Texas in all matters pending before said Courts and to represent Jefferson County in all matters pending before such Courts or any other Court where Jefferson County has pending business of any kind, matter or interest. The Criminal District Attorney of Jefferson County shall have and exercise, in addition to the specific powers given and the duties imposed upon him by this Act, all powers, duties and privileges within such Criminal Judicial District of Jefferson County, Texas, as are by law now conferred, or which may hereafter be conferred

upon District and County Attorneys in the various counties and Judicial Districts of this State. He shall collect such fees, commissions and perquisites as are now, or may hereafter be provided by law for similar services rendered by District or County Attorneys of this State.

Sec. 4. The Criminal District Attorney of Jefferson County shall be commissioned by the Governor and shall receive a salary of not more than Twenty-five Thousand Dollars (\$25,000) per annum, as shall be fixed by the Commissioners Court of Jefferson County, to be paid out of the Officer's Salary Fund of Jefferson County if adequate; if inadequate the Commissioners Court shall transfer necessary funds from the General Fund of the County to the Officer's Salary Fund.

Sec. 5. The Criminal District Attorney of Jefferson County, for the purpose of conducting the affairs of this office, shall appoint such Assistant Criminal District Attorneys, Investigators, Court Reporters, Stenographers, Secretaries and other employees as he may deem adequate and necessary with the approval of the Commissioners Court of such County. All Assistant Criminal District Attorneys, In-

vestigators, Court Reporters, Stenographers, Secretaries and other employees so appointed shall be paid such salaries, and receive such other compensation and reimbursement as may be set by the Criminal District Attorney and the Commissioners Court of Jefferson County. All of the salaries shall be paid from the Officer's Salary Fund if adequate; if inadequate, the Commissioners Court may pay such salaries out of the General Fund, the Jury Fund, or any other fund available for the purpose.

Sec. 6. The Assistant Criminal District Attorneys of Jefferson County, and Investigators, when so appointed, shall take the Constitutional Oath of Office, and said Assistant Criminal District Attorneys shall exercise any and every power and perform any and every duty conferred and imposed by law upon the Criminal District Attorney of Jefferson County under the supervision and direction of the Criminal District Attorney of Jefferson County.

[Acts 1949, 51st Leg., p. 88, ch. 53; Acts 1963, 58th Leg., p. 727, ch. 267, § 1; Acts 1967, 60th Leg., p. 680, ch. 284, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1005, ch. 193, § 1, eff. May 13, 1971.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

TITLE 41

COURTS—COUNTY

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CHAPTER ONE. THE COUNTY JUDGE

Article

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- 1934a-7. Stenographer or Clerk in Counties of 7,700 to 7,800 and 13,199 to 13,299; Salary.
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- 1934a-9. Stenographer or Clerk and District and County Clerks in Counties of 2,325 to 2,900 and 6,100 to 6,150; Salary.
- 1934a-10. Stenographer or Clerk in Counties of 7,500 to 17,500; Salary.
- 1934a-11. Stenographer or Secretary in Counties of 5,575 to 5,875; Salary.
- 1934a-12. Stenographer or Secretary in Counties of 27,059 to 27,150.
- 1934a-13. Stenographer or Secretary in Counties of 47,000 to 51,000.
- 1934a-14. Stenographer or Clerk in Counties of 10,380 to 10,390.
- 1934a-15. Stenographer or Secretary in all Counties; Salary.
- 1934a-16. Stenographer or Secretary in Counties of 100,000 to 110,000; Salary.
- 1934a-17. Stenographer or Secretary in Counties of 66,000 to 67,000; Salary.
- 1934a-18. Stenographer or Secretary in Jim HOGG County.

Art. 1927. Election and Qualification

A county judge who shall be well-informed in the law of this State shall be elected in each county by the qualified voters thereof, at each general election, and shall hold his office for two years.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. art. 5 § 15 was amended in November, 1954 to increase the term of office of county judges from two to four years.

Art. 1928. Bond

The county judge shall, before entering upon the duties of his office, execute a bond payable to the treasurer of his county to be approved by the commissioners court of his county, in a sum of not less than one thousand nor more than ten thousand dollars, the amount to be fixed by the commissioners court, conditioned that he will pay over to the person or office entitled to receive it, all moneys that may come into his hands as county judge, and that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and that he will not vote or give his consent to pay out county funds except for lawful purposes.

[Acts 1925, S.B. 84.]

Art. 1929. Repealed by Acts 1971, 62nd Leg., p. 1384, ch. 369, § 1, eff. May 26, 1971

Art. 1930. Special County Judge

When a judge of the county court is disqualified, the parties may, by consent, appoint a proper person to try such case.

[Acts 1925, S.B. 84.]

Art. 1931. Governor May Appoint Special Judge

Whenever a judge of the county court is disqualified to try a civil case pending in the county court, and the parties shall fail at the first term of the court to agree upon a special judge, the judge shall certify his disqualification to the Governor and the failure to agree upon another to try the same, whereupon the Governor shall appoint some person, learned in the law to try such case.

[Acts 1925, S.B. 84.]

Art. 1932. Special Judge in Probate Matter

When a county judge is disqualified to act in any probate matter, he shall forthwith certify his disqualification therein to the Governor, whereupon the Governor shall appoint some person to act as special judge in said case, who shall act from term to term until such disqualification ceases to exist. A special judge so appointed shall receive the same compensation as is now or may hereafter be provided by law for regular judges in similar cases, and the Commissioners' Court shall, at the beginning of each fiscal year, include in the budget of the county, a sufficient sum for the payment of the

special judge or judges appointed by the Governor to act for the regular county judge.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., p. 187, § 1.]

Art. 1933. Appointment by Wire

Whenever the county judge or the special judge shall be disqualified from trying a case, the parties or their counsel may agree upon an attorney for the trial thereof; and, if they shall fail to agree upon an attorney at or before the time it is called for trial, or if the trial of the case is pending and the county judge should become unable to act, or is absent, and a special judge is selected who is disqualified to proceed with the trial, and the parties then fail to select or agree upon a special judge who is qualified, the county judge or special judge presiding shall certify the fact to the Governor immediately, whereupon the Governor shall appoint a special judge, qualified to try same. Such appointment may be made by telegram or otherwise. The special judge shall proceed to the trial or disposition of such case. Any special judge agreed upon or appointed to try cases shall receive the same pay for his services as is provided by law for county judges.

[Acts 1925, S.B. 84.]

Art. 1934. Election of Judges

If a county judge fails to appear at the time appointed for holding the court, or should he be absent during the term or unable or unwilling to hold the court, a special county judge may be elected in like manner as is provided for the election of a special district judge. The special county judge so elected shall have all the authority of the county judge while in the trial and disposition of any case pending in said court during the absence, inability, or such refusal of the county judge. Similar elections may be held at any time during the term, to supply the absence, failure or inability of the county judge, or any special judge, to perform the duties of the office. When a special county judge shall have been so elected, the clerk shall enter upon the minutes of the court, a record such as is provided for in like cases in the district court.

[Acts 1925, S.B. 84.]

Art. 1934a. Stenographer or Clerk for County Judge in Certain Counties

In any county in this State of less than one hundred thousand inhabitants according to the United States census of nineteen hundred twenty, which county contains a city, of more than forty-three thousand inhabitants according to said census, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding One Hundred Twenty-five Dollars per month, such salary to be paid monthly by the county by warrants drawn on the general county fund. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1929, 41st Leg., p. 296, ch. 136, § 1.]

Art. 1934a-1. County Judge to Employ Stenographer or Clerk, Salary

Sec. 1. In any county of this State of less than one hundred thousand inhabitants, wherein is situated a city having an actual population of 38,489 inhabitants or more, the County Judge shall ascertain the population of any city in his county necessary to be ascertained under this Act by making application to the mayor of any such city for a certificate as to the population of such city. It shall be the duty of any such mayor to ascertain by some reasonable, accurate estimate the population of any such city and his certificate to same under oath shall authorize the County Judge to assume its correctness and act upon the information contained in such certificate in making any appointment of a stenographer or clerk under this Act. The population of the county shall be based on the latest United States Census for the purposes of this Act.

Sec. 2. In any county in this State of less than 100,000 inhabitants wherein is situated a city having a population of 38,489 inhabitants so certified by the mayor of the town, as provided in Section 1, hereof, the County Judge shall be allowed to employ a stenographer or clerk at a salary not exceeding One Hundred and Twenty-five (\$125.00) Dollars per month, such salary to be paid monthly by the County by warrants drawn on the general county fund, under orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1929, 41st Leg., 2nd C.S., p. 156, ch. 79.]

Art. 1934a-2. Stenographer or Clerk in Counties of 43,000 to 43,100

In any county in this State whose population, as shown by the last Federal Census Report, is between forty-three thousand (43,000) and forty-three thousand, one hundred (43,100) inhabitants, the County Judge shall be allowed to employ a stenographer or clerk at a salary of One Hundred Dollars (\$100) per month, such salary to be paid monthly by county warrants drawn on the General County Fund, or the County Road and Bridge Fund, or both, under orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1935, 44th Leg., p. 334, ch. 125, § 1.]

Art. 1934a-3. Stenographer in Counties of Less Than 20,000; Salary

In any county in this State whose population as shown by the last preceding Federal Census is less than twenty thousand (20,000) inhabitants, and whose property valuation according to the approved tax rolls for the preceding calendar year is in excess of Fifty Million Dollars (\$50,000,000) the County Judge shall be, and is hereby, authorized to employ a stenographer or Clerk at a salary not to exceed One Hundred and Twenty-five Dollars (\$125) per month,

such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or Clerk shall be subject to removal at the will of such County Judge.

[Acts 1935, 44th Leg., p. 739, ch. 320, § 1.]

Art. 1934a-4. Stenographer in Counties of 15,140 to 15,160

In any county in this State whose population as shown by the last preceding Federal Census is not more than fifteen thousand one hundred and sixty (15,160) and not less than fifteen thousand one hundred and forty (15,140) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or clerk at a salary of One Hundred (\$100.00) Dollars per month, such salary to be paid monthly by county warrants drawn on the county General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1937, 45th Leg., p. 376, ch. 185, § 1.]

Art. 1934a-5. Stenographer in Counties of 6,685 to 7,015 Population; Salary

In any county in this State whose population as shown by the last preceding Federal Census is not more than seven thousand and fifteen (7,015) and not less than six thousand, six hundred and eighty-five (6,685) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 747, § 1.]

Art. 1934a-6. Stenographer in Counties of 7,680 to 7,700; Salary

In any county in this State whose population as shown by the last preceding Federal Census of 1930 is not more than seven thousand, seven hundred (7,700) and not less than seven thousand, six hundred and eighty (7,680) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding One Hundred Dollars (\$100) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 746, § 1.]

Art. 1934a-7. Stenographer or Clerk in Counties of 10,399 to 10,499

In any county in this State with a population of not more than ten thousand, four hundred and ninety-nine (10,499) and not less than ten thousand, three hundred and ninety-nine (10,399) inhabitants, according to the last preceding Federal Census, the County Judge shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred Dollars (\$100) per month. Such salary is to be paid monthly by county warrants drawn on the county General Fund, the county Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners Court of such county. Such a stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 748, § 1; Acts 1941, 47th Leg., p. 724, ch. 451, § 1.]

Amendment by Acts 1941, p. 39, ch. 27, § 1, see article 1934a-7, post.

Art. 1934a-7. Stenographer or Clerk in Counties of 7,700 to 7,800 and 13,199 to 13,299; Salary

In any County in this State with a population of not more than seven thousand eight hundred (7,800), and not less than seven thousand seven hundred (7,700), and in Counties having not more than thirteen thousand two hundred ninety-nine (13,299) inhabitants and not less than thirteen thousand one hundred ninety-nine (13,199) inhabitants, according to the last preceding Federal Census, the County Judge with the approval of the Commissioners' Court shall be and is hereby authorized to employ a stenographer or a clerk at a salary of not to exceed One Hundred (\$100.00) Dollars per month. Such salary is to be paid monthly by County Warrants drawn on the County General Fund, the County Salary Fund, or the Road and Bridge Fund, or either of them, on the orders of the Commissioners' Court of such County. Such a stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1939, 46th Leg., Spec.Laws, p. 748, § 1; Acts 1941, 47th Leg., p. 39, ch. 27, § 1.]

Amendment by Acts 1941, p. 724, ch. 451, see article 1934a-7, ante.

Art. 1934a-8. Stenographer or Clerk in Counties of 11,710 to 11,720 and 38,400 to 38,500; Salary

Any county in this State having a population, as shown by the last preceding Federal Census of 1940, of not more than eleven thousand seven hundred twenty (11,720) and not less than eleven thousand seven hundred ten (11,710) inhabitants, and of not more than thirty-eight thousand five hundred (38,500) and not less than thirty-eight thousand four hundred (38,400) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Seventy-five (\$75.00) Dollars per month, such

salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners' Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1941, 47th Leg., p. 780, ch. 484, § 1.]

Art. 1934a-9. Stenographer or Clerk and District and County Clerks in Counties of 2,825 to 2,900 and 6,100 to 6,150; Salary

In any county in this State whose population as shown by the last preceding Federal Census is not less than two thousand, eight hundred and twenty-five (2,825) and not more than two thousand, nine hundred (2,900) and in counties having not less than six thousand, one hundred (6,100) and not more than six thousand, one hundred and fifty (6,150) inhabitants, the County Judges and County and District Clerks are, and are hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge or County or District Clerk.

[Acts 1941, 47th Leg., p. 739, ch. 459, § 1.]

Art. 1934a-10. Stenographer or Clerk in Counties of 7,500 to 17,500; Salary

In any county in this state whose population as shown by the last preceding federal census is not more than seventeen thousand, five hundred (17,500) and not less than seven thousand, five hundred (7,500), and having an assessed valuation of not less than Twenty-five Million Dollars (\$25,000,000.00), the County Judge may, with the approval of the Commissioners Court, employ a stenographer or clerk at a salary not exceeding Four Hundred Dollars (\$400.00) per month, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the county general fund under the orders of the Commissioners Court of such county.

[Acts 1945, 49th Leg., p. 304, ch. 220, § 1; Acts 1957, 55th Leg., p. 1362, ch. 463, § 1.]

Art. 1934a-11. Stenographer or Secretary in Counties of 5,575 to 5,875; Salary

In any county of this state whose population as shown by the last preceding Federal Census is not more than five thousand eight hundred seventy-five (5,875) and not less than five thousand five hundred seventy-five (5,575) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such

stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1947, 50th Leg., p. 273, ch. 166, § 1.]

Art. 1934a-12. Stenographer or Secretary in Counties of 27,059 to 27,150

In any county of this State whose population as shown by the last preceding Federal Census is not more than twenty-seven thousand, one hundred and fifty (27,150) and not less than twenty-seven thousand and fifty-nine (27,059) inhabitants, the County Judge shall be, and is hereby, authorized to employ a stenographer or secretary at a salary to be determined by the Commissioners Court, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or secretary shall be subject to removal at the will of such County Judge.

[Acts 1949, 51st Leg., p. 83, ch. 48, § 1.]

Art. 1934a-13. Stenographer or Secretary in Counties of 47,000 to 51,000

In any county of this State whose population, as shown by the last preceding Federal Census, exceeds forty-seven thousand (47,000) persons and does not exceed fifty-one thousand (51,000) persons, the county judge may, with the approval of the Commissioners Court, employ a stenographer or secretary at a salary of not more than Twenty-four Hundred Dollars (\$2,400) per annum, such salary to be fixed by the Commissioners Court and paid monthly by county warrants drawn on the county General Fund under the orders of the Commissioners Court of such county.

[Acts 1949, 51st Leg., p. 369, ch. 192, § 1.]

Art. 1934a-14. Stenographer or Clerk in Counties of 10,380 to 10,390

In any county in this State whose population as shown by the last preceding Federal Census of 1940 is not more than ten thousand, three hundred and ninety (10,390) and not less than ten thousand, three hundred and eighty (10,380) inhabitants, the County Judge shall be and is hereby authorized to employ a stenographer or clerk at a salary not exceeding Two Hundred and Fifty Dollars (\$250) per month, such salary to be paid monthly by county warrants drawn on the County General Fund or the County Road and Bridge Fund, or both, under the orders of the Commissioners Court of such county. Such stenographer or clerk shall be subject to removal at the will of such County Judge.

[Acts 1949, 51st Leg., p. 469, ch. 253, § 1.]

Art. 1934a-15. Stenographer or Secretary in all Counties; Salary

Sec. 1. Whenever any County Judge of this State shall require the services of a secretary or stenographer, he shall apply to the Commissioners Court of his County for authority to employ such secretary or stenographer. If the

Commissioners Court determines that the services of a secretary or stenographer is needed for the County Judge, it shall enter an order authorizing the County Judge to employ a secretary or stenographer and the Commissioners Court shall prescribe the salary to be paid such secretary or stenographer. The compensation which may be allowed the secretary or stenographer for his or her services shall be any reasonable sum that the Commissioners Court may determine is proper and adequate provided the compensation shall not be less than the following prescribed minimums:

(a) In each County having a population of twenty thousand (20,000) inhabitants or less, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than Five Hundred Dollars (\$500) per annum, nor more than Two Thousand, Four Hundred Dollars (\$2,400) per annum.

(b) In each county having a population of at least twenty-eight thousand (28,000) inhabitants and not more than thirty thousand (30,000) inhabitants according to the last preceding Federal Census, the secretary or stenographer of the county judge may receive a salary of not less than One Thousand Dollars (\$1,000) per annum, nor more than Four Thousand and Eight Hundred Dollars (\$4,800) per annum.

(c) In each county having a population of at least fifty thousand and one (50,001) inhabitants and not more than one hundred thousand (100,000) inhabitants, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive an annual salary in an amount as determined by the Commissioners Court.

(d) In each County having a population of one hundred thousand and one (100,001) inhabitants or more, according to the last preceding Federal Census, the secretary or stenographer of the County Judge shall receive a salary of not less than One Thousand, Six Hundred Dollars (\$1,600), nor more than Three Thousand, Seven Hundred and Fifty Dollars (\$3,750) per annum.

Sec. 2. The salaries provided in this Act shall be paid monthly out of the General Fund or Officers' Salary Fund of the County.

Sec. 3. If any section, subsection, sentence, phrase or word of this Act shall be held to be invalid, such invalidity shall not affect the remaining portions of this Act and the Legislature hereby declares that it would have enacted such remaining portions despite such invalidity.

[Acts 1953, 53rd Leg., p. 752, ch. 300; Acts 1957, 55th Leg., p. 834, ch. 363, § 1; Acts 1961, 57th Leg., p. 1128, ch. 512, § 1; Acts 1965, 59th Leg., p. 1012, ch. 497, § 1, eff. June 16, 1965; Acts 1969, 61st Leg., p. 1802, ch. 606, § 1, eff. Sept. 1, 1969.]

Art. 1934a-16. Stenographer or Secretary in Counties of 100,000 to 110,000; Salary

In any county in this State having a population of not less than One Hundred Thousand (100,000) nor more than One Hundred Ten Thousand (110,000) according to the last preceding Federal Census, the County Judge may, with the approval of the Commissioners Court, employ a secretary or stenographer at a salary not to exceed Forty-Eight Hundred Dollars (\$4,800) per year, such salary to be fixed by the Commissioners Court, and paid monthly out of the General Fund or Officers Salary Fund of the County.

[Acts 1959, 56th Leg., p. 1022, ch. 473, § 1.]

Art. 1934a-17. Stenographer or Secretary in Counties of 66,000 to 67,000; Salary

In any county in the State having a population of not less than sixty-six thousand (66,000) inhabitants and not more than sixty-seven thousand (67,000), according to the last preceding federal census, the County Judge, with the approval of the Commissioners Court, shall be, and is hereby authorized to appoint a stenographer or secretary at a salary not to exceed Four Thousand, Eight Hundred Dollars (\$4,800) per annum.

[Acts 1963, 58th Leg., p. 976, ch. 398, § 1; Acts 1971 62nd Leg., p. 1838, ch. 542, § 90, eff. Sept. 1, 1971.]

Art. 1934a-18. Stenographer or Secretary in Jim Hogg County

The County Judge and the County Attorney of Jim Hogg County are each authorized to employ one person for stenographical and secretarial duties. Each person so employed shall receive a salary of not less than One Thousand, Two Hundred Dollars (\$1,200) nor more than Two Thousand, Four Hundred Dollars (\$2,400) per annum, to be fixed, determined or set by the County Commissioners Court of Jim Hogg County and paid out of the Officer's Salary Fund or General Fund of the County.

[Acts 1963, 58th Leg., p. 979, ch. 402, § 1.]

CHAPTER TWO. COUNTY CLERK

Article

- 1935. Election and Power.
- 1936. Clerk Pro Tem.
- 1937. Bond, Oath and Insurance.
- 1938. Deputies.
- 1939. Armed Forces or Auxiliaries, Records of Official Discharges From.
- 1939a. Certified Copies of Records Furnished Free to Members of Armed Forces, Auxiliaries, Maritime Service and Merchant Marine.
- 1940. Clerk of Commissioners Court.
- 1941. Recorders.
- 1941(a). Microfilm Records of County Clerks.
- 1942. Custody of Records.
- 1943. Keep Record of Proceedings.
- 1944. Index to Judgments.
- 1945. Other Dockets, Indexes, etc.
- 1946. Report Fines and Jury Fees.
- 1947. Jury Fees and Fines.
- 1948. Shall Use Seal.

Art. 1935. Election and Power

A clerk of the county court of each county shall be elected at each general election for a term of two years. Each such clerk shall be authorized to issue all marriage licenses, to administer all oaths and affirmations, and to take affidavits and depositions to be used as provided by law in any of the courts.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 571, ch. 276, § 1.]

Increase in Term of Office

Const. art. 5, § 20 was amended in November, 1954 to increase the term of office of county clerks from two to four years.

Art. 1936. Clerk Pro Tem.

Where a county clerk shall be a party to any motion or proceeding in his court, the county judge shall, on his own motion, or on application of any person interested, appoint a clerk pro tempore for the purposes of such suit, motion or proceeding. The person so appointed shall take the oath to faithfully and impartially perform the duties of such appointment, and shall also enter into bond, payable to the State of Texas, in such amount as may be required by the judge, to be approved by him, and conditioned for the faithful performance of his duties under such appointment. The person so appointed shall perform all the duties required by law of the clerk in the particular suit, motion or proceeding in which he may be appointed.

[Acts 1925, S.B. 84.]

Art. 1937. Bond, Oath and Insurance

Sec. 1. Each county clerk shall, before entering upon the duties of his office, give bond either with four or more good and sufficient sureties or with a surety company authorized to do business in Texas as a surety, to be approved by the Commissioners Court in an amount equal to not less than Five Thousand Dollars (\$5,000) nor less than twenty per cent (20%) of the maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which the bond is to be given, conditioned for the faithful discharge of the duties of his office. Said clerk shall also take and subscribe the official oath which shall be endorsed on the bond, and the bond and oath so taken and approved shall be recorded in the county clerk's office, and deposited in the office of the clerk of the District Court. A certified copy of such bond may be put in suit in the name of the county for the use of the party injured.

Sec. 2. Each county clerk shall obtain a surety bond covering his deputy; or a schedule surety bond or a blanket surety bond covering his deputies, if more than one, and all employees of his office. Each deputy and each employee, shall be covered for the same conditions and in the same amount as the county clerk.

Sec. 3. The bond covering the county clerk shall be made payable to the county and the bond or bonds covering the deputies and the employees of the county clerk shall be made payable to the county for the use and benefit of the county clerk.

Sec. 4. Each county clerk shall obtain an errors and omissions insurance policy, covering the county clerk and the deputy or deputies of the county clerk against liabilities incurred through errors and omissions in the performance of the official duties of said county clerk and the deputy or deputies of said county clerk; with the amount of the policy being in an amount equal to a maximum amount of fees collected in any year during the previous term of office immediately preceding the term of office for which said insurance policy is to be obtained, but in no event shall the amount of the policy be for less than Ten Thousand Dollars (\$10,000).

Sec. 5. The premiums for the bonds and the errors and omissions policies required by this Act to be given, or to be obtained, by the county clerk of each county shall be paid by the Commissioners Court of the county out of the general fund of the county as additional compensation for the services of the county clerk and which additional compensation shall be cumulative of and to all other compensation presently or hereafter authorized for said county clerk.

[Acts 1925, S.B. 84; Acts 1965, 59th Leg., p. 941, ch. 456, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1711, ch. 561, § 2, eff. Sept. 1, 1969.]

Art. 1938. Deputies

The county clerk may in writing, appoint one or more deputies under his hand and the seal of his court, which shall be recorded in the office of such clerk, and shall be deposited in the office of the district clerk. Deputies shall take the official oath and shall act in the name of their principal, and may do and perform all such official acts as may be lawfully done and performed by such clerk in person. When the clerk does not reside at the county seat, he shall have a deputy residing there.

[Acts 1925, S.B. 84.]

Art. 1939. Armed Forces or Auxiliaries, Records of Official Discharges From

Each County Clerk shall record in a well-bound book the official discharge of each member of the Armed Forces of the United States of America or the Armed Force Reserve of the United States of America or the Auxiliary of either Armed Forces of the United States of America or the Armed Force Reserve of America who have served in the Armed Forces of the United States of America since 1916. There shall be no charge made for the recording and keeping of these records.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 187, ch. 107, § 1.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the micro-filming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1939a. Certified Copies of Records Furnished Free to Members of Armed Forces, Auxiliaries, Maritime Service and Merchant Marine

Art. 1. Any person, his guardian, or his dependents or heirs at law who is eligible to make a claim against the Government of the United States of America as a result of service in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, shall upon the request therefor by such person, his guardian, or his dependents, or heirs at law, be furnished without cost a certified and authenticated copy or copies of any instrument, public record or document necessary to prove or establish such claim, which is in the custody or on file in the office of County Clerks, District Clerks and other public officials of this State, by such officials. Provided, the issuance of such certified or authenticated copy or copies by such officials shall not be considered in determining the maximum fee of such offices.

Art. 2. The rights conferred by this Act shall extend to any person, his guardian or his dependents, or heirs-at-law who are eligible by reason of service heretofore or hereafter rendered in the Armed Forces of the United States of America, or the services auxiliary thereto, including the Maritime Service and the Merchant Marine, when such person, his guardian, or his dependents, or heirs-at-law are eligible to make claim against the Government of the United States of America as a result of such service.

[Acts 1939, 46th Leg., p. 329; Acts 1943, 48th Leg., p. 267, ch. 166, §§ 1, 2; Acts 1945, 49th Leg., p. 587, ch. 346, § 1.]

Art. 1940. Clerk of Commissioners Court

They shall be ex-officio clerks of the commissioners court.

[Acts 1925, S.B. 84.]

Art. 1941. Recorders

They shall be ex-officio recorders for their several counties, and as such shall record in suitable books to be procured for that purpose all deeds, mortgages and other instruments required or permitted by law to be recorded; they shall be the keepers of such record books, and shall keep the same properly indexed, arranged and preserved.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2716, ch. 886, effective June 14, 1971, relating to the micro-filming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1941(a). Microfilm Records of County Clerks

Microfilming Authorized

Sec. 1. County clerks and county recorders and clerks of county courts are hereby authorized, in their sole discretion, to adopt and thereafter to use exclusively, for the purpose of recording, preserving and protecting public records in their custody and control, or for the purpose of obtaining economical recording costs for such public records, or for the purpose of reducing and conserving the space required for filing, storing and safekeeping of such public records, or for the purpose of providing efficient retrieval of such public records, or for any similar purpose or purposes, a microphotograph or microfilm process or processes which accurately and permanently copies or reproduces, or forms a medium for copying or reproducing the original record on a film, in lieu of any other process, processes, method, or methods authorized or required, for filing, for filing and registering, or for filing and recording all instruments of writing, legal documents, papers or records authorized, permitted or required to be filed or to be filed and registered or to be filed and recorded in the offices of county clerks, or of county recorders, or of clerks of county courts; subject to the conditions and requirements hereinafter set out and specified in this Act.

Official Public Records

Sec. 2. (a) Said instruments of writing, legal documents, papers or records authorized, permitted or required to be filed, or filed and registered, or filed and recorded in the offices of said county clerks and county recorders and clerks of county courts, shall be divided into seven types or classes of records for recording by microphotograph or microfilm process or processes as described hereinbelow. The recording and indexing of said instrument of writing, legal document, paper, or record in an Official Public Record which is on microfilm imparts notice in like manner and effect as if recorded in separate books or films and as if recorded in each Official Public Record described hereinbelow. Each of said classes or types of records shall be recorded on a separate series of rolls of microfilm, or on a separate series of discrete groups of separate and individual discrete microfilm images. Each of such rolls of microfilm shall be deemed to be a bound volume or book and each image on each of said rolls shall be properly identified for indexing purposes; and each of such separate

series of discrete groups of separate and individual discrete microfilm images shall be deemed to be a bound volume or book and each discrete image of each of said discrete groups shall be properly identified for indexing purposes.

(b) The said seven types or classes of records for recording on microfilm shall be as follows:

(1) Records relating to or affecting real property, the microfilm records of which shall be known as "Official Public Records of Real Property";

(2) Records relating to or affecting receivables, chattels and personal property, the microfilm records of which shall be known as "Official Public Records of Personal Property and Chattels";

(3) Records relating or incidental to matters in probate, the microfilm records of which shall be known as "Official Public Records of Probate Courts";

(4) Records relating or incidental to matters in county civil courts, the microfilm records of which shall be known as "Official Public Records of County Civil Courts";

(5) Records relating or incidental to matters in county criminal courts, the microfilm records of which shall be known as "Official Public Records of County Criminal Courts";

(6) Records relating or incidental to matters in Commissioners Court, the microfilm records of which shall be known as "Official Public Records of Commissioners Court"; and

(7) Records relating to or affecting persons, business entities and/or agencies of government, other than property records, both real and personal, court proceedings and court records as described in Subparagraphs (1) thru (6) above, the microfilm records of which shall be known as "Official Public Records of Governmental, Business and Personal Matters."

(c) Releases, transfers, assignments and other actions relating to any instruments of writing, legal document, paper, or record, which has been recorded in an Official Public Record, shall be made by separate instruments of writing, documents, papers or records filed, or filed and registered, or filed and recorded in the same manner provided for herein for said original instrument of writing, legal document, paper or record; and no entry, marginal or otherwise, shall be made on any record, or index, or records, or indexes, previously made.

Microfilm Records Deemed Original Records;
Certified Copies

Sec. 3. The microfilm records provided for in this Act shall be deemed to be original records for all purposes and shall be so accepted by all courts and administrative agencies of this State; and transcripts, exemplifications,

copies, or reproductions on paper or on film of an image or images of said microfilm records, when issued and certified to by said clerk, shall be deemed to be certified copies of the originals for all purposes and shall be so accepted by all courts and administrative agencies of this State.

Indices

Sec. 4. (a) Each such instrument of writing, legal document, paper or record which is recorded in an Official Public Record, as provided in Sections 2(a)(1) thru 2(a)(7) hereinabove, shall be indexed and cross-indexed in the indices to the Public Record in which it is recorded in the full and perfect alphabetical order of the names of the parties as definitely identified therein in each such instrument of writing, legal document, paper or record.

(b) In addition to the names of the parties, each entry in an index for the appropriate Official Public Record described in Sections 2(a)(1), 2(a)(2) and 2(a)(7) shall include: an abbreviated description of the nature of such instrument of writing, legal document, paper or record as shown therein, including the name of the record in which it would have been recorded under existing laws pertaining to bound volume records and to other records in the Recorder's office; the time and date of filing; the location of the recorded image or images on microfilm by roll number, or by group number, and image number or numbers, or by other suitable data; an abbreviated description of the property, if any, or an abbreviated description of a lien or mortgage, if any, or of other reference, if any, to former recorded data, or such additional information as will properly identify each index entry as pertaining to the particular type of record to which the index applies.

(c) In addition to the names of the parties in actions in county courts, each entry in an index for the appropriate Official Public Record described in Sections 2(a)(3) thru 2(a)(6) shall include the nature of the cause or action, the date the cause or action was opened or taken, the court in which the cause or action lies, the docket number, such other data which would assist in further identifying the cause or action being indexed, and the location of the recorded image or images on the microfilm by roll number, or by group number, and image number or numbers, or by other suitable data.

(d) Such alphabetical indices shall be revised periodically throughout each year so that there will be a full and perfect alphabetical index to each of said Public Records for each full calendar year.

(e) Registers shall be kept up to date of court docket numbers in perfect numerical sequence for each type Court Record, and shall include essentially the same data as is contained in the indices.

(f) Such other Registers of file numbers shall be kept as will be of assistance to the

public, and shall include essentially the same data as is contained in the indices.

(g) No marginal entry or entries shall be required to be made by said clerks on indices previously completed.

Standards for Microfilm Records

Sec. 5. Should a Public Records Commission of Texas be authorized by law, all microfilming shall be done in accordance with reasonable rules and regulations, and under the general supervision, of said Commission; otherwise the county clerk shall establish the reasonable rules and regulations and have complete control of the microfilming in the county clerk's office in accordance with the following:

(a) Each original negative roll, and each original negative discrete image, of microfilmed records shall meet all of the requirements for archival quality, for density, for resolution and for definition, of the Public Records Commission of Texas, if there be one, otherwise of the United States Bureau of Standards.

(b) For each roll, or part of a roll, of microfilm to be an official original record, the first image on the roll, or part of a roll, shall be of a Title Page showing the name of the Official Record, the starting identification number, the date, and a certificate of the county clerk signed by the camera operator; and the last image on the roll, or part of a roll, shall be of a Certificate of Legality and Authenticity certifying that "the microfilming of the images between the Title Page and the Certificate of Legality and Authenticity has been in strict accordance with Article 1941(a), Vernon's Texas Civil Statutes, and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no splice was made in the original negative film between the Title Page and this Certificate"; followed by the name of the Official Record, the starting image identification number of the Title Page and the ending image identification number of the Certificate of Legality and Authenticity, the date microfilmed and the certificate of the county clerk signed by the camera operator, if the camera operator is a deputy county clerk, or otherwise signed by the county clerk in person.

(c) For each separate and individual image of a discrete group of discrete images of a microfilm record to be an official original record, the first image of the discrete group shall be of a Title Page showing the name of the Official Record, the starting identification number, the date, and a certificate of the county clerk signed by the camera operator; and the last image of the discrete group shall be of a Certificate of Legality and Authenticity

certifying "that the discrete numbered microfilm images between the Title Page and the Certificate of Legality and Authenticity have been made in strict accordance with Article 1941(a), Vernon's Texas Civil Statutes, and that each image is a true, correct, and exact copy of the page or pages of the identified instrument of writing, legal document, paper, or record which had been filed for record on the date and at the time stamped on each; that no microfilm image or images were substituted for any original discrete microfilm image or images between the Title Page and this Certificate"; followed by the name of the Official Record, the starting image identification number of the Title Page and the ending image identification number of the Certificate of Legality and Authenticity, the date microfilmed and the certificate of the county clerk signed by the camera operator, if the camera operator is a deputy county clerk, or otherwise signed by the county clerk in person.

(d) At least one additional negative copy of each roll, or part of a roll, or of each discrete image of a group of discrete images, of the original negative microfilm shall be made. The original negative of each roll, or part of a roll, or of each discrete image of a group of discrete images, of microfilm shall be the security record and, in the absence of other statutory provisions, shall be stored in a fireproof and burglarproof safe or locker outside of, and at a distance from, the courthouse. One negative copy of each roll, or part of a roll, or of each discrete image of a group of discrete images, of microfilm shall be used for making positive film prints and for no other purpose. Either negative copies or positive copies of film shall be used on projection devices or readers.

(e) All original negative microfilm now in an office of a county clerk and which negative microfilm is of archival quality, or which is made into negative film of archival quality, and which has thereon the certificates of the county clerk is hereby designated original records for all purposes and shall be so accepted by all courts and administrative agencies of this State.

(f) Each image on each roll, or each discrete image of a group of discrete images, of microfilm shall be of such a size that its image can be projected with clear legibility and without distortion onto a view screen or view glass with such projected image being as large as, or larger than, the original instrument of writing, legal document, paper or record from which it was made.

(g) Each image on a microfilm record shall be identified by a number by which it can be located quickly and easily, and

which number shall be used in indexing such image.

(h) Cameras used for microfilming shall meet or exceed the then current standards of the United States Bureau of Standards for the documentation of permanent records.

(i) Suitable means shall be furnished for the public to quickly and easily locate and project onto a viewing screen or viewing glass the complete image of a desired record. Such projected image shall be as large as, or larger than, the instrument of writing, legal document, paper or record of which it is an image.

Checking and Proving Microfilm Records; Return of Original Instruments; Disposition of Printed Records

Sec. 6. (a) Each county clerk and county recorder and clerk of county courts, whenever the original paper record is not retained in the files of the county clerk, shall reproduce from microfilm onto paper records each filmed image on each roll of microfilm, or each filmed image of the discrete group of filmed images of such paper records, and shall inspect and check each reproduced paper record against the original instrument of writing, legal document, paper or record for accuracy and clarity. Should the paper record which was reproduced from a microfilm image be defective in any respect due to the image or images on the microfilm, the original instrument of writing, legal document, paper or record, from which said defective reproduced paper record was made, shall be remicrofilmed on a subsequent roll of microfilm, or on a subsequent discrete image or images of a subsequent discrete group of individual images, to obtain acceptable images on microfilm.

(b) Notwithstanding anything to the contrary provided by any other statute or statutes, when an instrument of writing, legal document, paper, or record has been microfilmed, reproduced from microfilm onto paper records and said reproduced paper record has been proven satisfactory by inspecting and checking as provided herein, said clerk is hereby authorized to, and shall, return each such instrument of writing, legal document, paper or record, excepting those involved in or relating to court matters and proceedings, to the party or parties who filed it.

(c) Original instruments of writing, original legal documents, original papers and original records, which have been filed relating to court matters and proceedings and which have been recorded on microfilm records, shall be retained in the files of the docket to which they relate until a written order of the court closes such docket, after which all of the records in such docket shall be microfilmed in time sequence to provide all of such records of a docket in an unbroken continuous sequence on one roll of microfilm, or in an unbroken continuous sequence of discrete images in a group of discrete images.

(d) Upon the certificate of a county clerk of a county to the Commissioners Court of the county that the original negative microfilm of a designated microfilm record fully meets the requirements of the Bureau of Standards of the United States Government for archival quality, for density, for resolution and for definition of said original negative microfilm and, further, that microfilm film prints from said negative have been satisfactorily used by the public for five years, or more, said Commissioners Court may authorize by order of said court the disposal of the original paper records from which said microfilm records were made.

[Acts 1971, 62nd Leg., p. 2716, ch. 886, § 1, eff. June 14, 1971.]

Acts 1971, 62nd Leg., p. 2716, ch. 886, enacting this article, provides in section 2: "All laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to Section 10, Chapter 340, Acts of the 49th Legislature, 1945, as amended; Chapter 21, Acts of the 41st Legislature, 5th Called Session, 1930; Chapter 192, Acts of the 45th Legislature, 1937, as amended; Chapter 251, Acts of the 53rd Legislature, 1953, as amended; Chapter 211, Acts of the 41st Legislature, 1929; Section 10, Chapter 382, Acts of the 57th Legislature, 1961; Section 2, Chapter 89, Acts of the 53rd Legislature, 1953; Chapter 85, Acts of the 43rd Legislature, 1933, as amended; Section 1, Chapter 162, Acts of the 39th Legislature, 1925; Section 1, Chapter 58, Acts of the 50th Legislature, 1947; Chapter 48, Acts of the 48th Legislature, 1943; Chapter 98, Acts of the 43rd Legislature, 1st Called Session, 1933 (Articles 912a-10, 1220a, 1278a, [should read "1287a"] 4582b, 5472c, 5472d, 5476a, 5506a, 6574a, 6574b, 6899-1, and 7345a of Vernon's Texas Civil Statutes); Articles 1275, 1285, 1939, 1941, 1942, 1943, 1944, 1945, 4524, 4546, 5238, 5275, 5333, 5348, 5448, 5453, 5486, 5924, 5925, 5949, 6000, 6574, 6591, 6593, 6594, 6595, 6596, 6597, 6598, 6599, 6601, 6633, 6634, 6635, 6636, 6641, 6644, 6662, 6898, 6905, 6912, 6913, 6923, 6927, 7361, and 7362, Revised Civil Statutes of Texas, 1925, as amended; Subsections (d) and (e) of Section 137, Texas Probate Code, as amended; and Sections 9.403 through 9.407, as amended, Business and Commerce Code."

Section 3 of the 1971 act was a severability clause.

Art. 1942. Custody of Records

They shall be keepers of the records, books, papers and proceedings of their respective courts in civil and criminal cases and in matters of probate, and see that the same are properly indexed, arranged and preserved, and shall perform such other duties in that behalf as may be by law imposed on them.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the microfilming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1943. Keep Record of Proceedings

They shall keep a fair record of all the acts done and proceedings had in their respective courts, and enter all judgments of the court, under the direction of the judge, and shall keep a record of each execution issued, and of the returns thereon.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the micro-filming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1944. Index to Judgments

They shall provide and keep in their respective offices, as part of the records thereof, full and complete alphabetical indexes of the names of the parties to all suits filed in their courts, which indexes shall be kept in well bound books, and shall state in full the names of all the parties to such suits, which shall be indexed and cross indexed, so as to show the name of each party under the proper letter; and a reference shall be made opposite each name to the page of the minute book upon which is entered the judgment in each case.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the micro-filming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1945. Other Dockets, Indexes, etc.

The clerk shall keep such other dockets, books and indexes as may be required by law; and all books, records and filed papers belonging to the office of county clerks shall at all reasonable times be open to the inspection and examination of any citizen, who shall have the right to make copies of the same.

[Acts 1925, S.B. 84.]

Repeal

Acts 1971, 62nd Leg., p. 2721, ch. 886, effective June 14, 1971, relating to the micro-filming of records by counties, and classified as article 1941(a), provided in section 2 that all laws or parts of laws in conflict with the provisions of this Act are hereby repealed, to the extent of conflict only, including but not limited to this article.

Art. 1946. Report Fines and Jury Fees

On the last day of each term of the county court, the clerk shall make a written statement showing all moneys received by him for jury fees and fines since his last statement, with the names of the parties from whom received; and the name of each juror who has served at such term; the number of days he served, and the amount due him for such service. Such statement shall be examined and corrected by the presiding judge, and be approved and

signed by him. When so approved and signed it shall be recorded in the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 1947. Jury Fees and Fines

The clerk shall pay to the county treasurer all jury fees and fines received by him to the use of the county.

[Acts 1925, S.B. 84.]

Art. 1948. Shall Use Seal

Where in any county a joint clerk shall have been elected, he shall, in performing the duties of county clerk, use the seal of said court to authenticate his official acts as such clerk.

[Acts 1925, S.B. 84.]

CHAPTER THREE. POWERS AND JURISDICTION

Article

- 1949. Exclusive Original Jurisdiction.
- 1950. Concurrent Original Jurisdiction.
- 1951. No Jurisdiction.
- 1952. Appellate Jurisdiction.
- 1953. Certiorari to Justice Courts.
- 1954. Motions Against Officers.
- 1955. Repealed.
- 1956. Law and Equity Powers.
- 1957. To Grant Remedial Writs.
- 1958. Appointing Attorneys.
- 1959. Additional Authority.
- 1960. Changed Jurisdiction; Eminent Domain.
- 1960-1. County Courts; Exclusive Jurisdiction of Misdemeanors, Except, etc.
- 1960-2. Power to Forfeit Bail Bonds.
- 1960-3. Power to Issue Writs of Habeas Corpus.
- 1960-4. Appellate Jurisdiction.

Art. 1949. Exclusive Original Jurisdiction

The county court shall have exclusive original jurisdiction in civil cases when the matter in controversy [controversy] shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest.

[Acts 1925, S.B. 84.]

Art. 1950. Concurrent Original Jurisdiction

The county court shall have concurrent jurisdiction with the district court when the matter in controversy shall exceed five hundred and not exceed one thousand dollars, exclusive of interest.

[Acts 1925, S.B. 84.]

Art. 1951. No Jurisdiction

The county court shall not have jurisdiction of any suit to recover damages for slander or defamation of character, nor of suits of the recovery of lands, nor suits for the enforcement of liens upon land, nor of suits in behalf of the State for escheats, nor of suits for divorce, nor of suits for the forfeiture of the charters of corporations and incorporated companies, nor of suits for the trial of the right to property levied on by virtue of any writ of execution, sequestration or attachment, when the property levied on shall be equal to or exceed in value five hundred dollars.

[Acts 1925, S.B. 84.]

Art. 1952. Appellate Jurisdiction

The county court shall have appellate jurisdiction in civil cases over which the justice courts have original jurisdiction when the judgment appealed from or the amount in controversy shall exceed twenty dollars, exclusive of costs.

[Acts 1925, S.B. 84.]

Art. 1953. Certiorari to Justice Courts

The county court shall also have jurisdiction in cases brought up from the justice courts by certiorari.

[Acts 1925, S.B. 84.]

Art. 1954. Motions Against Officers

The county court may hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with such process.

[Acts 1925, S.B. 84.]

Art. 1955. Repealed by Acts 1971, 62nd Leg., p. 2536, ch. 831, § 6, eff. Aug. 30, 1971

See, now, article 1911a.

Art. 1956. Law and Equity Powers

Subject to the limitation stated in this chapter, the county court is authorized to hear and determine any cause which is cognizable by courts, either of law or equity, and to grant any relief which could be granted by said courts, or either of them.

[Acts 1925, S.B. 84.]

Art. 1957. To Grant Remedial Writs

The county judge, either in term time or vacation, may grant writs of mandamus, injunction, sequestration, attachment, garnishment, certiorari and supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the court.

[Acts 1925, S.B. 84.]

Art. 1958. Appointing Attorneys

The county judge may appoint counsel to attend to the cause of any party who makes affidavit that he is too poor to employ counsel to attend to the same.

[Acts 1925, S.B. 84.]

Art. 1959. Additional Authority

The county court and the county judge shall also have such authority as may be vested in them by law.

[Acts 1925, S.B. 84.]

Art. 1960. Changed Jurisdiction; Eminent Domain

Where the jurisdiction of a county court has been taken away, altered or changed by existing laws, the jurisdiction shall remain as established, until otherwise provided by law. The county courts shall have no jurisdiction in eminent domain cases.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 2537, ch. 832, § 7, eff. June 9, 1971.]

Art. 1960-1. County Courts; Exclusive Jurisdiction of Misdemeanors, Except, etc.

The county courts shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars, and except in counties where there is established a criminal district court.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-2. Power to Forfeit Bail Bonds

County courts shall have jurisdiction in the forfeiture and final judgment of all bonds and recognizances taken in criminal cases, of which criminal cases said courts have jurisdiction.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-3. Power to Issue Writs of Habeas Corpus

The county courts, or judges thereof, shall have the power to issue writs of habeas corpus in all cases in which the constitution has not conferred the power on the district courts or judges thereof; and, upon the return of such writ, may remand to custody, admit to bail or discharge the person imprisoned or detained, as the law and nature of the case may require.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1960-4. Appellate Jurisdiction

The county courts shall have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals have original jurisdiction.

[1925 C.C.P.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

CHAPTER FOUR. TERMS OF COURT

Article

- 1961. Terms of Court.
- 1962. Other Terms.
- 1963. Probate Business.
- 1964. Judge Failing to Appear.

Art. 1961. Terms of Court

The County Court shall hold at least four terms for both Civil and Criminal business annually, and such other terms each year as may be fixed by the Commissioners' Court. After having fixed the times and number of the terms of a County Court, they shall not change the same until the expiration of one year. Until, or unless otherwise provided, the term of the County Court shall be held on the first Monday in February, May, August and Novem-

ber, and may remain in session three weeks; provided said court shall be open at all times for the transaction of probate business.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 2.]

Art. 1962. Other Terms

The commissioners court may, at a regular term thereof, by an order entered upon its records, provide for more terms of the county court for the transaction of civil, criminal and probate business, and fix the times at which each of the four terms required by the Constitution, and the terms exceeding four, if any, shall be held, not to exceed six annually, and may fix the length of each term. When the number of the terms of the county court has been fixed, the court shall not change the order before one year from the date of entry of the original order fixing such terms.

[Acts 1925, S.B. 84.]

Art. 1963. Probate Business

Said court shall dispose of probate business either in term time or vacation under such regulations as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 1964. Judge Failing to Appear

If the county judge fails to appear at the time appointed for holding his court and no election of a special judge is had, the sheriff of the county, or, in his default, any constable of the county, shall adjourn the court from day to day for three days. If the judge should not appear on the fourth day and no special judge is elected, the sheriff or constable as the case may be, shall adjourn the court until the next regular term thereof.

[Acts 1925, S.B. 84.]

CHAPTER FIVE. MISCELLANEOUS PROVISIONS

MISCELLANEOUS PROVISIONS

Article

- 1965. Minutes.
- 1966. Seal of the Court.
- 1967. Repealed.
- 1968. When Case is Transferred.
- 1969. Jurisdiction Taken Away.
- 1969a-1. Exchange of Judges in County Courts at Law and County Criminal Courts in Counties of Over 300,000 Population.
- 1969a-2. Judges of County Courts at Law Authorized to Act for County Judge.
- 1969a-3. County Judges, Acting for Judge of County Court at Law.
- 1970. County Courts at Law.
- 1970a. Amount in Controversy.

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY AT LAW NO. 1

- 1970-1. Creation.
- 1970-2. Name of County Court of Dallas County at Law Changed.
- 1970-3. Jurisdiction of Said Court.

Article

- 1970-4. Jurisdiction Retained by County Court of Dallas County.
- 1970-5. Terms of County Court of Dallas County, at Law; Practice, etc.
- 1970-6. Judge to be Elected, When, etc.; Qualifications; Term.
- 1970-7. Bond and Oath of Judge.
- 1970-8. Special Judge Elected or Appointed, How.
- 1970-9. May Issue Writs.
- 1970-10. Clerk of; Seal; Sheriff to Attend When, etc.
- 1970-11. Appointment of Jury Commissioners; Selection, etc., of Juries.
- 1970-12. Vacancy in Office of Judge, How Filled.
- 1970-13. Fees and Salary of Judge.
- 1970-14. Salary of County Judge of Dallas County.

DALLAS COUNTY AT LAW NO. 2

- 1970-15. Creation.
- 1970-16. Jurisdiction.
- 1970-17. Courts How Designated; Transfer of Cases.
- 1970-18. Jurisdiction of Other County Courts.
- 1970-19. Power to Issue Writs.
- 1970-20. Terms of Court.
- 1970-21. Judge; Qualifications; Salary.
- 1970-22. Special Judge.
- 1970-23. Jurors.
- 1970-24. Vacancy.
- 1970-25. Transfer of Cases.
- 1970-26. Qualifications of Judges.
- 1970-27. Holding Court For or With Other Judge.
- 1970-28. Terms of Court.
- 1970-29. Current Term of County Court at Law No. 2; Effect of Change of Terms.
- 1970-30. Oath of Office; Bond; Fees.
- 1970-31. Salaries of Judges of County Courts at Law.

DALLAS COUNTY

- 1970-31.1 County Courts of Dallas County at Law Nos. 3 and 4.
- 1970-31.10 County Criminal Court of Dallas County, Creation, Jurisdiction, etc.
- 1970-31.11 County Criminal Court No. 2 of Dallas County.
- 1970-31.12 County Criminal Court No. 3 of Dallas County.
- 1970-31.13 County Criminal Court No. 4 of Dallas County.
- 1970-31.14 County Criminal Court No. 5 of Dallas County.
- 1970-31.20 County Criminal Court of Appeals of Dallas County.
- 1970-31a. Probate Court of Dallas County.
- 1970-31b. Probate Court No. 2 of Dallas County.

TARRANT COUNTY AT LAW NO. 2

- 1970-32. Creation.
- 1970-33. Jurisdiction of Said Court.
- 1970-34. Jurisdiction of Criminal Cases.
- 1970-35. Jurisdiction Retained by County Court of Tarrant County.
- 1970-36. Both Courts May Issue Writs.
- 1970-37. Terms, Practice, etc., of County Court of Tarrant County for Civil Cases.
- 1970-38. Judge to be Elected When, etc.; Qualifications; Term; Vacancies How Filled.
- 1970-39. Bond and Oath of Judge.
- 1970-40. Special Judge Elected or Appointed How.
- 1970-41. Clerk of; Seal; Sheriff to Attend When, etc.
- 1970-42. Selection, etc., of Juries by the Two Courts Jointly.
- 1970-43. Fees; Salary of Judge of County Court of Tarrant County for Civil Cases.
- 1970-44. Removal of Judge.
- 1970-45. Salary of County Judge of Tarrant County.

TARRANT COUNTY AT LAW NO. 1

- 1970-46. Court Created.
- 1970-47. Jurisdiction.
- 1970-48. Same; Juvenile and Probate Matters.
- 1970-49. Issuance of Writs.

Article

- 1970-50. Terms of Court; Practice.
- 1970-51. Judge.
- 1970-52. Same; Bond and Oath.
- 1970-53. Special Judge.
- 1970-54. Clerk; Seal; Sheriff.
- 1970-55. Fees; Salary.
- 1970-56. Removal of Judge.
- 1970-57. Shorthand Reporter.
- 1970-58. Transfer of Causes.
- 1970-59. Cases Filed in Either County Court at Law or County Court for Civil Cases.
- 1970-60. Transfer of Cases.
- 1970-61. Fees and Salaries of Judges.
- 1970-62. Designations of Courts.
- 1970-62.1 Transfer of Eminent Domain Jurisdiction from County to District Courts.

TARRANT COUNTY CRIMINAL COURTS

- 1970-62a. County Criminal Court No. 1 of Tarrant County.
- 1970-62b. County Criminal Court No. 2 of Tarrant County.
- 1970-62c. County Criminal Court No. 3 of Tarrant County.

BEXAR COUNTY

- 1970-63. Creation.
- 1970-64. Jurisdiction of Said Court.
- 1970-65. Jurisdiction Retained by County Court of Bexar County.
- 1970-66. Both Courts May Issue Writs.
- 1970-67. Terms, Practice, etc.
- 1970-68. Judge to be Elected When, etc.; Qualifications; Term.
- 1970-69. Bond and Oath of Judge.
- 1970-70. Special Judge Elected or Appointed How.
- 1970-71. Clerk of; Seal; Sheriff to Attend When, etc.
- 1970-72. Selection, etc., of Juries.
- 1970-73. Vacancies in Office of Judge, How Filled; Appointment of First Judge.
- 1970-74. Fees; Salary of Judge.
- 1970-75. Removal of Judge.
- 1970-75a. Practice and Administration of Courts.

HARRIS COUNTY CIVIL COURT AT LAW NO. 1

- 1970-76. Creation.
- 1970-77. County Civil Court at Law No. 1.
- 1970-78. Change of Name Not to Affect Court, Except, etc.; Judges, Officers, Process and Returns.
- 1970-79. Jurisdiction of Said Court.
- 1970-80. Jurisdiction Continued, etc.
- 1970-81. Jurisdiction Retained by County Court of Harris County.
- 1970-82. Both Courts May Issue Writs.
- 1970-83. Terms, Practice, etc.
- 1970-84. Terms of Court.
- 1970-85. Judge to be Elected, When; Qualifications; Term.
- 1970-86. Bond and Oath of Judge.
- 1970-87. Special Judge.
- 1970-88. Clerk; Seal; Sheriff to Attend When, etc.
- 1970-89. Vacancy in Office of Judge, How Filled, etc.
- 1970-90. Salary of Judge.
- 1970-91. Salary of County Judge of Harris County.
- 1970-92. Repealed.
- 1970-93. Transfer of Misdemeanor Criminal Cases.
- 1970-94. Repealed.
- 1970-94a. Exchange of Judges; Powers.
- 1970-94b. Court Reporter; Salary.

HARRIS COUNTY CRIMINAL COURT AT LAW NO. 1

- 1970-95. Court Created.
- 1970-96. Jurisdiction Over Criminal Matters; Appellate Jurisdiction.
- 1970-97. Repealed.

Article

- 1970-98. Qualifications of Judge; Appointment; Oath; Bond; Fees and Salary.
- 1970-98a. Official Court Reporter; Compensation.
- 1970-98b. Clerk in Civil and Criminal Matters.
- 1970-99. Clerk; Fees.
- 1970-100. Seal.
- 1970-101. Sheriffs and Constables.
- 1970-102. Special Judge.
- 1970-103. Repealed.
- 1970-104. Repealed.
- 1970-105. Terms.
- 1970-106. Transfer of Cases.
- 1970-106a. Exchange of Judges.
- 1970-107. Repealed.
- 1970-108. Practice.
- 1970-109. Process in Transferred Cases.
- 1970-110. Repealed.

HARRIS COUNTY

- 1970-110a. Probate Court No. 1 of Harris County.
- 1970-110a.1 Repealed.
- 1970-110a.2 Probate Court No. 2 of Harris County.
- 1970-110b. County Criminal Court at Law No. 2.
- 1970-110c. County Criminal Court at Law No. 3.
- 1970-110c.1 County Criminal Court at Law No. 4.
- 1970-110c.2 County Criminal Court at Law Nos. 5, 6 and 7 of Harris County.
- 1970-110d. County Civil Court at Law No. 2 of Harris County.
- 1970-110e. County Civil Court at Law No. 3 of Harris County.

JEFFERSON COUNTY

- 1970-111. County Court of Jefferson County at Law Created.
- 1970-112. Jurisdiction.
- 1970-113. Jurisdiction of Other Courts.
- 1970-114. Terms of Court.
- 1970-115. Election of Judge; Tenure; Qualifications.
- 1970-116. Appointment of Judge.
- 1970-117. Disqualification of Judge.
- 1970-118. Issuance of Writs.
- 1970-119. Clerk, Seal, and Sheriff.
- 1970-120. Selection of Jurors.
- 1970-121. Vacancy in Office of Judge.
- 1970-122. Salary of Judge; Assessment and Collection of Fees.
- 1970-123. Appeals from Lower Courts.
- 1970-124. Fees of County Judge.
- 1970-125. Special Judge; Election; Compensation.
- 1970-126. Act Not Repealed.
- 1970-126a. County Court of Jefferson County at Law No. 2.

EL PASO COUNTY

- 1970-127. Court Created.
- 1970-127a. Change of name.
- 1970-128. Jurisdiction.
- 1970-129. Jurisdiction.
- 1970-130. Power to Issue Writs.
- 1970-131. Terms of Court.
- 1970-132. Appointment of Judge; Election; Qualifications of Judge.
- 1970-133. Bond and Oath of Judge.
- 1970-134. Special Judge.
- 1970-135. Clerk, Seal; Sheriff.
- 1970-136. Official Shorthand Reporter; Appointment; Term of Office, Oath; Duties.
- 1970-136a. Reporter for County Court.
- 1970-137. Juries.
- 1970-138. Compensation of Judge.
- 1970-139. Removal of Judge.
- 1970-140. Salary of County Judge.
- 1970-141. Repeal; Partial Invalidation of Act.
- 1970-141.1 County Court at Law No. 2 of El Paso County.
- 1970-141.2 County Court at Law No. 3 of El Paso County.

EASTLAND COUNTY

Article

- 1970-141a. Eminent Domain and Probate Jurisdiction; Civil and Criminal Jurisdiction Transferred.
1970-142 to 1970-152. Unconstitutional.

WICHITA COUNTY

- 1970-153 to 1970-166. Repealed.
1970-166a. Jurisdiction of Wichita County Court at Law Transferred to Wichita County Court.
1970-166b. Jurisdiction in Civil Cases Transferred to District Courts.
1970-166c. Concurrent Jurisdiction with District Courts in Juvenile Delinquency, Child Neglect or Dependency Proceedings.

TEXARKANA COURT AT LAW

- 1970-167 to 1970-189. Unconstitutional.

ARMSTRONG COUNTY

- 1970-190. Armstrong County Court; Concurrent Jurisdiction with Justice Court.
1970-191. Jurisdiction as County Court.
1970-192. Appeal; Amount in Controversy.
1970-193. Jurisdiction of Justices' Courts Not Affected; Appeal.
1970-194. Laws Repealed.

CASTRO COUNTY

- 1970-195. Castro County Court; Jurisdiction of Court.
1970-196. Appellate Jurisdiction.
1970-197. May Issue Writs.
1970-198. Jurisdiction of Probate Court.
1970-199. Forfeiture, etc., of Bonds and Recognizances in Criminal Cases.
1970-200. Jurisdiction of Misdemeanors; Appellate Jurisdiction.
1970-201. District Court Has No Longer Jurisdiction of Certain Cases.
1970-202. District Clerk to Deliver Transcripts, etc.
1970-203. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
1970-204. Terms of Court.

COCHRAN AND COLORADO COUNTIES

- 1970-205. Jurisdiction of County Court of Cochran and Colorado Counties.
1970-206. Other Jurisdiction.
1970-207. Appeals and Writs of Error.
1970-208. Jurisdiction of Justices of the Peace; Appeals.

DEAF SMITH, PARMER, RANDALL, CASTRO AND LUBBOCK COUNTIES

- 1970-209. Deaf Smith, Parmer, Randall, Castro and Lubbock County Courts; Jurisdiction of Court.
1970-210. Same Subject.
1970-211. Writs of Error to Court of Civil Appeals.
1970-212. Jurisdiction of Justices of the Peace, etc.
1970-213. Laws Repealed.

HARRISON COUNTY

- 1970-214. Jurisdiction of County Court of Harrison County.
1970-215. Jurisdiction in Civil Cases.
1970-216. Judgments Heretofore Rendered in County Court; Executions, etc.
1970-217. Laws Repealed.
1970-218. Appellate Jurisdiction in Civil Cases, etc.
1970-219. May Grant Writs.
1970-220. District Court Not to Have Jurisdiction When.
1970-221. Clerk of District Court to Make Transcripts in Cases in Which Jurisdiction is Given to County Court, etc.
1970-222. Motions Against Sheriffs and Other Officers, etc.; Contempts; Other Powers.

Article

- 1970-223. May Fix Terms of Court.
1970-223a. County Court at Law of Harrison County.

HOCKLEY AND COCHRAN COUNTIES

- 1970-224. County Court of Hockley and Cochran Counties; Jurisdiction.
1970-225. Other Jurisdiction.
1970-226. Appeals and Writs of Error.
1970-227. Jurisdiction of Justices of the Peace; Appeals.

JASPER COUNTY

- 1970-228. Jasper County Court; Jurisdiction in Civil Cases.
1970-229. Appellate Jurisdiction in Civil Cases.
1970-230. May Grant Writs.
1970-231. Jurisdiction of Probate Court.
1970-232. Forfeited Bonds, etc., in Criminal Cases.
1970-233. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction.
1970-234. Jurisdiction of District Court.
1970-235. District Clerk to Deliver Transcripts, etc., to County Clerk.
1970-236. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
1970-237. Terms of Court.

KENDALL COUNTY

- 1970-238. Jurisdiction of County Court of Kendall County.
1970-239. Jurisdiction of District Court.
1970-240. County Clerk to Make Transcripts in Cases Transferred to District Court, etc.
1970-241. Judgments Heretofore Rendered in County Court; Executions, etc.

LEE AND BURLESON COUNTIES

- 1970-242. Jurisdiction of County Court of Lee and Burleson Counties.
1970-243. Other Jurisdiction.
1970-244. Appeals and Writs of Error.
1970-245. Jurisdiction of Justices of the Peace; Appeals.

OLDHAM COUNTY

- 1970-246. Oldham County Court; Jurisdiction in Civil Cases.
1970-247. Appellate Jurisdiction in Civil Cases.
1970-248. May Grant Writs.
1970-249. Jurisdiction of Probate Court.
1970-250. Forfeited Bonds, etc., in Criminal Cases.
1970-251. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
1970-252. Jurisdiction of District Court.
1970-253. District Clerk to Deliver Transcripts, etc., to County Clerk.
1970-254. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
1970-255. Terms of Court.

REAGAN COUNTY

- 1970-256. Reagan County Court; Jurisdiction; Transfer of Cases.
1970-257. Judgments Not Effected; Executions Thereon.
1970-258. Jurisdiction of District Court.
1970-259. County Court; Concurrent Jurisdiction With Justices of the Peace.
1970-260. Appeals and Writs of Error.
1970-261. Jurisdiction of Justices of the Peace; Appeals.

STONEWALL COUNTY

- 1970-262. Stonewall County Court; Jurisdiction in Civil Cases.
1970-263. Other Jurisdiction.
1970-264. Appeals and Writs of Error to Court of Civil Appeals.
1970-265. Jurisdiction of Justices of the Peace; Appeals.

SUTTON COUNTY

Article

- 1970-266. Sutton County Court; Original Civil Jurisdiction.
- 1970-267. Appellate Jurisdiction in Civil Cases.
- 1970-268. May Grant Writs.
- 1970-269. Probate Jurisdiction.
- 1970-270. Forfeited Bonds and Recognizances.
- 1970-271. Jurisdiction of Misdemeanors; Appellate Jurisdiction in Criminal Cases.
- 1970-272. Jurisdiction of District Court.
- 1970-273. Transcripts of Pending Cases; Entry of Cases in County Court.
- 1970-274. Motions Against Officers; Contempts; Other Powers.
- 1970-275. Terms of Court.

WHEELER COUNTY

- 1970-276. Wheeler County Court; Jurisdiction in Civil Cases.
- 1970-277. Appellate Jurisdiction in Civil Cases.
- 1970-278. May Grant Writs.
- 1970-279. Jurisdiction of Probate Court.
- 1970-280. Forfeited Bonds, etc., in Criminal Cases.
- 1970-281. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
- 1970-282. Jurisdiction of District Court.
- 1970-283. District Clerk to Deliver Transcripts, etc., to County Clerk.
- 1970-284. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
- 1970-285. Terms of Court.

ZAPATA COUNTY

- 1970-286. Zapata County Court; Jurisdiction in Civil Cases.
- 1970-287. Appellate Jurisdiction in Civil Cases.
- 1970-288. Power to Grant Writs, etc.
- 1970-289. Jurisdiction of Probate Court.
- 1970-290. Forfeited Bonds, etc., in Criminal Cases.
- 1970-291. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases.
- 1970-292. Jurisdiction of District Court.
- 1970-293. District Clerk to Deliver Transcripts, etc., to County Clerk.
- 1970-294. Motions Against Sheriffs and Other Officers; Contempts; Other Powers.
- 1970-295. Terms of Court.

EDWARDS COUNTY

- 1970-296. Edwards County Court; Act Repealed.

SHELBY COUNTY

- 1970-297. Shelby County Court; Jurisdiction Restored.

MCLENNAN COUNTY

- 1970-298. Repealed.
- 1970-298a. Jurisdiction of McLennan County Court at Law Transferred to McLennan County Court; Salary of Judge.
- 1970-298b. County Court at Law of McLennan County.
- 1970-298c. Compensation of Judge.

HARRISON COUNTY

- 1970-299. Jurisdiction of County Court of Harrison County.

EDWARDS COUNTY

- 1970-300. Changing Jurisdiction of County Court of Edwards County.
- 1970-300a. Jurisdiction of Edwards County Court Increased; Terms of Court.

BEXAR COUNTY

- 1970-301. County Courts at Law Nos. 1 and 2 of Bexar County.

Article

- 1970-301a. Official Shorthand Reporters; Salary.
- 1970-301b. Salaries of Judges.
- 1970-301c. Salaries of Judges.
- 1970-301d. County Court at Law No. 3, of Bexar County.
- 1970-301e. Salaries of Judges.
- 1970-301e.1 County Courts at Law Nos. 4 and 5 of Bexar County.
- 1970-301f. County Court at Law No. 6 of Bexar County.
- 1970-301f.1. County Court at Law No. 6 of Bexar County; Terms of Court; Assistant.
- 1970-301g. County Court of Bexar County for Criminal Cases.
- 1970-301h. Salaries of Judges.

MENARD COUNTY

- 1970-302. Jurisdiction and Time for Holding Menard County Court.

STERLING COUNTY

- 1970-303. Jurisdiction and Time for Holding Sterling County Court.
- 1970-303a. Jurisdiction of Sterling County Court Diminished; Civil and Criminal Causes Transferred to District Court.

IRION COUNTY

- 1970-304. Jurisdiction and Time for Holding Irion County Court.

CAMERON COUNTY

- 1970-305. County Court at Law of Cameron County Created.
- 1970-305a. Name Changed to County Court at Law of Cameron County.
- 1970-305b. Salary of Judge.

BOWIE COUNTY

- 1970-306. Jurisdiction of Bowie County Court Diminished.

KERR COUNTY

- 1970-307. Jurisdiction and Time for Holding County Court of Kerr County.

WASHINGTON COUNTY

- 1970-308. Jurisdiction of Washington County Court.

OFFICIAL SHORTHAND REPORTERS

- 1970-309. Reporters and Compensation.

PARTICULAR COUNTY COURTS

- 1970-310. Other Acts Creating or Affecting Jurisdiction of Particular County Courts.

POTTER COUNTY

- 1970-311. Jurisdiction of Potter County Court at Law Diminished; Transfer of Causes to County Court and Justice Court.
- 1970-311a. County Court at Law of Potter County Created, etc.

GILLESPIE COUNTY

- 1970-312. Jurisdiction of County Court of Gillespie County Increased.

DUVAL COUNTY

- 1970-313. Jurisdiction of County Court of Duval County Increased.

RED RIVER COUNTY

- 1970-314. Repealed.
- 1970-314a. Jurisdiction of County Court of Red River County.

COLLINGSWORTH COUNTY

- 1970-315. Jurisdiction of County Court of Collingsworth Increased.

STERLING COUNTY

- Article
1970-316. Jurisdiction of Sterling County Increased.

CROSBY AND FISHER COUNTIES

- 1970-317. Crosby and Fisher County Courts, Civil Jurisdiction Increased.

GILLESPIE COUNTY

- 1970-318. Gillespie County Court; Probate Jurisdiction Conferred; Civil and Criminal Jurisdiction Diminished.
1970-318a. Civil and Criminal Jurisdiction Restored.

KENDALL COUNTY

- 1970-319. County Court of Kendall County; Civil and Criminal Jurisdiction.

GLASSCOCK COUNTY

- 1970-320. Glasscock County Court; Civil and Criminal Jurisdiction Diminished.

STEPHENS COUNTY

- 1970-321. Stephens County Court; Civil and Criminal Jurisdiction Diminished.

MARION COUNTY

- 1970-322. County Court of Marion County; Jurisdiction in Criminal Matters; Fees of County Judge.
1970-322a. County Court of Marion County; Concurrent Jurisdiction of Certain Criminal Matters.

PANOLA COUNTY

- 1970-323. Repealed.
1970-323a. Panola County Court; Panola District Court; Jurisdiction; Transfer of Dockets.

TRAVIS COUNTY

- 1970-324. County Court at Law No. 1 of Travis County.
1970-324a. County Court at Law No. 2 of Travis County.
1970-324a.1 County Court at Law No. 3 of Travis County.
1970-324b. Exchange of Benches of County Courts at Law of Travis County.
1970-324c. Practice of Law by Judges of County Courts at Law of Travis County.
1970-324d. Eminent Domain Cases in Travis County.

OFFICIAL INTERPRETERS

- 1970-325. Official Interpreters for County Courts at Law.

NAVARRO COUNTY

- 1970-326. County Court of Navarro County; Jurisdiction.
1970-327. Repealed.

MORRIS COUNTY

- 1970-328. County Court of Morris County; Jurisdiction.

POWERS

- 1970-329. Judge of County Court at Law in Counties Under 500,000 May Act for County Judge in Certain Cases.

TITUS COUNTY

- 1970-330. Titus County Court; Jurisdiction Diminished District Court's Jurisdiction; Prosecutor in Misdemeanor Cases.

FRANKLIN COUNTY

- 1970-331. Repealed.
1970-331a. Repealed.
1970-331b. Repealed.
1970-331c. County Court and District Courts of Franklin County; Jurisdiction and Related Matters.

GRAYSON COUNTY

- Article
1970-332. Grayson County; County Court at Law; Jurisdiction; Terms; Judge; Prosecutor; Writs; Clerk and Court Reporter.

HILL COUNTY

- 1970-333. Hill County; Jurisdiction of Courts; Clerk's Duties.
1970-333a. Jurisdiction Restored; Jurisdiction of District Court.

KENT COUNTY

- 1970-334. Kent County; Concurrent Jurisdiction of County Court with Justices' Courts.

JOHNSON COUNTY

- 1970-335. Johnson County; Jurisdiction of County Court Diminished; Jurisdiction of District Court.

COUNTIES OF 225,000 INHABITANTS

- 1970-336. Salary of Judge in Counties Having Only One County Court at Law.

BLANCO COUNTY

- 1970-337. Jurisdiction Extended; Civil and Criminal; Concurrent with Justices Court.

ELLIS COUNTY

- 1970-338. Repealed.
1970-338A. Original and Appellate Jurisdiction in Misdemeanor Cases.
1970-338B. Jurisdiction of Courts; Transfer of Cases; Judgments.

NUECES COUNTY

- 1970-339. County Court at Law No. 1 of Nueces County.
1970-339A. County Court at Law No. 2 of Nueces County.
1970-339B. County Courts at Law Nos. 1 and 2 of Nueces County; Eminent Domain Jurisdiction Concurrent with County Court.
1970-339C. County Court at Law No. 3 of Nueces County.

LUBBOCK COUNTY

- 1970-340. County Court at Law No. 1 of Lubbock County.
1970-340.1 County Court at Law No. 2 of Lubbock County.

HIDALGO COUNTY

- 1970-341. County Court at Law of Hidalgo County.

GALVESTON COUNTY

- 1970-342. Probate Court of Galveston County.
1970-342a. County Court No. 1 of Galveston County.

TAYLOR COUNTY

- 1970-343. County Court at Law of Taylor County.

HUNT COUNTY

- 1970-344. Expired.

TARRANT COUNTY

- 1970-345. Tarrant County Probate Court.

ECTOR COUNTY

- 1970-346. County Court at Law for Ector County.

NOLAN COUNTY

- 1970-347. County Court at Law of Nolan County.

SMITH COUNTY

- 1970-348. County Court at Law of Smith County.

ORANGE COUNTY

Article

1970-349. County Court at Law of Orange County.
 1970-349A. County Court at Law of Orange County; Jurisdiction Concurrent with District and County Courts.

BELL COUNTY

1970-350. County Court at Law of Bell County.

GUADALUPE COUNTY

1970-351. County Court at Law of Guadalupe County.

DENTON COUNTY

1970-352. County Court at Law of Denton County.

PARKER COUNTY

1970-353. Parker County; Jurisdiction of County Court Diminished.

HUNT COUNTY

1970-354. County Court at Law of Hunt County.

ANGELINA COUNTY

1970-355. County Court at Law of Angelina County.

VICTORIA COUNTY

1970-356. County Court at Law of Victoria County.

BRAZORIA COUNTY

1970-357. County Courts at Law Nos. 1 and 2 of Brazoria County.

HAYS COUNTY

1970-358. County Court at Law of Hays County.

JURISDICTION OF PROBATE COURTS

1970a-1. Probate Courts Specially Created; Jurisdiction as to Mentally Ill, Mentally Retarded and Persons Afflicted with Tuberculosis.

MISCELLANEOUS PROVISIONS

Art. 1965. Minutes

The Minutes of the proceedings of each preceding day of the session shall be read in open court on the morning of the succeeding day, except on the last day of the session, on which day they shall be read, and if necessary be corrected, and signed in open Court by the County Judge. Each Special Judge shall sign the Minutes of such proceedings as were had before him; provided the Probate Minutes of said Court shall be approved and signed by the presiding Judge on the first day of each month, except, however, that if the first day of the month falls on a Sunday, then such approval shall be entered on the preceding day.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 3; Acts 1939, 46th Leg., p. 188, § 1.]

Art. 1966. Seal of the Court

Each county court shall be provided with a seal, having engraved thereon a star of five points in the center, and the words, "County Court of County, Texas," the impress of which shall be attached to all process, except subpoenas, issued out of such court, and shall be used to authenticate the official acts of the clerk and of the county judge.

[Acts 1925, S.B. 84.]

Art. 1967. Repealed by Acts 1929, 41st Leg., 1st C.S., p. 107, ch. 48, § 4

Art. 1968. When Case is Transferred

Whenever a cause shall be transferred from the county court to the district court, the clerk shall immediately make out a transcript of all the proceedings had in said cause in the county court, and shall transmit the same, duly certified as such, together with a bill of the costs which have accrued in said court, and all the original papers in the cause, to the clerk of the district court.

[Acts 1925, S.B. 84.]

Art. 1969. Jurisdiction Taken Away

Each clerk of the county court where the civil and criminal jurisdiction, or either, of the county courts has been transferred to the district court, shall make out a certified copy of all judgments remaining unsatisfied, which have been rendered in civil or criminal cases in the county court, and transmit the same to the clerk of the district court of their respective counties.

[Acts 1925, S.B. 84.]

Art. 1969a-1. Exchange of Judges in County Courts at Law and County Criminal Courts in Counties of Over 300,000 Population

In any county in this State having a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, and in which there may be now, or at any future time, one or more county courts at law and one or more county criminal courts, the judges of such county criminal courts and such county courts at law may hold court for or with one another; to the extent necessary to enable the judge of any such county criminal court to hold court for or with the judge of any such county court at law, the same civil jurisdiction is hereby conferred on such county criminal court as now exists or may hereafter be conferred upon the county courts at law under the Constitution and laws of this State.

[Acts 1939, 46th Leg., Spec.Laws, p. 618, § 1.]

Art. 1969a-2. Judges of County Courts at Law Authorized to Act for County Judge

Sec. 1. The Judge of any County Court at Law in any county having a population of less than seven hundred thousand (700,000) inhabitants, according to the last preceding or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if per-

formed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the County, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court.

Sec. 2. The absence, inability or failure of the County Judge to perform any of the duties hereinabove set forth shall be certified by the County Judge or the Commissioners Court to the Judge of any such County Court at Law, and when such certification is for the purpose of conferring powers to do some judicial act, such certificate shall be spread upon the minutes of the appropriate Court.

Sec. 3. Notwithstanding the additional powers and duties conferred upon the Judges of the County Courts at Law of this State no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter fixed by law.

Sec. 4. It is not intended by this Act to repeal any law providing for the election and/or appointment of a special County Judge, but this Act shall be cumulative of, and in addition to such law or laws.

Sec. 5. If any part, section, subsection, paragraph, sentence, clause, phrase or word of this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not in any manner affect the validity of the remaining portions of this Act.

[Acts 1951, 52nd Leg., p. 601, ch. 355; Acts 1961, 57th Leg., p. 494, ch. 236, § 1.]

Art. 1969a-3. County Judges, Acting for Judge of County Court at Law

Sec. 1. The County Judge of any county in this State having a population of five hundred thousand (500,000) inhabitants or more, according to the last preceding or any future Federal Census, if such County Judge is a duly licensed attorney at law, may act for the judge of any County Court at Law of such counties in any case, civil or criminal, and also in any matter and proceeding of which such County Court at Law may now or hereafter have jurisdiction, during the absence or inability of the Judge of the County Court at Law to perform such duties.

Sec. 2. The absence or inability of the Judge of the County Court at Law to perform any of the duties set forth in Section 1 shall be certified by the Judge of the County Court at Law or the Commissioners Court to the County Judge and when such certification is for the purpose of conferring powers to perform some judicial act, such certificate shall be spread on the minutes of the appropriate court.

Sec. 3. That any act performed pursuant to this Act by the County Judge for the Judge of

the County Court at Law shall be valid and binding upon all parties to such proceeding and matters the same as if performed by the Judge of the County Court at Law.

Sec. 4. Notwithstanding the additional duties herein conferred upon the County Judge, he shall not be entitled to, nor shall he receive, any additional compensation for performing such additional duties and services and his compensation shall remain the same as now or may hereafter be set by law.

Sec. 5. It is not intended by this Act to repeal any law providing for the election or appointment of a special judge of any County Court at Law, and this Act shall be cumulative of and in addition to such law.

[Acts 1955, 54th Leg., p. 520, ch. 156.]

Section 6 of Acts 1955, 54th Leg., p. 520, ch. 156 was a separability clause.

Art. 1970. County Courts at Law

All county courts at law and all similar courts by whatever name known, which now exist, shall be continued in force, together with their organization, jurisdiction, duties, powers, procedure and emoluments that now exist by law, until otherwise changed by law.

[Acts 1925, S.B. 84.]

Art. 1970a. Amount in Controversy

All county courts at law, county civil courts, and other statutory courts exercising civil jurisdiction corresponding to the constitutional jurisdiction of the county court in civil cases shall have jurisdiction concurrent with that of the district court when the matter in controversy shall exceed in value Five Hundred Dollars (\$500) and shall not exceed Five Thousand Dollars (\$5,000) exclusive of interest.

[Acts 1971, 62nd Leg., p. 2814, ch. 915, § 1, eff. June 15, 1971.]

ACTS CREATING COUNTY COURTS AT LAW AND SIMILAR COURTS, AND AFFECTING PARTICULAR COUNTY COURTS, AND DECISIONS THEREUNDER

DALLAS COUNTY AT LAW NO. 1

Art. 1970-1. Creation

There is hereby created a court to be held in Dallas county, to be called the "County Court of Dallas County, at Law."¹

[Acts 1907, p. 115, § 1.]

¹Name of County Court of Dallas County at Law changed to "County Court of Dallas County, at Law No. 1," see art. 1970-2.

Art. 1970-2. Name of County Court of Dallas County at Law Changed

The County Court of Dallas County at Law shall hereafter be known and designated as the County Court of Dallas County at Law No. 1. The judge and all officers of the County Court of Dallas County at Law shall continue as such respective officers of the County Court of Dallas County at Law No. 1, and all of the jurisdiction and powers of the County Court of Dallas County at Law and of the judges there-

of, shall be preserved and continued as the County Court of Dallas County at Law No. 1. No change in the organization of the County Court of Dallas County at Law is effected hereby except the change of name, nor shall this section in any way effect¹ any case pending in said court. All process issued out of the County Court of Dallas County at Law before this Act takes effect, and all bonds executed and recognizances entered of record in said court shall bind the parties for their appearance or to fulfil the obligation of such bonds and recognizances in the County Court of Dallas County at Law and the acts of the judge thereof, shall be as valid and binding as before this Act takes effect, and remain unaffected thereby. All pleadings, process, writs, bonds and recognizances in the County Court of Dallas County at Law may be amended at any time under the direction of the judge, to conform to this change in name.

[Acts 1923, 38th Leg., ch. 24, § 1.]

¹ So in enrolled bill. Should probably read "affect".

Art. 1970-3. Jurisdiction of Said Court

The County Court of Dallas County at Law¹ shall have original and concurrent jurisdiction with the County Court of Dallas County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws of the State, county courts have jurisdiction, except as provided in Section 3 of this Act;² but this provision shall not affect jurisdiction of the commissioners court, or of the county judge of Dallas county as the presiding officer of such commissioners court, as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners court or the judge thereof.

[Acts 1907, p. 115, § 2; Acts 1917, ch. 115, § 1.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

² Article 1970-4.

Art. 1970-4. Jurisdiction Retained by County Court of Dallas County

The County Court of Dallas County shall retain, as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said court, or the judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court; and also to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the State. The county judge of Dallas county

shall be the judge of the County Court of Dallas County. All ex officio duties of the county judge shall be exercised by the said judge of the County Court of Dallas County except in so far as the same shall, by this Act, be committed to the judge of the County Court of Dallas County, at Law.¹

[Acts 1907, p. 115, § 3; Acts 1917, ch. 115, § 2.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-5. Terms of County Court of Dallas County, at Law; Practice, etc.

The terms¹ of the county court of Dallas county, at law,² and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by laws relating to county courts. The terms of the county court of Dallas county, at law, shall be held as now established for the terms of the county court of Dallas county, until the same may be changed in accordance with the law.

[Acts 1907, p. 115, § 4.]

¹ Terms of court. See article 1970-28.

² Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-6. Judge to be Elected, When, etc.; Qualifications; Term

There shall be elected in said county, by the qualified voters thereof, at each general election, a judge of the county court of Dallas county, at law,¹ who shall be well informed in the laws of the State, who shall hold his office for two years, and until his successor shall have duly qualified.

[Acts 1907, p. 115, § 5.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-7. Bond and Oath of Judge

The judge of the county court of Dallas county, at law,¹ shall execute a bond² and take the oath of office as required by the law relating to county judges.

[Acts 1907, p. 115, § 6.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

² Provision for bond superseded by article 1970-30.

Art. 1970-8. Special Judge Elected or Appointed, How

A special judge of the county court of Dallas county, at law,¹ may be appointed or elected as provided by laws relating to county courts and to the judges thereof.

[Acts 1907, p. 115, § 7.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-9. May Issue Writs

The county court of Dallas county, at law,¹ or the judges thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari and super-sedeas, and all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of

said court, or of any other court or tribunal inferior to said court.

[Acts 1907, p. 115, § 8.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-10. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Dallas county shall be the clerk of the county court of Dallas county, at law.¹ The seal of the said court shall be the same as that provided by law for county courts, except that the seal shall contain the words "County Court of Dallas County, at Law;" the sheriff of Dallas county shall, in person or by deputy, attend the said court when required by the judge thereof.

[Acts 1907, p. 115, § 9.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-11. Appointment of Jury Commissioners; Selection, etc., of Juries

The jurisdiction and authority now vested by law in the county court for the appointment of jury commissioners and the selection and service of jurors, shall be exercised by the county court of Dallas county, at law.¹

[Acts 1907, p. 115, § 10.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-12. Vacancy in Office of Judge, How Filled

Any vacancy in the office of the judge of the county court of Dallas county, at law,¹ may be filled by the commissioners' court of Dallas county until the next general election.

[Acts 1907, p. 115, § 11.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-13. Fees and Salary of Judge

The judge of the county court of Dallas county, at law,¹ shall collect the same fees as are now established by law relating to county judges, all of which shall be by him paid monthly into the county treasury, and he shall receive an annual salary of three thousand dollars per annum,² payable monthly, to be paid out of the county treasury by the commissioners' court.

[Acts 1907, p. 115, § 12.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

² Now \$5,000. See article 1970-31. See, also, article 1970-30, relative to fees.

Art. 1970-14. Salary of County Judge of Dallas County

The county judge of Dallas county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary, for the ex-officio duties of his office, as may be allowed him by the commissioners' court, not less than twelve hundred dollars per year.

[Acts 1907, p. 115, § 13.]

DALLAS COUNTY AT LAW NO. 2

Art. 1970-15. Creation

There is hereby created a court to be held in Dallas county, Texas, to be known and designated as the "County Court of Dallas County, at Law, No. 2."

[Acts 1917, ch. 101, § 1.]

Art. 1970-16. Jurisdiction

The County Court of Dallas County at Law, No. 2, shall have exclusive concurrent civil and criminal jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas, the existing County Court of Dallas County at Law,¹ of Dallas county, Texas, would have original and appellate jurisdiction; provided all civil and criminal cases appealed from the several justice's courts of Dallas county shall be by the county clerk, filed in the County Court of Dallas County, at Law, and the County Court of Dallas County, at Law, No. 2, alternately as said appealed cases are received by said clerk from the several justices of the peace in said county, except in cases wherein the judge of either of said courts, at law, has granted the writ of certiorari, in which case the same shall be docketed in the court so granting said writ, and shall not be transferred from said court.

[Acts 1917, ch. 101, § 2.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-17. Courts How Designated; Transfer of Cases

The County Court of Dallas County at Law¹ shall be known and designated as the "A" Court and the County Court of Dallas County at Law, No. 2, shall be known and designated as the "B" Court. The county clerk shall number consecutively all cases filed in said courts, affixing immediately following the number of all cases falling in the County Court of Dallas County, at Law, the letter "A," and immediately following the number of all cases falling in the County Court of Dallas County, at Law, No. 2, the letter "B," and he shall make up the trial docket of each of said courts with respect to said numbers. The judge of either of said courts shall have the power to transfer to the other court any case pending upon the docket of his court, except in cases where the writ of certiorari has been granted; provided there shall never be transferred from the docket of one of said courts to that of the other a sufficient number of cases to reduce the number of cases on the docket of the court from which said case was transferred to a less number than the number of cases pending upon the docket of the court to which the same is transferred, without the consent of the judge to which said case is transferred. It shall be the duty of the judge to whose court said case is transferred to receive and try the case, and he shall not have the power to retransfer the same back to the court from which it came ex-

cept he be disqualified to try the same, in which case it shall be his duty to retransfer the said case.

[Acts 1917, ch. 101, § 3.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-18. Jurisdiction of Other County Courts

Nothing in this Act shall be construed as in anywise altering or changing the present jurisdiction provided by law of the County Court of Dallas County, at Law,¹ nor of the County Court of Dallas County, except that the jurisdiction of the County Court of Dallas County at Law, is hereby made concurrent with the jurisdiction of the County Court of Dallas County, at Law, No. 2, as relates to the civil and criminal jurisdiction of said County Court of Dallas County at Law, as prescribed by the laws of the State of Texas.

[Acts 1917, ch. 101, § 4.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-19. Power to Issue Writs

The said County Court of Dallas County, at Law, No. 2, or the judge thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs and process necessary to the enforcement of its jurisdiction; and also power to punish for contempts under such provisions as are or may be provided by the general laws governing county courts throughout the State.

[Acts 1917, ch. 101, § 5.]

Art. 1970-20. Terms of Court

The terms¹ of the County Court of Dallas County, at Law, No. 2, and the practice therein and appeals and writs of error therefrom, shall be as prescribed by the law relating to the county courts. The terms¹ of the County Court of Dallas County, at Law, No. 2, shall be held five times each year on the second Monday in January, March, May, September and November, and each term of said court shall extend over a period of two months; provided, further there shall be a term of said court convened by the judge thereof not later than two weeks after he has qualified as such, as provided by law, and such term when so convened, shall continue until the beginning of the ensuing term, as provided herein.

[Acts 1917, ch. 101, § 6.]

¹ As to terms of court, see article 1970-28.

Art. 1970-21. Judge; Qualifications; Salary

There shall be elected in said county by the duly qualified voters thereof at each general election a judge of the County Court of Dallas County, at Law, No. 2, who shall be a licensed attorney in this State, well informed in the laws of the State, who shall have resided in, and been actively engaged in the practice of law in Dallas county for a period of not less than four years prior to such general election,

who shall hold his office for two years and until his successor shall be duly qualified. The judge of said court shall receive a salary of three thousand (\$3,000.00) dollars per annum,¹ payable monthly out of the county treasury by the commissioners' court.

[Acts 1917, ch. 101, § 7.]

¹ Now \$5,000. See article 1970-31.

Art. 1970-22. Special Judge

A special judge of the County Court of Dallas County, at Law, No. 2, may be appointed or elected as provided for by the laws relating to county courts and the judges thereof.

[Acts 1917, ch. 101, § 8.]

Art. 1970-23. Jurors

The jurisdiction and authority now vested by law in the county court for the appointment of jury commissioners and the selection and service of jurors shall be exercised by the County Court of Dallas County, at Law, No. 2.

[Acts 1917, ch. 101, § 9.]

Art. 1970-24. Vacancy

Any vacancy in the office of the County Court of Dallas County, at Law, No. 2, shall be filled by the commissioners' court of Dallas county until the next regular election.

[Acts 1917, ch. 101, § 10.]

Art. 1970-25. Transfer of Cases

It shall be the duty of the judge of the County Court of Dallas County, at Law,¹ to immediately transfer from the docket of the County Court of Dallas County, at Law, to the docket of the County Court of Dallas County, at Law, No. 2, one-half of the civil cases pending upon said docket, which shall be done by beginning with the oldest case pending upon the docket of his court and transferring every second case without reference to whether any particular case be pending upon the jury or non-jury docket of said court.

[Acts 1917, ch. 101, § 12.]

¹ Name changed to County Court of Dallas County at Law No. 1. See article 1970-2.

Art. 1970-26. Qualifications of Judges

The judge of the County Court of Dallas County at Law No. 1 and the judge of the County Court of Dallas County at Law No. 2, shall each be a licensed attorney, well informed in the law, who shall have resided in and been actively engaged in the practice of law in Dallas County, or been judge of a court therein, for a period of at least four years prior to the general election at which he is elected.

[Acts 1923, 38th Leg., ch. 24, § 2.]

Art. 1970-27. Holding Court For or With Other Judge

The judge of the County Court of Dallas County at Law No. 1, and the judge of the County Court of Dallas County at Law No. 2, may hold court for or with one another.

[Acts 1923, 38th Leg., ch. 24, § 3.]

Art. 1970-28. Terms of Court

The terms of the County Court of Dallas County at Law No. 1, shall be held six times each year, on the first Monday in January, March, May, July, September and November and each term shall continue to the commencement of the following term. The terms of the County Court of Dallas County at Law No. 2, shall be held six times each year on the first Monday in February, April, June, August, October and December, and each term shall continue to the commencement of the following term.

[Acts 1923, 38th Leg., ch. 24, § 4.]

Art. 1970-29. Current Term of County Court at Law No. 2; Effect of Change of Terms

The term of the County Court of Dallas County at Law No. 2, current at the time of the taking effect of this Act, shall continue until the commencement of the following term as fixed by this Act. All process issued out of said court before this Act takes effect is hereby made returnable to the terms of this court as fixed by this Act. All bonds heretofore executed and recognizances entered of record in said court shall bind the parties for their appearance or to fulfil the obligation of such bonds and recognizances at the terms of the said court as fixed by this Act. All process heretofore returned, as well as all bonds, and recognizances heretofore taken in this court, and all judgments, writs and decrees thereof, shall be as valid as if no change had been made in the time of the holdings of this court.

[Acts 1923, 38th Leg., ch. 24, § 5.]

Art. 1970-30. Oath of Office; Bond; Fees

The judge of the County Court of Dallas¹ at Law No. 1, and the judge of the County Court of Dallas County at Law No. 2, shall each take the oath of office prescribed by the law relating to county judges, but no bond shall be required of them. They shall be enabled to collect the same fees as are stipulated by law relating to county judges, all of which shall be collected by the county clerk of Dallas County, paid by him monthly into the county treasury of Dallas County, in accordance with the orders of the commissioners' court.

[Acts 1923, 38th Leg., ch. 24, § 6.]

¹ So in enrolled bill. Word "County" should probably be inserted.

Art. 1970-31. Salaries of Judges of County Courts at Law

The Judge of the County Court of Dallas County at Law No. 1 and the Judge of the County Court of Dallas County at Law No. 2 shall each receive a salary of Five Thousand Dollars (\$5,000.00) per annum, payable monthly, out of the Treasury of Dallas County, under the orders of the Commissioners' Court and said Judges shall devote their entire time to the duties of their offices, and shall not engage in the practice of law while in office.

[Acts 1923, 38th Leg., ch. 176, § 1; Acts 1929, 41st Leg., 1st C.S., p. 60, ch. 26, § 1.]

DALLAS COUNTY

Art. 1970-31.1 County Courts of Dallas County at Law Nos. 3 and 4

Sec. 1. There are hereby created two (2) County Courts to be held in Dallas County; Texas, to be known as and designated as "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4," and the seal of said Courts shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Dallas County at Law Number 3" and "County Court of Dallas County at Law Number 4."

Sec. 2. The Courts hereby created shall have exclusive, concurrent civil jurisdiction of all cases, original and appellate, over which by the laws of the State of Texas the existing County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 have original and appellate jurisdiction; in addition thereto, it is hereby specifically provided that the County Court of Dallas County at Law Number 1, the County Court of Dallas County at Law Number 2, the County Court of Dallas County at Law Number 3, and the County Court of Dallas County at Law Number 4 shall have concurrent and coextensive and equal jurisdiction over all civil, administrative and ministerial acts and over the filing and disposition of all proceedings in eminent domain matters; provided that the Judge of any County Court at Law of Dallas County may sit for the Judge of any other County Court at Law of Dallas County when such Judge is unavailable for the performing of any of the administrative acts in connection with eminent domain proceedings, but the performing of the same shall not transfer the cause or proceedings from the Court for which the act was performed; provided all civil cases appealed from the several Justice Courts of Dallas County shall be by the County Clerk filed in the several County Courts of Dallas County at Law consecutively as said appealed cases are received by said Clerk from the several Justices of the Peace in said County, except in cases wherein the Judge of either of said County Courts at Law has granted a writ of certiorari, in which case the same shall be docketed in the Court so granting said writ and shall not be transferred from said Court.

Sec. 3. The County Court of Dallas County at Law Number 3 shall be known and designated as the "C" Court and the County Court of Dallas County at Law Number 4 shall be known and designated as the "D" Court. The County Clerk shall number consecutively all cases filed in the County Courts of Dallas County at Law affixing immediately following the number of all cases the letter A, B, C or D, according to which County Court at Law of Dallas County said case is assigned, and each case so filed shall be filed in rotation in each of the County Courts of Dallas County at Law with the letter designation being used to denote the Court in which the case is filed. The

Judge of either of said County Courts of Dallas County at Law shall have the power to transfer to any of the other of said Courts any case pending upon the docket of said Court except where a writ of certiorari has been granted; provided that such cases so transferred shall be for the purpose of equalizing the dockets of each of said County Courts of Dallas County at Law and each of the Judges of said Courts shall together at least once a year, transfer cases from one to the other in order to equalize said dockets.

Sec. 4. All of the County Courts of Dallas County at Law and the respective Judges thereof shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs and processes necessary to the enforcement of their jurisdiction, and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 5. The terms of the County Court of Dallas County at Law Number 3 shall be held six (6) times each year on the first Monday in January, March, May, July, September and November, and each term shall continue until the business is disposed of. The terms of the County Court of Dallas County at Law Number 4 shall be held six (6) times each year on the first Monday in February, April, June, August, October and December, and each term shall continue until the business is disposed of.

Sec. 6. The Judge of the County Court of Dallas County at Law Number 3 and the Judge of the County Court of Dallas County at Law Number 4, shall be a licensed attorney in this State and informed in the laws of the State, who shall have resided in and actively engaged in the practice of law in Dallas County for a period of not less than four (4) years prior to the general election, and such Judge shall hold his office for four (4) years and until his successor shall be duly qualified. The Judges of said Courts shall receive the same salary now provided by law or hereafter provided by law to be paid to the Judges of other County Courts of Dallas County at Law. As soon as possible after the effective date of this Act, the Commissioners Court of Dallas County shall appoint a Judge to each of said Courts to function on the same date, who shall hold office until January 1st following the next general election or until his successor shall be duly qualified. The successor shall hold office for a period of four (4) years.

Sec. 7. It shall be the duty of the Judges of the County Court of Dallas County at Law Number 1 and the County Court of Dallas County at Law Number 2 to immediately transfer from their dockets one half ($\frac{1}{2}$) of the civil cases pending upon said dockets to the Courts hereby created, which shall be done by beginning with the oldest case pending upon the docket of said Courts and transferring every second case without reference to whether any

particular case be pending upon the jury or nonjury docket of said Courts.

Sec. 8. In case of disqualification, an overcrowded docket, sickness or absence from the County of any of the Judges of the County Courts of Dallas County at Law Number 1, Number 2, Number 3 or Number 4, any other Judge of said Courts may exchange benches with said Judge, and when so exchanging benches with any of the other Judges of the County Courts at Law shall have all of the power and jurisdiction of the Court and Judge for whom he is sitting while so exchanging benches, and may sign orders, judgments and decrees or other process of any kind as "Judge Presiding" when acting for such disqualified or absent Judge upon request, or in an emergency without request, or for any other good cause shown. This shall be in addition to the provisions hereinabove made for performing administrative matters for each other.

Sec. 9. Except as herein otherwise provided, all laws applicable to County Court of Dallas County at Law Number 1 and County Court of Dallas County at Law Number 2 shall be applicable to County Court of Dallas County at Law Number 3 and County Court of Dallas County at Law Number 4.

[Acts 1963, 58th Leg., p. 720, ch. 263.]

Art. 1970-31.10 County Criminal Court of Dallas County, Creation, Jurisdiction, etc.

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court of Dallas County, Texas."

Sec. 2. The county criminal court of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section Three of this Act.

Sec. 3. The county court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The county judge of Dallas County shall be the judge of the county court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said judge of the said county court, except as in so far as the same shall, by this Act, be committed to the judge of the

county criminal court of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The county criminal court of Dallas County, Texas, or the judge thereof shall have the power of [to] issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing county courts throughout the State.

Sec. 5. The terms of the county criminal court of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said county criminal court shall be held not less than four times each year and the commissioners' court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the commissioners' court of Dallas County in accordance with the law, a judge of the county criminal court hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for two years and until his successor shall have duly qualified; provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a judge of a court in said State for four years next preceding his appointment or election, and who shall have resided in the county of Dallas for two years next preceding his appointment or election.

Sec. 7. The judge of the county court of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the county criminal court of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the county criminal court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts except that the seal shall contain the words "The county criminal court, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the judge thereof.

Sec. 10. The Judge of the County Criminal Court of Dallas County, Texas, shall collect the same fee provided by law for County Judges in

similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary of Five Thousand Dollars, (\$5,000.00) annually, to be paid monthly out of the County Treasury by the Commissioners' Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the county criminal court of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the county criminal court of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3.00) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3.00), when collected to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be, after this Act takes effect, the clerk of the County Court of Law Number One of Dallas County, Texas, and the County Court at Law Number Two, shall transfer to the docket of the County Criminal Court of Dallas County, Texas, hereby created, all of the criminal cases then pending in the County Courts at Law Number One and Number Two of Dallas County, Texas. The clerk shall note such transfer when made on the minutes of the County Courts at Law Number One and Number Two of Dallas County, Texas.

[Acts 1927, 40th Leg., p. 36, ch. 25; Acts 1929, 41st Leg., 1st C.S., p. 61, ch. 27.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.11 County Criminal Court No. 2 of Dallas County

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 2 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 2 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The county Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 2 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The County Criminal Court, Number Two, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 5. The terms of the County Criminal Court, Number Two, of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said County Criminal Court, Number Two, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court, Number Two, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his

successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county Judges.

Sec. 8. A special Judge of the County Criminal Court, Number Two, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Two, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Three Hundred Dollars (\$8,300) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court, Number Two, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Two, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein autho-

rized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, may transfer to the docket of the County Criminal Court, Number Two, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other court by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

[Acts 1951, 52nd Leg., p. 52, ch. 32.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.12 County Criminal Court No. 3 of Dallas County

Sec. 1. There shall be created a court to be held in Dallas County, Texas, to be known and designated as "The County Criminal Court No. 3 of Dallas County, Texas."

Sec. 2. The County Criminal Court No. 3 of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing

minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 3 of Dallas County, Texas; and except such as have heretofore been conferred upon the Judges of the County Court at Law, Number One, and the County Court at Law, Number Two, of Dallas County, Texas.

Sec. 4. The County Criminal Court, Number Three, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 5. The terms of the County Criminal Court, Number Three, of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said County Criminal Court, Number Three, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court, Number Three, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county Judges.

Sec. 8. A special Judge of the County Criminal Court, Number Three, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court, Number Three, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Number Three, Dallas County, Texas." The sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Eight Thousand, Two Hundred Dollars (\$8,200) nor more than Ten Thousand, Six Hundred Dollars (\$10,600) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court, Number Three, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 12. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court, Number Three, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect the clerk of the County Criminal Court, Number One, of Dallas County, Texas, and the clerk of the County Criminal Court, Number Two, of Dallas County, Texas, may transfer to the docket of the County Criminal

Court, Number Three, of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court, Number One, of Dallas County, Texas, and the County Criminal Court, Number Two, of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the Judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 13-A. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1954, 53rd Leg., 1st C.S. p. 100, ch. 49; Acts 1959, 56th Leg., 2nd C.S., p. 84, ch. 2, § 1.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31.13 County Criminal Court No. 4 of Dallas County

Sec. 1. There is hereby created a court to be held in Dallas County, Texas, to be known and designated as "County Criminal Court Number Four of Dallas County, Texas."

Sec. 2. The County Criminal Court Number Four of Dallas County, Texas, shall have, and the same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore its jurisdiction as a juvenile court and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians. The county judge of Dallas County shall be the judge of the County Court of Dallas County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of the said county court, except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court Number Four of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the county courts at law of Dallas County, Texas.

Sec. 4. The County Criminal Court Number Four of Dallas County, Texas, or the judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the

enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Sec. 5. The terms of the County Criminal Court Number Four of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said county criminal court number four shall be held not less than four times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a judge of the county criminal court number four, hereby created, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for four years and until his successor shall have duly qualified; provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in said state for four years next preceding his appointment or election, and who shall have resided in the county of Dallas for two years next preceding his appointment or election.

Sec. 7. The judge of the County Criminal Court Number Four of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the County Criminal Court Number Four of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court Number Four of Dallas County, Texas; and the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court Number Four, Dallas County, Texas." The sheriff of Dallas County, Texas, shall, in person or by deputy, attend said court when required by the judge thereof.

Sec. 10. The judge of the County Criminal Court Number Four of Dallas County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury, and the judge of said court shall receive a salary as fixed by the commissioners

court, which shall be the same salary fixed by the commissioners court for the judges of the other county criminal courts of Dallas County, Texas, the same to be paid monthly out of the county treasury by the commissioners court; such judge shall devote his entire time to the duties of his office and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the County Criminal Court Number Four of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court Number Four of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of district courts of this state, and also be governed by any other laws covering the stenographers of the district courts of this state; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of \$3 shall be taxed by the clerk as costs in the case, the said \$3, when collected, to be paid into the county treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court Number Two of Dallas County, Texas, and the clerk of the County Criminal Court Number Three of Dallas County, Texas may transfer to the docket of the County Criminal Court Number Four of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court Number One of Dallas County, Texas, and the County Criminal Court Number Two of Dallas County, Texas, and the County Criminal Court Number Three of Dallas County, Texas, and thereafter the judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such

cause or causes were originally instituted in said court.

Sec. 14. The judge of County Criminal Court of Dallas County, Texas, and the judge of County Criminal Court Number Two of Dallas County, Texas, and the judge of County Criminal Court Number Three of Dallas County, Texas, and the judge of County Criminal Court Number Four of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1973, 63rd Leg., p. 525, ch. 227, art. 1, eff. June 11, 1973.]

Section 15 of article 1 of the 1973 Act read: "If any provision of the Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to county criminal courts of Dallas County, Texas shall apply respectively to the court created by this Act."

Art. 1970-31.14 County Criminal Court No. 5 of Dallas County

Sec. 1. There is hereby created a court to be held in Dallas County, Texas, to be known and designated as "County Criminal Court Number Five of Dallas County, Texas."

Sec. 2. The County Criminal Court Number Five of Dallas County, Texas, shall have, and the same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Dallas County, Texas, shall retain as heretofore its jurisdiction as a juvenile court and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians. The county judge of Dallas County shall be the judge of the County Court of Dallas County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of the said county court, except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court Number Five of Dallas County, Texas; and except such as have heretofore been conferred upon the judges of the county courts at law of Dallas County, Texas.

Sec. 4. The County Criminal Court Number Five of Dallas County, Texas, or the judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state.

Sec. 5. The terms of the County Criminal Court Number Five of Dallas County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said county criminal court number five shall be held not less than four times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a judge of the county criminal court number five, hereby created, who shall be well informed in the laws of the state and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for four years and until his successor shall have duly qualified; provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a judge of a court in said state for four years next preceding his appointment or election, and who shall have resided in the county of Dallas for two years next preceding his appointment or election.

Sec. 7. The judge of the County Criminal Court Number Five of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 8. A special judge of the County Criminal Court Number Five of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the judges thereof.

Sec. 9. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court Number Five of Dallas County, Texas; and the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court Number Five, Dallas County, Texas." The sheriff of Dallas County, Texas, shall, in person or by deputy, attend said court when required by the judge thereof.

Sec. 10. The judge of the County Criminal Court Number Five of Dallas County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury, and the judge of said court shall receive a salary as fixed by the commissioners court, which shall be the same salary fixed by the commissioners court for the judges of the other county criminal courts of Dallas County, Texas, the same to be paid monthly out of the county treasury by the commissioners court; such judge shall devote his entire time to the duties of his office and shall not engage in the practice of the law while in office.

Sec. 11. The judge of the County Criminal Court Number Five of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the judge of the County Criminal Court Number Five of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the general laws of Texas relating to the appointment of stenographers for the district courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of district courts of this state, and also be governed by any other laws covering the stenographers of the district courts of this state; provided, that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of \$3 shall be taxed by the clerk as costs in the case, the said \$3, when collected, to be paid into the county treasury of Dallas County, Texas.

Sec. 13. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court Number Two of Dallas County, Texas, and the clerk of the County Criminal Court Number Three of Dallas County, Texas may transfer to the docket of the County Criminal Court Number Five of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court Number One of Dallas County, Texas, and the County Criminal Court Number Two of Dallas County, Texas, and the County Criminal Court Number Three of Dallas County, Texas, and thereafter the judge of either of said courts may in his discretion transfer any cause or causes that may at any time be pending in his court to the other courts by an order or orders entered in the minutes of his court, and the judge of the court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 14. The judge of County Criminal Court of Dallas County, Texas, and the judge of County Criminal Court Number Two of Dallas County, Texas, and the judge of County Criminal Court Number Three of Dallas County, Texas, and the judge of County Criminal Court Number Four of Dallas County, Texas,

and the judge of County Criminal Court Number Five of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same.

[Acts 1973, 63rd Leg., p. 527, ch. 227, art. 2, eff. June 11, 1973.]

Section 15 of article 2 of the 1973 Act read: "If any provision of the Act is held unconstitutional or invalid, such invalidity shall not affect the remaining provisions of this Act. Except as otherwise provided in this Act all laws now in effect with respect to county criminal courts of Dallas County, Texas shall apply respectively to the court created by this Act."

Art. 1970-31.20 County Criminal Court of Appeals of Dallas County

Sec. 1. That there is hereby created a County Court to be held in and for Dallas County, Texas, to be called County Criminal Court of Appeals of Dallas County, Texas.

Sec. 2. The County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with the sole jurisdiction within said County of all appeals from Criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Court, Corporation Courts and other municipal Courts in said County; and the said County Criminal Court of Appeals of Dallas County, Texas, shall have and same is hereby vested with concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court of Appeals of Dallas County, Texas, there shall be transferred to the docket of said Court, under the direction of the Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and by order entered on the Minutes of County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, all of such appeals from convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in County Criminal Court of Dallas County, Texas, and County Criminal Court No. 2 of Dallas County, Texas, and County Criminal Court No. 3 of Dallas County, Texas, and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court of Appeals of Dallas County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of

the municipalities located in Dallas County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Court or Judge to which said appeal is addressed shall be filed by said Clerk in the County Criminal Court of Appeals of Dallas County, Texas.

Sec. 4. The County Court of Dallas County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, Texas, and all ex-officio duties of the county judge shall be exercised by the said Judge of the said County Court, except as insofar as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Appeals of Dallas County, Texas; and except such as to have heretofore been conferred upon the Judges of the County Court at Law No. 1 and the County Court at Law No. 2 of Dallas County, Texas.

Sec. 5. The County Criminal Court of Appeals, of Dallas County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court of Appeals, of Dallas County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court of Appeals, shall be held not less than four (4) times each year and the Commissioners Court of Dallas County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Dallas County in accordance with the law, a Judge of the County Criminal Court of Appeals, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of

said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Dallas for two (2) years next preceding his appointment or election.

Sec. 8. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 10. The county clerk of Dallas County, Texas, shall be the clerk of the County Criminal Court of Appeals, of Dallas County, Texas, the seal of said court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court of Appeals, Dallas County, Texas." The Sheriff of Dallas County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 11. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court of not less than Ten Thousand Dollars (\$10,000) nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall not engage in the practice of law while in office.

Sec. 12. The Judge of the County Criminal Court of Appeals, of Dallas County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court of Appeals, of Dallas County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and said reporter shall be

entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided that the official shorthand reporter of said court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Dallas County, Texas.

Sec. 14. As soon as may be after this Act takes effect the clerk of the County Criminal Court of Dallas County, Texas, and the clerk of the County Criminal Court No. 2 of Dallas County, Texas, and the clerk of the County Criminal Court No. 3 of Dallas County, Texas, may transfer to the docket of the County Criminal Court of Appeals of Dallas County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Dallas County, Texas, and the County Criminal Court No. 2 of Dallas County, Texas, and the County Criminal Court No. 3 of Dallas County, Texas, and thereafter the Judge of either of said courts may in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders, entered in the minutes of his Court, and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said court.

Sec. 15. The Judge of County Criminal Court of Dallas County, Texas, and the Judge of County Criminal Court No. 2 of Dallas County, Texas, and the Judge of County Criminal Court No. 3 of Dallas County, Texas, and the Judge of County Criminal Court of Appeals of Dallas County, Texas, may, in their discretion, exchange benches and sit and hear cases in the court in which the case or proceeding is then pending, and try or otherwise dispose of same. [Acts 1961, 57th Leg., p. 698, ch. 326.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-31a. Probate Court of Dallas County

Sec. 1. There is hereby created a County Court to be held in and for Dallas County, to be called the Probate Court of Dallas County.

Sec. 2. The Probate Court of Dallas County shall have the general jurisdiction of a Probate Court within the limits of Dallas County, concurrent with the jurisdiction of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all

business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Dallas County there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Dallas County, such number of such proceedings and matters then pending in the County Court of Dallas County as shall be, as near as may be, one half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Dallas County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said respective Courts in the order in which the same are deposited with him for filing, beginning first with the County Court of Dallas County. The County Judge of Dallas County, in his discretion, may, by an order entered upon the Minutes of the County Court of Dallas County, on or after the first day of the initial term of said Probate Court of Dallas County, transfer to said Probate Court any such matter or proceeding then or thereafter pending in the County Court of Dallas County, and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Sec. 4. The County Court of Dallas County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County, and all ex-officio duties of the County Judge of Dallas County, as they now exist, shall be exercised by the County Judge of Dallas County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Dallas County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County at Law No. 1, or the County Court of Dallas County at Law No. 2.

Sec. 5. The practice and procedure in the Probate Court of Dallas County shall be the

same as that provided by law generally for the County Courts of this State; and all Statutes and laws of the State, as well as all rules of court relating to proceedings in the County Courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Dallas County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Dallas County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Dallas County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Dallas County may be filled by the Commissioners Court of Dallas County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and may enter any orders in such matters or proceedings as the Judge of said

Court might enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Dallas County and the County Judge of Dallas County, a Special Judge of the Probate Court of Dallas County may be appointed or elected, as provided by the general laws relating to County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Dallas County shall be the Clerk of the Probate Court of Dallas County. The seal of such Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 14. The Judge of the Probate Court of Dallas County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the date of his qualification as Judge of said Court he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County, of not less than Six Thousand, Five Hundred Dollars (\$6,500) nor more than Eight Thousand, Two Hundred and Fifty Dollars (\$8,250), payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 15. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 16. If any section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act.

[Acts 1951, 52nd Leg., p. 293, ch. 174; Acts 1969, 61st Leg., p. 1667, ch. 530, § 1, eff. June 10, 1969.]

Art. 1970-31b. Probate Court No. 2 of Dallas County

Sec. 1. There is hereby created a County Court to be held in and for Dallas County to be called the Probate Court Number 2 of Dallas County.

Sec. 2. Probate Court Number 2 of Dallas County shall have the general jurisdiction of the Probate Court within the limits of Dallas County concurrent with the jurisdiction of the Probate Court of Dallas County and of the County Court of Dallas County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, per-

sons non compos mentis and common drunkards, grant letters testamentary and administrative, settle accounts of executor, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court Number 2 of Dallas County there shall be transferred to the docket of said Court under the jurisdiction of the County Judge and of the Judge of the Probate Court of Dallas County and by order entered on the minutes of the County Court of Dallas County and of the Probate Court of Dallas County such number of such proceedings and matters then pending in the Probate Court of Dallas County and in the County Court of Dallas County as will equalize the number of such cases pending on the dockets of each of said three (3) Courts, and all writs and processes theretofore issued by or out of said Probate Court of Dallas County and said County Court of Dallas County in such matters or proceedings shall be returnable to the Probate Court Number 2 of Dallas County as though originally issued therefrom. All such new matters and proceedings filed on said day or thereafter filed with the County Clerk of Dallas County irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk in rotation in said respective Courts in the order in which the same are deposited with him for filing.

Sec. 4. The County Court of Dallas County shall retain as heretofore the powers and jurisdiction of said Court existing at the time of the passage of this Act and shall exercise its own powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those provided hereinabove to be transferred to and filed in the Probate Court Number 2 of Dallas County. The County Judge of Dallas County shall be the Judge of the County Court of Dallas County and all ex officio duties of the County Judge of Dallas County as they now exist shall be exercised by the County Judge of Dallas County except insofar as the same shall have been committed heretofore to the Judge of the Probate Court of Dallas County, or as the same shall by this Act expressly be committed to the Judge of the Probate Court Number 2 of Dallas County. Nothing in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Court of Dallas County, the Probate Court of Dallas County, the County Court of Dallas County at Law Number 1 or the County Court of Dallas County at Law Number 2, or any other County Court of Dallas County at Law heretofore or hereafter created.

Sec. 5. There shall be two (2) terms of said Probate Court Number 2 of Dallas County in each year and the first term shall be known as the January-June term, which shall begin on

the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms shall be known as the July-December term and shall begin on the first Monday in July and continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 6. There shall be elected in said County by the qualified voters thereof at the general election for a term of two (2) years and until his successor shall have been duly qualified, a Judge of the Probate Court Number 2 of Dallas County who shall be well-informed on the laws of the State and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A Judge of said Court shall be appointed by the Commissioners Court of Dallas County as soon as may be possible after the passage of this Act, who shall hold office from the date of his appointment until his successor shall be duly elected and qualified.

Sec. 7. The Judge of the Probate Court Number 2 of Dallas County shall execute a bond and take the oath of office as required by the laws relating to County Judges.

Sec. 8. Any vacancy in the office of the Judge of Probate Court Number 2 of Dallas County may be filled by the Commissioners Court of Dallas County by appointment of a Judge of said Court who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 9. In case of the absence, disqualification or incapacity of the Judge of the Probate Court Number 2 of Dallas County, the County Judge of Dallas County shall sit and act as Judge of said Court and may hear and determine either in his own courtroom or in the courtroom of said Court any matter or proceeding there pending and may enter such orders in such matters or proceedings as the Judge of said Probate Court Number 2 of Dallas County might enter if personally presiding therein.

Sec. 10. The Judge of the Probate Court of Dallas County may sit for the Judge of the Probate Court Number 2 of Dallas County and the Judge of the Probate Court Number 2 of Dallas County may sit for the Judge of the Probate Court of Dallas County on any matters or proceedings pending in either of said Courts. In the case of the absence, disqualification or incapacity of the County Judge of Dallas County, the Judge of the Probate Court of Dallas County and the Judge of Probate Court Number 2 of Dallas County, a special Judge of the Probate Court Number 2 of Dallas County may be appointed or elected as provided by the General Laws relating to County Courts and to the Judges thereof.

Sec. 11. The County Clerk of Dallas County shall be the Clerk of the Probate Court Number 2 of Dallas County. The seal of such Court

shall be the same as that provided by law for County Courts except that the seal shall contain the words "Probate Court Number 2 of Dallas County, Texas." The Sheriff of Dallas County shall in person or by deputy attend the said Court when required by the Judge thereof. The Judge of the Probate Court Number 2 of Dallas County shall have an administrative assistant to aid him in the performance of his duties. The salary of said administrative assistant shall be set by the Commissioners Court of Dallas County.

Sec. 12. The Judge of the Probate Court Number 2 of Dallas County shall collect the same fees as are now or hereafter established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected and from after the date of his qualification as Judge of said Probate Court Number 2 of Dallas County he shall receive an annual salary to be fixed by order of the Commissioners Court of Dallas County which shall be the same salary as that paid to the Judge of the probate Court of Dallas County.

Sec. 13. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. All other laws applicable to the Probate Court of Dallas County shall be applicable to Probate Court Number 2 of Dallas County. As to all other laws and parts of laws this Act shall be cumulative.

Sec. 13a. Regardless of any provisions of this Act to the contrary notwithstanding, the provisions of this Act shall not become effective until January 1, 1965.

[Acts 1963, 58th Leg., p. 723, ch. 265; Acts 1969, 61st Leg., p. 1667, ch. 530, § 2, eff. June 10, 1969.]

TARRANT COUNTY AT LAW NO. 2

Art. 1970-32. Creation

There is hereby created a court to be held in Tarrant county, Texas, to be known and designated as the "County Court of Tarrant County for Civil Cases."¹

[Acts 1909, p. 48, § 1.]

¹ Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-33. Jurisdiction of Said Court

The county court of Tarrant county for civil cases¹ shall have jurisdiction of all civil matters and causes, original and appellate, over which by the general laws of the state of Texas, the county court of said county would have jurisdiction, except as provided in article 1801; and all civil cases pending in the county court of said county, other than probate matters, and such as are provided in said article, shall be, and the same are hereby, transferred to the county court of Tarrant county for civil cases; and all civil writs and process heretofore issued by, or out of, said county court, other than those pertaining to matters over which by

said article jurisdiction remains in the county court of Tarrant county be and the same are hereby made returnable to the county court of Tarrant county for civil cases. The jurisdiction of the county court of Tarrant county for civil cases, and of the judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the county court of Tarrant county, or the judge thereof; but this provision shall not affect the jurisdiction of the commissioners' court or of the county judge of Tarrant county as the presiding officer of said court as to roads, bridges and public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners' court or of the judge of the county court of Tarrant county.

[Acts 1909, p. 48, § 2.]

¹ See note under art. 1970-32.

Art. 1970-34. Jurisdiction of Criminal Cases

In addition to the jurisdiction heretofore conferred by law upon the County Court of Tarrant County for Civil Cases,¹ of Tarrant County, Texas, and the judge thereof, the said County Court of Tarrant County for Civil Cases shall have jurisdiction within Tarrant County of all criminal matters and causes, original and appellate, over which the County Court at Law of Tarrant County now has jurisdiction, and the jurisdiction of said courts, over such matters, within said county, shall be concurrent, provided, that the jurisdiction of the County Court of Tarrant County shall remain as now fixed by law, and be in no wise affected by this Act.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 1.]

¹ Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-35. Jurisdiction Retained by County Court of Tarrant County

The county court of Tarrant county shall retain, as heretofore the jurisdiction of all criminal cases, its jurisdiction as a juvenile court, its jurisdiction in matters pertaining to liquor licenses, forfeitures and bonds, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and shall apprentice minors as provided by law. The county judge of Tarrant county shall be the judge of the county court of Tarrant county; and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Tarrant county, except in so far as the same shall, by this chapter, be committed to the judge of the county court of Tarrant county for civil cases.¹

[Acts 1909, p. 48, § 3.]

¹ See note under art. 1970-32.

Art. 1970-36. Both Courts May Issue Writs

Both the said county court of Tarrant county and the county court of Tarrant county for civil cases,¹ or either of the judges thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts, and also power to punish for contempts under such provisions as are, or may be, provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said courts, or of any court or tribunal inferior to said courts.

[Acts 1909, p. 48, § 4.]

¹ See note under art. 1970-32.

Art. 1970-37. Terms, Practice, etc., of County Court of Tarrant County for Civil Cases

The terms of the county court of Tarrant county for civil cases,¹ and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by law relating to the county courts. The terms of the county court of Tarrant county for civil cases shall be held not less than four times each year; and the commissioners' court of Tarrant county shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

[Acts 1909, p. 48, § 5.]

¹ See note under art. 1970-32.

Art. 1970-38. Judge to be Elected When, etc.; Qualifications; Term; Vacancies How Filled

At each general election there shall be elected by the qualified voters of Tarrant county a judge of the county court of Tarrant county for civil cases,¹ who shall be well informed in the laws of this state, who shall hold his office for two years, and until his successor shall have been duly elected and qualified; provided, that no person shall be eligible for judge of the county court of Tarrant county for civil cases, unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state, or a judge of a court in this state, for four years next preceding his election, and who shall have resided in the county of Tarrant for two years next preceding his election. All vacancies in said office shall be filled by appointment by the governor until the next general election thereafter.

[Acts 1909, p. 48, § 6.]

¹ See note under art. 1970-32.

Art. 1970-39. Bond and Oath of Judge

The judge of the county court of Tarrant county for civil cases¹ shall execute a bond and take the oath of office as required by the law relating to county judges.

[Acts 1909, p. 48, § 7.]

¹ See note under art. 1970-32.

Art. 1970-40. Special Judge Elected or Appointed How

A special judge of the county court of Tarrant county for civil cases¹ may be appointed or elected as provided by law relating to county courts and to the judges thereof.

[Acts 1909, p. 48, § 8.]

¹ See note under art. 1970-32.

Art. 1970-41. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Tarrant county shall be the clerk for the county court of Tarrant county for civil cases.¹ The seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words, "County Court of Tarrant County for Civil Cases." The sheriff of Tarrant county shall, in person or by deputy, attend the court when required by the judge thereof.

[Acts 1909, p. 48 § 9.]

¹ See note under art. 1970-32.

Art. 1970-42. Selection, etc., of Juries by the Two Courts Jointly

The jurisdiction and authority now vested by law in the county court of Tarrant county for the selection and service of jurors shall be exercised by the two courts jointly and not separately.

[Acts 1909, p. 48, § 10.]

Art. 1970-43. Fees; Salary of Judge of County Court of Tarrant County for Civil Cases

The judge of the county court of Tarrant county for civil cases¹ shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury; and he shall receive a salary of three thousand dollars annually,² to be paid monthly out of the county treasury by the commissioners' court.

[Acts 1909, p. 48, § 11.]

¹ See note under art. 1970-32.

² Now \$5,000. See article 1970-61.

Art. 1970-44. Removal of Judge

The judge of the county court of Tarrant county for civil cases¹ may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1909, p. 48, § 12.]

¹ See note under art. 1970-32.

Art. 1970-45. Salary of County Judge of Tarrant County

The county judge of Tarrant county shall hereafter receive from the county treasury in addition to the fees allowed him by law, such a salary, for the ex officio duties of his office, as may be allowed him by the commissioners' court.

[Acts 1909, p. 48, § 13.]

TARRANT COUNTY AT LAW NO. 1

Art. 1970-46. Court Created

That there shall be created a court to be held in Tarrant County, Texas, to be known and designated as the "County Court at Law" of Tarrant County, Texas.¹

[Acts 1921, 37th Leg., ch. 28, § 1.]

¹ See note under art. 1970-32.

Art. 1970-47. Jurisdiction

The County Court at Law of Tarrant County, Texas, shall have exclusive jurisdiction within said county of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section 3 of this Act;¹ and said County Court at Law shall have and exercise, in civil matters and causes, concurrent and equal jurisdiction with the County Court of Tarrant County for civil cases, said concurrent jurisdiction to extend to all causes and matters of which jurisdiction has heretofore vested in the County Court of Tarrant County for civil cases, or the judge thereof.

[Acts 1921, 37th Leg., ch. 28, § 2.]

¹ Article 1970-48.

Art. 1970-48. Same; Juvenile and Probate Matters

The County Court of Tarrant County shall retain exclusively as heretofore its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of the estates of deceased persons; and of apprenticed minors as provided by law. The County Judge of Tarrant County shall be the judge of the County Court of Tarrant County, Texas, and all ex-officio duties of the County Judge shall be exercised by the said judge of the said County Court, except insofar as the same shall, by this Act, be committed to the Judge of the County Court at Law of Tarrant County, Texas,¹ and except such as have heretofore been conferred upon the judge of the County Court of Tarrant County for civil cases.²

[Acts 1921, 37th Leg., ch. 28, § 3.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-49. Issuance of Writs

The County Court at Law of Tarrant County, Texas,¹ or the judge thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas, and all other writs necessary to the

enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing County Courts throughout the State, and issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said court or of any court or tribunal inferior to said court.

[Acts 1921, 37th Leg., ch. 28, § 4.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-50. Terms of Court; Practice

The terms of the County Court at Law of Tarrant County, Texas,¹ and the practice therein and appeals and writs of error therefrom shall be as prescribed by law relating to the County Courts. The terms of said County Court at Law shall be held not less than four times each year and the Commissioners' Court of Tarrant County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

[Acts 1921, 37th Leg., ch. 28, § 5.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-51. Judge

As soon as may be after the passage of this Act, there shall be appointed by the Governor, in accordance with law, and subject to the confirmation of the Senate, a judge of the County Court at Law hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding general election and until his successor shall have duly qualified. The judge of said court elected at any general election shall hold office for two years and until his successor shall have duly qualified: provided, that no person shall be eligible for judge of said court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a judge of a court in this State for four years next preceding his appointment or election, and who shall have resided in the county of Tarrant for two years next preceding his appointment or election.

[Acts 1921, 37th Leg., ch. 28, § 6.]

Art. 1970-52. Same; Bond and Oath

The judge of the County Court at Law of Tarrant County, Texas,¹ shall execute a bond and take the oath of office as required by the law relating to County Judges.

[Acts 1921, 37th Leg., ch. 28, § 7.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-53. Special Judge

A special judge of the County Court at Law of Tarrant County, Texas,¹ may be appointed or elected as provided by the laws relating to County Courts and to the judges thereof.

[Acts 1921, 37th Leg., ch. 28, § 8.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-54. Clerk; Seal; Sheriff

The County Clerk of Tarrant County, Texas, shall be the clerk of the County Court at Law of Tarrant County, Texas.¹ The seal of said Court shall be the same as provided for County Courts except that the seal shall contain the words "County Court at Law, Tarrant County, Texas." The sheriff of Tarrant County shall, in person or by deputy, attend said court when required by the judge thereof.

[Acts 1921, 37th Leg., ch. 28, § 9.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-55. Fees; Salary

The judge of the County Court at Law of Tarrant County, Texas, and the judge of the County Court of Tarrant County for civil cases, shall collect the same fees provided by law for County Judges in similar cases, all of which shall be paid by them monthly into the County Treasury and the judge of each said courts, shall receive a salary of \$4,000¹ annually, to be paid monthly out of the County Treasury by the Commissioners' Court.

[Acts 1921, 37th Leg., ch. 28, § 10.]

¹ Now \$5,000. See article 1970-61.

Art. 1970-56. Removal of Judge

The judge of the County Court at Law of Tarrant County, Texas,¹ may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the laws of this State.

[Acts 1921, 37th Leg., ch. 28, § 11.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-57. Shorthand Reporter

For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judge of the County Court at Law of Tarrant County, Texas,¹ shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the court and shall hold his office at the pleasure of the court; and the provisions of Chapter eleven of Title 37 of the Revised Civil Statutes of Texas of 1911 relating to the appointment of stenographers for the District Courts shall, and it is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salaries and shall perform the same duties and shall take the same oath as are in said Chapter eleven of Title 37 provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said court shall not be required to take the testimony in cases where neither party litigant nor the judge demands it; but where the testimony is taken by said reporter a fee of three dollars shall be taxed by the clerk as costs in the case. Said reporter shall also as

far as practicable, act as the official shorthand reporter of the County Court of Tarrant County for civil cases.

[Acts 1921, 37th Leg., ch. 28, § 12.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-58. Transfer of Causes

As soon as may be after this Act takes effect, the Clerk of the County Court of Tarrant County, Texas, shall transfer to the docket of the County Court at Law of Tarrant County, Texas,¹ all of the criminal cases then pending in the County Court of Tarrant County. The clerk shall note such transfers when made on the minutes of the County Court of Tarrant County, Texas. Thereafter, all new criminal cases filed in said county and coming within the jurisdiction of the County Court shall be placed on the docket of said County Court at Law. Until such time as the Commissioners' Court shall direct, no civil cases shall be filed in or transferred to said County Court at Law; but when directed to do so by said Commissioners' Court, the clerk of said county shall transfer from the docket of the County Court of Tarrant County for civil cases² to the docket of said County Court at Law a sufficient number of civil cases to equalize the dockets of said two courts, and shall thereafter place new civil cases, as they are filed, on the docket of said County Court at Law in a ratio to be prescribed by said Commissioners' Court, which ratio may be changed or modified from time to time by order of said Commissioners' Court.

[Acts 1921, 37th Leg., ch. 28, § 13.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-59. Cases Filed in Either County Court at Law or County Court for Civil Cases

Upon the passage and taking effect of this Act civil and criminal cases, within jurisdiction of such courts, may be originally filed in either the County Court at Law of Tarrant County, Texas,¹ or the County Court of Tarrant County for Civil Cases.²

[Acts 1925, 39th Leg., ch. 206, p. 679, § 2.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-60. Transfer of Cases

Whenever the judges of the County Court of Tarrant County for Civil Cases,¹ or the judge of the County Court at Law,² may deem it expedient to the transaction of the public business, he may transfer any cause pending in the court over which he presides to the docket of said other court, and the written order upon the minutes of either of said courts so transferring such case, signed by the judge thereof making the transfer, shall be authority for the clerk of such courts to make transfer. Provided, further, that the commissioners' court of said county may, within its discretion, direct

the clerk of said courts to transfer from the docket of either of said courts any case or cases pending thereon to the docket of such other court, and thereupon the court to which the transfer may be made shall have jurisdiction to hear and determine such cause or causes as though the same had been originally filed therein.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 3.]

¹ Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

Art. 1970-61. Fees and Salaries of Judges

The judge of the County Court at Law¹ and the judge of the County Court of Tarrant County for Civil Cases,² respectively, shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by them monthly into the county treasury, the judges of said courts shall each receive a salary of \$5,000.00 annually, to be paid monthly out of the county treasury by the commissioners' court of Tarrant County, Texas.

[Acts 1925, 39th Leg., ch. 206, p. 679, § 4.]

¹ Name changed to County Court at Law No. 1 of Tarrant County, Texas. See article 1970-62.

² Name changed to County Court at Law No. 2 of Tarrant County, Texas. See article 1970-62.

Art. 1970-62. Designations of Courts

From and after the passage and the taking effect of this Act the said County Court at Law of Tarrant County shall be known and designated as the "County Court at Law No. 1" of Tarrant County, Texas, and the said County Court of Tarrant County for Civil Cases shall be known and designated as the "County Court at Law No. 2" of Tarrant County, Texas.

[Acts 1925, 39th Leg., ch. 206, p. 680, § 5.]

Art. 1970-62.1. Transfer of Eminent Domain Jurisdiction from County to District Courts

Neither the County Court of Tarrant County, the County Court at Law of Tarrant County nor the judges of the courts have any jurisdiction over matters of eminent domain.

[Acts 1971, 62nd Leg., p. 50, ch. 27, § 1, eff. March 18, 1971.]

Section 2 of the 1971 act appears as a note under art. 1906. Sections 3 to 6 thereof provided:

"Sec. 3. All proceedings in matters of eminent domain pending in the County Court or County Court at Law of Tarrant County when this Act takes effect are transferred to the district courts, and all writs and process relating to those matters issued by or out of the County Court or County Court at Law of Tarrant County are returnable to the district courts of Tarrant County.

"Sec. 4. After this Act takes effect, should a judgment be entered by the court of civil appeals or the supreme court remanding for a new trial or for further proceedings any cause in matters of eminent domain that was appealed from the County Court or County Court at Law of Tarrant County, the cause shall be remanded to the district courts, and all jurisdiction in respect to that cause vests in the district courts.

"Sec. 5. Within 10 days after this Act takes effect the county clerk of Tarrant County shall file with the district clerk of Tarrant County all original papers in causes transferred by this Act to the district court, with all judges' dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the county court in those causes, and the district clerk shall immediately docket all such causes on the dockets of the district courts in a manner to equalize case loads, and all such causes shall stand on the docket of the

district court in the same order in which they appeared on the docket of the county court, and each such case shall take its place on the docket of the district court in the same manner in the same priority as other civil cases are assigned to such docket, with the position on such docket to be determined in the same manner as though such cases had been committed to the district court in the first instance. It shall not be necessary for the district clerk to refile any papers theretofore filed by the county court, but papers in a cause bearing the file mark of the county clerk prior to the time of the transfer shall be held to have been filed in the cause as of the date filed without being refiled by the district clerk. The county clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the county clerk shall charge accrued fees due him and the remainder of the deposit he shall pay to the district court as a deposit in the particular cause for which it was deposited. Credit shall be given litigants for all jury fees paid in the county court.

"Sec. 6. This Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by the County Court or County Court at Law of Tarrant County pertaining to matters of eminent domain, and the county court shall retain jurisdiction to enforce those final judgments and the county clerk of Tarrant County shall issue all writs of execution and orders of sale and proceedings thereunder and his act in so doing shall be valid and binding to all intents and purposes the same as if no transfer of jurisdiction had been made by this Act."

TARRANT COUNTY CRIMINAL COURTS

Art. 1970-62a. County Criminal Court No. 1 of Tarrant County

Sec. 1. That there shall be created a Court to be held in Tarrant County, Texas, to be known and designated as "The County Criminal Court of Tarrant County, Texas."

Sec. 2. The County Criminal Court of Tarrant County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said County of all criminal matters and causes, original and appellate, that is now vested in the County Courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except as in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court of Tarrant County, Texas; and except such as have heretofore been conferred upon the Judge of the County Court at Law of Tarrant County, Texas.

Sec. 4. The County Criminal Court of Tarrant County, Texas, or the Judge thereof, shall have the power to issue writs of habeas corpus

and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said Court or any court or tribunal inferior to said Court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the general law governing county courts through the State.

Sec. 5. The terms of the County Criminal Court of Tarrant County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the county courts. The terms of said County Criminal Court shall be held not less than four (4) times each year and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said Court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County in accordance with the law, a Judge of the County Criminal Court, hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said Court elected at any General Election shall hold office for two (2) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said Court unless he shall be a citizen of the United States and of this State, who shall have been a practicing lawyer of this State or a Judge of a court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to county Judges.

Sec. 8. A special Judge of the County Criminal Court of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to county courts and the Judges thereof.

Sec. 9. The County Clerk of Tarrant County, Texas, shall be the Clerk of the County Criminal Court of Tarrant County, Texas, the seal of said Court shall be the same as provided for county courts, except that the seal shall contain the words "The County Criminal Court, Tarrant County, Texas." The Sheriff of Tarrant County, Texas, shall in person or by deputy, attend said Court when required by the Judge thereof. As soon as may be after the passage of this Act the Sheriff of Tarrant County, Texas, shall appoint two (2) deputy sheriffs in addition to the staff now authorized for the sheriff's office; such two (2) deputy sheriffs shall conform to the qualifications generally prescribed for deputy sheriffs. Said two (2) deputy sheriffs shall receive a salary as fixed by the Commissioners Court in an amount not exceeding the maximum salary now

authorized for deputy sheriffs, to be paid monthly out of the County Treasury by the Commissioners Court from any fund available for this purpose.

Sec. 10. The Judge of the County Criminal Court of Tarrant County, Texas, shall collect the same fee provided by law for county Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said Court shall receive a salary as fixed by the Commissioners Court not to exceed Eight Thousand, Nine Hundred Dollars (\$8,900) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of law while in office.

Sec. 11. The Judge of the County Criminal Court of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other county Judge may be removed under the laws of this State.

Sec. 12. As soon as may be after the passage of this Act there shall be appointed by the Criminal District Attorney of Tarrant County one (1) Assistant Criminal District Attorney who shall conform to the qualifications generally prescribed for Assistant Criminal District Attorneys, such appointment to be in addition to the staff authorized for the Criminal District Attorney of Tarrant County at the time of the passage of this Act. Said additional Assistant Criminal District Attorney shall receive a salary as fixed by the Commissioners Court not less than Five Thousand, Four Hundred Dollars (\$5,400) per annum, nor more than Six Thousand Dollars (\$6,000) per annum, to be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose.

Sec. 13. As soon as may be after the passage of this Act there shall be appointed by the Criminal District Attorney of Tarrant County in accordance with the law one (1) Criminal Investigator who shall conform to the qualifications generally prescribed for Criminal Investigators, such appointment to be in addition to the staff authorized for the Criminal District Attorney of Tarrant County at the time of the passage of this Act. Said additional Criminal Investigator shall receive a salary as fixed by the Commissioners Court not less than Three Thousand, Six Hundred Dollars (\$3,600) per annum, nor more than Four Thousand, Two Hundred Dollars (\$4,200) per annum, plus the usual automobile allowance, to be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose.

Sec. 14. For the purpose of preserving a record in all cases for the information of the Court, jury, and parties, the Judge of the County Criminal Court of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the Court and who shall hold his office at the pleasure of the

Court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this State, and also be governed by any other laws covering the stenographers of the District Courts of this State; provided, that the official shorthand reporter of said Court shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but where the testimony is taken by said reporter a fee of Three Dollars (\$3) shall be taxed by the clerk as costs in the case, the said Three Dollars (\$3), when collected, to be paid into the County Treasury of Tarrant County, Texas.

Sec. 15. As soon as may be after this Act takes effect the Clerk of the County Court at Law of Tarrant County, Texas, and the Clerk of the Criminal District Court of Tarrant County, Texas, and the Clerk of the Criminal District Court No. 2 of Tarrant County, Texas, may transfer to the docket of the County Criminal Court of Tarrant County, Texas, hereby created, any of the criminal cases then pending in any of the said Courts and which may properly come within the jurisdiction of the County Criminal Court of Tarrant County, Texas, hereby created, and thereafter the Judge of any of the four (4) said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to any of the other Courts by an order or orders entered in the minutes of his Court, provided however, that the Court to which any such cause is transferred would have had proper jurisdiction of such cause or causes if such cause or causes had been originally instituted in said Court; and the Judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

[Acts 1953, 53rd Leg., p. 909, ch. 375.]

Art. 1970-62b. County Criminal Court No. 2 of Tarrant County

Sec. 1. There shall be created a court to be held in Tarrant County, Texas, to be known and designated as "The County Criminal Court No. 1 of Tarrant County, Texas."

Sec. 2. The County Criminal Court No. 1 of Tarrant County, Texas, shall have and same is hereby vested with concurrent jurisdiction within the said county of all criminal matters and causes, original and appellate that is now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and Laws of Texas, except as provided in Section 3 of this Act.

Sec. 3. The County Court of Tarrant County, Texas, shall retain as heretofore, its jurisdiction as a juvenile court, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and habitual drunkards, and grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlements, partition and distribution of the estates of deceased persons; and of apprenticing minors as provided by law. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, Texas, and all ex officio duties of the County Judge shall be exercised by the said Judge of the said County Court, except in so far as the same shall, by this Act, be committed to the Judge of the County Criminal Court No. 1 of Tarrant County, Texas; and except such as have heretofore been conferred upon the Judges of the County Courts at Law, and the County Criminal Court of Tarrant County.

Sec. 4. The County Criminal Court No. 1 of Tarrant County, Texas, or the Judge thereof shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws, in cases where the offense charged is within the jurisdiction of said court or any court or tribunal inferior to said court; and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the state.

Sec. 5. The terms of the County Criminal Court No. 1 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be prescribed by law relating to the county courts. The terms of said County Criminal Court No. 1, shall be held not less than four (4) times each year and the Commissioners Court of Tarrant County, Texas, shall fix the time at which said court shall hold its terms, until the same may be changed according to law.

Sec. 6. As soon as possible after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County in accordance with the law, a Judge of the County Criminal Court No. 1, hereby created, who shall be well-informed in the laws of the state and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. The Judge of said court elected at any General Election shall hold office for four (4) years and until his successor shall have duly qualified; provided, that no person shall be eligible for Judge of said court unless he shall be a citizen of the United States and of this state, who shall have been a practicing lawyer of this state or a Judge of a court in said state for four (4) years next preceding his appointment or election, and who shall have resided in the County

of Tarrant for two (2) years next preceding his appointment or election.

Sec. 7. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to County Judges.

Sec. 8. A special Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the Judges thereof.

Sec. 9. The county clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, the seal of said court shall be the same as provided for County Courts, except that the seal shall contain the words "The County Criminal Court No. 1 of Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said court when required by the Judge thereof.

Sec. 10. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall collect the same fee provided by law for County Judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the Judge of said court shall receive a salary as fixed by the Commissioners Court to be paid monthly out of the County Treasury by the Commissioners Court; such Judge shall devote his entire time to the duties of his office, and shall not engage in the practice of the law while in office.

Sec. 11. The Judge of the County Criminal Court No. 1 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other County Judge may be removed under the laws of this state.

Sec. 12. For the purpose of preserving a record in all cases for the information of the court, jury, and parties, the Judge of the County Criminal Court No. 1 of Tarrant County, Texas, shall appoint an official shorthand reporter, who shall be well-skilled in his profession, shall be a sworn officer of the court and who shall hold his office at the pleasure of the court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and shall take the same oath as are in said laws provided for the stenographers of District Courts of this state, and also be governed by any other laws covering the stenographers of the District Courts of this state.

Sec. 13. After this Act shall become effective, the Judge of the County Criminal Court of Tarrant County and the Judge of the County Criminal Court No. 1 of Tarrant County shall together with the clerk of said courts, make a just and fair division of the cases pending on the docket of the County Criminal Court of

Tarrant County, and after such division is made the clerk of the County Criminal Court of Tarrant County shall transfer to the docket of the County Criminal Court No. 1 of Tarrant County all cases allotted to said County Criminal Court No. 1 of Tarrant County in the division so made by said Judges and the County Clerk shall retain the remaining cases on the docket of the County Criminal Court of Tarrant County. For the balance of the month in which the County Criminal Court No. 1 of Tarrant County is created and becomes operative, all cases shall be filed in said court, and during the next succeeding month all cases shall be filed in the County Criminal Court of Tarrant County, and thereafter the filings shall alternate each month as between said courts.

Provided that the Judge of each court shall, by agreement with the other Judge, have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either Judge to preside in his own court the Judge of the other court shall be and is hereby authorized to act for such Judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court.

[Acts 1961, 57th Leg., p. 86, ch. 50; Acts 1961, 57th Leg., p. 1017, ch. 444, § 1.]

Art. 1970-62c. County Criminal Court No. 3 of Tarrant County

Sec. 1. There is hereby created a county court to be held in and for Tarrant County, Texas, to be called the County Criminal Court No. 3 of Tarrant County, Texas.

Sec. 2. The County Criminal Court No. 3 of Tarrant County, Texas, shall have, and same is hereby vested with, the sole jurisdiction within said County of all appeals from criminal convictions had under the laws of the State of Texas and the municipal ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, and the said County Criminal Court No. 3 of Tarrant County, Texas, shall have, and same is hereby vested with, concurrent jurisdiction within said County of all criminal matters and causes, original and appellate, that are now vested in the county courts having jurisdiction in civil and criminal cases under the Constitution and laws of Texas, except as provided in Section 4 of this Act.

Sec. 3. On the first day of the initial term of the County Criminal Court No. 3 of Tarrant County, Texas, there shall be transferred to the docket of said Court, under the direction of the judge of the County Criminal Court of Tarrant County, Texas, and the Judge of the County Criminal Court No. 1 of Tarrant County, Texas, and by order entered on the minutes of the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, all of such appeals from convictions had under the laws of the

State of Texas and the municipal ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, now pending in the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas; and all writs and processes theretofore issued by or out of the said Courts in such matters or proceedings shall be returnable to the County Criminal Court No. 3 of Tarrant County, Texas, as though originally issued therefrom. All such new appeals from convictions had under the laws of the State of Texas and ordinances of the municipalities located in Tarrant County, Texas, in Justice Courts, Corporation Courts and other municipal Courts in said County, filed on said day or thereafter filed with the County Clerk of Tarrant County, irrespective of the Court or judge to which said appeal is addressed, shall be filed by said Clerk in the County Criminal Court No. 3 of Tarrant County, Texas.

Sec. 4. The County Court of Tarrant County, Texas, shall retain, as heretofore, its jurisdiction as a juvenile court and its general jurisdiction as a probate court. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians, and transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of the estates of deceased persons and the apprenticing of minors as provided by law. The county judge of Tarrant County, Texas, shall be judge of the County Court of Tarrant County, Texas, and all ex officio duties of the county judge shall be exercised by the said judge of said County Court except insofar as the same shall, by this Act, be committed to the judge of the County Criminal Court No. 3 of Tarrant County, Texas, and except such as have heretofore been conferred upon the judge of the County Court at Law of Tarrant County, Texas.

Sec. 5. The County Criminal Court No. 3 of Tarrant County, Texas, or the judge thereof, shall have the power to issue writs of habeas corpus and grant injunctions for the enforcement of the penal laws in cases where the offense charged is within the jurisdiction of said Court or any court or tribunal inferior to said Court, and shall also have power to punish for contempt under such provisions as are now or may be provided by the General Law governing County Courts throughout the State.

Sec. 6. The terms of the County Criminal Court No. 3 of Tarrant County, Texas, and the practice therein and appeals therefrom shall be as prescribed by law relating to the County Courts. The terms of said County Criminal Court No. 3 shall be held not less than four (4) times each year, and the Commissioners Court of Tarrant County, Texas, shall fix the time at

which said Court shall hold its terms until the same may be changed according to law.

Sec. 7. As soon as may be after the passage of this Act, there shall be appointed by the Commissioners Court of Tarrant County, in accordance with the law, a judge of the County Criminal Court No. 3 hereby created, who shall be well informed in the laws of the State and who shall hold his office until the next succeeding General Election and until his successor shall have duly qualified. At the next General Election there shall be elected a judge of the County Criminal Court No. 3 who shall hold office for the unexpired term. The judges of said Court elected at the General Election in 1966 and thereafter shall hold office for four (4) years and until their successors shall have duly qualified; provided that no person shall be eligible for judge of said Court unless he shall be a citizen of the United States and of this State who shall have been a practicing lawyer of this State or a judge of a Court in said State for four (4) years next preceding his appointment or election, and who shall have resided in the County of Tarrant for two (2) years next preceding his appointment or election.

Sec. 8. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall execute a bond and take the oath of office as required by the law relating to county judges.

Sec. 9. A special judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be appointed or elected as provided by the laws relating to County Courts and the judges thereof.

Sec. 10. The County Clerk of Tarrant County, Texas, shall be the clerk of the County Criminal Court No. 3 of Tarrant County, Texas. The seal of said Court shall be the same as provided for County Courts except that the seal shall contain the words "The County Criminal Court No. 3, Tarrant County, Texas." The sheriff of Tarrant County, Texas, shall in person or by deputy, attend said Court when required by the judge thereof.

Sec. 11. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, shall collect the same fee provided by law for county judges in similar cases, all of which shall be paid by him monthly into the County Treasury, and the judge of said Court shall receive a salary of Twelve Thousand Dollars (\$12,000) per annum, to be paid monthly out of the County Treasury by the Commissioners Court; such judge shall not engage in the practice of law while in office.

Sec. 12. The judge of the County Criminal Court No. 3 of Tarrant County, Texas, may be removed from office in the same manner, and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 13. For the purpose of preserving a record in all cases for the information of the Court, jury and parties, the judge of the County Criminal Court No. 3 of Tarrant County,

Texas, shall appoint an official shorthand reporter, who shall be well skilled in his profession, shall be a sworn officer of the Court and who shall hold his office at the pleasure of the Court; the provisions of the General Laws of Texas relating to the appointment of stenographers for the District Courts shall, and is hereby made to, apply in all its provisions insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary and shall perform the same duties and take the same oath as are in said laws provided for the stenographers of District Courts of this State, and he shall also be governed by any other laws covering the stenographers of the District Courts of this State; provided that the official shorthand reporter of said Court shall not be required to take testimony in cases where neither party litigant nor the judge demands it, but where the testimony is taken by said reporter, a fee of Three Dollars (\$3) shall be taken by the clerk as costs in the case, the said Three Dollars (\$3), when collected, shall be paid into the County Treasury of Tarrant County, Texas.

Sec. 14. As soon as may be after this Act takes effect, the clerk of the County Criminal Court of Tarrant County, Texas, and the clerk of the County Criminal Court No. 1 of Tarrant County, Texas, may transfer to the docket of the County Criminal Court No. 3 of Tarrant County, Texas, hereby created, any of the criminal cases then pending in the County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, and thereafter the judge of either of said Courts may, in his discretion, transfer any cause or causes that may at any time be pending in his Court to the other Courts by an order or orders entered in the minutes of his Court, and the judge of the Court to which such transfer or transfers are made shall dispose of said cause or causes in the same manner as if such cause or causes were originally instituted in said Court.

Sec. 15. The judge of the County Criminal Court of Tarrant County, Texas, and the judge of the County Criminal Court No. 1 of Tarrant County, Texas, and the judge of the County Criminal Court No. 3 of Tarrant County, Texas, may, in their discretion, exchange benches and sit and hear cases in the Court in which the case or proceeding is then pending, and try or otherwise dispose of same.

Sec. 16. The County Criminal Court of Tarrant County, Texas, and the County Criminal Court No. 1 of Tarrant County, Texas, shall hereafter be referred to and known as the County Criminal Court No. 1 of Tarrant County, and the County Criminal Court No. 2 of Tarrant County, respectively and all references in this Act or existing laws to the County Criminal Court of Tarrant County or the County Criminal Court No. 1 of Tarrant County shall, hereafter, refer to the County Criminal Court No. 1 of Tarrant County and County

Criminal Court No. 2 of Tarrant County respectively.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. If any Section, paragraph, sentence, clause, phrase or word contained in this Act shall be held unconstitutional by the Courts of this State, the invalidity of such portion of the Act shall not be construed to affect any other part of the Act.

[Acts 1963, 58th Leg., p. 682, ch. 251.]

BEXAR COUNTY

Art. 1970-63. Creation

That there is hereby created a court to be held in Bexar county, Texas, to be called the "County Court of Bexar County for Civil Cases."¹

[Acts 1911, p. 15, § 1.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-64. Jurisdiction of Said Court

The county court of Bexar county for civil cases¹ shall have exclusive jurisdiction of all civil matters and causes, original and appellate, over which, by the general laws of the State of Texas, the county court of said county would have jurisdiction, except as provided in section 3 of this Act,² and all civil cases other than probate matters, and such as are provided in section 3 of this Act, be, and the same are hereby transferred to the county court of Bexar county for civil cases; and all civil writs and processes, heretofore issued by or out of said county court, other than pertaining to matters over which, by section 3 of this Act, jurisdiction remains in the county court of Bexar county, be, and the same are hereby made returnable to the county court of Bexar county for civil cases.

[Acts 1911, p. 15, § 2.]

¹ Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

² Article 1970-65.

Art. 1970-65. Jurisdiction Retained by County Court of Bexar County

The county court of Bexar county shall retain, as heretofore, the jurisdiction of all criminal cases, the forfeiture of bonds in criminal cases and all proceedings in relation thereto; of all cases of eminent domain; the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law. The county judge of Bexar

county shall be the judge of the county court of Bexar county, and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Bexar county, except in so far as the same shall, by this Act, be committed to the judge of the county court of Bexar county for civil cases.¹ The county judge of Bexar county shall retain authority to try all applications for liquor licenses, and shall approve all liquor bonds as may be provided by law. He shall also retain jurisdiction of the juvenile court.

[Acts 1911, p. 15, § 3.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-66. Both Courts May Issue Writs

The said county court of Bexar county for civil cases¹ or the judge thereof, shall have the power to issue writs of injunctions, sequestration, attachment, garnishment, certiorari, supersedeas, mandamus, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the general law governing county courts throughout the state, and to issue writs of habeas corpus in cases within the jurisdiction of said court.

[Acts 1911, p. 15, § 4.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-67. Terms, Practice, etc.

The terms of the county court of Bexar county for civil cases,¹ and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by laws relating to county courts. The terms of the county court of Bexar county for civil cases¹ shall be held as follows: Beginning on the first Mondays in January, March, May, July, September and November of each year, and may continue until the business thereof is disposed of.

[Acts 1911, p. 15, § 5.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-68. Judge to be Elected When, etc.; Qualifications; Term

There shall be elected in said county by the qualified voters thereof, at each general election, a judge of the county court of Bexar county for civil cases,¹ who shall be learned in the laws of the state, who shall hold his office for two years, and until his successor shall have been duly qualified.

[Acts 1911, p. 15, § 6.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-69. Bond and Oath of Judge

The judge of the county court of Bexar county for civil cases¹ shall execute a bond in the sum of \$5,000.00, and take the oath of office as required by the law relating to county judges.

[Acts 1911, p. 15, § 7.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-70. Special Judge Elected or Appointed How

A special judge of the county court of Bexar county for civil cases¹ may be appointed or elected as provided by laws relating to county courts, and to the judges thereof.

[Acts 1911, p. 15, § 8.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-71. Clerk of; Seal; Sheriff to Attend When, etc.

The county clerk of Bexar county shall be the clerk of the county court of Bexar county for civil cases.¹ The seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words "County Court of Bexar County for Civil Cases." The sheriff of Bexar county shall in person or by deputy attend the court when required by the judge thereof.

[Acts 1911, p. 15, § 9.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-72. Selection, etc., of Juries

The jurisdiction and authority now vested by law in the county court of Bexar county for the selection and service of jurors shall be exercised by each of the two courts within their jurisdiction.

[Acts 1911, p. 15, § 10.]

Art. 1970-73. Vacancies in Office of Judge, How Filled; Appointment of First Judge

Any vacancy in the office of the judge of the court created by this Act may be filled by the commissioners court of Bexar county until the next general election. The commissioners court of Bexar county shall, as soon as may be, after this Act shall take effect, appoint a judge of the county court of Bexar county for civil cases,¹ who shall serve until the next general election, and until his successor shall be duly elected and qualified.

[Acts 1911, p. 15, § 11.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-74. Fees; Salary of Judge

The judge of the county court of Bexar county for civil cases¹ shall collect the same fees provided by law for county judges in similar cases, all of which shall be paid by him monthly into the county treasury, and he shall receive a salary of three thousand dollars (\$3,000.00) annually, to be paid monthly out of the county treasury by the commissioners court. The county judge of Bexar county shall receive in addition to the other fees allowed by law, a salary for the ex officio duties of his office of not less than \$100.00 per month.

[Acts 1911, p. 15, § 12.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-75. Removal of Judge

The judge of the county court of Bexar county for civil cases¹ may be removed from office

in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1911, p. 15, § 13.]

¹Name changed to County Court at Law No. 1 of Bexar County, Texas. See article 1970-301.

Art. 1970-75a. Practice and Administration of Courts

Rotational Filing Required

Sec. 1. (a) On and after the effective date of this Act, the County Clerk of Bexar County shall, with respect to cases addressed to one of the county courts at law of Bexar County and regardless of the court or judge to which they are addressed, file the cases alternately in the county courts at law of Bexar County, starting with the County Court at Law No. 1, of Bexar County, and continuing with the County Court at Law No. 2, of Bexar County, and so forth.

(b) The rotational filing requirement of Subsection (a) of this Section does not apply to appeals in criminal cases.

(c) The county clerk's failure to comply with Subsection (a) of this Section does not affect any action taken with regard to a case filed with one of the county courts at law of Bexar County.

Presiding Judge

Sec. 2. (a) The judges of the county courts at law of Bexar County shall, in January and July of each year, select by majority vote one of their number as presiding judge. The selection may be cancelled, and another judge selected, at any time, by majority vote. Each judge shall enter on the minutes of his court an order reciting each selection of a presiding judge.

(b) The presiding judge of the county courts at law of Bexar County may assign any case pending in one of the county courts at law to another county court at law and such case shall be transferred and tried in accordance with the assignment. The presiding judge may also assign one of the judges of the county courts at law to another court, or to try a particular case pending in another court, and the judge assigned shall sit or try the case as requested.

Rules of Practice

Sec. 3. The judges may also adopt rules, not inconsistent with the Texas Rules of Civil Procedure, and the code of Criminal Procedure for practice in the county courts at law of Bexar County. A rule may only be adopted by majority vote of the judges and upon adoption shall be entered verbatim on the minutes of each of the county courts at law. The County Clerk of Bexar County shall supply copies of the adopted rules to every interested person.

[Acts 1965, 59th Leg., p. 1017, ch. 502, eff. Aug. 30, 1965.]

HARRIS COUNTY CIVIL COURT AT LAW NO. 1

Art. 1970-76. Creation

That there is hereby created a court to be held in Harris county, to be called the county court of Harris county for civil cases.¹

[Acts 1911, p. 4, § 1.]

¹Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-77. County Civil Court at Law No. 1

The County Court at Law of Harris County, Texas, shall hereafter be known as "County Civil Court at Law No. 1," and the seal of said Court shall hereafter be the same as that provided by law for county courts, except that the seal shall contain the words: "County Civil Court at Law No. 1, Harris County, Texas."

That wherever the name "County Court for Civil Cases" or "County Court at Law of Harris County, Texas," appears in any portion of this Act creating said Court it shall hereafter be understood to mean "County Civil Court at Law No. 1."

[Acts 1913, p. 10, § 1; Acts 1961, 57th Leg., p. 1073, ch. 481, § 2.]

Art. 1970-78. Change of Name Not to Affect Court, Except, etc.; Judges, Officers, Process and Returns

The change in the name of said court shall in no way or manner, other than is provided in this Act, affect the officers or judge of said court, their compensation or tenure of office, and shall, in no way or manner, affect the process of said court already issued. The judge and officers now serving said county court of Harris county for civil cases, shall continue to serve said court under its changed name to the same effect to all things as if the name had not been changed. All process heretofore issued out of said county court for civil cases and all returns thereon shall in all things be treated and considered as if the name of said court had not been changed.

[Acts 1913, p. 10, § 2.]

Art. 1970-79. Jurisdiction of Said Court

The county court of Harris county for civil cases¹ shall have jurisdiction in all civil matters and causes, original and appellate, over which, by the general laws of the state of Texas, the county court of said county would have jurisdiction, except as provided in section three (3) of this Act,² and all civil cases other than probate matters and such as are provided in section three (3) of this Act, be and the same are hereby transferred to the county court of Harris county for civil cases, and all civil writs and processes heretofore issued by or out of said county court other than pertaining to matters over which, by section three (3) of this Act, jurisdiction remains in the county court of Harris county be and the same are hereby made returnable to the county court of Harris county for civil cases. The jurisdiction of the county court of Harris county for civil

cases and of the judge thereof shall extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the county court of Harris county or in the county judge thereof, but this provision shall not affect the jurisdiction of the commissioners court or of the county judge of Harris county as the presiding officer of such commissioners court, as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners court or the judge thereof.

[Acts 1911, p. 4, § 2.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

² Article 1970-81.

Art. 1970-80. Jurisdiction Continued, etc.

The County Court at Law of Harris County, Texas, shall have all the jurisdiction heretofore conferred upon it under the name of the County Court of Harris County for civil cases, and its judge shall have all the powers heretofore conferred upon the judge of the County Court of Harris County for civil cases; provided, however, that said court shall have no jurisdiction over any of those¹ matters the jurisdiction over which is vested exclusively in the County Court of Harris County or the judge thereof.

[Acts 1913, p. 10, § 3; Acts 1929, 41st Leg., p. 44, ch. 16, § 1.]

¹ So in enrolled bill. Session Laws read "these."

Art. 1970-81. Jurisdiction Retained by County Court of Harris County

The county judge¹ of Harris county shall retain as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business pertaining to deceased persons, and to hear and determine all matters affecting juvenile offenders, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and shall have jurisdiction to hear and determine all matters relating to or arising out of the granting or revoking of liquor licenses, and all matters appertaining thereto; and to apprentice minors as provided by law, and the said court, or the judge thereof, shall have the power to issue writs of injunctions, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court, and also to punish contempts under such provisions as are or may be provided by general law governing county courts throughout the state; but said county court of Harris county shall have no other jurisdiction, civil or criminal. The county judge of Harris county shall be the judge of the county court of Harris county, and all ex officio duties of the county judge shall be exercised by the said judge of the county court of Harris county, except in so far as the same

shall by this Act be committed to the judge of the county court of Harris county for civil cases.²

[Acts 1911, p. 4, sec. 3.]

¹ So in enrolled bill. Should probably read "court".

² Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-82. Both Courts May Issue Writs

Both the said county court of Harris county and the county court of Harris county for civil cases¹ or either of the judges thereof, shall have the power to issue writs of injunction, sequestration, attachment, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempts under such provisions as are or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

[Acts 1911, p. 4, § 4.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-83. Terms, Practice, etc.

The terms¹ of the county court of Harris county for civil cases,² and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the county court of Harris county for civil cases shall be held as now established for the terms of the county court of Harris county until the same be changed in accordance with the law.

[Acts 1911, p. 4, § 5.]

¹ Terms of court. See article 1970-84.

² Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-84. Terms of Court

Said court shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

[Acts 1913, p. 10, § 7.]

Art. 1970-85. Judge to be Elected, When; Qualifications; Term

There shall be elected in said County by the qualified voters thereof, at each general election, a judge of the County Court at Law of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this State for not less than five years, and who shall hold his office for two years and until his successor shall have duly qualified. Any vacancy occurring in the office of judge of said County Court at Law of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election.

[Acts 1911, p. 4, § 6; Acts 1929, 41st Leg., p. 44, ch. 16, § 3.]

Art. 1970-86. Bond and Oath of Judge

The judge of the county court of Harris county for civil cases,¹ shall execute a bond and take the oath of office as required by the law relating to county judges.

[Acts 1911, p. 4, § 7.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-87. Special Judge

A special judge of the county court of Harris county for civil cases¹ may be appointed or elected as provided by law relating to county courts and to the judges thereof.

[Acts 1911, p. 4, § 8.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-88. Clerk; Seal; Sheriff to Attend When, etc.

The county clerk of Harris county shall be the clerk of the county court of Harris county for civil cases.¹ The seal of the said court shall be the same as that provided by law for county courts, except that the seal shall contain the words "County Court of Harris County for Civil Cases." The sheriff of Harris county shall, in person or by deputy, attend the said court when required by the judge thereof.

[Acts 1911, p. 4, § 10.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-89. Vacancy in Office of Judge, How Filled, etc.

Any vacancy in the office of the judge of the court created by this Act may be filled by the commissioners court of Harris county until the next general election. The commissioners court shall, as soon as may be after this Act shall take effect, appoint a judge of the county court of Harris county for civil cases¹ who shall serve until the next general election and until his successor shall be duly elected and qualified.

[Acts 1911, p. 4, § 11.]

¹ Name changed to County Civil Court at Law No. 1, Harris County, Texas. See article 1970-77.

Art. 1970-90. Salary of Judge

The judge of the County Court at Law of Harris County, Texas, shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners Court, in equal monthly installments.

[Acts 1911, p. 4, § 12; Acts 1929, 41st Leg., p. 44, ch. 16, § 4.]

Art. 1970-91. Salary of County Judge of Harris County

The county judge of Harris county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary for the ex officio duties of his office as may be allowed him by the commissioners court not less than fifteen hundred dollars per year.

[Acts 1911, p. 4, § 13.]

³ West's Tex. Stats. & Codes—81

Art. 1970-92. Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7

Art. 1970-93. Transfer of Misdemeanor Criminal Cases

All misdemeanor criminal actions now pending in said County Court at Law of Harris County, Texas, as well as criminal cases on appeal to said County Court at Law of Harris County, Texas, shall immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of such criminal actions and criminal proceedings. And all civil actions and proceedings now pending originally or upon appeal to said County Court at Law No. 2 of Harris County, Texas, shall immediately upon taking effect of this Act, be transferred to the County Court at Law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings.

[Acts 1913, p. 10, § 5; Acts 1929, 41st Leg., p. 44, ch. 16, § 2.]

Art. 1970-94. Repealed by Acts 1929, 41st Leg., p. 44, ch. 16, § 7

Art. 1970-94a. Exchange of Judges; Powers

In case of disqualification, an over-crowded docket, sickness, or absence from the county, of either of the judges of said County Courts at Law of Harris County, they may exchange benches, and said judge of said County Court at Law of Harris County, Texas, when so exchanging benches with said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of said last named court and of the judge thereof while so exchanging benches; and in like manner said judge of said County Court at Law No. 2 of Harris County, Texas, shall have all the power and jurisdiction of said last named court and of the judge thereof while so exchanging benches.

[Acts 1929, 41st Leg., p. 44, ch. 16, § 5.]

Art. 1970-94b. Court Reporter; Salary

That said Judge of the County Court at Law, of Harris County, may appoint and discharge an Official Court Reporter in the same manner as such a reporter is appointed or discharged by the District Courts, and who shall receive the same salary as the Reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law.

[Acts 1929, 41st Leg., p. 44, ch. 16, § 6; Acts 1933, 43rd Leg., 1st C.S., p. 152, ch. 52, § 1.]

**HARRIS COUNTY CRIMINAL COURT
AT LAW NO. 1**

Art. 1970-95. Court Created

There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 1."

That hereafter wherever the name of "County Court at Law No. 2" appears in this Act creating said Court it shall be read and understood as referring to County Criminal Court at Law No. 1 of Harris County, Texas.

[Acts 1915, 1st C.S., ch. 8, § 1; Acts 1961, 57th Leg., p. 1073, ch. 481, § 3.]

Art. 1970-96. Jurisdiction Over Criminal Matters; Appellate Jurisdiction

Said County Criminal Court at Law No. 1 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from Justice Courts and Corporation Courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the Judges of County Courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

[Acts 1915, 1st C.S., ch. 8, § 2; Acts 1929, 41st Leg., p. 57, ch. 24, § 1; Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 1; Acts 1961, 57th Leg., p. 1073, ch. 481, § 8.]

Art. 1970-97. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4

Art. 1970-98. Qualifications of Judge; Appointment; Oath; Bond; Fees and Salary

At each general election, there shall be elected a judge of the County Court at Law No. 2 of Harris County, Texas, who shall have been a duly licensed and practicing member of the bar of this state for not less than five years, and who shall hold his office for two years and until his successor shall have been duly qualified; and he shall receive a salary of five thousand, five hundred dollars per annum, to be paid out of the county treasury by the Commissioners' Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. The civil jurisdiction of the County Court at Law of Harris County shall not in anywise be impaired or affected by this Act. Any vacancy occurring in the office of the judge of said County Court at Law No. 2 of Harris County, Texas, shall be filled by the Commissioners' Court of Harris County, the ap-

pointee thereof to hold office until the next succeeding general election.

[Acts 1915, 1st C.S., ch. 8, § 4; Acts 1929, 41st Leg., p. 57, ch. 24, § 2.]

Art. 1970-98a. Official Court Reporter; Compensation

That the Judge of County Court at Law No. 2 of Harris County, Texas, shall appoint an Official Shorthand Reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the Official Shorthand Reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such Official Shorthand Reporter shall be entitled to the same compensation as applicable to Official Shorthand Reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of Official Shorthand Reporters of the District Courts of Harris County is paid.

[Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 2.]

Art. 1970-98b. Clerk in Civil and Criminal Matters

The County Clerk of Harris County, Texas, shall act as and be the Clerk of said County Court at Law No. 2 of Harris County, Texas, in civil matters and the District Clerk of Harris County, Texas, shall act as and be the Clerk of the County Court at Law and of said County Court at Law No. 2 of Harris County, Texas, in criminal matters.

[Acts 1934, 43rd Leg., 3rd C.S., p. 4, ch. 3, § 3.]

Art. 1970-99. Clerk; Fees

The county clerk of Harris County shall be the clerk of said County Court at Law No. 2 of Harris County in civil matters and causes; and shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas. The clerk of the Criminal District Court of Harris County, Texas, shall be clerk of said County Court at Law No. 2 in all criminal matters and causes, and shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law of Harris County.

[Acts 1915, 1st C.S., ch. 8, § 5.]

Art. 1970-100. Seal

The seal of the County Court at Law No. 2 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law Number Two of Harris County, Texas," and said seal shall be judicially noticed.

[Acts 1915, 1st C.S., ch. 8, § 6.]

Art. 1970-101. Sheriffs and Constables

The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

[Acts 1915, 1st C.S., ch. 8, § 7.]

Art. 1970-102. Special Judge

A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by the law relating to county courts and the judges thereof.

[Acts 1915, 1st C.S., ch. 8, § 8.]

Arts. 1970-103, 1970-104. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4**Art. 1970-105. Terms**

The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The sessions of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

[Acts 1915, 1st C.S., ch. 8, § 11.]

Art. 1970-106. Transfer of Cases

All civil actions or civil proceedings now pending in said County Court at Law No. 2 of Harris County, Texas, as well as all civil actions or civil proceedings on appeal to said court, shall immediately upon the taking effect of this Act, be transferred to the County Court at Law of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law of Harris County, Texas, is hereby conferred jurisdiction of such civil actions and civil proceedings; and all criminal actions and criminal proceedings now pending in said County Court at Law of Harris County, shall, immediately upon the taking effect of this Act, be transferred to the County Court at Law No. 2 of Harris County, Texas, and the same are hereby so transferred, and upon said County Court at Law No. 2 of Harris County, Texas, is hereby conferred jurisdiction of said criminal actions and criminal proceedings.

[Acts 1915, 1st C.S., ch. 8, § 12; Acts 1929, 41st Leg., p. 57, ch. 24, § 3.]

Art. 1970-106a. Exchange of Judges

The judges of the said County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, may exchange benches as is or may be provided in the laws relating to the County Court at Law of Harris County, Texas.

[Acts 1929, 41st Leg., p. 57, ch. 24, § 5.]

Art. 1970-107. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4**Art. 1970-108. Practice**

The practice in said County Court at Law No. 2, and in cases of appeal and writs of error

therefrom and thereto, shall be the same as is now, or may hereafter be prescribed for county courts.

[Acts 1915, 1st C.S., ch. 8, § 14.2.]

Art. 1970-109. Process in Transferred Cases

All process issued out of the County Court at Law of Harris County, Texas, prior to the time when the clerk thereof shall transfer cases from the docket of said courts, as provided in Section 12 of this Act,¹ in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon parties to such transferred cases as though such process had been issued out of the County Court at Law No. 2 of Harris County, Texas. Likewise, in cases transferred by the judges of either of said courts, as provided in Section 13 of this Act,² all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

[Acts 1915, 1st C.S., ch. 8, § 15.]

¹ Article 1970-106.

² Article 1970-107.

Art. 1970-110. Repealed by Acts 1929, 41st Leg., p. 57, ch. 24, § 4**HARRIS COUNTY****Art. 1970-110a. Probate Court No. 1 of Harris County**

Sec. 1. The Probate Court of Harris County, Texas, which was created by Chapter 520, Acts of the 51st Legislature, Regular Session, 1949, shall hereafter be called and known as the "Probate Court No. 1 of Harris County, Texas."

Sec. 2. The Probate Court No. 1 of Harris County, Texas, shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. All such matters hereafter filed with the County Clerk of Harris County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by said clerk alternately in said Probate Court No. 1 of Harris County and the Probate Court No. 2 of Harris County, with every fifth case bearing the last number "5" or "0" being filed by said clerk in the County Court of Har-

ris County, and continuing alternatively thereafter, except every fifth case so deposited shall be filed with the County Court of Harris County, and further, said clerk shall keep separate dockets for each of said courts. Each of the judges of the County Court and the said Probate Courts Nos. 1 and 2 of Harris County may, at any time, with the consent of the judge of the County Court or of the Probate Court to which transfer is to be made, by an order entered upon the minutes of the said County Court or of such Probate Court, transfer to said County Court or Probate Court any such matter or proceeding pending in such county or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or Probate Court to which such transfer may be made.

Sec. 4. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature other than those transferred to or filed in the said Probate Court No. 1 of Harris County or Probate Court No. 2 of Harris County. The County Judge of Harris County shall be the judge of the County Court of Harris County, and all ex officio duties of the County Judge of Harris County, as they now exist, shall be exercised by the County Judge of Harris County, except in so far as the same are expressly committed by statute to the judge of the Probate Court No. 1 of Harris County or to the judge of the Probate Court No. 2 of Harris County. Nothing contained in this Act shall be construed as in anywise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County or the County Civil Court at Law No. 2 of Harris County.

Sec. 5. The practice and procedure in the Probate Court No. 1 of Harris County shall be the same as that provided by law generally for the county courts of this state; and all statutes and laws of the state, as well as all rules of court relating to proceedings in the county courts of this state, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said court, apply equally thereto.

Sec. 6. The Probate Court No. 1 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the state.

Sec. 7. There shall be two (2) terms of said Probate Court No. 1 of Harris County in each year, and the first of such terms shall be

known as the January-June Term, shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 8. The Judge of the Probate Court of Harris County shall continue as judge of the Probate Court No. 1 of Harris County until December 31, 1970, and until his successor is duly qualified. There shall be elected in said county by the duly qualified voters thereof at the general election of 1970, and at the general election every four (4) years thereafter, a judge of the Probate Court No. 1 of Harris County who shall hold his office for four (4) years and until his successor shall be duly qualified. The judge of the Probate Court No. 1 of Harris County shall be well informed in the laws of the state and shall have been a duly licensed and practicing member of the bar of this state for not less than five (5) consecutive years prior to his election.

Sec. 9. The judge of the Probate Court No. 1 of Harris County shall execute a bond in the sum of One Hundred Thousand Dollars (\$100,000), payable as required by law, and take the oath relating to county judges as provided by law.

Sec. 10. Any vacancy in the office of the judge of the Probate Court No. 1 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a judge of said court, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 11. In the case of the absence, disqualification or incapacity of the judge of the Probate Court No. 1 of Harris County, the County Judge of Harris County or the judge of the Probate Court No. 2 of Harris County shall sit and act as judge of said court, and may hear and determine, either in his own courtroom or in the courtroom of said court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the judge of said court may enter if personally presiding therein.

Sec. 12. In the case of the absence, disqualification or incapacity of the judge of the said Probate Court No. 1 and the judge of the Probate Court No. 2 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County may be appointed or elected as provided by the general laws relating to county courts and the judges thereof.

Sec. 13. The judge of the County Court of Harris County is designated as the presiding judge of the Courts of Probate of Harris County. It shall be the duty of the county judge to equalize as nearly as possible the dockets of the Probate Court No. 1 of Harris County and the Probate Court No. 2 of Harris County so

that each of said courts will have two-fifths of the probate cases pending in Harris County. It shall be the duty of the said presiding judge of the courts of Probate of Harris County, to call a conference two times a year for the purpose of consultation and counsel as to the state of business in probate matters in Harris County, Texas, and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County, Texas.

Sec. 14. The county clerk of Harris County shall be the clerk of the Probate Court No. 1 of Harris County. The seal of the court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 1 of Harris County, Texas," and said seal shall be judicially noticed. The sheriff of Harris County shall, in person or by deputy, attend the court when required by the judge thereof.

Sec. 15. The judge of the Probate Court No. 1 of Harris County shall collect the same fees as are now or hereafter established by law relating to county judges as to matters within the jurisdiction of said court, all of which shall be paid to him into the County Treasury as collected, and he shall receive an annual salary in the amount, and to be fixed, as is now or hereafter established by law for probate judges.

Sec. 16. The primary purpose of this Act is to change the name of the Probate Court of Harris County, Texas, to Probate Court No. 1 of Harris County, Texas, and none of the provisions hereof shall be construed as creating a new court. All processes extant in the Probate Court of Harris County on the effective date of this Act shall be returnable to and filed in the said court, the Probate Court No. 1 of Harris County, and all of such processes so returned to and filed in the Probate Court No. 1 of Harris County shall be valid and binding."

[Acts 1949, 51st Leg., p. 948, ch. 520; Acts 1963, 58th Leg., p. 769, ch. 296, § 1, eff. Aug. 23, 1963; Acts 1963, 58th Leg., p. 770, ch. 297, § 1; Acts 1967, 60th Leg., p. 1836, ch. 712, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 1974, ch. 669, § 1, eff. Sept. 1, 1969.]

Art. 1970-110a.1 Repealed by Acts 1969, 61st Leg., p. 1974, ch. 669, § 2, eff. Sept. 1, 1969

Art. 1970-110a.2 Probate Court No. 2 of Harris County

Sec. 1. [Classified as art. 1970-110a.1, now repealed].

Sec. 2. There is hereby created a County Court to be held in and for Harris County, to be called the "Probate Court No. 2 of Harris County, Texas."

Sec. 3. Said Probate Court No. 2 of Harris County shall have the general jurisdiction of a Probate Court within the limits of Harris County, concurrent with the jurisdiction of the County Court of Harris County, Texas, in such matters and proceedings, and also concurrent with and in all things equal to that heretofore conferred upon the Probate Court No. 1 of

Harris County, Texas. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 4. On the first day of the initial term of said Probate Court No. 2 of Harris County, Texas, there shall be transferred to the docket of said Court, under the direction of the County Judge and by order entered on the Minutes of the County Court of Harris County, Texas, such number of such proceedings and matters then pending in the County Court of Harris County, Texas, as shall be, as near as may be, four-fifths in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court of Harris County in such matters or proceedings shall be returnable to the Probate Court No. 2 of Harris County, Texas, as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed, with the County Clerk of Harris County, irrespective of the Courts or Judge to which the matter or proceeding is addressed, shall be filed by said Clerk alternately in said Probate Court No. 1 of Harris County and said Probate Court No. 2 of Harris County with every fifth case bearing the last number 5 or 0 being filed by said Clerk in the County Court of Harris County, in the order in which the same are deposited with said Clerk for filing, beginning first with the Probate Court No. 1 of Harris County, filing the next with the Probate Court No. 2 of Harris County, and continuing alternately thereafter except every fifth case so deposited shall be filed with the County Court of Harris County, and further, said Clerk shall keep separate dockets for each of said Courts. The County Judge of Harris County, in his discretion, may, by an order entered upon the Minutes of the County Court of Harris County, on or after the first day of the initial term of said Probate Court No. 2 of Harris County, transfer to said Probate Court No. 2 any such matter or proceeding then or thereafter pending in the County Court of Harris County and all processes extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made. Each of the Judges of the County Court and said Probate Courts No. 1 and 2 may, at any time, with the consent of the Judge of the County Court or the Judge of the Probate Court to which transfer is to be made by an order entered upon the Minutes of the County Court or of such Probate Court of Harris County, transfer to said County Court or other Probate Court any such matter or proceeding then or thereafter pending in such

County or Probate Court of Harris County, and all processes extant at the time of such transfer shall be returnable to and filed in the County Court or the Probate Court to which such transfer is made and shall be as valid and binding as though originally issued out of the County Court or the Probate Court to which such transfer may be made.

Sec. 5. The County Court of Harris County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court with respect to all matters and proceedings of such nature, except those matters and proceedings provided in Section 4 of this Act to be transferred to and filed in said Probate Court No. 2 of Harris County and those matters and proceedings heretofore transferred to and filed either originally or subsequently, in the Probate Court No. 1 of Harris County in accordance with Section 4, Chapter 520, Acts of 1949, 51st Legislature, Regular Session. The County Judge of Harris County shall be the Judge of the County Court of Harris County, and all ex-officio duties of the County Judge of Harris County as they now exist shall be exercised by the County Judge of Harris County. Nothing contained in this Act shall be construed as in any wise impairing or affecting the jurisdiction of the County Civil Court at Law No. 1 of Harris County, or of the County Civil Court at Law No. 2 of Harris County, or the County Criminal Courts at Law Nos. 1, 2, 3, or 4 of Harris County, Texas.

Sec. 6. The practice and procedure in the Probate Court No. 2 of Harris County shall be the same as that provided by law generally for the county courts of this State; and all statutes and laws of the State as well as all Rules of Court relating to proceedings therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 7. The Probate Court No. 2 of Harris County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provision as are or may be provided by the General Laws governing county courts throughout the State.

Sec. 8. The initial term of the Probate Court No. 2 shall begin on the first Monday next after the first day of the first calendar month following the effective date of this Act and shall continue until and including Sunday next before the first Monday in January, of the following year. Thereafter there shall be two (2) terms of said Probate Court No. 2 of Harris County in each year, and the first of such terms shall be known as the January-June Term, and shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July, and the second of such terms, which shall be known as the July-December Term, shall be-

gin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January.

Sec. 9. The term of office of the Judge of the Probate Court No. 2 of Harris County shall be for a period of four (4) years; the first full term of office of said Judge is to commence on January 1, 1969. A Judge of said Court shall be appointed by the Commissioners Court of Harris County as soon as practicable after the passage of this Act, who shall hold office from the date of his appointment until the General Election next before the first full term of office of said Judge, as herein provided and until his successor shall be duly elected and qualified. The Judge of said Court shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years.

Sec. 10. The Judge of the Probate Court No. 2 of Harris County shall execute a bond in the amount of \$100,000.00; take the oath of office as required by the laws relating to County Judges.

Sec. 11. Any vacancy in the office of the Judge of the Probate Court No. 2 of Harris County may be filled by the Commissioners Court of Harris County by the appointment of a Judge of said Court, who shall serve until the next General Election and until his successor shall be duly elected and qualified.

Sec. 12. In the case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County, the County Judge of Harris County or the Judge of the Probate Court No. 1 of Harris County, shall sit and act as Judge of said Court, and may hear and determine, either in his own courtroom or in the courtroom of said Court, any matter or proceeding there pending, and enter any order in such matters or proceedings as the Judge of said Court may enter if personally presiding therein.

Sec. 13. In case of the absence, disqualification or incapacity of the Judge of the Probate Court No. 2 of Harris County or the Judge of the Probate Court No. 1 of Harris County and the County Judge of Harris County, a Special Judge of the Probate Court No. 1 of Harris County or of the Probate Court No. 2 of Harris County as the need may demand, may be appointed or elected, as provided by the General Laws relating to county courts and to the Judge thereof.

Sec. 14. The Judge of the County Court of Harris County is designated as the Presiding Judge of the Courts of Probate of Harris County. It shall be the duty of the County Judge upon the creation of the Probate Court No. 2 to equalize as nearly as possible the dockets of the Probate Court No. 1 and the Probate Court No. 2 so that each Court will have two-fifths of the probate cases pending in Harris County. It shall be the duty of the presiding Judge of the Courts of Probate of Harris County, to call a conference two times a year for the purpose

of consultation and counsel as to the state of business in probate matters in Harris County, Texas, and to arrange for the disposition of the business pending on the probate docket of each of the courts with probate jurisdiction in Harris County, Texas.

Sec. 15. The County Clerk of Harris County shall be the Clerk of the Probate Court No. 2 of Harris County. The seal of the Court shall be the same as that provided by law for county courts except that the seal shall contain the words "Probate Court No. 2 of Harris County, Texas.", and said seal shall be judicially noticed. The Sheriff of Harris County shall, in person or by deputy, attend the Court when required by the Judge thereof.

Sec. 16. The Judge of the Probate Court No. 2 of Harris County shall collect the same fees as are now or hereafter established by law relating to County Judges or to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected. From and after the date he becomes duly qualified thereafter, he shall receive an annual salary equal to the salary of the Judge of the Probate Court No. 1 of Harris County, Texas, and payable in like manner.

[Acts 1967, 60th Leg., p. 1836, ch. 712, eff. Aug. 28, 1967.]

Acts 1967, 60th Leg., p. 1835, ch. 712, § 1 was codified as article 1970-110a.1; sections 17 and 18 of the act provided:

"Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws or parts of laws, this Act shall be cumulative.

"Sec. 18. The provisions of this Act are severable. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act and the application of such provision to other persons or circumstances shall not thereby be rendered invalid or unconstitutional, nor be affected thereby."

Art. 1970-110b. County Criminal Court at Law No. 2

Sec. 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 2."

Hereafter wherever the name of County Court at Law No. 3 appears in this Act creating said Court it shall be read and understood as meaning and referring to "County Criminal Court No. 2 of Harris County, Texas."

Sec. 2. The County Criminal Court at Law No. 2 of Harris County, Texas, shall have and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, Texas, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Civil Court at Law No. 1 or in the judge thereof.

Sec. 3. At each General Election, there shall be elected a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years, and who shall hold his office for two (2) years and until his successor shall have been duly qualified; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 3 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 3 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 3 of Harris County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "official court reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The county clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in civil matters and the district clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 3 of Harris County, Texas, in criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law

No. 2 of Harris County, Texas, in civil matters and causes. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 3 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 3 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective all civil actions or proceedings having numbers ending with 3, 6 and 9 pending on the docket of the County Court at Law of Harris County, Texas, shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the county clerk and jurisdiction of such civil actions and proceedings so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas. All criminal cases of even numbers pending on the docket of the County Court at Law No. 2 of Harris County, Texas, on the effective date of this Act shall be transferred to and docketed in the County Court at Law No. 3 of Harris County, Texas, by the district clerk and jurisdiction of such causes so transferred is hereby conferred upon the County Court at Law No. 3 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 3 of Harris County, Texas, may exchange benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, in the same manner that the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 3, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now, or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 3 of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at Law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

Sec. 14. If any part of this Act is held unconstitutional by a court of competent jurisdiction such holding of unconstitutionality shall not affect the validity of the remaining provisions of this Act.

Sec. 15. All laws or parts of laws in conflict with the Act are hereby repealed to the extent of such conflict only.

[Acts 1951, 52nd Leg., p 170, ch 108; Acts 1961, 57th Leg., p. 1073, ch. 481, §§ 4, 7.]

Art. 1970-110c. County Criminal Court at Law No. 3

Sec. 1. There is hereby created a Court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 3."

Wherever the name County Court at Law No. 4 appears in this Act creating said Court it shall from and after the passage of this Act be read and understood as designating and referring to the County Criminal Court at Law No. 3.

Sec. 2. The County Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases, from justice courts and corporation courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

Sec. 2A. Repealed by Acts 1961, 57th Leg., p. 1073, ch. 481, § 6.

Sec. 3. The Judge of the said County Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The judge of the County Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The County Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in civil matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of

Harris County, Texas, in civil matters and causes.

Sec. 5A. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Court at Law No. 4 of Harris County, Texas, in criminal matters. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special judge of said court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the court hereby created shall begin on the first Monday of the months of June, August, October, December, February and April of each year. The session of said court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, being the clerk of this court for Criminal matters, in order to provide a criminal docket for this court, shall file the first one hundred (100) criminal cases to be filed, in the said County Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Court at Law No. 2, and the 102nd case to be filed shall be filed in County Court at Law No. 3 and the 103rd case to be filed shall be filed in County Court at Law No. 4, and so on in rotation so that thereafter of every three (3) cases filed, each of the Courts, County Court at Law No. 2, County Court at Law No. 3 and County Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act all criminal cases pending on the docket of County Court at Law No. 2 with a digit ending in the number one and all cases pending on the docket of County Court at Law No. 3 with a digit ending in the number two shall be transferred to and docketed in the County Court at Law No. 4 of Harris County, Texas, by the district clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Court at Law No. 4 of Harris County, Texas.

Sec. 11. The judge of the County Court at Law No. 4 of Harris County, Texas, may ex-

change benches with the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, in the same manner that the judges of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16 and Section 5 of Senate Bill No. 143, Chapter 24, Acts of the Forty-first Legislature, Regular Session, 1929.

Sec. 12. The practice in said County Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Court at Law of Harris County, Texas, and the County Court at Law No. 2 of Harris County, Texas, and the County Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the docket of said courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Court at Law No. 4 of Harris County, Texas. Likewise, in cases transferred to any one of the County Courts at Law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

[Acts 1957, 55th Leg., p. 1333, ch. 453; Acts 1961, 57th Leg., p. 1073, ch. 481, § 5.]

Art. 1970-110c.1 County Criminal Court at Law No. 4

Sec. 1. There is hereby created a court to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 4 of Harris County, Texas."

Sec. 2. The County Criminal Court at Law No. 4 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the Judges of said Court shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said Court shall have no jurisdiction over any of those matters which are now vested exclusively in

the County Court of Harris County, or in the Judge thereof.

Sec. 3. The Judge of the said County Criminal Court at Law No. 4 shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; but such Judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said Court or the Judge thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next General Election and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Criminal Court at Law No. 4 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 4. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, shall appoint an official shorthand reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the Law relating to "Official Court Reporters" shall and is hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the District Courts of Harris County is paid.

Sec. 5. The District Clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 4 of Harris County, Texas. The District Clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the

County Criminal Court at Law No. 3 of Harris County, Texas.

Sec. 6. The sheriff of Harris County, either in person or by deputy, shall attend said Court when required by the Judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 7. The seal of the County Criminal Court at Law No. 4 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seal shall contain the words "County Criminal Court at Law No. 4 of Harris County, Texas," and said seal shall be judicially noticed.

Sec. 8. A special Judge of said Court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 9. The terms of the Court hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said Court shall be held in such place as may be provided therefor by the Commissioners Court of Harris County.

Sec. 10. When this Act becomes effective, the District Clerk of Harris County, Texas, in order to provide a docket for this Court, shall file the first one hundred (100) cases to be filed, in the said County Criminal Court at Law No. 4, and beginning with the 101st case to be filed, such case shall be filed in County Criminal Court at Law No. 1, and the 102nd case to be filed shall be filed in County Criminal Court at Law No. 2, and the 103rd case to be filed shall be filed in County Criminal Court at Law No. 3 and the 104th case to be filed shall be filed in County Criminal Court at Law No. 4, and so on in rotation so thereafter of every four (4) cases filed, each of the Courts, County Criminal Court at Law No. 1, County Criminal Court at Law No. 2, County Criminal Court at Law No. 3, and County Criminal Court at Law No. 4 shall each receive one (1) case: further, immediately on the effective date of this Act every case having numbers ending with 0 and every case having numbers ending with 5 pending on the dockets of the County Criminal Court at Law No. 1 of Harris County and the County Criminal Court at Law No. 2 of Harris County and the County Criminal Court at Law No. 3 of Harris County shall be at once transferred to and docketed in the County Criminal Court at Law No. 4 of Harris County, by the District Clerk and jurisdiction of such cases so transferred is hereby conferred upon the County Criminal Court at Law No. 4 of Harris County, Texas.

Sec. 11. The Judge of the County Criminal Court at Law No. 4 of Harris County, Texas, may exchange benches with the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the

County Criminal Court at Law No. 3 of Harris County, Texas, in the same manner that the Judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, are authorized to exchange benches under the provisions of Section 5 of Senate Bill No. 144, Chapter 16¹ and Section 5 of Senate Bill No. 143, Chapter 24,² Acts of the Forty-first Legislature, Regular Session, 1929. The Judges of the County Criminal Court at Law No. 2 of Harris County, Texas, the County Criminal Court at Law No. 2 of Harris County, Texas, the County Criminal Court at Law No. 3 of Harris County, Texas, and the County Criminal Court at Law No. 4 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the Court from which the cause is transferred, provided that no cause shall be transferred without the consent of the Judge of the Court to which transferred.

Sec. 12. The practice in said County Criminal Court at Law No. 4, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

Sec. 13. All process issued out of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, prior to the time when the clerks thereof shall transfer cases from the dockets of said Courts, as provided in Section 10 of this Act, in cases transferred as therein provided, shall be returned to and filed in the Court hereby created, and shall be equally as valid and binding upon the parties to such transferred cases as though such process had been issued out of the County Criminal Court at Law No. 4 of Harris County, Texas. Likewise, in cases transferred to any one of the County Criminal Courts at Law by order of the Judge of one of said Courts as provided in Section 11 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1963, 58th Leg., p. 155, ch. 95.]

¹ Article 1970-94a.

² Article 1970-106a.

Art. 1970-110c.2 County Criminal Court at Law Nos. 5, 6 and 7 of Harris County

(a) There are hereby created three courts to be held in Harris County, Texas, to be called the "County Criminal Court at Law No. 5 of Harris County, Texas," the "County Criminal Court at Law No. 6 of Harris County, Texas," and the "County Criminal Court at Law No. 7 of Harris County, Texas."

(b) The County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall have, and they are hereby granted the same jurisdic-

tion over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Harris County, and the judges of said courts shall have the same powers, rights, and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction; provided that said courts shall have no jurisdiction over any of those matters which are now vested exclusively in the County Court of Harris County, or in the judge thereof.

(c) Each of the judges of the County Criminal Courts at Law Nos. 5, 6, and 7 shall be elected at the general election by the qualified voters of Harris County for a term of four years and shall hold office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this state for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the commissioners court in equal monthly installments; but such judge shall not collect any fee from the county for disposing of any criminal case, as provided in the Code of Criminal Procedure of Texas. Said courts or the judges thereof shall have the power to issue writs of habeas corpus in criminal misdemeanor cases, and all writs necessary to the enforcement of its jurisdiction. When this Act becomes effective the Commissioners Court of Harris County shall appoint a judge of the County Criminal Court at Law No. 5 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 6 of Harris County, Texas, and a judge of the County Criminal Court at Law No. 7 of Harris County, Texas, who shall have the qualifications herein prescribed and shall serve until the next general election and until their successors shall be duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Criminal Court at Law No. 5 of Harris County, Texas, or in the office of the judge of said County Criminal Court at Law No. 6 of Harris County, Texas, or in the office of the judge of said County Criminal Court at Law No. 7 of Harris County, Texas, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

(d) The judges of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall each appoint an official shorthand reporter for his court, who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provi-

sions of the law relating to "official court reporters" shall and are hereby made to apply in all its provisions, insofar as they are applicable to the official shorthand reporters herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporters shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Harris County, Texas, paid in the same manner that compensation of official shorthand reporters of the district courts of Harris County is paid.

(e) The district clerk of Harris County, Texas, shall act as and be the clerk of said County Criminal Court at Law No. 5 of Harris County, Texas, of said County Criminal Court at Law No. 6 of Harris County, Texas, and of said County Criminal Court at Law No. 7 of Harris County, Texas. The district clerk shall receive and collect such fees as he now receives and collects in criminal matters as clerk of the County Criminal Courts at Law Nos. 1, 2, 3, and 4 of Harris County, Texas.

(f) The sheriff of Harris County, either in person or by deputy, shall attend said courts when required by the judges thereof; and the various sheriffs and constables of this state executing process issued out of said courts shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

(g) The seals of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, shall be the same as that provided by law for county courts, except that such seals shall contain the words "County Criminal Court at Law No. 5 of Harris County, Texas," and the words "County Criminal Court at Law No. 6 of Harris County, Texas," and the words "County Criminal Court at Law No. 7 of Harris County, Texas," respectively, and said seals shall be judicially noticed.

(h) A special judge of each of said courts may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

(i) The terms of the courts hereby created shall begin on the first Monday of the months of June, August, October, December, February, and April of each year. The sessions of said courts shall be held in such places as may be provided therefor by the Commissioners Court of Harris County.

(j) When this Act becomes effective, the district clerk of Harris County, Texas, shall alternately file the first 300 cases to be filed in the said County Criminal Court at Law No. 5, and the said County Criminal Court at Law No. 6, and the said County Criminal Court at Law No. 7, with 100 cases being filed in each of the three said courts. Thereafter, cases shall be filed in rotation so thereafter of every seven cases filed, each of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 shall each receive one case.

(k) The judges of the County Criminal Courts at Law Nos. 5, 6, and 7 of Harris County, Texas, may exchange benches with each other and with the judges of the County Criminal Courts at Law Nos. 1, 2, 3, and 4 of Harris County, Texas, in the same manner that the judges of the County Criminal Court at Law No. 1 of Harris County, Texas, and the County Criminal Court at Law No. 2 of Harris County, Texas, and the County Criminal Court at Law No. 3 of Harris County, Texas, and the County Criminal Court at Law No. 4 of Harris County, Texas, are authorized to exchange benches. The judges of the County Criminal Courts at Law Nos. 1, 2, 3, 4, 5, 6, and 7 of Harris County, Texas, may transfer criminal causes between said courts by entry of an order on the docket of the court from which the cause is transferred, provided that no cause shall be transferred without the consent of the judge of the court to which transferred.

(l) The practice in said County Criminal Courts at Law Nos. 5, 6, and 7, and in cases of appeal and writs of error therefrom and thereto, shall be the same as is now or may hereafter be prescribed for county courts.

(m) In cases transferred to any one of the County Criminal Courts at Law of Harris County, Texas, as provided in this Act, all process extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which such transfer may be made.

[Acts 1973, 63rd Leg., p. 582, ch. 251, § 1, eff. Aug. 27, 1973.]

Art. 1970-110d. County Civil Court at Law No. 2 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 2 of Harris County, Texas," and the seal of said Court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 2."

(b) The County Civil Court at Law No. 2 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Court at Law No. 1, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1, under the Constitution and laws of Texas, and this Court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the Judges of said Court shall have the same powers, rights and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said Court

shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the Judge thereof.

(c) The County Civil Court at Law No. 2 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the Constitution and general laws of the State of Texas, the County Court of said County would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1.

That County Civil Courts at Law (No. 1 and No. 2) shall have special jurisdiction in matters of eminent domain and the Judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said Civil Courts or with the respective Judges thereof.

(d) The terms of the County Civil Court at Law No. 2 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 2 for civil cases shall be held as now established for the terms of the County Civil Court at Law No. 1 of Harris County until the same be changed in accordance with the law.

Said Court shall hold six (6) terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) The Judge of the said Harris County Civil Court at Law No. 2, shall be elected at the General Election by the qualified voters of Harris County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the Commissioners Court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a Judge to the County Civil Court at Law No. 2 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next General Election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of Judge of said Harris County Civil Court at Law No. 2, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding General Election and until his successor shall be duly elected and qualified.

(f) The Judge of the Harris County Civil Court at Law No. 2 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special Judge of the Harris County Civil Court at Law No. 2 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the Clerk of the Harris County Civil Court at Law No. 2. The Sheriff of Harris County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Said County Clerk shall keep separate dockets for each of said Civil Courts, No. 1 and No. 2, and shall tax the official court reporter's fee as costs in civil actions filed in each of said Courts in like manner as said fee is taxed in civil cases in the district courts.

The County Clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and shall file said civil cases alternately in each of said Courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the Judges of the County Civil Courts at Law No. 1 or No. 2, of County Criminal Courts at Law Numbers 1, 2 or 3, any other Judge of said Courts may exchange benches with any other County Court at Law Judge of Harris County, Texas, and when so exchanging benches with any other of the said County Court at Law Judges of Harris County, the Judge of County Civil Court at Law No. 2 of Harris County, Texas, shall have all power and jurisdiction of the County Civil or County Criminal Courts at Law, and of the judge thereof, while so exchanging benches; and in like manner the Judges of said County Civil or Criminal Courts at Law of Harris County, Texas, shall have all the power and jurisdiction of any other of said Civil or Criminal County Courts at Law and of the Judges thereof while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

That the salary of the Judge of said County Civil Court at Law No. 2 and the salaries of all County and Civil and Criminal Court Judges mentioned herein, to wit: County Civil Court at Law No. 1; County Criminal Court at Law No. 1; County Criminal Court at Law No. 2 and County Criminal Court at Law No. 3 shall be not less than Thirteen Thousand, Two Hundred Dollars (\$13,200) or more than Fifteen Thousand, Six Hundred Dollars (\$15,600), per annum, payable in twelve (12) equal monthly installments out of the General Fund of Harris County, Texas.

(j) That the Judge of the County Civil Court at Law No. 2, of Harris County, Texas, may appoint and discharge an Official Court Reporter

in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the District Courts of Harris County, Texas, the same to be paid by the County Treasurer out of the General Fund of the County, and in addition to said salary the compensation for transcript fees as provided by law.

[Acts 1961, 57th Leg., p. 1073, ch. 481, § 1.]

Art. 1970-110e. County Civil Court at Law No. 3 of Harris County

(a) There is hereby created a court to be held in Harris County, Texas, to be called the "County Civil Court at Law No. 3 of Harris County, Texas," and the seal of said court shall be the same as provided by law for county courts except the seal shall contain the words "County Civil Court at Law No. 3."

(b) The County Civil Court at Law No. 3 of Harris County, Texas, shall have, and it is hereby granted the same jurisdiction over civil matters, proceedings and cases, that is now or may be vested in the County Civil Courts at Law Nos. 1 and 2, and shall have jurisdiction in civil actions, and the judge thereof to exercise equal administrative and ministerial jurisdiction in matters of the filing and disposition of proceedings in eminent domain, concurrently and coextensively with the judge presiding in County Civil Court at Law No. 1 and the judge presiding in County Civil Court at Law No. 2, under the constitution and laws of Texas, and this court shall have appellate jurisdiction likewise in appeals of civil cases from the justice courts within Harris County, and the judges of said court shall have the same powers, rights and privileges as to civil matters as are or may be vested in the judges of county courts having civil jurisdiction, provided that the said court shall have no jurisdiction over any of those matters which is now vested exclusively in the County Court of Harris County, or in the judge thereof.

(c) The County Civil Court at Law No. 3 of Harris County shall have jurisdiction in all civil matters and causes, original and appellate, except probate matters, over which, by the constitution and general laws of the State of Texas, the county court of said county would have formerly had jurisdiction, and shall have equal and like jurisdiction over civil cases, and civil proceedings in the same manner as jurisdiction has been heretofore exercised in civil cases and civil proceedings and in eminent domain by the County Civil Court at Law No. 1 and the County Civil Court at Law No. 2. The County Civil Courts at Law Nos. 1, 2, and 3 shall have special jurisdiction in matters of eminent domain and the judges thereof shall have sole administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively when filed in either of said civil courts or with the respective judges thereof.

(d) The terms of the County Civil Court at Law No. 3 of Harris County, and the practice therein and appeals and writs of error therefrom shall be as prescribed by laws relating to county courts. The terms of the Harris County Civil Court at Law No. 3 for civil cases shall be held as now established for the terms of the County Civil Courts at Law Nos. 1 and 2 of Harris County until the same be changed in accordance with the law.

Said court shall hold six terms a year, beginning respectively on the first Monday in January, in March, in May, in July, in September, and in November of each year, and each term shall continue until the business is disposed of.

(e) The judge of the said Harris County Civil Court at Law No. 3 shall be elected at the general election by the qualified voters of Harris County for a term of four years and shall hold his office until his successor shall have been elected and qualified. He shall have been a duly licensed and practicing member of the bar of this state for not less than five years; and he shall be compensated as provided by law, and shall be paid out of the county treasury by the commissioners court in equal monthly installments; and when this Act becomes effective the Commissioners Court of Harris County shall appoint a judge to the County Civil Court at Law No. 3 of Harris County who shall have the qualifications herein prescribed, and shall serve until the next general election, and until his successor shall be duly elected and qualified. Any vacancy thereafter occurring in the office of judge of said Harris County Civil Court at Law No. 3, shall be filled by the Commissioners Court of Harris County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

(f) The judge of the Harris County Civil Court at Law No. 3 shall execute a bond and take the oath of office as required by the law relating to county judges.

(g) A special judge of the Harris County Civil Court at Law No. 3 may be appointed or elected as provided by law relating to county courts and to the judges thereof.

(h) The County Clerk of Harris County shall be the clerk of the Harris County Civil Court at Law No. 3. The Sheriff of Harris County shall, in person or by deputy, attend the said court when required by the judge thereof.

Said county clerk shall keep separate dockets for each of said Civil Courts Nos. 1, 2, and 3, and shall tax the official court reporter's fee as costs in civil actions filed in each of said courts in like manner as said fee is taxed in civil cases in the district courts.

The county clerk shall after the effective date of this Act, file all civil cases and civil proceedings exclusively in the County Civil Courts at Law No. 1 and No. 2 and No. 3 and shall file said civil cases alternately in each of said courts as presented for filing.

(i) In case of disqualification, an overcrowded docket, sickness or absence from the county, of any of the judges of the County Civil Courts at Law No. 1 or No. 2 or No. 3, or county criminal courts at law, any other judge of said courts may exchange benches with any other county court at law judge of Harris County, Texas, and when so exchanging benches with any other of the said county court at law judges of Harris County, the Judge of County Civil Court at Law No. 3 of Harris County, Texas, shall have all power and jurisdiction of the county civil or county criminal courts at law, and of the judge thereof, while so exchanging benches; and in like manner the judges of said county civil or criminal courts at law of Harris County, Texas, shall have all the power and jurisdiction of any other of said civil or criminal county courts at law and of the judges thereof while so exchanging benches, and may sign orders, judgments and decrees, or other process as "Judge Presiding" when acting for such disqualified or absent judge upon request or in an emergency, or for good cause shown.

(j) The Judge of the County Civil Court at Law No. 3 of Harris County, Texas, may appoint and discharge an official court reporter in the same manner as such a reporter is appointed or discharged by the district courts, and who shall receive the same salary as the reporters of the district courts of Harris County, Texas, the same to be paid by the county treasurer out of the general fund of the county, and in addition to said salary the compensation for transcript fees as provided by law.

[Acts 1973, 63rd Leg., p. 584, ch. 251, § 2, eff. Aug. 27, 1973.]

JEFFERSON COUNTY

Art. 1970-111. County Court of Jefferson County at Law Created

There is hereby created a court to be held in Beaumont, Jefferson County, Texas, to be called the County Court of Jefferson County at Law.

[Acts 1915, ch. 29, § 1.]

Art. 1970-112. Jurisdiction

The County Court of Jefferson County at Law shall have jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the general laws of the State the County Court of said County would have jurisdiction, except as hereinafter provided in Section 3 of this Act,¹ and all cases pending in the County Court of said County other than probate matters such as are provided in Section 3 of this Act shall be and the same are hereby transferred to the County Court of Jefferson County at Law, and all writs and process, civil and criminal, heretofore issued by or out of said County Court, other than those pertaining to matters which are hereby exempt by this Act that are to remain in the County Court of Jefferson County, shall be and the same are thereby made returnable

to the County Court of Jefferson County at Law. The jurisdiction of the County Court of Jefferson County at Law, and to² the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction as³ heretofore vested in the County Court or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or the County Judge of Jefferson County as the presiding officer of said Commissioners Court as to roads, bridges and public highways, or matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof. The County Court of Jefferson County at Law, in addition to the jurisdiction provided by law, shall have concurrent jurisdiction with the district court in all civil matters and cases when the matter in controversy shall exceed \$500 and not exceed \$10,000, exclusive of interest.

[Acts 1915, c. 29, § 2; Acts 1919, ch. 27, § 2; Acts 1971, 62nd Leg., p. 1859, ch. 547, § 1, eff. June 1, 1971.]

¹ Article 1970-113.

² So in enrolled bill. Should probably read "of".

³ So in enrolled bill. Should probably read "was".

Art. 1970-113. Jurisdiction of Other Courts

The County Court of Jefferson County shall retain, as heretofore, general jurisdiction of the probate court, and all jurisdiction conferred by law now over probate matters, and the judge of the County Court of Jefferson County at Law may act for the judge of the county court in any juvenile, lunacy or probate matter, and also may perform for the county judge any and all ministerial acts required by the laws of this state of the county judge, and any and all acts thus performed by the judge of the County Court at Law while acting for the county court shall be valid and binding upon all parties to such proceedings or matters, the same as if performed by the county judge, provided that the powers thus given the judge of the County Court of Jefferson County at Law shall extend to and include all powers of the county judge except his powers and duties in connection with the transaction of the business of the county as presiding officer of the Commissioners Court, and the County Court of Jefferson County as now and heretofore existing shall have all the jurisdiction which it now has, save and except that which is given to the County Court of Jefferson County at Law by this Act, but the county court as now existing shall have no other jurisdiction, civil or criminal. The county judge of Jefferson County shall be judge of the county court for the county, and all ex officio duties of the county judge shall be exercised by said judge of the County Court of Jefferson County, except insofar as the same shall by this Act be committed to the County Court of Jefferson County at Law. Nothing in this Act shall be so construed as to require that the County Judge of Jefferson County shall be an attorney.

[Acts 1915, ch. 29, § 3; Acts 1919, ch. 27, § 3; Acts 1963, 58th Leg., p. 472, ch. 169, § 1.]

Art. 1970-114. Terms of Court

There shall be four terms of the County Court of Jefferson County at Law, each year, the first of said terms beginning on the first Monday of July; one term beginning on the first Monday of October; one term beginning on the first Monday of January; one term beginning on the first Monday of April; with each of said terms beginning on the first Monday, as aforesaid, and to continue until and including Sunday next before the first Monday of the term immediately following.

[Acts 1915, ch. 29, § 4; Acts 1919, ch. 27, § 4; Acts 1949, 51st Leg., p. 7, ch. 7, § 1.]

Art. 1970-115. Election of Judge; Tenure; Qualifications

There shall be elected in Jefferson County by the qualified voters thereof at each general election a Judge of the County Court of Jefferson County at Law, who shall hold his office for two years and until his successor shall have been duly elected and qualified. No person shall be elected Judge of said Court who has not been a resident citizen of Jefferson County, Texas, for at least two years prior to his election, and shall possess all of the qualifications for the office that are now required by the General Laws of the State of Texas for District Judges.

[Acts 1915, ch. 29, § 5; Acts 1919, ch. 27, § 5; Acts 1949, 51st Leg., p. 7, ch. 7, § 2.]

Art. 1970-116. Appointment of Judge

When this Act shall become effective the present Judge of the County Court of Jefferson County at Law, shall continue to be the Judge of said Court and shall hold his office until the next general election of county officers or until his successor is elected and qualified.

[Acts 1915, ch. 29, § 7; Acts 1919, ch. 27, § 7.]

Art. 1970-117. Disqualification of Judge

When the Judge of the County Court of Jefferson County at Law, is disqualified to try any case pending in the County Court of Jefferson County at Law, the parties or their attorneys in such a case may agree on the selection of a Special Judge to try such case, but if the parties or their attorneys fail to agree upon the selection of a Special Judge to try such case, it shall be the duty of the Judge of the County Court of Jefferson County at Law, to certify to the Governor that he is disqualified to try such case and the failure of the parties or their attorneys to agree upon the selection of a Special Judge to try such a case. Whereupon, the Governor shall proceed to appoint a Special Judge, learned in the law, to try such case.

[Acts 1915, ch. 29, § 8; Acts 1919, ch. 27, § 8.]

Art. 1970-118. Issuance of Writs

The County Court of Jefferson County at Law, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the en-

forcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court at Law.

[Acts 1915, ch. 29, § 9; Acts 1919, ch. 27, § 9.]

Art. 1970-119. Clerk, Seal, and Sheriff

The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law, and the Seal of said Court shall be the same as provided by law for County Courts, except the Seal shall contain the words "County Court of Jefferson County at Law," and the Sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law and said deputy shall receive a salary not to exceed the maximum salary paid other deputies in the County Clerk's office with the rating of head of a department, said salary to be paid out of the County Treasury of Jefferson County upon order of the Commissioners Court of said County. For the purpose of preserving a record in any matter or proceeding heard in said Court for the information of the Court, Jury, or Parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well skilled in his profession, who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and the provisions of Chapter 13, of Title 40, of the Revised Civil Statutes of Texas, of 1925, relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions in so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said Title, except in addition to the lawful fees for transcribing testimony and preparing statement of facts he shall receive a salary of One Hundred, Twenty-five Dollars (\$125) per month, which salary shall be paid monthly out of the County Treasury of said County, upon order of the Commissioners Court.

[Acts 1915, ch. 29, § 10; Acts 1919, ch. 27, § 10; Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec.Laws, p. 49, ch. 42; Acts 1935, 44th Leg., p. 395, ch. 153, § 1.]

Art. 1970-120. Selection of Jurors

The Jurisdiction or authority now vested by law in the District Courts of this State for the drawing, selection and service of jurors shall be exercised by the County Court of Jefferson County at Law, provided a panel of not exceeding twenty-four jurors shall be drawn for any

one week of said Court, and juries selected in the trial of any case shall not exceed six.

[Acts 1915, ch. 29, § 11; Acts 1919, ch. 27, § 11.]

Art. 1970-121. Vacancy in Office of Judge

Any vacancy in the office of the Judge of the County Court of Jefferson County at Law, may be filled by the County Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

[Acts 1915, ch. 29, § 12; Acts 1919, ch. 27, § 12.]

Art. 1970-122. Salary of Judge; Assessment and Collection of Fees

The judge of the County Court of Jefferson County at Law shall receive a salary of not more than Twenty-five Thousand Dollars (\$25,000) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as fixed and ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge, who shall instead draw a salary as herein provided.

[Acts 1915, ch. 29, § 13; Acts 1919, ch. 27, § 13; Acts 1931, 42nd Leg., p. 750, ch. 295; Acts 1933, 43rd Leg., Spec.Laws, p. 49, ch. 42; Acts 1937, 45th Leg., p. 776, ch. 377, § 1; Acts 1949, 51st Leg., p. 7, ch. 7, § 3; Acts 1951, 52nd Leg., p. 4, ch. 4, § 1; Acts 1955, 54th Leg., p. 1176, ch. 455, § 1; Acts 1963, 58th Leg., p. 472, ch. 169, § 2; Acts 1967, 60th Leg., p. 179, ch. 94, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 1004, ch. 192, § 1, eff. May 13, 1971.]

Art. 1970-123. Appeals from Lower Courts

All cases appealed from the Justices Courts and Recorders Courts in Jefferson County, Texas, shall be made direct to the County Court of Jefferson County at Law, under the provisions heretofore governing such appeals.

[Acts 1915, ch. 29, § 14; Acts 1919, ch. 27, § 14.]

Art. 1970-124. Fees of County Judge

The County Judge of Jefferson County, at the time this Act goes into effect, shall receive the same compensation in ex-officio salary and fees as he would have received had this Act, creating the County Court of Jefferson County at Law, not been enacted, said Compensation to be computed and allowed and ordered paid by the Commissioners Court of said County out of the general fund of said county.

[Acts 1915, ch. 29, § 15; Acts 1919, ch. 27, § 15.]

Art. 1970-125. Special Judge; Election; Compensation

Should the Judge of the County Court of Jefferson County at Law on the first or any future day of a term, fail or refuse to hold the Court, a majority of the practicing attorneys present in said Court shall proceed to elect from among their number a Special Judge in

the same manner prescribed by law for the election of Special Judges of County Courts; and such Special Judge shall be entitled to receive a fee of Three Dollars (\$3.00) for each case tried by him, the same to be paid by the County Treasurer upon the order of the Commissioners' Court of Jefferson County, Texas. [Acts 1919, ch. 27, § 16; Acts 1933, 43rd Leg., 1st C.S., p. 3, ch. 3, § 1.]

Art. 1970-126. Act Not Repealed

Nothing in this Act shall be construed in any manner to affect or repeal the Court at Law, created for the city of Port Arthur in Jefferson County, Texas, passed by the Fourth Called Session of the Thirty-fifth Legislature and known as House Bill No. 112.

[Acts 1919, ch. 27, § 16a.]

Art. 1970-126a. County Court of Jefferson County at Law No. 2

Sec. 1. There is hereby created a court to be held in Beaumont, Jefferson County, Texas, to be called the County Court of Jefferson County at Law No. 2.

Sec. 2. The County Court of Jefferson County at Law No. 2, shall have, and it is hereby granted, the same jurisdiction and powers in all actions, matters, and proceedings of every nature that are now conferred by law upon and vested in the County Court of Jefferson County at Law and the Judge thereof. Provided, however, that the jurisdiction of the said County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2 over all such actions, matters and proceedings, civil and criminal, shall be concurrent. The County Court of Jefferson County at Law No. 2, in addition to the jurisdiction provided by law, shall have concurrent jurisdiction with the district court in all civil matters and cases when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Ten Thousand Dollars (\$10,000), exclusive of interest.

Sec. 3. The terms of the County Court of Jefferson County at Law No. 2 shall be the same and identical with the terms of the County Court of Jefferson County at Law as the same now exists or may exist in the future.

Sec. 4. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in the County Court of Jefferson County at Law No. 2 in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court of Jefferson County at Law, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed or in such manner as may be determined by the Judges of the said County Court of Jefferson County at Law and County Court of Jefferson County at Law No. 2 by an order duly made by such Judges entered upon the minutes of each such Court.

Sec. 5. At the next General Election after the effective date of this Act, and at each applicable General Election thereafter, there shall be elected in Jefferson County by the qualified voters thereof, a Judge of the County Court of Jefferson County at Law No. 2, who shall possess all of the qualifications which are now required of the Judge of the County Court of Jefferson County at Law, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective the Commissioners Court of Jefferson County, Texas, shall appoint a Judge of said County Court of Jefferson County at Law No. 2 who shall have the qualifications herein described and he shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court of Jefferson County at Law No. 2, shall, in like manner as hereinabove provided, be filled by the Commissioners Court of Jefferson County, Texas, the appointee thereof to hold office until the next succeeding General Election and until a successor shall be duly elected and qualified.

Sec. 6. The County Clerk of Jefferson County, Texas, shall be the Clerk of the County Court of Jefferson County at Law No. 2, and the seal of said Court shall be the same as provided by law for County Courts except the seal shall contain the words "County Court of Jefferson County at Law No. 2," and the Sheriff of Jefferson County, Texas, shall, in person, or by deputy, attend such Court when required by the Judge thereof, and the County Clerk of Jefferson County, Texas, is hereby authorized and directed to appoint a deputy, who shall be acceptable to the Judge of said Court to specially attend the sessions of said Court and to attend to all matters pertaining to the County Court of Jefferson County at Law No. 2. For the purpose of preserving a record in any matter or proceeding heard in said County Court of Jefferson County at Law No. 2 for the information of the Court, jury, or parties, the Judge of said Court is hereby authorized to appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession, who shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court, and all provisions of the General Laws of this state relating to the appointment of a stenographer for the District Courts shall apply, in all its provisions so far as applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of said Court, and such reporter shall be entitled to the same fees and shall perform the same duties as provided in said General Laws, except in addition to the lawful fees for transcribing testimony and preparing statements of facts he shall receive a salary the same and equal to that of the official shorthand reporter of the County Court of Jefferson County at Law which salary shall be paid monthly out of the

County Treasury of said County upon order of the Commissioners Court of said County.

Sec. 7. The jurisdiction or authority now vested by law in the District Court for this state for the drawing, selection and service of jurors shall be exercised by the County Court of Jefferson County at Law No. 2, and the drawing, selection and service of jurors for said Court shall be the same in practice and procedure as in the County Court of Jefferson County at Law.

Sec. 8. The judge of the County Court of Jefferson County at Law No. 2 shall receive a salary of not more than Twenty-five Thousand Dollars (\$25,000) per annum, which shall be paid in twelve (12) equal monthly installments out of the County Treasury of Jefferson County as fixed and ordered by the Commissioners Court of said county. The judge of the County Court of Jefferson County at Law No. 2 shall assess the same fees as are now prescribed by law relating to county judges' fees, all of which shall be collected by the clerk of the court and paid into the County Treasury on collection and no part of which shall be paid to said judge who shall instead draw a salary as herein provided.

Sec. 9. All cases appealed from the Justices Courts and Recorders Courts in Jefferson County, Texas, shall be made direct to either the County Court of Jefferson County at Law or the County Court of Jefferson County at Law No. 2 (the jurisdiction of such courts being concurrent) under the provisions heretofore governing such appeals.

Sec. 10. The Judges of the County Court of Jefferson County at Law and of the County Court of Jefferson County at Law No. 2 may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now or hereafter pending in either of said Courts, and any and all of such acts thus performed by the Judges of said Courts shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 11. Each of the Judges of the County Court of Jefferson County at Law and of the County Court of Jefferson County at Law No. 2 may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket. On the effective date of this Act, or thereafter, the County Court of Jefferson County at Law, and the Judge thereof, shall transfer to the County Court of Jefferson County at Law No. 2 any civil or criminal action or proceeding pending on the docket of said Court as may be necessary in order that the now overcrowded docket of said Court may be relieved, and said County Court of Jefferson County at Law No. 2, and the Judge thereof, shall have jurisdiction to hear and determine said civil or criminal matters, and render and enter the necessary and proper orders, decrees and judgments

therein. No cause shall be transferred without the consent of the Judge of the Court to which it is transferred.

Sec. 12. Special Judges may be appointed or elected for either or both the County Court of Jefferson County at Law and the County Court of Jefferson County at Law No. 2, and in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of the Special Judge or Judges of the several district and county courts of this state; and every such Special Judge thus appointed or elected for either of said two courts shall receive for the services he may actually perform as a Special Judge the same amount of pay which the regular Judge of said court would be entitled to receive for such services. The amount to be paid to such Special Judge shall be paid out of a general fund of Jefferson County, Texas, by warrants drawn upon the County Treasury of said County and upon orders of the Commissioners Court of Jefferson County, Texas, but no part of the amount paid the Special Judge shall be deducted from or paid out of the salary of either of the regular Judges of said respective Courts.

Sec. 13. The County Court of Jefferson County at Law No. 2, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court of Jefferson County at Law No. 2.

[Acts 1965, 59th Leg., p. 325, ch. 152, eff. May 13, 1965; Acts 1967, 60th Leg., p. 177, c. 91, § 1, eff. April 22, 1967; Acts 1971, 62nd Leg., p. 1860, ch. 547, § 2, eff. June 1, 1971; Acts 1971, 62nd Leg., p. 1003, ch. 191, § 1, eff. May 13, 1971.]

EL PASO COUNTY

Art. 1970-127. Court Created

There is hereby created a court to be held in El Paso county, Texas, to be known and designated as the "El Paso County Court at Law." [Acts 1917, ch. 93, § 1; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-127a. Change of Name

Sec. 1. The name of the El Paso County Court at Law is changed to the "County Court at Law No. 1 of El Paso County, Texas."

[Acts 1965, 59th Leg., p. 1629, ch. 698.]

Art. 1970-128. Jurisdiction

The El Paso County Court at Law shall have jurisdiction of all civil matters and causes, original and appellate over which by the General Laws of the State of Texas the County Court of said county would have jurisdiction, except as provided in Section 3, of this Act;¹ and the El Paso County Court at Law of said county shall have jurisdiction in all criminal

matters and causes, original and appellate over which by the General Laws of this State the County Court has jurisdiction, except as provided in Section 3, of this Act (Art. 1811-135);¹ and all civil and criminal writs and processes heretofore issued by and out of said County Court be, and the same are hereby made returnable to the El Paso County Court at Law of El Paso County, Texas. The jurisdiction of El Paso County Court at Law and the judge thereof shall extend to all matters of eminent domain of which jurisdiction has heretofore rested in the County Court of El Paso County, Texas, or the judge thereof, but this provision shall not effect² the jurisdiction of the Commissioners' Court or the County Judge of El Paso County as presiding judge of said court as to roads, bridges and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners' Court or of the judge of the County Court of El Paso County, Texas.

[Acts 1917, ch. 93, § 2; Acts 1918, 4th C.S., ch. 14, § 1; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

¹ Article 1970-129.

² So in enrolled bill. Should probably read "affect."

Art. 1970-129. Jurisdiction

The County Court of El Paso County, Texas, shall retain, as heretofore, its jurisdiction as a juvenile court, its jurisdiction in matters pertaining to liquor licenses, forfeitures and bonds and the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots and lunatics, persons non compos mentis and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors and guardians, transact all business pertaining to deceased persons, and to apprentice minors as provided by law. The County Judge of El Paso County, Texas, shall be the Judge of the County Court of El Paso County, Texas, and all ex-officio duties of the County Judge shall be exercised by said Judge of the said County Court of El Paso County, except in so far as the same shall by this Act¹ be committed to the Judge of the El Paso County Court at Law.

[Acts 1917, ch. 93, § 3; Acts 1918, 4th C.S., ch. 14, § 2; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

¹ This article, articles 1970-127, 1970-128, ante, and 1970-130 to 1970-135, 1970-137 to 1970-140.

Art. 1970-130. Power to Issue Writs

Both the said County Court of El Paso County, and the El Paso County Court at Law or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, superseades and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempt under such provisions as are, or may be provided by the general laws governing county courts throughout the State, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said

courts or of any court or tribunal inferior to said courts.

[Acts 1917, ch. 93, § 4; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-131. Terms of Court

The terms of the El Paso County Court at Law and the practice therein and appeals and writs of error therefrom shall be, as prescribed by law relating to county courts. The terms of the El Paso County Court at Law shall be held not less than four times each year, and the commissioners court of El Paso county shall fix the time at which said court shall hold its terms, until the same shall be changed according to law.

[Acts 1917, ch. 93, § 5; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-132. Appointment of Judge; Election; Qualifications of Judge

The Governor shall appoint some suitable person who is a resident citizen of El Paso county as judge of the El Paso County Court at Law, as herein constituted, who shall hold such office until the next general election after his appointment, and until his successor shall have been elected and qualified, and all vacancies in said office shall also be filled by appointment by the Governor until the next general election thereafter. At the first general election in said county and at each general election thereafter there shall be elected by the qualified voters a judge of the El Paso County Court at Law, who shall be well informed in the laws of this State, who shall hold his office for two years and until his successor shall have been duly elected and qualified; provided that no person shall be eligible for judge of the El Paso County Court at Law by election, unless he shall be a citizen of the United States and of this State; who shall have been a practicing lawyer of this State or a judge of a court in this State for at least four years next preceding his election, and who shall have resided in the county of El Paso for two years next preceding his election.

[Acts 1917, ch. 93, § 6; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-133. Bond and Oath of Judge

The judge of the El Paso County Court at Law shall execute a bond and take the oath of office as required by law relating to county judges.

[Acts 1917, ch. 93, § 7; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-134. Special Judge

A special judge of the El Paso County Court at Law may be appointed or elected as provided by laws relating to county courts and the judges thereof.

[Acts 1917, ch. 93, § 8; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-135. Clerk, Seal; Sheriff

The county clerk of El Paso county shall be the clerk of the El Paso County Court at Law;

the seal of said court shall be the same as that provided for county courts, except that the seal shall contain the words "El Paso County Court at Law." The sheriff of El Paso county shall, in person or by deputy attend the court when required by the judge thereof.

[Acts 1917, ch. 93, § 9; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-136. Official Shorthand Reporter; Appointment; Term of Office, Oath; Duties

For the purpose of preserving a record in all cases for the information of the court, jury and parties, the Judge of the County Court at Law of El Paso County, Texas shall appoint an official shorthand reporter for such court, who shall be well skilled in his profession, shall be a sworn officer of the court and shall hold his office at the pleasure of the court and the provisions of Chapter Eleven of Title 37 of the Revised Civil Statutes of Texas of 1911 relating to the appointment of stenographers for the district courts, shall and it is hereby made to apply in all its provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed by the Judge of the County Court at Law of El Paso County, Texas and he shall be entitled to the same fees and shall perform the same duties and shall take the same oath as are in said Chapter Eleven of Title 37 provided for the stenographers of district courts of this State, and also be governed by any other laws covering the stenographers of district courts of this State, and in addition thereto receive a salary of Eighteen Hundred (\$1,800.00) dollars annually, to be paid monthly out of the County Treasury upon order of the Commissioners' Court.

[Acts 1918, 4th C.S., ch. 14, § 3; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-136a. Reporter for County Court

For the purpose of preserving a record of all hearings had before the County Judge of El Paso County, Texas; for the information of the court and parties that may be interested therein, the Judge of the County Court of El Paso County, Texas, shall appoint an official shorthand reporter for such court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes of the State of Texas, relating to the appointment of stenographers for district courts, shall, and it is hereby made and applied in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed by the County Judge of El Paso County, Texas, and such shorthand reporter shall receive a salary of Twelve Hundred (\$1,200.00) dollars annually, to be paid monthly out of the County Treasury of El Paso County upon orders of the Commissioners' Court.

[Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-137. Juries

The jurisdiction and authority now vested by law in the County Court of El Paso County, for the selection and service of jurors shall be exercised by each of said courts, but juries summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred.

[Acts 1917, ch. 93, § 10.]

Art. 1970-138. Compensation of Judge

There shall be taxed and collected by the El Paso County Court at Law the same fees provided by law for County Judges in similar cases, all of which shall be paid by the clerk monthly into the County Treasury. The Judge of the El Paso County Court at Law shall receive an annual salary of not less than Fifty-five Hundred (\$5500.00) Dollars and not more than Eight Thousand (\$8000.00) Dollars, the amount of the salary to be fixed by the Commissioners Court of El Paso County and to be paid monthly out of the County Treasury upon order of the Commissioners Court.

[Acts 1917, ch. 93, § 11; Acts 1918, 4th C.S., ch. 14, § 4; Acts 1927, 40th Leg., p. 270, ch. 191, § 1; Acts 1947, 50th Leg., p. 27, ch. 20, § 1; Acts 1953, 54th Leg., p. 43, § 1.]

Art. 1970-139. Removal of Judge

The judge of the El Paso County Court at Law may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this State.

[Acts 1917, ch. 93, § 12; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-140. Salary of County Judge

The county judge of El Paso county shall hereafter receive from the county treasury, in addition to the fees allowed him by law, such a salary, for the ex-officio duties, not exceeding in the aggregate of fees and salary that which the existing laws provide for.

[Acts 1917, ch. 93, § 13; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-141. Repeal; Partial Invalidity of Act

All laws and parts of laws in conflict herewith be, and the same are hereby repealed, and it is further enacted that if any of the provisions of this Act shall be held void or in conflict with any provisions of the Constitution of this State the fact that such provisions may be held void shall in no wise affect any other provisions of this Act.

[Acts 1918, 4th C.S., ch. 14, § 5; Acts 1927, 40th Leg., p. 270, ch. 191, § 1.]

Art. 1970-141.1 County Court at Law No. 2 of El Paso County

Sec. 1. There is hereby created an additional County Court at Law in El Paso County,

Texas, to be known and designated as the "County Court at Law No. 2 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 2 of El Paso County, Texas, shall have and is hereby granted the same jurisdiction over criminal matters that is now or may be vested in County Courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from Justice Courts and Corporation Courts within El Paso County, and the judges of said Court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of County Courts having criminal jurisdiction. Said County Court at Law No. 2 shall have and is hereby granted the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law of El Paso County, Texas; and each of the judges of said County Courts at Law may with the consent of the judge of the Court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket, and the said County Court at Law of El Paso County, and the judge thereof, shall transfer to the said County Court at Law No. 2 of El Paso County, any civil or criminal action or proceeding pending on the docket of said Court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of said Court may be relieved, and said County Court at Law No. 2 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine said civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause shall be transferred without the consent of the judge of the Court to which it is transferred.

Sec. 3. The County Court at Law of El Paso County and County Court at Law No. 2 of El Paso County shall henceforth have general jurisdiction of Probate Courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. Such County Court at Law and County Court at Law No. 2 shall probate wills, appoint guardians of minors, idiots and lunatics, persons non compos mentis and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and drunkards; including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings. Said County Court at Law and County Court at Law No. 2 shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

The County Court of El Paso County, the El Paso County Court at Law and the County Court at Law No. 2 of El Paso County, or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, superseas and all other writs necessary to the enforcement of the jurisdiction of said Courts; and also power to punish for contempt under such provisions as are, or may be provided by the General Laws governing County Courts throughout the State, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said Courts or of any Court or tribunal inferior to said Courts.

The judges of the County Court of El Paso County, County Court at Law of El Paso County, and County Court at Law No. 2 of El Paso County may with the consent of the judge of the Court to which transfer is to be made, transfer probate matters or proceedings from his respective Court to the other Court by the entry of an order to that effect upon the docket, to enable the efficient and justiciable disposition of the probate matters and proceedings in El Paso County, Texas.

The judges of the County Court, County Court at Law and County Court at Law No. 2 may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their Courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of such probate matters and proceedings. A copy of such rules and changes shall be filed with the County Clerk of El Paso County, Texas, and one (1) copy of such rules and changes shall be available in each such Court for the examination of participants in any probate matters filed.

Sec. 4. The terms of the County Court at Law of El Paso County and the County Court at Law No. 2 of El Paso County, Texas, shall commence on the first Monday in January and July and said Courts may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of Court.

The judges of the County Court at Law of El Paso County, and the County Court at Law No. 2 of El Paso County may divide each term of Court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of Court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. The judge of the County Court at Law of El Paso, Texas, and the judge of the County Court at Law No. 2 of El Paso County shall be a citizen of the United States and of this State, who shall have been a practicing attorney of this State for at least five (5) years next preceding his election or appointment and who shall have resided in the County of El

Paso for at least two (2) years next preceding his election or appointment.

Judges of the County Court at Law of El Paso County and the County Court at Law No. 2 of El Paso County shall each receive an annual salary of not less than Five Thousand, Five Hundred Dollars (\$5,500) and not more than Eight Thousand Dollars (\$8,000), the amount of the salary to be fixed by the Commissioners Court of El Paso County and to be paid monthly out of the County Treasury upon order of the Commissioners Court; such judges shall not collect any fee from the County for disposing of any criminal case.

Sec. 6. Within sixty (60) days after the effective date of this Act, the senior district judge in and for El Paso County, Texas, shall call an election of the licensed attorneys practicing in El Paso County, Texas, for the purpose of electing a panel of three (3) qualified nominees for the office of judge of the County Court at Law No. 2 of El Paso County, Texas. Notice of the time of such election shall be prominently posted in the district clerk's office and the county clerk's office at least one (1) week prior to the date of such nominations. A candidate for the office of judge of the County Court at Law No. 2 of El Paso County, Texas, may be nominated for said panel by a written nomination from one (1) of said licensed attorneys or the candidate himself filed prior to the date of said election with the said senior district judge. At the said called election, the senior district judge shall present said written applications and nominations and shall receive further oral nominations at that time; the senior district judge shall not permit nominations to be closed until it is apparent no further nominations are forthcoming. Said attorneys then present shall then vote by secret ballot from the written and oral nominees and applicants, their respective three (3) preferences marked in order of their preference, which vote shall be counted according to preference.

The panel of the three (3) candidates receiving the highest number of votes and the results of said election shall be certified by the said senior district judge and submitted to the county judge of El Paso County, Texas, as a recommendation only, but such recommendation shall not be binding on the Commissioners Court in their appointment as hereinafter provided. Within one (1) week from the receipt of said panel by the said county judge, the Commissioners Court of El Paso County, Texas, shall appoint a judge of the County Court at Law No. 2 of El Paso County, Texas, who shall serve beginning September 1, 1955, until the next general election and until his successor shall be duly elected and qualified. Thereafter said office shall be filled at general election as provided by law except in case of vacancy. In case of vacancy said office shall be filled by appointment by the Commissioners Court in the same manner.

After the effective date of this Act a vacancy occurring in the office of the judge of the

County Court at Law of El Paso County, Texas, shall likewise be filled by appointment by the Commissioners Court from a panel of three (3) nominees elected in the same manner as in the County Court at Law No. 2 of El Paso County, Texas, which appointed judge shall serve until the next general election and until his successor shall be duly elected and qualified, as now provided by law.

Sec. 7. The judge of the County Court at Law No. 2 of El Paso County, shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 2 of El Paso County, Texas, shall appoint an official court reporter for such Court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall and is hereby made to apply in all its provisions, in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official court reporter shall be entitled to the same compensation as applicable to official court reporters in the District Courts of El Paso County, Texas, paid in the same manner that compensation of official court reporters of the District Courts of El Paso County are paid.

Sec. 9. The county clerk of El Paso County, Texas, shall act as and be the clerk of said County Court at Law No. 2 of El Paso County, Texas, in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Court at Law of El Paso County, Texas. Said clerk shall keep separate dockets for each of said Courts; and shall tax the official court reporter's fee as costs in civil actions in each of said Courts in like manner as said fee is taxed in civil cases in the District Courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend said Court when required by the judge thereof; and the various sheriffs and constables of this State executing process issued out of said Court shall receive the fees now or hereafter fixed by law for executing process issued out of County Courts.

Sec. 11. The seal of the County Court at Law No. 2 of El Paso County, Texas, shall be the same as that provided by law for County Courts, except that such seal shall contain the words "County Court at Law No. 2 of El Paso County, Texas," and said seal shall be judicially noticed.

Sec. 12. A special judge of said Court may be appointed or elected in the manner and instances now or hereafter provided by law relating to County Courts and judges thereof.

Sec. 13. The judges of the County Court at Law and County Court at Law No. 2 of El Paso County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their Courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

The judges of the County Court at Law of El Paso County, Texas, and the County Court at Law No. 2 of El Paso County, Texas, with mutual consent may exchange benches with one another or act as presiding judge of the other Court in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the County Courts at Law by order of the judge of one of said Courts as provided in Section 2 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1955, 54th Leg., p. 82, ch. 53.]

Art. 1970-141.2 County Court at Law No. 3 of El Paso County

Sec. 1. There is hereby created an additional County Court at Law in El Paso County, Texas, to be known and designated as the "County Court at Law No. 3 of El Paso County, Texas."

Sec. 2. The County Court at Law No. 3 of El Paso County, Texas, shall have the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions and proceedings under the Constitution and laws of Texas, and shall have appellate jurisdiction in appeals in criminal cases from justice courts and corporation courts within El Paso County, and the judge of the court shall have the same powers, rights and privileges as to criminal matters as are or may be vested in the judges of county courts having criminal jurisdiction. The County Court at Law No. 3 shall have and is hereby granted the same jurisdiction and powers in criminal matters and civil actions or proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1 of El Paso County, Texas, and the County Court at Law No. 2 of El Paso County, Texas; and each judge of the county courts at law may with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, and the judges of the County Courts at Law No. 1 and No. 2 of El Paso County, shall transfer to the County Court at Law No. 3 of El Paso County, any civil or criminal action or proceeding pending on the docket of said court on the effective date of this Act as may be necessary in order that the now overcrowded dockets of the court may be relieved, and the County

Court at Law No. 3 of El Paso County, and the judge thereof, shall have jurisdiction to hear and determine civil or criminal matters, and render and enter the necessary and proper orders, decrees, and judgments therein. No cause may be transferred without the consent of the judge of the court to which it is transferred.

Sec. 3. (a) The County Courts at Law of El Paso County shall henceforth have general jurisdiction of probate courts within the limits of El Paso County concurrent with jurisdiction of the County Court of El Paso County in such matters and proceedings. The County Courts at Law shall probate wills, appoint guardians of minors, idiots, and lunatics, persons non compos mentis, and drunkards, grant letters testamentary and of administration, settle accounts with administrators, executors, and guardians, transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and drunkards; including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings. The county courts at law shall have no jurisdiction over any other of those matters which are now vested exclusively in the County Court of El Paso County, or in the judge therein.

(b) The County Court of El Paso County, and the County Courts at Law of El Paso County, or each of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of the courts; and also power to punish for contempt under such provisions as are, or may be provided by the general laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of the courts or of any court or tribunal inferior to the courts.

(c) The judges of the County Court of El Paso County and the County Courts at Law of El Paso County may with the consent of the judge of the Court to which transfer is to be made, transfer probate matters or proceedings from his respective court to the other court by the entry of an order to that effect upon the docket, to enable the efficient and justiciable disposition of the probate matters and proceedings in El Paso County, Texas.

(d) The judges of the county court and the county courts at law may collectively make and publish rules from time to time governing the docketing and disposition of probate matters and proceedings in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure and for the purpose of efficient and justiciable disposition of probate matters and proceedings. A copy of the rules and changes shall be filed with the County Clerk of El Paso County, Texas, and one copy of the rules and changes shall be

available in each court for the examination of participants in any probate matters filed.

Sec. 4. (a) The terms of the County Courts at Law of El Paso County shall commence on the first Monday in January and July and the court may continue in session until the Sunday next preceding the Monday for the convening of the next regular term of court.

(b) The judges of the County Courts at Law of El Paso County may divide each term of court into as many sessions as they deem necessary for the disposition of business, and may extend a particular term of court whenever practicable for the efficient and justiciable disposition of individual proceedings and matters.

Sec. 5. (a) The judge of each County Court at Law of El Paso County, Texas, shall be a citizen of the United States and of this state, who shall have been a practicing attorney of this state for at least five years next preceding his election or appointment and who shall have resided in the County of El Paso for at least two years next preceding his election or appointment.

(b) The judge of the County Court at Law No. 3 of El Paso County shall receive an annual salary in an amount identical to that received by the judge of each other county court at law in El Paso County. The salary shall be set and paid in the same manner and from the same source as the salaries of the judges of the other County Courts at Law in El Paso County are set and paid. The judge shall not collect any fee from the county for disposing of any criminal case.

Sec. 6. The Commissioners Court of El Paso County, Texas, shall appoint a judge of the County Court at Law No. 3 of El Paso County, Texas, who shall serve beginning September 1, 1969, until the next general election and until his successor is elected and has qualified. Thereafter the office shall be filled at general election as provided by law except in case of vacancy. In case of vacancy the office shall be filled by appointment by the Commissioners Court.

Sec. 7. The judge of the County Court at Law No. 3 of El Paso County, shall execute bond and take the oath of office as required by law relating to county judges.

Sec. 8. The judge of the County Court at Law No. 3 of El Paso County, Texas, shall appoint an official court reporter for the court, who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as hereafter amended, and all other provisions of the law relating to "official court reporters" shall apply in all their provisions, in so far as they are applicable to the official court reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and the official court reporter shall be entitled to the

same compensation as applicable to official court reporters in the district courts of El Paso County, Texas, paid in the same manner that compensation of official court reporters of the district courts of El Paso County are paid.

Sec. 9. The county clerk of El Paso County, Texas, shall be the clerk of the County Court at Law No. 3 of El Paso County, Texas, in civil and criminal matters. The county clerk shall receive and collect the same fees which he now receives and collects as clerk of the County Courts at Law No. 1 and No. 2 of El Paso County, Texas. The clerk shall keep separate dockets for each court; and shall tax the official court reporter's fee as costs in civil actions in each court in like manner as the fee is taxed in civil cases in the district courts.

Sec. 10. The sheriff of El Paso County, either in person or by deputy, shall attend the court when required by the judge; and the various sheriffs and constables of this state executing process issued out of said court shall receive the fees now or hereafter fixed by law for executing process issued out of county courts.

Sec. 11. The seal of the County Court at Law No. 3 of El Paso County, Texas, shall be the same as that provided by law for county courts, except that the seal shall contain the words "County Court at Law No. 3 of El Paso County, Texas," and the seal shall be judicially noticed.

Sec. 12. A special judge of the court may be appointed or elected in the manner and instances now or hereafter provided by law relating to county courts and judges thereof.

Sec. 13. (a) The judges of the County Courts at Law No. 1, No. 2, and No. 3 shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in their courts not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure.

(b) The judges of the County Courts at Law of El Paso County, Texas, with mutual consent may exchange benches with one another or act as presiding judge of the other court in individual proceedings or actions in the absence or disqualification of the other judge.

Sec. 14. In cases transferred to any one of the county courts at law by order of the judge of one of said courts as provided in Section 2 of this Act, all process extant at the time of the transfer shall be returned to and filed in the court to which such transfer is made, and shall be as valid and binding as though originally issued out of the court to which the transfer is made.

[Acts 1969, 61st Leg., p. 2289, ch. 771, eff. June 14, 1969.]

EASTLAND COUNTY

Art. 1970-141a. Eminent Domain and Probate Jurisdiction; Civil and Criminal Jurisdiction Transferred

Sec. 1. The County Court of Eastland County shall retain and continue to have and exer-

cise the general jurisdiction in matters of eminent domain, general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this State, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2 hereof.

Sec. 2. The District Court having jurisdiction in Eastland County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the County Court has to receive and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the general laws of the State of Texas now existing and hereinafter enacted the County Court of said county would have had jurisdiction and all pending civil and criminal cases be, and the same are, hereby transferred to the District Court having jurisdiction in Eastland County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases be, and the same are, hereby made returnable to the District Court sitting in Eastland County, Texas. However, there shall not be transferred to said District Court jurisdiction over any judgments, either in civil or criminal cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Eastland County shall represent the State in all misdemeanor cases before the District Court of Eastland County, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The clerk of the County Court of Eastland County is, and he is hereby required within twenty (20) days after this Act takes effect to file with the clerk of the District Court of said county all original papers in cases here transferred to the said District Court, and all Judges' dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the district clerk shall immediately docket all such cases on the docket of the District Court of Eastland County in the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the district clerk refile any papers theretofore filed by the county clerk, nor shall he receive any fees for the

filing of the same, but papers in said case bearing the file mark of the county clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the district clerk. Said county clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all cost deposits, if any, the county clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the district clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1951, 52nd Leg., p. 671, ch. 388.]

Arts. 1970-142 to 1970-152. Unconstitutional

These articles, Acts 1919, 2nd C.S., ch. 16, §§ 1 to 11, creating County Court at Law for Eastland County, were held unconstitutional and void in *State v. Gillette's Estate*, Com.App., 10 S.W.2d 984.

WICHITA COUNTY

Arts. 1970-153 to 1970-166. Repealed by Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65

Art. 1970-166a. Jurisdiction of Wichita County Court at Law Transferred to Wichita County Court

Immediately upon the taking effect of this Act, as provided for in Section 2,¹ all jurisdiction of all matters and causes, civil and criminal, original and appellate, which is now within the jurisdiction of the County Court of Wichita County at Law will at once be transferred to, conferred upon, and will vest in the County Court of Wichita County and all powers heretofore existing in the County Court of Wichita County at Law are hereby, with the effective date of this Act, conferred on the County Court of Wichita County, and all powers now and heretofore existing in the Judge of the County Court of Wichita County at Law are hereby, upon the effective date of this Act, conferred on the County Judge of Wichita County, and all cases pending at the effective date of this Act in the County Court of Wichita County at Law shall be and the same are hereby, on said effective date, transferred to the County Court of Wichita County, and all writs and processes, civil and criminal, issued by or out of the County Court of Wichita County at Law prior to the effective date of this Act, shall be and the same are hereby made returnable to the County Court of Wichita County as fully and effectively as if they had been originally issued out of said County Court. The County Clerk of Wichita County shall, upon the effective date of this Act, transfer all matters and causes, civil and criminal, original and appellate, then in the County Court of Wichita County at Law to the County Court of Wichita County.

[Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65, § 1-A.]

¹ Section 2 of Acts 1933, 43rd Leg., Spec.Laws, p. 86, ch. 65, provides that this Act shall have no force and shall not disturb the operation of the County Court of Wichita County at Law until and after January 1, 1935.

Art. 1970-166b. Jurisdiction in Civil Cases Transferred to District Courts

Sec. 1. That the County Court of Wichita County shall retain and continue to have and exercise the general criminal jurisdiction, both original and appellate, the general jurisdiction in matters of eminent domain, and the general jurisdiction of Probate Courts, and all jurisdiction other than in civil matters, jurisdiction of which is here conferred on the District Courts of Wichita County, Texas, now or hereafter conferred upon such County Court by the Constitution and Laws of the State, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction, except as to final judgments referred to in Section 2 hereof.

Sec. 2. That the District Courts having jurisdiction in said Wichita County shall have and exercise jurisdiction in all matters and cases of a civil nature, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the General Laws of the State of Texas now existing and hereinafter enacted, the County Court of said County would have had jurisdiction, and that all pending civil cases be and the same are hereby transferred to the District Court for the Eighty-ninth Judicial District of Texas, sitting in Wichita County, Texas, and all writs and process heretofore issued by or out of said County Court in said civil cases be and the same are hereby made returnable to the next term of the District Court, in and for the Eighty-ninth Judicial District of Texas, sitting in Wichita County, Texas. Provided, however, that there shall not be transferred to said District Courts jurisdiction over any judgments, even in civil cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by execution, order of sale, or other appropriate process. Provided further, however, that as to any civil case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court remanding the case for a new trial or for further proceedings, same shall be remanded to one of the District Courts having jurisdiction in Wichita County, Texas, and all jurisdiction in respect to said particular case shall thereafter vest in the District Courts sitting in and having jurisdiction of Wichita County, Texas.

Sec. 3. That the fact that the cases of which the District Courts are given jurisdiction have been transferred by this Act to the District Court in and for the Eighty-ninth Judicial District shall not be construed to limit the jurisdiction of the other District Courts sitting in and having jurisdiction in said County, but the said District Court in and for the Eighty-ninth Judicial District shall have power to transfer any or all of said cases to said oth-

er District Courts, under the applicable provisions of the laws governing the transfer of cases among said District Courts, and all applicable provisions of law in regard to the transfer and retransfer governing cases now pending in said District Courts shall govern the cases so transferred, as well as cases subsequently filed under the jurisdiction here conferred upon said District Courts; and that, as to cases subsequently filed, same may be filed in either of said District Courts which are here given jurisdiction thereof.

Sec. 4. That the Clerk of the County Court of said Wichita County be and is hereby required, within twenty (20) days after this Act takes effect, to file with the Clerk of the District Court of said County, all original papers in cases here transferred to the said District Courts, and all Judges' dockets and certified copies of any interlocutory judgment or other order entered in the Minutes of the County Court in said cases so transferred, and the District Clerk shall immediately docket all such cases on the docket of the said District Court for the Eighty-ninth Judicial District of Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court. Provided, further, that it shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Court as a deposit in the particular case for which same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1935, 44th Leg., p. 113, ch. 40.]

Art. 1970-166c. Concurrent Jurisdiction with District Courts in Juvenile Delinquency, Child Neglect or Dependency Proceedings

Sec. 1. The County Court of Wichita County, Texas, has jurisdiction concurrent with the district courts in Wichita County of all cases involving juvenile delinquency, child neglect, or dependency proceedings, if the judge of the County Court of Wichita County possesses qualifications equal to those required to serve as a district court judge in the State of Texas, and if the judge of the County Court of Wichita County is designated by the Wichita County Juvenile Board to preside as judge of the juvenile court.

Sec. 2. When the county judge is so qualified and is designated by the Wichita County Juvenile Board to preside over such proceedings, the jurisdiction of the county court extends to contempt proceedings growing out of

or ancillary to such cases, and a district court in Wichita County may transfer to the county court any such case of juvenile delinquency, child neglect, or dependency on its docket, with the consent of the Wichita County Court. [Acts 1973, 63rd Leg., p. 1365, ch. 519, eff. June 14, 1973.]

TEXARKANA COURT AT LAW

Arts. 1970-167 to 1970-189. Unconstitutional

These articles, Acts 1923, 38th Leg., ch. 69, creating Texarkana Court at Law, were held unconstitutional in *Turner v. Tucker*, 113 T. 434, 258 S.W. 149.

ARMSTRONG COUNTY

Art. 1970-190. Armstrong County Court; Concurrent Jurisdiction with Justice Court

That the county court of Armstrong county shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices courts.

[Acts 1913, p. 60, § 1.]

Art. 1970-191. Jurisdiction as County Court

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1913, p. 60, § 2.]

Art. 1970-192. Appeal; Amount in Controversy

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justices courts where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interests and costs.

[Acts 1913, p. 60, § 3.]

Art. 1970-193. Jurisdiction of Justices' Courts Not Affected; Appeal

This Act shall not be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices' courts to the said county court in any case originally brought in the justices' courts where the right of appeal now exists by law.

[Acts 1911, p. 60, § 4.]

¹ Article 1970-190.

Art. 1970-194. Laws Repealed

All laws and parts of laws in conflict with the provisions of this Act, be, and the same are hereby repealed.

[Acts 1913, p. 60, § 5.]

CASTRO COUNTY

Art. 1970-195. Castro County Court; Jurisdiction of Court

That the county court of Castro county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1913, p. 26, § 1.]

Art. 1970-196. Appellate Jurisdiction

Said county court shall have appellate jurisdiction in civil cases over which the justice courts have original jurisdiction when the judgment of the court, appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1911, relating thereto.

[Acts 1913, p. 26, § 2.]

Art. 1970-197. May Issue Writs

The county judge of said county shall have authority either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1913, p. 26, § 3.]

Art. 1970-198. Jurisdiction of Probate Court

The said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estate of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution of estates of deceased persons and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1913, p. 26, § 4.]

Art. 1970-199. Forfeiture, etc., of Bonds and Recognizances in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1913, p. 26, § 5.]

Art. 1970-200. Jurisdiction of Misdemeanors; Appellate Jurisdiction

Said county court shall have original jurisdiction of all misdemeanors, except involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trials de novo in criminal cases in which the justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1913, p. 26, § 6.]

Art. 1970-201. District Court Has No Longer Jurisdiction of Certain Cases

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1913, p. 26, § 7.]

Art. 1970-202. District Clerk to Deliver Transcripts, etc.

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1913, p. 26, § 8.]

Art. 1970-203. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcation of duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all the other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1913, p. 26, § 9.]

Art. 1970-204. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be

disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1913, p. 26, § 10.]

COCHRAN AND COLORADO COUNTIES**Art. 1970-205. Jurisdiction of County Court of Cochran and Colorado Counties**

The county court of Cochran County and Colorado County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the General Laws of this State is conferred upon a justice of the peace court.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 1.]

Art. 1970-206. Other Jurisdiction

Such county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings, as is by the General Laws of this State conferred upon county courts.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 2.]

Art. 1970-207. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justice courts where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

[Acts 1925, 39th Leg., ch. 40, p. 172, § 3.]

Art. 1970-208. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justice courts of jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Article 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice courts to said county court in any case originally brought in any justice court where the right of appeal now exists by General Law.

(Acts 1925, 39th Leg., ch. 40, p. 172, § 4.)

DEAF SMITH, PARMER, RANDALL, CASTRO AND LUBBOCK COUNTIES**Art. 1970-209. Deaf Smith, Parmer, Randall, Castro and Lubbock County Courts; Jurisdiction of Court**

That the county court of Deaf Smith, Parmer, Randall, Castro, and Lubbock counties and the unorganized counties of Bailey and Lamb shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices courts.

[Acts 1911, p. 171, § 1.]

Art. 1970-210. Same Subject

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1911, p. 171, § 2.]

Art. 1970-211. Writs of Error to Court of Civil Appeals

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justices court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interests and costs.

[Acts 1911, p. 171, § 3.]

Art. 1970-212. Jurisdiction of Justices of the Peace, etc.

This Act shall not be construed to deprive the justices court of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices courts to the said county court in any case originally brought in the justices court where the right of appeal now exists by law.

[Acts 1911, p. 171, § 4.]

¹ Article 1970-209.

Art. 1970-213. Laws Repealed

All laws and parts of laws in conflict with the provisions of this Act, be, and the same are hereby, repealed.

[Acts 1911, p. 171, § 5.]

HARRISON COUNTY

Art. 1970-214. Jurisdiction of County Court of Harrison County

The county court of Harrison county shall have and exercise the general jurisdiction of a probate and criminal court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its jurisdiction; to punish contempt under such provisions as are now or may be provided by general law governing county courts throughout the state, and said county court of Harrison county shall have jurisdiction over all criminal causes and criminal matters of which county courts have jurisdiction under the existing laws or laws hereafter enacted; but the said

county court of Harrison county shall not have any jurisdiction over civil causes or civil actions whatsoever.¹

[Acts 1911, p. 95, § 1.]

¹ Provision as to jurisdiction superseded by Articles 1970-215 and 1970-218 to 1970-223.

Art. 1970-215. Jurisdiction in Civil Cases

That the county court of Harrison county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county, when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1913, p. 103, § 1.]

Art. 1970-216. Judgments Heretofore Rendered in County Court; Executions, etc.

That this Act shall not be construed to in any wise or manner affect judgments heretofore rendered by said county court of Harrison county pertaining to matters and causes which by section 2 of this Act¹ are transferred to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by section 2 therein contemplated.

[Acts 1911, p. 95, § 4.]

¹ Acts 1911, p. 95, superseded by Article 1970-215.

Art. 1970-217. Laws Repealed

That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

[Acts 1911, p. 95, § 5.]

Art. 1970-218. Appellate Jurisdiction in Civil Cases, etc.

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction, when the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1913, p. 103, § 2.]

Art. 1970-219. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have the power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred

the power on the district court or judge thereof.

[Acts 1913, p. 103, § 3.]

Art. 1970-220. District Court Not to Have Jurisdiction When

The district court of said county shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1913, p. 103, § 4.]

Art. 1970-221. Clerk of District Court to Make Transcripts in Cases in Which Jurisdiction is Given to County Court, etc.

It shall be the duty of the clerk of the district court of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the civil docket then pending before the district court of said county, of which cases by the provisions of this Act exclusive original or appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the docket for trial by said court, and a certified bill of costs in each case, and all such cases shall be immediately docketed by the county court, as appearance cases for the next succeeding term, and all civil cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said county court, and all process in civil cases now issued and returnable to said district court shall be returnable to said county court.

[Acts 1913, p. 103, § 5.]

Art. 1970-222. Motions Against Sheriffs and Other Officers, etc.; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court, for failure to pay over moneys collected under process of said court, or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days any person guilty of contempt of said court, and shall also have all the other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1913, p. 103, § 6.]

Art. 1970-223. May Fix Terms of Court

The county commissioners' court of said county may hereafter fix the terms of said court whenever it may be deemed necessary.

[Acts 1925, S.B. 84.]

Art. 1970-223a. County Court at Law of Harrison County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act, as provided in Section 8 of the Act, the County Court at Law of Harrison County is created. It sits in Marshall.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain and lunacy proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Harrison County.

(c) The County Court at Law, or its Judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court in the county of inferior jurisdiction. The Court and Judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Harrison County is the Judge of the County Court of Harrison County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Harrison County unless by this Act committed to the Judge of the County Court at Law of Harrison County.

(e) The Judge of the County Court at Law of Harrison County is a member of the Harrison County Juvenile Board.

Terms of Court

Sec. 2. The terms of the County Court at Law of Harrison County are the same as those of the County Court of Harrison County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Harrison County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided in and been actively engaged in the practice of law in Harrison County for a period of not less than two years prior to the general election. The Judge elected holds office for either two years or four years, his first elected term ending in compliance with the provisions of Article 16, Section 65(a), Constitution of the State of Texas, and until his successor has been duly elected and has qualified. During his term of office, the Judge may not appear and plead as an attorney at law in the County Court at Law of Harrison County or in any court with jurisdiction inferior to that of the county court at law.

(b) When this Act becomes effective, the Commissioners Court of Harrison County shall

appoint a Judge to the County Court at Law of Harrison County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law is entitled to receive the same salary as the Criminal District Attorney of Harrison County and, in addition to this salary, the Commissioners Court of Harrison County may pay him the full supplemental compensation paid to other members of the Harrison County Juvenile Board. Such salary and any additional compensation approved by the commissioners for his services on the Juvenile Board shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge when the Judge of the County Court at Law of Harrison County is disqualified. A special judge must have the same qualifications as the Judge of the County Court at Law and is entitled to the same rate of compensation as the regular judge.

Court Officials and Personnel

Sec. 4. (a) The County Clerk and Sheriff of Harrison County, Texas, shall serve as clerk and sheriff, respectively, of the County Court at Law of Harrison County. The Commissioners Court of Harrison County may employ as many additional deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Harrison County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Harrison County, and shall serve at the pleasure of the Judge of the County Court at Law.

Practice

Sec. 5. (a) Practice in the County Court at Law of Harrison County shall conform to that

prescribed by law for the County Court of Harrison County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) The County Judge and the Judge of the County Court at Law may freely exchange benches with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the County Court or County Court at Law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the Judge of the County Court at Law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) The jurisdiction and authority now vested by law in the County Court of Harrison County and the judge thereof, for the drawing, selection and service of jurors shall also be exercised by the County Court at Law of Harrison County and the judge thereof; but jurors summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Harrison County and the Judge of the County Court of Harrison County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Representation of the State

Sec. 6. The Criminal District Attorney of Harrison County shall represent the State in all prosecutions in the County Court at Law of Harrison County, as provided by law for such prosecutions in County Court, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Court.

Facilities and Equipment

Sec. 7. (a) The Commissioners Court of Harrison County shall furnish and equip a

suitable courtroom and office space for the County Court at Law.

(b) The County Court at Law shall have a seal identical with the seal of the County Court at Harrison County, except that it contains the words "County Court at Law of Harrison County."

Effective Date

Sec. 8. This Act becomes effective upon order of the Commissioners Court of Harrison County duly entered in its minutes.

[Acts 1967, 60th Leg., p. 916, ch. 402, eff. Aug. 28, 1967.]

**HOCKLEY AND COCHRAN
COUNTIES**

Art. 1970-224. County Court of Hockley and Cochran Counties; Jurisdiction

The county court of Hockley County and the unorganized county of Cochran shall have and exercise original concurrent jurisdiction with the justices' courts in all civil matters which by the general laws of this State is conferred upon said justice of the peace courts.

[Acts 1923, 38th Leg., ch. 96, § 1.]

Art. 1970-225. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the general laws of this state conferred upon county courts.

[Acts 1923, 38th Leg., ch. 96, § 2.]

Art. 1970-226. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justices' court where the judgment or amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

[Acts 1923, 38th Leg., ch. 96, § 3.]

Art. 1970-227. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justices' court to said county court in any case originally brought in any justice court where the right of appeal now exists by General Law.

[Acts 1923, 38th Leg., ch. 96, § 4.]

JASPER COUNTY

Art. 1970-228. Jasper County Court; Jurisdiction in Civil Cases

That the county court of Jasper county shall hereafter have exclusive original jurisdiction

in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county, when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars exclusive of interest.

[Acts 1911, p. 11, § 1.]

Art. 1970-229. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction, when the judgment of the court appealed from, or the amount in controversy, shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes, of 1895, relating thereto.

[Acts 1911, p. 11, § 2.]

Art. 1970-230. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 11, § 3.]

Art. 1970-231. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons; and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1911, p. 11, § 4.]

Art. 1970-232. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 11, § 5.]

Art. 1970-233. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction

Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment, that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 11, § 6.]

Art. 1970-234. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act have¹ original or appellate jurisdiction.

[Acts 1911, p. 11, § 7.]

¹ So in enrolled bill. Should probably read "has".

Art. 1970-235. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets, then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1911, p. 11, § 8.]

Art. 1970-236. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs, and other officers of the court, for failure to pay over moneys collected under the process of said court or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 11, § 9.]

Art. 1970-237. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in August, and on the third Monday in November of each year, and shall continue in session for

each term until the business may be disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 11, § 10.]

KENDALL COUNTY

Art. 1970-238. Jurisdiction of County Court of Kendall County

That the county court of Kendall county shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts as [of] executors, administrators, and guardians and transact all business appertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction, to punish contempt under such provisions as are now or may be provided by the general law governing county courts throughout the state, but the said county court of the said Kendall county shall have no other jurisdiction, civil or criminal whatsoever.

[Acts 1911, p. 30, § 1.]

Art. 1970-239. Jurisdiction of District Court

That the district court of Kendall county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the law of this state, the county court of said county would have jurisdiction, original or appellate, except as provided in section 1 of this Act, all causes, other than probate matters and such as are provided by section 1 of this Act,¹ be and the same are hereby transferred to the district court of Kendall county, and all writs and processes relating to any civil or criminal matters included in the subject matter of jurisdiction prescribed in section 1 of this Act, issued by or out of the said county court of Kendall county, be and the same are hereby made returnable to the next term of the district court of said county after this Act takes effect.

[Acts 1911, p. 30, § 2.]

¹ Article 1970-238.

Art. 1970-240. County Clerk to Make Transcripts in Cases Transferred to District Court, etc.

That the county clerk of Kendall county be, and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which, by section 2 of this Act,¹ are required to be transferred to the district court of said county, together with all the papers to such cause pertaining, a certified bill of costs in

each case, and all such cases shall immediately be docketed by the district court as appearance for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally triable in said district court, and all process now issued and returnable to said county court shall be returnable to said district court.

[Acts 1911, p. 30, § 3.]

¹ Article 1970-238.

Art. 1970-241. Judgments Heretofore Rendered in County Court; Executions, etc.

That this Act shall not be construed to, in anywise or in any manner, affect judgments heretofore rendered by said county court of Kendall county pertaining to matters and causes which by section 2 of this Act,¹ are (returnable)² to the district court of said county, but the county clerk of said county shall issue all executions and orders of sale, and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made as by section 2 therein contemplated.

[Acts 1911, p. 30, § 4.]

¹ Article 1970-239.

² So in enrolled bill.

LEE AND BURLESON COUNTIES

Art. 1970-242. Jurisdiction of County Court of Lee and Burleson Counties

The county court of Lee and Burleson Counties shall have and exercise original concurrent jurisdiction with the justice's courts in all civil matters which by the General Laws of this State is conferred upon said justice of the peace courts.

[Acts 1925, 39th Leg., ch. 151, p. 359, § 1.]

Art. 1970-243. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 2.]

Art. 1970-244. Appeals and Writs of Error

No appeal or writ of error shall be taken to the court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 3.]

Art. 1970-245. Jurisdiction of Justices of the Peace; Appeals

Nothing in this Act shall be construed to deprive the justice's courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor

shall this Act be construed to deny the right of appeal from the justice's court to said county court in any case originally brought in any justice court where the right of appeal now exists by General Law.

[Acts 1925, 39th Leg., ch. 151, p. 360, § 4.]

OLDHAM COUNTY

Art. 1970-246. Oldham County Court; Jurisdiction in Civil Cases

That the county court of Oldham county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1911, p. 122, § 1.]

Art. 1970-247. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justices courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justices courts by certiorari, under the provisions of the title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1911, p. 122, § 2.]

Art. 1970-248. May Grant Writs

The county judge of said county shall have authority either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 122, § 3.]

Art. 1970-249. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estate of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by general law and to issue all writs necessary for the enforcement of its jurisdiction and decrees.

[Acts 1911, p. 122, § 4.]

Art. 1970-250. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 122, § 5.]

Art. 1970-251. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said county court shall have original jurisdiction of all misdemeanors, except involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 122, § 6.]

Art. 1970-252. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1911, p. 122, § 7.]

Art. 1970-253. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective dockets for trial by said court.

[Acts 1911, p. 122, § 8.]

Art. 1970-254. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court or other defalcation of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 122, § 9.]

Art. 1970-255. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the Fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 122, § 10.]

REAGAN COUNTY

Art. 1970-256. Reagan County Court; Jurisdiction; Transfer of Cases

Hereafter the county court of Reagan County in this State, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by general law for county courts. Any and all cases pending in the district court of Reagan County, which under the law after the taking effect of this Act should be pending in the county court of Reagan County, be and the same are hereby transferred to the county court of Reagan County, and all writs and processes relating to any such cases are hereby made returnable to the next term of the county court of Reagan County. The district clerk of Reagan County shall make the proper transfer of all cases hereinbefore provided for to be transferred, and shall make proper entry of such transfer upon his docket, and shall deliver over to the county clerk all necessary papers and files.

[Acts 1923, 38th Leg., ch. 21, § 1.]

Art. 1970-257. Judgments Not Affected; Executions Thereon

This Act shall not be construed to in any wise, or in any manner, affect judgments heretofore rendered by the district court pertaining to matters and causes which by this Act are made returnable to the county court, and the clerk of the district court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

[Acts 1923, 38th Leg., ch. 21, § 2.]

Art. 1970-258. Jurisdiction of District Court

The jurisdiction of the district court of Reagan County shall be such as is provided by the Constitution and General Laws of this State consistent with the change in the jurisdiction of the county court herein made.

[Acts 1923, 38th Leg., ch. 21, § 3.]

Art. 1970-259. County Court; Concurrent Jurisdiction With Justices of the Peace

The county court of Reagan County shall, in addition to the civil and criminal jurisdiction conferred upon county courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the jus-

tices courts in all civil matters which by the General Laws of this State is conferred upon justices' courts.

[Acts 1923, 38th Leg., ch. 21, § 4.]

Art. 1970-260. Appeals and Writs of Error

No appeal or writ of error shall be taken to the Court of Civil Appeals from any¹ final judgment of said county court in civil cases of which courts have appellate or original concurred² jurisdiction with the justices courts where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

[Acts 1923, 38th Leg. ch. 21, § 5.]

¹ So in enrolled bill. Acts 1923 reads "an."

² So in enrolled bill. Should be "concurrent."

Art. 1970-261. Jurisdiction of Justices of the Peace; Appeals

This Act shall not be construed to deprive the justices' courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in Section 4 of this Act, nor shall this Act be construed to deny the right of appeal from the justice court to said county court in any case originally brought in the justice court where the right of appeal now exists by law.

[Acts 1923, 38th Leg., ch. 21, § 6.]

STONEWALL COUNTY

Art. 1970-262. Stonewall County Court; Jurisdiction in Civil Cases

That the county court of Stonewall county shall have and exercise original concurrent jurisdiction with the justices courts in all civil matters which by the general laws of this state is conferred upon justices' courts.

[Acts 1913, p. 86, § 1.]

Art. 1970-263. Other Jurisdiction

Said county court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the general laws of this state is conferred upon county courts.

[Acts 1913, p. 86, § 2.]

Art. 1970-264. Appeals and Writs of Error to Court of Civil Appeals

No appeal or writ of error shall be taken to the court of civil appeals from any final judgment of said county court in civil cases of which said court has appellate or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed one hundred dollars, exclusive of all interests and costs.

[Acts 1913, p. 86, § 3.]

Art. 1970-265. Jurisdiction of Justices of the Peace; Appeals

This Act shall not be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law, but only to give con-

current original jurisdiction to the said court over such matters as are specified in section 1 of this Act,¹ nor shall this Act be construed to deny the right of appeal from the justices' courts to the said county court in any case originally brought in the justice's court where the right of appeal now exists by law.

[Acts 1913, p. 86, § 4.]

¹ Article 1970-262.

SUTTON COUNTY

Art. 1970-266. Sutton County Court; Original Civil Jurisdiction

That the county court of Sutton County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and that it shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

[Acts 1923, 38th Leg., ch. 30, § 1.]

Art. 1970-267. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justice's courts of said county have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have the power to hear and determine cases brought up from the justice's courts by certiorari under the provisions of law relating thereto.

[Acts 1923, 38th Leg., ch. 30, § 2.]

Art. 1970-268. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution and laws have not exclusively conferred the power on the district judge or district court thereof.

[Acts 1923, 38th Leg., ch. 30, § 3.]

Art. 1970-269. Probate Jurisdiction

Said court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters of¹ testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders, and decrees; and generally to exercise all the powers in probate matters conferred

upon such courts by the Constitution and laws of the State.

[Acts 1923, 38th Leg., ch. 30, § 4.]

¹ So in enrolled bill. Word "of" should probably be omitted.

Art. 1970-270. Forfeited Bonds and Recognizances

Such courts shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 5.]

Art. 1970-271. Jurisdiction of Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said court shall have and exercise exclusive jurisdiction of all misdemeanors except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said court shall have appellate jurisdiction of criminal cases in which justice's courts and other inferior tribunals of said county have original jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 6.]

Art. 1970-272. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1923, 38th Leg., ch. 30, § 7.]

Art. 1970-273. Transcripts of Pending Cases; Entry of Cases in County Court

It shall be the duty of the district clerk of said county, within thirty days after this Act shall take effect to make full and complete transcript of orders on the criminal and civil dockets then pending before the district court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court, and to file said transcript, together with the original papers in each case, in the county court of said county, and the county clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

[Acts 1923, 38th Leg., ch. 30, § 8.]

Art. 1970-274. Motions Against Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all

other powers and jurisdictions conferred on county courts by the Constitution and general laws of the State of Texas.

[Acts 1923, 38th Leg., ch. 30, § 9.]

Art. 1970-275. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in August, and on the third Monday in November of each year and shall continue in session for six weeks at each term, or until the business may be disposed of; provided that the county commissioners' court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1923, 38th Leg., ch. 30, § 10.]

WHEELER COUNTY

Art. 1970-276. Wheeler County Court; Jurisdiction in Civil Cases

That the county court of Wheeler county shall hereafter have exclusive original jurisdiction in civil cases wherein the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars, exclusive of interest, and shall have concurrent jurisdiction with the district court of said county when the amount in controversy shall exceed five hundred dollars, and not exceed one thousand dollars, exclusive of interest.

[Acts 1911, p. 130, § 1.]

Art. 1970-277. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justice courts have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest and costs, and said county court shall have power to hear and determine cases brought up from the justice courts by certiorari, under the provisions of the Title of the Revised Civil Statutes of 1895 relating thereto.

[Acts 1911, p. 130, § 2.]

Art. 1970-278. May Grant Writs

The county judge of said county shall have authority, either in term time or in vacation, to grant writs of injunction, sequestration, mandamus, garnishment, attachment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

[Acts 1911, p. 130, § 3.]

Art. 1970-279. Jurisdiction of Probate Court

That said court shall have and exercise the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary

and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards; including the partition, settlement and distribution of estates of deceased persons; and to apprentice minors as provided by general law, and to issue all writs necessary for the enforcement of its jurisdiction and decree.

[Acts 1911, p. 130, § 4.]

Art. 1970-280. Forfeited Bonds, etc., in Criminal Cases

Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1911, p. 130, § 5.]

Art. 1970-281. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said county court shall have exclusive original jurisdiction of all misdemeanors except misdemeanors involving official misconduct and except misdemeanors in which the highest penalty that may be imposed by the law is a fine without imprisonment, that does not exceed two hundred dollars, and said court shall have appellate jurisdiction with trial de novo in criminal cases in which justices of the peace and other inferior tribunals of said county have original jurisdiction.

[Acts 1911, p. 130, § 6.]

Art. 1970-282. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors except misdemeanors involving official misconduct, and shall no longer have jurisdiction of cases in which the county court of said county by provisions of this Act has original or appellate jurisdiction.

[Acts 1911, p. 130, § 7.]

Art. 1970-283. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county within thirty days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets, then pending before the district court of said county, of which cases by the provisions of this Act original and appellate jurisdiction is given to the said county court, and to deliver said transcripts, together with the original papers in each case, to the county clerk of said county, and the said county clerk shall file the same and enter said cases on the respective docket for trial by said court.

[Acts 1911, p. 130, § 8.]

Art. 1970-284. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sher-

iffs and other officers of the court, for failure to pay over moneys collected under the process of said court or other defalcations of duty in connection with such process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and shall also have all other powers and jurisdiction conferred on county courts by the constitution and general laws of this state.

[Acts 1911, p. 130, § 9.]

Art. 1970-285. Terms of Court

The terms of said court shall commence on the fourth Monday in February, and on the fourth Monday in May, and on the fourth Monday in August, and on the fourth Monday in November of each year, and shall continue in session for each term until the business may be disposed of; provided, that the county commissioners court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1911, p. 130, § 10.]

ZAPATA COUNTY

Art. 1970-286. Zapata County Court; Jurisdiction in Civil Cases

That the county court of Zapata county shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars and shall not exceed five hundred dollars, exclusive of interest, and that it shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

[Acts 1913, p. 83, § 1.]

Art. 1970-287. Appellate Jurisdiction in Civil Cases

Said county court shall have appellate jurisdiction in civil cases over which justice's courts of said county have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said county court shall have the power to hear and determine cases brought up from the justice's courts by certiorari under the provisions of law relating thereto.

[Acts 1913, p. 83, § 2.]

Art. 1970-288. Power to Grant Writs, etc.

The county judge of said county shall have authority either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the constitution and laws have not exclusively con-

ferred the power on the district judge or district court thereof.

[Acts 1913, p. 83, § 3.]

Art. 1970-289. Jurisdiction of Probate Court

Said court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders, and decrees; and generally to exercise all the powers in probate matters conferred upon such courts by the constitution and laws of the state.

[Acts 1913, p. 83, § 4.]

Art. 1970-290. Forfeited Bonds, etc., in Criminal Cases

Such court shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said court has original or appellate jurisdiction.

[Acts 1913, p. 83, § 5.]

Art. 1970-291. Jurisdiction of Certain Misdemeanors; Appellate Jurisdiction in Criminal Cases

Said court shall have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said court shall have appellate jurisdiction of criminal cases in which justice's courts and other inferior tribunals of said county have original jurisdiction.

[Acts 1913, p. 83, § 6.]

Art. 1970-292. Jurisdiction of District Court

The district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the county court of said county, by the provisions of this Act, has original or appellate jurisdiction.

[Acts 1913, p. 83, § 7.]

Art. 1970-293. District Clerk to Deliver Transcripts, etc., to County Clerk

It shall be the duty of the district clerk of said county, within thirty days after this Act shall take effect, to make full and complete transcript of orders on the criminal and civil dockets then pending before the district court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court, and to

file said transcript together with the original papers in each case, in the county court of said county, and the county clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

[Acts 1913, p. 83, § 8.]

Art. 1970-294. Motions Against Sheriffs and Other Officers; Contempts; Other Powers

The said court shall also have the power to hear and determine all motions against sheriffs and other officers of the court for failure to pay over moneys collected under the process of said court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the county jail not exceeding three days, any person guilty of contempt of said court, and all other powers and jurisdictions conferred on county courts by the constitution and general laws of the state of Texas.

[Acts 1913, p. 83, § 9.]

Art. 1970-295. Terms of Court

The terms of said court shall commence on the third Monday in February, and on the third Monday in May, and on the third Monday in September, and on the third Monday in November of each year, and shall continue in session for three weeks at each term, or until the business may be disposed of; provided, that the county commissioner's court of said county may hereafter change the terms of said court whenever it may be deemed necessary.

[Acts 1913, p. 83, § 10.]

EDWARDS COUNTY

Art. 1970-296. Edwards County Court; Act Repealed

That Chapter 30 of the General Laws of the Regular Session of the Thirty-seventh Legislature be and the same is hereby repealed, and any and all laws which now stand repealed by reason of said Chapter 30 are hereby revived.

[Acts 1923, 38th Leg., ch. 61, § 1.]

SHELBY COUNTY

Art. 1970-297. Shelby County Court; Jurisdiction Restored

Chapter 8 of the General Laws of the Fourth Called Session of the Thirty-sixth Legislature is hereby repealed, and hereafter the county court of Shelby County, Texas, shall have the same jurisdiction and shall be subject to the same provisions as county courts generally throughout the State under the General Laws of the State of Texas.

The jurisdiction of the district court in Shelby County is hereby conformed to the change herein made of the jurisdiction of the county court, and hereafter said district court shall have the same jurisdiction as district courts under the Constitution and General Laws. It shall be the duty of the district clerk of said

county within thirty days after this Act shall take effect to make full and complete transcripts of all orders on the civil and criminal dockets in cases then pending before the district court of said county of which cases by the provisions of this Act original or appellate jurisdiction is given to said county court, and to deliver said transcripts together with all original papers and a certified bill of costs in each case to the county clerk of said county and said county clerk shall take charge of said transcripts and papers and file the same and enter said cases on the proper docket. All process heretofore issued from the district court of said court¹ in cases transferred under this Act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the docket of said county court.

[Acts 1925, 39th Leg., ch. 89, p. 263, § 1.]

¹ So in enrolled bill. Should probably read "county."

MCLENNAN COUNTY

Art. 1970-298. Repealed by Acts 1933, 43rd Leg., Spec.Laws, p. 110, ch. 83, § 1

Art. 1970-298a. Jurisdiction of McLennan County Court at Law Transferred to McLennan County Court; Salary of Judge

Sec. 2. All jurisdiction of all matters and causes, civil and criminal, original and appellate, which is now within the jurisdiction of the County Court at Law of McLennan County, is hereby transferred and conferred on the County Court of McLennan County, and all powers heretofore residing in said County Court at Law of McLennan County are hereby conferred on the County Court of McLennan County, and all powers heretofore residing in the Judge of the County Court at Law of McLennan County are hereby conferred on the County Judge of McLennan County, and all cases now pending in the County Court at Law of McLennan County, shall be, and the same are hereby transferred to the County Court of McLennan County, and all writs and processes, civil and criminal heretofore issued by or out of the County Court at Law of McLennan County, or the County Court of said County, shall be and the same are hereby made returnable to the County Court of McLennan County.

Sec. 3. The Judge of the County Court of McLennan County shall assess such fees as are or may be established by law relating to county judges, all of which shall be collected by the clerk of said court, and be by him paid monthly into the County Treasury, and the judge of said County Court shall receive an annual salary of Three Thousand (\$3,000.00) Dollars, per year to be paid out of the County Treasury by the Commissioners' Court, provided that said Commissioners' Court may, if and when it sees fit, by order duly entered on the minutes of said Court, pay the County Judge of McLennan County a larger amount of salary, but not to exceed Three Thousand Six Hundred (\$3600.00) Dollars, per year, all to be paid monthly

out of the County Treasury and from the general fund of said County.

[Acts 1933, 43rd Leg., Spec.Laws, p. 110, ch. 83.]

Art. 1970-298b. County Court at Law of McLennan County

Sec. 1. There is hereby created a Court to be held in McLennan County, to be called the County Court at Law of McLennan County.

Sec. 2. (a) The County Court at Law of McLennan County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws and Constitution of the State, the County Court of the county would have jurisdiction.

(b) The jurisdiction of the County Court at Law of McLennan County and the Judge thereof shall extend to all matters of eminent domain, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of McLennan County as the presiding officer of the Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof.

(c) Except as provided in Subsection (b) of this section, the County Court at Law of McLennan County and the Judge thereof shall have concurrent jurisdiction with the County Court of McLennan County and the Judge thereof in all matters and causes over which by the general laws and Constitution of the State the County Court would have jurisdiction.

Sec. 3. The County Court of McLennan County shall have the jurisdiction given County Courts under the Constitution and general laws of this State. The County Court, and the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State. The County Judge of McLennan County shall be the Judge of the County Court of McLennan County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of McLennan County, except insofar as the same shall by this Act be committed to the Judge of the County Court at Law of McLennan County.

Sec. 3a. (a) The Judge of either the County Court at Law of McLennan County or the County Court of McLennan County may, in his discretion, either in term time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause on his docket, to the docket of the other Court.

(b) The Judges of the Courts may, in their discretion, exchange benches from time to time. Whenever a Judge of one of the Courts is disqualified, he shall transfer the case from his Court to the other Court.

(c) Either Judge may, in his own courtroom, try and determine any case or proceeding pending in either Court, without having the case transferred, or may sit in the other Court, without having the case transferred, or may sit in the other Court and there hear and determine any case there pending. Each judgment and order shall be entered in the minutes of the Court in which the case is pending.

(d) In case of absence, sickness, or disqualification of either Judge, the other Judge may hold Court for him. Either of the Judges may hear any part of any case or proceeding pending in either of the Courts and determine the same or may hear and determine any question in any case, and either Judge may complete the hearing and render judgment in the case.

(e) In cases transferred to either of the Courts by order of the Judge of the other Court, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law.

(f) All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the Court to which the transfer is made.

Sec. 4. The terms of the County Court at Law of McLennan County, shall be held as follows, to-wit:

On the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts.

Sec. 5. There shall be elected in McLennan County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of McLennan County, who shall be a qualified voter in said county, and who shall be a regularly licensed attorney at law in this State, well informed in the laws of this State, and who shall have resided in and been actively engaged in the practice of law in this State or as the Judge of a Court for a period of not less than five (5) years next preceding such general election, who shall hold his office for two (2) years, and until his successor shall have been duly qualified.

Sec. 6. The Judge of the County Court at Law of McLennan County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of McLennan County may be ap-

pointed or elected when and under such circumstances as are provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten (\$10.00) Dollars per day for each day he so actually serves, to be paid out of the General Fund of the county by the Commissioners Court.

Sec. 8. The Court created by this Act and the Judges thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and super-sedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The Clerk of the County Court of McLennan County shall be the Clerk of the County Court at Law of McLennan County. The seal of said Court shall be the same as that provided by law for County Courts except that the seal shall contain the words "Clerk of the County Court at Law of McLennan County". The Sheriff of McLennan County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 10. (a) The judge of the County Court at Law of McLennan County is authorized to appoint an official shorthand reporter for the court. A person is eligible for appointment who is well skilled in his profession. Upon appointment the reporter is to serve as a sworn officer of the court, holding his office at the pleasure of the court.

(b) The reporter is not required to take testimony in a case unless a party to the case or the judge demands that testimony be taken. In cases in which the reporter is required to take testimony, the court clerk shall tax a \$3 fee as costs in the case. The clerk shall deposit fees collected under this Section in the treasury of McLennan County. The reporter shall be available for matters being considered in the County Court if a reporter is requested by the litigants before that court and the request is approved by the Judge of the County Court at Law.

(c) The reporter is entitled to receive the same compensation as the official shorthand reporters of the District Courts in McLennan County, which compensation is to be paid in the same manner as is the compensation of the official shorthand reporters of the District Courts in McLennan County. The county judge, the county auditor, the Commissioners Court and any other officials of McLennan County charged with preparing and approving the county budget are authorized to amend the budget of McLennan County to provide for paying compensation to the reporter.

(d) Except where inconsistent with this Act, all General Laws relating to court reporters apply to the official court reporter of the County Court at Law of McLennan County.

Sec. 11. Any vacancy in the office of the Judge of the Court created by this Act shall be

filled by the Commissioners Court of McLennan County until the next general election. The Commissioners Court of McLennan County shall, as soon as may be, after this Act shall take effect, appoint a Judge of the County Court at Law of McLennan County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 12. The Judge of the County Court at Law of McLennan County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the clerk of said court and be by him paid monthly into the County Treasury; and the Judge of said County Court at Law shall receive an annual salary of not more than Twenty Thousand Dollars (\$20,000), payable monthly, to be paid out of the County Treasury by the Commissioners Court.

Sec. 14. The County Judge of McLennan County shall receive an annual salary of Six Thousand, Six Hundred (\$6,600.00) Dollars to be paid monthly out of the County Treasury, out of the general fund of the county. Said County Judge shall assess the same fees, in matters within the jurisdiction of the County Court, as are or may be prescribed by law relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be by him paid into the County Treasury monthly, for the use and benefit of the general fund; provided that the Commissioners Court of McLennan County may, if and when it sees fit, pay the County Judge a larger amount of annual salary, to be paid monthly out of the County Treasury in accordance with Chapter 320, page 601, 51st Legislature, Acts 1949.¹

[Acts 1951, 52nd Leg., p. 386, ch. 248; Acts 1965, 59th Leg., p. 226, ch. 97, § 1, eff. Jan. 1, 1966; Acts 1969, 61st Leg., p. 2120, ch. 724, § 1, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1785, ch. 524, §§ 1, 2, eff. June 1, 1971].

¹ Article 3912g.

Art. 1970-298c. Compensation of Judge

Sec. 1. The Commissioners Court of McLennan County may fix the total annual compensation of the judge of county court-at-law at an amount not to exceed \$14,000 a year. In all other respects, the compensation of the judge of county court-at-law is governed by the General Law.

[Acts 1965, 59th Leg., p. 227, ch. 99.]

HARRISON COUNTY

Art. 1970-299. Jurisdiction of County Court of Harrison County

Sec. 1. Hereafter the County Court of Harrison County, Texas, shall have the same jurisdiction and shall be subject to the same provisions as County Courts generally throughout the State, under the Constitution and General Laws of the State of Texas.

Sec. 2. The Jurisdiction of the District Court of the Seventy-first Judicial District of Texas is hereby conformed to the change herein made of the County Court of Harrison Coun-

ty, and hereafter said District Court shall have the same jurisdiction as District Courts generally throughout the State as provided and conferred by the Constitution and General Laws of the State of Texas.

[Acts 1927, 40th Leg., p. 150, ch. 99.]

EDWARDS COUNTY

Art. 1970-300. Changing Jurisdiction of County Court of Edwards County

Sec. 1. Hereafter the county court of Edwards County shall have no civil or criminal jurisdiction and shall have jurisdiction in probate matters only. The civil and criminal jurisdiction heretofore vesting in said county court is hereby transferred to the district court of said county.

Sec. 2. It shall be the duty of the county clerk of said county within thirty days after this Act shall take effect to make a full and complete transcript of all orders on the civil and criminal docket in said county court in all civil and criminal matters, and shall transfer the same together with all other papers and records in connection with such cases and matters, to the clerk of the district court of said county. Said county clerk shall also prepare certified bills of costs in each such case and deliver the same to said district clerk, and the district clerk shall take charge of such transcripts, papers and cost bills and file and enter the same in said cases on the proper docket. All process heretofore issued from the county court in said county in cases transferred by this Act to the district court shall be returnable to the first term of the district court after this Act takes effect, and all cases transferred by this Act shall be entered as appearance cases upon the docket of the district court.

[Acts 1927, 40th Leg., p. 333, ch. 226.]

Art. 1970-300a. Jurisdiction of Edwards County Court Increased; Terms of Court

Sec. 1. Hereafter the County Court of Edwards County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for County Courts.

Sec. 2. This Act shall not be construed to in anywise or any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. Jurisdiction of the District Court of Edwards County, Texas, shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Edwards County, Texas, shall, in addition to the civil and criminal jurisdiction conferred upon County

Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justice Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said County Court in civil cases, of which said court has appellate, original or concurrent jurisdiction with Justice Court, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Court of jurisdiction now conferred upon it by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act; nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court, in any case originally brought in the Justice Court where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. The District Clerk of Edwards County is required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon the criminal and civil dockets of said court, of any cases then pending before the District Court of said county, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court, and to file said transcript, together with the original papers in each case, in the County Court of said county; and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said court, and said cases shall be disposed of in the same manner as if same had been originally filed in the County Court, and all processes now issued and returnable to said District Court shall be returnable to said County Court; all processes heretofore issued by the District Court in said cases, as well as all bonds and recognizances heretofore taken in the District Court, shall be as valid as if no changes had been made as to the jurisdiction of said respective courts; and all bonds executed and recognizances entered in said District Court shall bind the parties to the next term of the County Court after this law becomes effective.

Sec. 8. The terms of said County Court shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November of each year; and each of said terms shall continue in session until the Saturday before the Monday on which a new term commences; provided that the Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly re-

pealed insofar as they relate to Edwards County, Texas.

[Acts 1949, 51st Leg., p. 261, ch. 140.]

BEXAR COUNTY

Art. 1970-301. County Courts at Law Nos. 1 and 2 of Bexar County

Sec. 1. From and after the passage and taking effect of this Act the county court of Bexar County for civil cases shall be known and designated as the "County Court at Law No. 1, of Bexar County, Texas." The present judge and all officers of the county court of Bexar County for civil cases shall continue as such respective judge and officers of the County Court at Law No. 1, of Bexar County, Texas, until the expiration of their present terms of office and until their successors shall have been duly elected or appointed and qualified.

Sec. 2. From and after the passage and taking effect of this Act the county court of Bexar County for criminal cases shall be known and designated as the "County Court at Law No. 2, of Bexar County, Texas." The present judge and all officers of the county court of Bexar County for criminal cases shall continue as such respective judge and officers of the County Court at Law No. 2, of Bexar County, Texas, until the expiration of their present terms of office and until their successors shall have been duly elected or appointed and qualified.

Sec. 3. Said County Court at Law No. 1, of Bexar County, Texas, and the judge thereof, shall have and exercise the same jurisdiction, original and appellate, heretofore conferred on said county court of Bexar County for civil cases, and the judge thereof, and in addition thereto, shall have jurisdiction within Bexar County, Texas, of all such subject matters and causes, original and appellate, over which the county court of Bexar County for criminal cases has heretofore had jurisdiction; and the authorized jurisdiction of said courts, namely, the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas, over all such matters, within said county, shall be concurrent.

Sec. 4. Said County Court at Law No. 2 of Bexar County, Texas, and the judge thereof, shall have and exercise the same jurisdiction, original and appellate heretofore conferred on said county court of Bexar County for criminal cases, and the judge thereof, and in addition thereto, shall have jurisdiction within Bexar County, Texas, of all such subject matters and causes, original and appellate, over which the county court of Bexar County for civil cases has heretofore had jurisdiction; and the authorized jurisdiction of said courts, namely, the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas, over all such matters, within said county, shall be concurrent.

Sec. 5. From and after the passage and taking effect of this Act, civil and criminal cases, within the jurisdiction of said courts,

may be filed in either the County Court at Law No. 1, of Bexar County, Texas, or in the County Court at Law No. 2 of Bexar County, Texas.

Sec. 6. Whenever the judge of said County Court at Law No. 1, or the judge of said County Court at Law No. 2 of Bexar County, Texas, may deem it advisable or expedient he may transfer any case or cases pending in the court over which he presides to the other of said county courts at law, and the written order upon the minutes of said court so transferring such case, signed by the judge thereof making the transfer, shall be authority for the clerk of said court to make such transfer.

Sec. 7. It shall be the duty of the judge of the County Court at Law No. 1 of Bexar County, Texas, as soon as practicable after the passage and taking effect of this Act to transfer as aforesaid from the docket of said court to the docket of said County Court at Law No. 2 of Bexar County, Texas, approximately one-half of the civil cases pending upon said docket, which shall be done by transferring every alternate case without reference to whether any particular case be pending upon the jury or nonjury of said court; provided, this section is directory in nature.

Sec. 8. It shall be the duty of the judge of the County Court at Law No. 2 of Bexar County, Texas, as soon as practicable after the passage and taking effect of this Act, to transfer as aforesaid from the docket of said court to the docket of said County Court at Law No. 1, of Bexar County, Texas, approximately one-half of the criminal cases pending upon said docket, which shall be done by transferring every alternate case without reference to whether any particular case be pending upon the jury or nonjury docket of said court; provided, this section is directory in nature.

Sec. 9. The Judges of the two County Courts at Law of Bexar County, Texas, may at any time exchange benches, and may at any time sit and act for and with each other in any civil or criminal case, matter or proceeding now and hereafter pending in either of the said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 10. All writs, processes, judgments and decrees, civil and criminal, heretofore issued by or out of the said county court of Bexar County for civil cases or the said county court of Bexar County for criminal cases, as well as all bonds and recognizances taken in either of said courts, and all other acts and proceedings had therein, shall be as valid and enforceable and binding as if no change had been made in the name, designation, jurisdiction or time of the holding of either of said courts, and each and all of the same are, respectively, hereby made returnable and effective in that one of said county courts at law which shall

have jurisdiction of the cause in conformity with the terms and provisions of this Act.

Sec. 11. The Judges of the County Courts at Law, Nos. 1 and 2, of Bexar County, Texas, shall each take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of either of said Judges. The Judge of the County Court at Law No. 1, of Bexar County, Texas, shall receive an annual salary of Six Thousand (\$6,000.00) Dollars, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall receive an annual salary of Six Thousand (\$6,000.00) Dollars. Said salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas.

Sec. 12. The County Court of Bexar County, Texas, and the Judge thereof shall have and retain the same jurisdiction, powers, fees, and perquisites of office as conferred on said County Court of Bexar County, or the Judge thereof, at and before the time of the passage and taking effect of this Act; and this Act shall in no wise affect said County Court. Provided, however, that the maximum fees of the office of the County Judge shall not exceed Six Thousand, Five Hundred Dollars (\$6,500.00), even though more than one person may perform the duties of said County Judge, in which case the total shall be divided in accordance with services performed. Provided, however, that a County Judge shall not draw a salary amounting to more than Five Thousand Dollars (\$5,000.00) per annum and providing that no more than the aggregate sum of Fifteen Hundred Dollars (\$1500.00) shall be paid in any one (1) year to special judges for said county.

Sec. 13. The County Court at Law No. 1, of Bexar County, Texas, shall hold six terms of court each year commencing on the first Monday in January, March, May, July, September and November, and each term shall continue until the business shall have been disposed of; and the County Court at Law No. 2, of Bexar County, Texas, shall hold six terms of court each year, commencing on the first Monday in February, April, June, August, October and December, and each term shall continue until the business shall have been disposed of; provided, no term of either of said courts shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 14. Special judges may be appointed or elected for either or both of the County Courts at Law of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this state relating to the appointment and election of a special judge or judges of the several district and county courts of this state; and every such special judge thus appointed or elected for either of said two courts shall receive for the

services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services. The amount to be paid to such special judge shall be paid out of the general fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners' Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of either of the regular judges of said respective County Courts at Law.

Sec. 15. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 1, of Bexar County, Texas, and also the clerk of the County Court at Law No. 2, of Bexar County, Texas. The seal of said courts shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 1, of Bexar County, Texas, shall contain the words "County Court at Law No. 1, of Bexar County, Texas", and the seal of the County Court at Law No. 2, of Bexar County, Texas, shall contain the words "County Court at Law No. 2, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon the taking effect of this Act or as soon thereafter as may be possible, appoint a deputy for each of the said County Courts at Law; provided, however, that the persons thus appointed must be acceptable to the respective judges of said courts, and such appointment for each of said courts must be confirmed in writing by the Judge thereof before it becomes effective. The said two deputies thus appointed shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the County Clerk of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned and payable as may be prescribed by said clerk or provided by law. The said two deputies shall act in the name of their principal and they, and each of them, may do and perform all such official acts as may be lawfully done and performed by the said County Clerk in person; and it shall be the duty of each of said two deputies to attend all sessions of the County Court at Law of Bexar County, Texas, to which he has been appointed, and perform such services in and for said courts as are usually performed by the County Clerk and their deputies in the several County Courts of this State; and said two deputies shall also perform any and all other services that may from time to time be assigned them by the Judges of said courts. The County Clerk of Bexar County, Texas, and his several deputies, including the two deputies to be appointed for said courts as hereinabove provided, shall, in all cases, both civil and criminal, pending in said courts when this Act takes effect, and also in all such cases thereafter filed in said courts, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County

Courts of this state and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his several deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner, as may be provided by law. The said two deputies to be appointed for said two courts are authorized to act for one another in any matter pertaining to the clerical business of said courts, and it shall be their duty to thus act for one another when requested to do so by the Judges of said Courts or by the said County Clerk; but such deputies acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The said two deputies shall, from and after their said appointment, confirmation and qualification, as herein provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges for any reason whatsoever not further desire the services of said deputy clerk, the County Clerk of Bexar County, Texas, shall, upon request of such Judge or Judges, appoint another deputy for such court or courts, such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for the court in which a vacancy may occur, such appointment, however, shall be with written approval and confirmation of the Judge of the Court in which a vacancy may occur. The salary of the deputy clerk appointed for each of the said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the respective Judges of said courts in any amount not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually; said annual salaries to be paid to said deputy clerks in equal monthly installments out of each fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. However, before such monthly salaries are paid to said deputies the Judges of said courts shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed the services required of them and that they are entitled to receive their said salaries, and such salaries of said deputies shall be paid to them only upon such certificate being signed and filed by said Judges. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 15-A. The Sheriff of Bexar County, Texas, shall, by and through deputies to be appointed as hereinafter provided, attend all sessions of the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas; and the Sheriff of Bexar County, Texas, shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one deputy for each of the said County Courts at Law of Bexar County, Texas; provided, however, that the persons thus appointed as such deputies must be acceptable to the Judges of said courts, and said appointments for each of said courts must be approved and confirmed in writing by the judge of said court before same becomes effective. The said deputy sheriffs shall, before assuming their respective duties, take the oath of office prescribed by the Constitution of Texas, Article 16, Section 1 thereof; and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputies to furnish bonds in such amount, conditioned and payable as may be prescribed by said Sheriff or provided by law. The said two deputies shall act in the name of their principal and they may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. The said two deputies shall, from and after their said appointment, confirmation and qualification, as hereinabove provided, continue as such respective deputies at the pleasure of the Judges of said courts; and should either of said Judges, for any reason whatsoever, not further desire the services of said deputy sheriffs, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court, such appointment, however, to be made in the manner as hereinabove provided. It shall be the duty of the said two deputies, who are to be appointed as herein provided, to attend all sessions of the said two courts and also perform and render such services in and for said courts, and for the Judges thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and county courts throughout this state, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds and nature, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriffs to also perform and render any and all other services that may from time to time be assigned them, or to either of them, by the Judges of said courts. The said two deputies shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this state now or may hereafter have, possess and enjoy. The said deputy sheriff of the said County Court at Law No. 1, of Bexar County, Texas, and the said deputy sheriff of the said County Court at Law No. 2, of Bexar County, Texas, are authorized and empowered to act for one another, and it shall be their duty to so act for one another

when required to do so by either of the Judges of said courts or by said Sheriff; but said deputies thus acting for one another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court in which a vacancy may occur, such appointment, however, to be subject to the approval and written confirmation of the Judge of the court in which such vacancy may exist. The salary of the said deputy appointed for each of said County Courts at Law of Bexar County, Texas, shall be determined and fixed by the Judge of said court in any sum not exceeding Two Thousand Five Hundred (\$2,500.00) Dollars annually. The said annual salaries to be paid to said two deputies, when fixed by said Judges as herein provided, shall be paid to them in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salaries shall be made in the manner provided by law. However, before such monthly salaries are paid to said deputy sheriffs the Judges of said courts shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said county, a written statement, signed by said Judges, certifying that said two deputies have performed and rendered the services required of them and that they are entitled to receive their said salaries. Provided that nothing contained in this section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 16. The term of the County Court at Law No. 1, of Bexar County, Texas, current at the time of the taking effect of this Act shall continue until the commencement of the next following term of said court, in the month as fixed by this Act, in the year 1927, or until any earlier adjournment thereof. All process issued out of said court before this Act takes effect, and not theretofore returnable, or returnable on some special date, is hereby made returnable to the terms of court as fixed by this Act. All bonds heretofore executed in said court shall bind the parties to fulfill the obligation of such bonds at the terms of court, and to that one of said county courts at law having jurisdiction of the cause, in conformity with this Act. All writs and process heretofore issued and returned, as well as all bonds heretofore taken in said county court of Bexar County for civil cases, and all judgments, writs and decrees thereof, shall be as valid and binding, and enforceable, as if no change had been made in the jurisdiction or the time of the holdings of said court, or in the name and designation of said court.

Sec. 17. The term of the County Court at Law No. 2, of Bexar County, Texas, current at the time of the taking effect of this Act, shall

continue until the commencement of the next following term of said court in the month as fixed by this Act, in the year 1927, or until any earlier adjournment thereof. All process issued out of said court before this Act takes effect, and not theretofore returnable, or returnable on some special date, is hereby made returnable to the terms of court as fixed by this Act. All bonds and recognizances heretofore executed and taken in said court shall bind the parties to fulfill the obligations of such bonds and recognizances at the terms of court, and to the one of said county courts at law having jurisdiction of the cause, in conformity with this Act. All writs and processes heretofore issued and returned, as well as all bonds and recognizances heretofore executed and taken in said county court of Bexar County for criminal cases, and all judgments and writs and decrees thereof shall be as valid and binding and enforceable as if no change had been made in the jurisdiction or the time of the holdings of said court, or in the name and designation of said court.

Sec. 18. There shall be appointed by the county attorney of said county, in addition to the assistants now provided by law, one special assistant, for the purpose of conducting the duties of his office in said courts. Such assistant county attorney shall be paid a salary of three thousand (\$3,000.00) dollars annually, in equal monthly installments, by said county, upon warrants drawn against the general fund by orders of the commissioners court.

Sec. 19. For the purpose of preserving a record in all cases for the information of the court, jury and parties, the judge of the County Court at Law No. 2, of Bexar County, Texas, may appoint an official shorthand reporter for said court who shall be well skilled in his profession, shall be a sworn officer of the court, and shall hold his office at the pleasure of the court; and the provisions of the law relating to the appointment of stenographers for the district courts of this State shall, and they are hereby made to apply in all their provisions, in so far as they are applicable, to the official shorthand reporter herein authorized to be appointed, and said reporter shall be entitled to the same fees and salary, and shall perform the same duties, and shall take the same oath as now provided by the General Laws of this State covering the stenographers of the district courts of this State; and in all cases pending in said County Court at Law No. 2, of Bexar County, Texas, at the time of the passage and taking effect of this Act, and in all civil cases that may hereafter be filed in said court in which an answer has been filed or may be filed, and also in all other cases, civil and criminal, where either party litigant, or the court, should require the official shorthand reporter to take down the testimony, a stenographer's fee of three (\$3.00) dollars shall be taxed by the clerk of said court as costs in this case, the same to be in addition to all other costs, and said fee, when so collected by said clerk, shall be by him paid into the treasury of

Bexar County in the same manner as now required of district clerks under similar circumstances.

Sec. 20. The Act of the Legislature of the State of Texas, enacted by the Thirty-second Legislature, Regular Session, known as House Bill No. 111, Chapter 10, approved February 20, 1911, found on pages 15, 16 and 17, of the Session Laws of said Legislature, creating the county court of Bexar County for civil cases, and each provision of said Act, and the amendment to said Act passed by the Thirty-eighth Legislature of the State of Texas, known as House Bill No. 367, found on pages 73 and 74, of the Session Laws of the said Legislature, authorizing the appointment of an official shorthand reporter for said court, shall, except in so far as in conflict herewith, remain in full force and effect, and apply to the County Court at Law No. 1, of Bexar County, Texas.

Sec. 21. The Act of the Legislature of the State of Texas, enacted by the Thirty-fourth Legislature, Regular Session, known as Senate Bill No. 323, Chapter 39, approved March 5, 1915, as found on pages 78, 79, 80 and 81, of the Session Laws of said Legislature, creating the county court of Bexar County for criminal cases, and each provision of said Act, shall, except in so far as in conflict herewith, remain in full force and effect, and apply to the County Court at Law No. 2, of Bexar County, Texas.

Sec. 21-A. The terms of office of the Judge of the County Court at Law No. 1, of Bexar County, Texas, and of the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall be two years. The present Judge of each of said courts shall continue as such Judge thereof until the expiration of his present term of office, and until his successor shall have been duly elected or appointed and qualified, as hereinafter provided. At the next general election to be held within this state and in Bexar County, Texas, after the taking effect of this Act, to-wit, the first Tuesday in the month of November, A. D. 1938, and every two years thereafter, at each general election, there shall be elected by the qualified voters of said county a Judge of each of said courts, both of whom shall be well informed in the laws of this State, and who shall hold their respective offices for a term of two years and until their successors shall have been duly elected or appointed and qualified; provided, however, that no person shall be eligible for Judge of either the said County Court at Law No. 1, of Bexar County, Texas, or the said County Court at Law No. 2, of Bexar County, Texas, unless he shall be a citizen of the United States and of this state, and shall have been a practicing lawyer of Bexar County, Texas, for at least four years next preceding his election, or is or has been a Judge of a court in this State. Should there be a vacancy in the office of Judge of either of said courts such vacancy shall be filled by appointment by the Commissioners' Court of Bexar County, Texas, and the person or persons thus appointed shall hold such office until

their successor, or successors, who shall be elected at the next general election to be held in Bexar County, Texas, after such appointment, shall have qualified according to law; and the person thus appointed shall have the qualifications hereinbefore specified for a Judge of said courts.

Sec. 21-B. The practice in said County Courts at Law of Bexar County, Texas, shall be the same as prescribed by laws relating to County Courts. Appeals and writs of error may be taken from judgments and orders of said two County Courts at Law of Bexar County, Texas, and from judgments and orders of the Judges thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by laws relating to appeals and writs of error from judgments and orders of the County Courts throughout this state, and the respective Judges thereof, in similar cases. And appeals may be taken from interlocutory orders of the said two County Courts at Law appointing a receiver, and also from orders of the said two County Courts at Law overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this state.

[Acts 1927, 40th Leg., p. 26, ch. 22; Acts 1933, 43rd Leg., Spec.Laws, p. 61, c. 50, §§ 1, 2; Acts 1935, 44th Leg., p. 715, ch. 309, § 1; Acts 1937, 45th Leg., p. 45, ch. 33, §§ 1 to 7; Acts 1939, 46th Leg., Spec.Laws, p. 617, § 1.]

Art. 1970-301a. Official Shorthand Reporters; Salary

From and after the effective date of this Act the Official Shorthand Reporter for the County Court at Law No. 1, of Bexar County, Texas, and the Official Shorthand Reporter for the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Five Thousand, Five Hundred Dollars (\$5,500), said annual salary to be paid to each of said Official Shorthand Reporters in equal monthly installments out of the general fund of Bexar County, Texas, upon orders of the Commissioners Court of said County.

[Acts 1951, 52nd Leg., p. 217, ch. 129, § 1.]

Art. 1970-301b. Salaries of Judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Eight Thousand, Two Hundred and Fifty Dollars (\$8,250). Said annual salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County, upon orders of the Commissioners Court of Bexar County, Texas.

[Acts 1951, 52nd Leg., p. 867, ch. 490, § 1.]

3 West's Tex.Stats. & Codes—84

Art. 1970-301c. Salaries of Judges

From and after the effective date of this Act the Judge of the County Court-at-Law No. 1, of Bexar County, Texas, and the Judge of the County Court-at-Law No. 2, of Bexar County, Texas, shall each receive an annual salary of Nine Thousand, Six Hundred (\$9,600.00) Dollars. Said annual salary shall be paid to each of said Judges in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said county, upon orders of the Commissioners Court of Bexar County, Texas.

[Acts 1953, 53rd Leg., p. 441, ch. 129, § 1.]

Art. 1970-301d. County Court at Law No. 3 of Bexar County

Sec. 1. There is hereby created a Court to be held in Bexar County, Texas, to be known and designated as the "County Court at Law No. 3, of Bexar County, Texas."

Sec. 2. The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters and proceedings under the Constitution and Laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Bexar County, Texas, and the Judge of said Court shall have the same powers, rights, privileges as to criminal matters as are now or may be vested in the Judges of county courts having criminal jurisdiction.

The County Court at Law No. 3, of Bexar County, Texas, shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters and proceedings that are now or may be conferred by law upon and vested in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and the Judges thereof. Provided, however, that the jurisdiction of said County Court at Law No. 1, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 2, of Bexar County, Texas, and the jurisdiction of said County Court at Law No. 3, of Bexar County, Texas, over all such actions, matters and proceedings, civil and criminal, within said Bexar County, shall be concurrent.

The Judge of the County Court at Law No. 3 of Bexar County, Texas, upon proper certification of the County Judge of Bexar County, Texas, because of conflicting duties, or absence or inability to act; or, upon the failure or refusal of such County Judge to act for any reason or cause, shall also be authorized and empowered to act for and in the place and stead of said such County Judge in any lunacy, probate and condemnation proceeding or matter, and also may perform for the County Judge of Bexar County any and all other ministerial acts required by the laws of this State of said County Judge of Bexar County, Texas, and upon any such certification, the Judge of said County Court at Law No. 3, of Bexar County, Texas,

shall give preference and priority to all such actions, matters and proceedings so certified, and any and all such acts thus performed by the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such actions, matters and proceedings the same as if performed by the County Judge of Bexar County, Texas. Provided, that the powers thus conferred on the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall extend to and include all powers of the County Judge of Bexar County, Texas, except his powers and duties in connection with the transaction of the business of the County as presiding officer of the Commissioners Court, and in connection with the budget of Bexar County. And provided further that the provisions of this paragraph shall be in addition to and cumulative of the provisions of House Bill No. 748, Acts 1951, Regular Session, Fifty-second Legislature, Page 601, Chapter 355.

Notwithstanding the additional powers and duties conferred upon the Judge of the County Court at Law No. 3, of Bexar County, Texas, by the provisions of this paragraph, no additional compensation or salary shall be paid to said Judge, but the compensation or salary of such Judge shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 3. From and after the passage and taking effect of this Act, civil and criminal actions, matters and proceedings may be filed in said County Court at Law No. 3, of Bexar County, Texas, in the same manner and under the same conditions, circumstances and instances as now obtain for the filing of actions, matters and proceedings, civil and criminal, in the County Court at Law No. 1, of Bexar County, Texas, and in the County Court at Law No. 2, of Bexar County, Texas, and all such actions, matters and proceedings shall be docketed in the order in the Court in which filed, or in such other manner as may be determined by a majority of the Judges of said County Court at Law by an order duly made by them and entered upon the minutes of each such County Court at Law.

Sec. 4. The Clerk of said County Court at Law No. 3, of Bexar County, Texas, shall keep a separate docket for said County Court at Law No. 3, of Bexar County, Texas, the same as is now or may be provided by law for the keeping of dockets for the County Court at Law No. 1, of Bexar County, Texas, and the County Court at Law No. 2, of Bexar County, Texas; he shall tax the official Court Reporter's fee as costs in civil actions in said County Court at Law No. 3, of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the District Courts of this State. The Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and each of them may, with the consent of the Judge of the Court to which transfer is to be made, transfer civil or criminal actions,

matters and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon the docket of such court; and the Judge of the County Court at Law to which any such action, matter or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter or proceeding had been originally filed in said County Court at Law, to which transferred. Provided, however, that no cause, action, matter, case or proceeding shall be transferred without the consent of the Judge of the Court to which transferred.

Sec. 5. The Judge of the County Court at Law No. 3, of Bexar County, Texas, together with the Judges of the County Court at Law No. 1, of Bexar County, Texas, and County Court at Law No. 2, of Bexar County, Texas, may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding now, or hereafter, pending in either of said County Courts at Law of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, or by the Judge of the County Court at Law No. 2, of Bexar County, Texas, or by the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 6. The practice in said County Court at Law No. 3, of Bexar County, Texas, shall be the same as prescribed by law relating to County Courts and County Courts at Law. Appeals and writs of error may be taken from judgments and orders of said County Court at Law No. 3, of Bexar County, Texas, and from judgments and orders of the Judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the County Courts and County Courts of Law throughout this State, and the respective judges thereof, in similar cases. And appeals may also be taken from interlocutory orders of said County Court at Law No. 3, of Bexar County, Texas, appointing a receiver, and also from orders of said County Court at Law No. 3, of Bexar County, Texas, overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this State.

Sec. 7. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall appoint an official shorthand reporter for such Court, who shall be well-skilled in his profession and shall be a sworn officer of the Court, and shall hold his office at the pleasure of the

Court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to, apply in all its provisions, in so far as they are applicable to the official shorthand reporter herein authorized to be appointed, and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said District Court of Bexar County is paid.

Sec. 8. The County Clerk of Bexar County, Texas, shall be the clerk of the County Court at Law No. 3, of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The seal of said Court shall be the same as provided by law for County Courts, except that the seal of the County Court at Law No. 3, of Bexar County, Texas, shall contain the words "County Court at Law No. 3, of Bexar County, Texas." The County Clerk of Bexar County, Texas, shall, upon taking effect of this Act, or as soon thereafter as may be possible, appoint a deputy for said County Court at Law No. 3, of Bexar County, Texas; provided, however, that the person so appointed must be acceptable to the Judge of said Court, and such appointment must be confirmed in writing by the Judge of said Court before the same becomes effective. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the County Clerk of Bexar County, Texas, shall have power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said County Clerk of Bexar County in person; it shall be the duty of said deputy to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and perform such services in and for said Court as are usually performed by the County Clerk and his deputies of the several County Courts of this State; and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the Judge of said Court. Said deputy shall, in all cases, both civil and criminal, that may be filed in said County Court at Law No. 3, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No. 1, of Bexar County, Texas, or that may be transferred to said Court from the County Court at Law No. 2, of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the County Courts of this State and the Judges thereof in similar cases; and all such fees and costs, when collected by said County Clerk and his

deputies, as well as any and all other sums of money received by said County Clerk and his deputies in their official capacity, shall by said Clerk and his deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner as may be provided by law. The deputy appointed hereunder is hereby authorized to act for the deputy appointed by the Judge of the County Court at Law No. 1, of Bexar County, Texas, and he shall also be authorized to act for the deputy appointed by the Judge of the County Court at Law No. 2, of Bexar County, Texas, and each and all of said deputies shall be, and they are hereby, authorized to act for each other, in any matter pertaining to the clerical business of said Court, and it shall be the duty of said deputies to thus act for one another when requested to do so by the Judges of the several County Courts at Law of Bexar County, but they shall receive no additional compensation for so serving. Said deputy so appointed shall, from and after his said appointment, confirmation and qualification, as herein provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, Bexar County, Texas, and should said Judge, for any reason whatsoever, not further desire the services of such deputy, the County Clerk of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such Court; such appointment, however, to be made in the manner as hereinabove provided. In the event of a vacancy caused by any reason whatsoever, the County Clerk of Bexar County, Texas, shall immediately appoint another deputy for said Court, such appointment, however, to be made in the same manner as hereinabove provided. The salary of the deputy appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy for County Court at Law No. 1, of Bexar County, Texas, or the deputy for the County Court at Law No. 2, of Bexar County, Texas; said annual salary to be paid to said deputy in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the County Clerk of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy, the Judge of said County Court of Law No. 3, of Bexar County, Texas, shall cause to be filed with the County Clerk of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by the Judge, certifying that said deputy has performed the services required of him and that he is entitled to receive said salary and such salary of said deputy shall be paid to him only upon certificate being signed and filed by said Judge. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being

exercised by the County Clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 9. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and said Sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one (1) deputy for said Court, provided, however, that the person thus appointed must be acceptable to the Judge of said Court and said appointment of said deputy must be approved and confirmed in writing by said Judge before the same becomes effective. The deputy sheriff so appointed shall, before assuming his duties, take the oath of office prescribed by the Constitution of Texas, and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said Deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. Said deputy shall, from and after his appointment, confirmation and qualification, as hereinabove provided, continue as such deputy at the pleasure of the Judge of said County Court at Law No. 3, of Bexar County, Texas, and should said Judge for any reason whatsoever, not further desire the services of said deputy sheriff, the Sheriff of Bexar County, Texas, shall, upon request of such Judge, appoint another deputy for such court; such appointment, however, to be made in the same manner as hereinabove provided. It shall be the duty of the deputy sheriff appointed as herein provided, to attend all sessions of said County Court at Law No. 3, of Bexar County, Texas, and also perform and render such services in and for said Court, and for the Judge thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several district and County Courts of this State, and including the serving of any and all process, subpoenas, warrants and writs of any and all kinds, nature and character, in both civil and criminal cases, matters and proceedings; and it shall be the duty of said deputy sheriff to also perform and render any and all other services that may, from time to time, be assigned to him, by the Judge of said Court. Said deputy sheriff shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this State now or may hereafter have, possess and enjoy; and said deputy sheriff is authorized and empowered to act for the deputy sheriff of the County Court at Law No. 1, of Bexar County, Texas, and he is also authorized and empowered to act for the deputy sheriff of the County Court at Law No. 2, of Bexar County, Texas, and all of said deputy sheriffs may, and they are hereby authorized and empowered to, act for one another, and it shall be their duty to act for one

another when required to do so by either of the Judges of said Courts or by said Sheriff; but said deputy thus acting for another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court, such appointment, however, to be subject to the approval and written confirmation of the Judge of said Court. The salary of the deputy sheriff appointed for said County Court at Law No. 3, of Bexar County, Texas, shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy sheriff for County Court at Law No. 1, of Bexar County, Texas, or the deputy sheriff for County Court at Law No. 2, of Bexar County, Texas; and said annual salary shall be paid to such deputy sheriff in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. However, before such monthly salary is paid to said deputy sheriff, the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy sheriff has performed and rendered the services required of him and that he is entitled to receive his salary. Provided, that nothing contained in this Section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 10. At the next General Election after the effective date of this Act there shall be elected a Judge of the County Court at Law No. 3, of Bexar County, Texas, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well informed in the laws of the State, who shall have resided in and been actively engaged in the practice of law in Bexar County, Texas, for a period of not less than four (4) years prior to such General Election, and who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Bexar County, Texas, shall appoint a Judge of said County Court at Law No. 3, of Bexar County, Texas, who shall have the qualifications herein prescribed and who shall serve until the next General Election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said County Court at Law No. 3, of Bexar County, Texas, shall, in like manner as hereinabove provided, be filled by said Commissioners Court of Bexar County, Texas, the appointee thereof to hold office un-

til the next succeeding General Election and until his successor shall be duly elected and qualified.

Sec. 11. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such Judge. The Judge of the County Court at Law No. 3, of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the Judges of the County Court at Law No. 1, of Bexar County, Texas, and of the County Court at Law No. 2, of Bexar County, Texas. Said salary shall be paid to said Judge in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas.

Sec. 12. A special judge may be appointed or elected for the County Court at Law No. 3, of Bexar County, Texas, and in the same manner as may now or hereafter be provided by the general laws of this State relating to the appointment and election of a special judge, or judges, of the several District and County Courts and County Courts at Law of this State; and every such special judge thus appointed or elected for said Court shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of the regular judge of said County Court at Law No. 3, of Bexar County, Texas.

Sec. 13. The County Court at Law No. 3, of Bexar County, Texas, or the Judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 3, of Bexar County, Texas.

Sec. 14. The County Court at Law No. 3, of Bexar County, Texas, shall hold six (6) terms of court each year, commencing on the first Monday in January, March, May, July, September and November of each year and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of said Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 15. For the purpose of disposing of the business of said County Court at Law No. 3, of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the purpose of conducting the duties of his office in said Court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Court at Law No. 1, of Bexar County, Texas, and in County Court at Law No. 2, of Bexar County, Texas, the same to be paid in equal monthly installments, by said County, upon warrants drawn against the General Fund by orders of the Commissioners Court.

[Acts 1957, 55th Leg., p. 1337, ch. 454.]

Art. 1970-301e. Salaries of Judges

From and after the effective day of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, shall each receive an annual salary of not less than Twelve Thousand Dollars (\$12,000) nor more than Sixteen Thousand Dollars (\$16,000). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County, Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said County.

[Acts 1961, 57th Leg., p. 523, ch. 249, § 1.]

Art. 1970-301e.1. County Courts at Law Nos. 4 and 5 of Bexar County

Sec. 1. There are hereby created two courts to be held in Bexar County, Texas, to be known as the "County Court at Law Number 4 of Bexar County, Texas," and the "County Court at Law Number 5 of Bexar County, Texas."

Sec. 2. The County Court at Law Number 4 of Bexar County, Texas, and the County Court at Law Number 5 of Bexar County, Texas, have the same jurisdiction, powers, and duties, and concurrent jurisdiction, powers, and duties in all civil and criminal actions, proceedings, and matters, original and appellate, over which by the constitution and general laws of this state, the County Courts at Law Numbers 1, 2, and 3 of Bexar County, have jurisdiction, and have concurrent jurisdiction with the district courts when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided in Chapter 915, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1970a, Vernon's Texas Civil Statutes).

Sec. 2a. The County Court at Law Number 4 of Bexar County, Texas, shall also have the general jurisdiction of a probate court, concurrent with the jurisdiction of the County Court of Bexar County in such matters and proceed-

ings. The County Court at Law Number 4 of Bexar County, Texas, has authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, to hear and determine all matters affecting minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors.

Sec. 3. From and after the passage and taking effect of this Act, civil and criminal actions, matters, and proceedings may be filed in the County Court at Law Number 4 of Bexar County, Texas, and the County Court at Law Number 5 of Bexar County, Texas, in the same manner and under the same conditions, circumstances, and instances as now obtain for the filing of actions, matters, and proceedings, civil and criminal, in the County Courts at Law Numbers 1, 2, and 3 of Bexar County, and all such actions, matters and proceedings shall be docketed in the order in the court in which filed, or in such manner as may be determined by a majority of the judges of the said county courts at law, the judge of the County Civil Court of Bexar County, Texas, and the County Judge of Bexar County, Texas.

Sec. 3a. From and after the passage and taking effect of this Act, probate matters and proceedings may be filed in said County Court at Law Number 4 of Bexar County, Texas, in the same manner and under the same circumstances and conditions as now obtain for the filing of such matters and proceedings in the County Court of Bexar County, Texas, or with the county judge, and all such matters and proceedings shall be docketed in the order in which filed in said court, or in such other manner as may be determined by the judge of the County Court at Law Number 4 of Bexar County, Texas, and the County Judge of Bexar County, Texas. Notwithstanding the provisions of Chapter 502, Acts of the 59th Legislature, 1965 (Article 1970-75a, Vernon's Texas Civil Statutes), it is the intention of this Act that the said County Court at Law Number 4 of Bexar County, Texas, shall give preference and priority to probate matters and proceedings.

Sec. 4. The clerk of said County Court at Law Number 4 of Bexar County, Texas, shall keep a separate docket for said County Court at Law Number 4 of Bexar County, Texas, and the clerk of said County Court at Law Number 5 of Bexar County, Texas, shall keep a separate docket for said County Court at Law Number 5 of Bexar County, Texas, the same as is now or may be provided by law for keeping of dockets for the county courts at law of Bexar County, Texas; they shall tax the official court reporter's fee as costs in civil actions in said County Court at Law Number 4 of Bexar County, Texas, and County Court at Law Number 5 of Bexar County, Texas, in like manner as said fee is

taxed in civil cases in the district courts of this state. The judges of the County Courts at Law Numbers 1, 2, 3, 4, and 5 of Bexar County, Texas, and each of them may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon the docket of such court; and the judge of the county court at law to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees, and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in said county court at law to which transferred. Provided, however, that no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 5. The judges of the County Courts at Law Numbers 1, 2, 3, 4, and 5 of Bexar County, Texas, may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding now, or hereafter, pending in either of said county courts at law of Bexar County, Texas; and any and all such acts thus performed by the judge of the County Court at Law Number 1 of Bexar County, Texas, or by the judge of the County Court at Law Number 2 of Bexar County, Texas, or by the judge of the County Court at Law Number 3 of Bexar County, Texas, or by the judge of the County Court at Law Number 4 of Bexar County, Texas, or by the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Courts at Law Numbers 4 and 5 of Bexar County, Texas, shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Courts at Law Numbers 4 and 5 of Bexar County, Texas, and from judgments and orders of the judges thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the county courts and county courts at law throughout this state, and the respective judges thereof, in similar cases. And appeals may also be taken from interlocutory orders of said County Courts at Law Numbers 4 and 5 of Bexar County, Texas, appointing a receiver, and also from orders of said County Courts at Law Numbers 4 and 5 of Bexar County, Texas, overruling a motion to vacate or an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals

from similar orders of the district courts throughout this state.

Sec. 7. The judge of the County Court at Law Number 4 of Bexar County, Texas, and the judge of the County Court at Law Number 5 of Bexar County, Texas, shall appoint an official shorthand reporter for such court, who shall be well-skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended,¹ and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to, apply in all its provisions, insofar as they are applicable to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the district courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said district court of Bexar County is paid.

¹ Article 2286 et seq.

Sec. 8. The county clerk of Bexar County, Texas, shall be the clerk of the County Court at Law Number 4 of Bexar County, Texas, and the clerk of the County Court at Law Number 5 of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The seal of said court shall be the same as provided by law for county courts, except that the seal of the County Court at Law Number 4 of Bexar County, Texas, shall contain the words "County Court at Law Number 4 of Bexar County, Texas," and the seal of the County Court at Law Number 5 of Bexar County, Texas, shall contain the words "County Court at Law Number 5 of Bexar County, Texas." The county clerk of Bexar County, Texas, shall, upon taking effect of this Act, or as soon thereafter as may be possible, appoint a deputy for said County Court at Law Number 4 of Bexar County, Texas, and a deputy for said County Court at Law Number 5 of Bexar County, Texas. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the county clerk of Bexar County, Texas, shall have power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said county clerk of Bexar County in person; it shall be the duty of said deputy to attend all sessions of said county court at law to which he is appointed and perform such services in and for said court as are usually performed by the county clerk and his deputies of the several county courts of this state; and said deputy shall also perform any and all other services

that may, from time to time, be assigned him by the judge of said court. Said deputy shall, in all cases, both civil and criminal, that may be filed in said county court at law to which he is appointed, or that may be transferred to said court from another county court at law of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner, as now provided by law for the county courts of this state and the judges thereof in similar cases; and all such fees and costs, when collected by said county clerk and his deputies, as well as any and all other sums of money received by said county clerk and his deputies in their official capacity, shall by said clerk and his deputies be deposited in such fund, or paid to the proper person or persons entitled to the same, and in the manner as may be provided by law. The deputy appointed hereunder is hereby authorized to act for the deputy of any other county court at law of Bexar County, Texas, and each and all of said deputies shall be, and they are hereby, authorized to act for each other, in any matter pertaining to the clerical business of said court, and it shall be the duty of said deputies to thus act for one another when requested to do so by the judges of the several county courts at law of Bexar County, but they shall receive no additional compensation for so serving. In the event of a vacancy caused by any reason whatsoever, the county clerk of Bexar County, Texas, shall immediately appoint another deputy for said court. The salary of the deputy appointed for said County Court at Law Number 4 of Bexar County, Texas, and the salary of the deputy appointed for said County Court at Law Number 5 of Bexar County, Texas, shall be determined and fixed as prescribed by law for the deputies of the several county courts at law of Bexar County, but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputies for the County Courts at Law Numbers 1, 2 and 3 of Bexar County, Texas; said annual salary to be paid to said deputy in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the county clerk of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. Provided, that nothing contained in this section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the county clerk of Bexar County, Texas, except as herein specifically and expressly stated.

Sec. 9. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Court at Law Number 4 of Bexar County, Texas, and all sessions of said County Court at Law Number 5 of Bexar County, Texas, and said sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be possible, appoint one deputy for each of said courts. The deputy sheriff so appointed shall, before assuming his duties, take the oath of of-

office prescribed by the Constitution of Texas, and the Sheriff of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount, conditioned and payable as may be prescribed by law. Said deputy shall act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person. It shall be the duty of the deputy sheriff appointed as herein provided, to attend all sessions of said county court at law to which he is appointed, and also perform and render such services in and for said court, and for the judge thereof, as are usually and generally performed and rendered by sheriffs and their deputies in and about the several district and county courts of this state, and including the serving of any and all process, subpoenas, warrants, and writs of any and all kinds, nature, and character, in both civil and criminal cases, matters, and proceedings; and it shall be the duty of said deputy sheriff to also perform and render any and all other services that may, from time to time, be assigned to him, by the judge of said court. Said deputy sheriff shall have, possess and enjoy the same rights, powers, authority, and privileges that the sheriffs and their deputies throughout this state now or may hereafter have, possess and enjoy; and said deputy sheriff is authorized and empowered to act for the deputy sheriff of any other county court at law of Bexar County, Texas, and all of said deputy sheriffs may, and they are hereby authorized and empowered to, act for one another, and it shall be their duty to act for one another when required to do so by either of the judges of said courts or by said sheriff; but said deputy thus acting for another shall not be entitled to receive, nor shall they receive, any additional compensation. The Sheriff of Bexar County, Texas, shall, in the event of a vacancy caused by any reason whatsoever, immediately appoint another deputy for such court. The salary of the deputy sheriff appointed for said County Court at Law Number 4 of Bexar County, Texas, and the salary of the deputy sheriff appointed for said County Court at Law Number 5 of Bexar County, Texas, shall be determined and fixed as prescribed by law for the deputy sheriffs for the several county courts at law of Bexar County, but shall not exceed the salary now being paid to, or that in the future may be paid to, the deputy sheriffs for the County Courts at Law Numbers 1, 2, and 3 of Bexar County, Texas; and said annual salary shall be paid to such deputy sheriff in equal monthly installments out of such fund of Bexar County, Texas, as provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, Texas, and such payment of said salary shall be made in the manner provided by law. Provided, that nothing contained in this section of this Act is intended to change or alter the deputies and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 10. The judge of the County Court at Law Number 4 of Bexar County, Texas, and the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be elected at the general election by the qualified voters of Bexar County for a term of four years and shall hold office until his successor shall have been elected and qualified. He shall be a duly licensed and practicing member of the bar of this state; he shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such judge. The judges of the County Courts at Law Numbers 4 and 5 of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the judges of the several county courts at law of Bexar County, Texas, in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn on the county treasurer of said county upon orders of the Commissioners Court of Bexar County.

Sec. 11. The County Courts at Law Numbers 4 and 5 of Bexar County, Texas, are created effective January 1, 1975. At the general election in 1974 and every four years thereafter, the judge of the County Court at Law Number 4 of Bexar County, Texas, and the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office of the judge of the County Court at Law Number 4 of Bexar County, Texas, or in the office of the judge of the County Court at Law Number 5 of Bexar County, Texas, shall be filled by appointment made by the Commissioners Court of Bexar County, and the judge so appointed shall serve until January 1 following the next general election and until his successor shall be duly elected and qualified.

Sec. 12. A special judge may be appointed or elected for the County Court at Law Number 4 of Bexar County, Texas, and for the County Court at Law Number 5 of Bexar County, Texas, in the same manner as may now or hereafter be provided by the general laws of this state relating to the appointment and election of a special judge, or judges, of the several district and county courts and county courts at law of this state; and every such special judge thus appointed or elected for said court shall receive for the services he may actually perform as such special judge the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the county treasury of said county upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any special judge shall be deducted from or paid out of the salary of the regular judge of said County Court at Law Number 4 of Bexar County, Texas, or the salary of the regular judge of

said County Court at Law Number 5 of Bexar County, Texas.

Sec. 13. The County Court at Law Number 4 of Bexar County, Texas, or the judge thereof, and the County Court at Law Number 5 of Bexar County, Texas, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of said court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court, or of any other court in said county of inferior jurisdiction to said County Courts at Law Numbers 4 and 5 of Bexar County, Texas.

Sec. 14. The County Court at Law Number 4 of Bexar County, Texas, and the County Court at Law Number 5 of Bexar County, Texas, shall hold six terms of court each year, commencing on the first Monday in January, March, May, July, September, and November of each year and each term shall continue until the business of said court shall have been disposed of; provided, however, that no term of said court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 15. For the purpose of disposing of the business of said County Court at Law Number 4 of Bexar County, Texas and said County Court at Law Number 5 of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for each of said county courts at law for the purpose of conducting the duties of his office in said court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Courts at Law Numbers 1, 2, and 3 of Bexar County, the same to be paid in equal monthly installments, by said county, upon warrants drawn against the General Fund by orders of the commissioners court.

[Acts 1973, 63rd Leg., p. 376, ch. 170, §§ 1 to 15, eff. Aug. 27, 1973.]

Art. 1970-301f. County Court at Law No. 6 of Bexar County

Sec. 1. There is hereby created a court to be held in and for Bexar County, Texas, which shall be known as the "County Civil Court at Law of Bexar County, Texas," and it shall be a Court of record.

Sec. 1a. The County Civil Court at Law of Bexar County, Texas, shall be known hereafter as the "County Court at Law Number 6, of Bexar County, Texas," and the seal of the court shall be the same as now provided by law except that the seal shall contain the words "County Court at Law Number 6, of Bexar County, Texas." Wherever the name "County Civil Court at Law of Bexar County, Texas," appears in this Act, it shall hereafter be understood to mean "County Court at Law Number 6, of Bexar County, Texas."

Sec. 2. The County Civil Court at Law of Bexar County, Texas, shall have the same jurisdiction, powers, and duties, and concurrent jurisdiction, powers, and duties in all civil and criminal actions, proceedings, and matters, original and appellate, over which by the constitution and general laws of this state the County Courts at Law Numbers 1, 2, and 3 of Bexar County have jurisdiction, and have concurrent jurisdiction with the district courts when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided in Chapter 915, Acts of the 62nd Legislature, Regular Session, 1971 (Article 1970a, Vernon's Texas Civil Statutes).

Sec. 3. The County Court of Bexar County, Texas, and the County Civil Court at Law of Bexar County, Texas, shall have and exercise concurrent jurisdiction, powers, and duties in matters probate, and each shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, and to hear and determine all matters affecting minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors. The County Court of Bexar County, Texas, shall hear and determine all matters affecting juvenile offenders as now provided by law and shall have jurisdiction to hear and determine all matters relating to or arising out of the granting or revoking of liquor licenses. The County Judge of Bexar County shall be the Judge of the County Court of Bexar County, and shall be the presiding officer of the Commissioners Court; all ex officio duties of the County Judge shall be exercised by the said Judge of the County Court of Bexar County, except insofar as the same shall, by this Act, or otherwise by law, have been committed to the Judge of the County Civil Court at Law of Bexar County, Texas. The County Court of Bexar County, Texas, and the Judge thereof shall have and retain the same jurisdiction, powers, duties, fees and perquisites of office as are conferred on said County Court of Bexar County, Texas, or the Judge thereof, at and before the passage and taking effect of this Act, and this Act shall in no wise affect the said County Court or the Judge thereof except as provided herein.

Sec. 4. From and after the passage and taking effect of this Act, civil and criminal actions, matters, and proceedings may be filed in the County Civil Court at Law of Bexar County, Texas, in the same manner and under the same conditions, circumstances, and instances as now obtain for the filing of actions, matters, and proceedings, civil and criminal, in the County Courts at Law Numbers 1, 2, and 3 of Bexar County, and all such actions, matters, and proceedings shall be docketed in the order in the court in which filed, or in such manner

as may be determined by a majority of the judges of the said county courts at law, the judge of the County Civil Court of Bexar County, Texas, and the County Judge of Bexar County, Texas. From and after the passage and taking effect of this Act, all actions, cases, matters or proceedings of eminent domain arising under Title 52, Articles 3264 to 3271, inclusive, of the Revised Civil Statutes of Texas, as amended, or under the provisions of House Bill No. 77, Chapter 423, pages 1128 to 1130, inclusive, Acts, 1955, Regular Session, now codified as Article 6674-n of Vernon's Annotated Civil Statutes of Texas or otherwise, as well as all proceedings instituted under the provisions of the Acts, 1957, Fifty-fifth Legislature, Regular Session, Chapter 243, pages 505, et seq., now codified as Article 5547-1, et seq., Title 92, of the Revised Civil Statutes of Texas, as amended, and known and cited as the Texas Mental Health Code, and all amendments thereto, shall be filed and docketed in the County Civil Court at Law of Bexar County, Texas, in the same manner and under the same circumstances and conditions as now obtain for the filing of such actions, proceedings and matters of a civil nature or character in the County Court of Bexar County, Texas, or with the County Judge, and all such actions, cases, matters or proceedings shall be docketed in the order in which filed in said Court, or in such other manner as may be determined by the Judge of the County Civil Court at law of Bexar County, Texas, and the County Judge of Bexar County, Texas.

Sec. 5. From and after the passage and taking effect of this Act, probate matters and proceedings may be filed in said County Civil Court at Law of Bexar County, Texas, in the same manner and under the same circumstances and conditions as now obtained for the filing of such matters and proceedings in the County Court of Bexar County, Texas, or with the county judge, and all such matters and proceedings shall be docketed in the order in which filed in said court, or in such other manner as may be determined by the judge of the County Civil Court at Law of Bexar County, Texas, and the County Judge of Bexar County, Texas.

Sec. 6. The County Civil Court at Law of Bexar County, Texas, shall hold six (6) terms of Court each year, commencing on the first Monday in January, March, May, July, September and November of each year, and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 7. The Judge of said County Civil Court at Law of Bexar County, Texas, shall be elected at the general election by the qualified voters of Bexar County for a term of four (4) years and shall hold his office until his successor shall have been elected and qualified. He

shall be a duly licensed and practicing member of the Bar of this State; he shall take the oath of office prescribed by the Constitution of Texas, but no bond shall be required of such Judge. The Judge of the County Civil Court at Law of Bexar County, Texas, shall receive and shall be paid the same salary as is now, or as may hereafter be, prescribed by law for the Judges of the several County Courts at Law of Bexar County, Texas, in equal monthly installments out of the General Fund of Bexar County, Texas, by warrants drawn on the County Treasurer of said County upon orders of the Commissioners Court of Bexar County.

Sec. 8. Upon the effective date of this Act, the Commissioners Court of Bexar County, Texas, shall appoint a Judge of the said County Civil Court at Law of Bexar County, Texas, who shall have the qualifications herein prescribed and who shall serve until January 1st following the next general election and until his successor shall be duly elected and qualified. Any vacancy in the office of the Judge of the County Civil Court at Law of Bexar County, Texas, shall be filled by appointment made by the Commissioners Court of Bexar County, and the Judge so appointed shall serve until January 1st following the next general election and until his successor shall be duly elected and qualified.

Sec. 9. The Clerk of the said County Civil Court at Law of Bexar County, Texas, shall keep a separate docket for said County Civil Court at Law of Bexar County, Texas, the same as is now or may be provided by law for keeping of dockets for the County Courts at Law of Bexar County, Texas; he shall tax the Official Court Reporter's fee as costs in civil actions in said County Civil Court at Law of Bexar County, Texas, in like manner as said fee is taxed in civil cases in the district courts of this State. The Judges of the County Courts at Law, the County Judge, the Judge of the County Civil Court at Law of Bexar County, Texas, and each of them may with the consent of the Judge of the court to which transfer is made, transfer civil or criminal actions, matters and proceedings from his respective court to any one of the other courts by the entry of an order to the effect upon docket of such court, provided both courts have concurrent jurisdiction of any such actions, matters and proceedings; and the Judge of the court to which any such action, matter or proceeding shall have been transferred shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein in the same manner and with the same force and effect as if such case action, matter or proceeding had been originally filed in said court to which transferred. Provided, however, that no cause, action, matter, case or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 10. The Judge of the County Civil Court at Law of Bexar County, Texas, and the

County Judge of the County Court of Bexar County, Texas, and the Judges of the County Courts at Law of Bexar County, may, at any time, exchange benches with each other, and may at any time, sit and act for each other in any civil or criminal case, proceeding or matter now, or hereafter, pending in any of said County Courts of Bexar County, Texas; and any and all such acts thus performed by the Judge of the County Civil Court at Law of Bexar County, Texas, and/or by the County Judge of Bexar County Court, and/or by either of the Judges of County Courts at Law of Bexar County, Texas, shall be valid and binding upon all parties to such cases, proceedings and matters.

Sec. 11. In case of the absence, disqualification or incapacity of the Judge of the County Civil Court at Law of Bexar County, Texas, the County Judge of Bexar County, or any of the Judges of the County Courts at Law of Bexar County, may sit and act as Judge of said Court and may determine, either in his own courtroom or in the courtroom of said County Civil Court at Law of Bexar County, Texas, any matters or proceedings there pending, and may enter any orders in such matters and proceedings as the Judge of said County Civil Court at Law of Bexar County, Texas, might enter if personally presiding therein.

Sec. 12. A Special Judge may be appointed or elected for the County Civil Court at Law of Bexar County, Texas, in the same manner as may now or hereafter be provided by the General Laws of this State relating to the appointment and election of a Special Judge, or Judges, of the several District and County Courts and County Courts at Law of this State; and every such Special Judge thus appointed or elected for said Court shall receive for the services he may actually perform as such Special Judge the same amount of pay which the regular Judge of said Court would be entitled to receive for such services; and said amount to be paid to such Special Judge shall be paid out of the General Fund of Bexar County, Texas, by warrants drawn upon the County Treasury of said County upon orders of the Commissioners Court of Bexar County, Texas; but no part of the amount paid to any Special Judge shall be deducted from or paid out of the salary of the regular Judge of said County Civil Court at Law.

Sec. 13. The practice in said County Civil Court at Law of Bexar County, Texas, shall be the same as prescribed by law relating to County Courts and County Courts at Law. Appeals and writs of error may be taken from judgments and orders of said County Civil Court at Law of Bexar County, Texas, and from judgments and orders of the Judge thereof in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to appeals and writs of error from judgments and orders of the County Courts and County Courts at Law throughout this State, and the respective judges thereof,

in similar cases, and appeals may also be taken from interlocutory orders of said County Civil Court at Law of Bexar County, Texas, appointing a receiver, and also from orders of said County Civil Court at Law of Bexar County, Texas, overruling a motion to vacate an order appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the District Courts throughout this State.

Sec. 14. The Judge of the County Civil Court at Law of Bexar County, Texas, may appoint an official shorthand reporter, who shall be well-skilled in his profession and shall be a sworn officer of the Court, and shall hold his office at the pleasure of the Court and all of the provisions of Chapter 13, Title 42, of the Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended and all other provisions of the law relating to "official court reporters" shall, and the same are hereby made to apply in all its provisions, insofar as they are applicable, to the official shorthand reporter herein authorized to be appointed, and insofar as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation paid to official shorthand reporters in the District Courts of Bexar County, Texas, and paid in the same manner that compensation of official shorthand reporters of said District Courts of Bexar County is paid.

Sec. 15. The judge of the County Civil Court at Law of Bexar County, Texas, may appoint an administrative assistant or assistants to aid him in the performance of his duties in matters probate. The salary of said administrative assistant or assistants shall be set by the Commissioners Court of Bexar County to be paid out of the General Fund of Bexar County, Texas, by warrants drawn on the county treasurer of said county upon orders of the Commissioners Court of Bexar County.

Sec. 16. The County Clerk of Bexar County, Texas, shall be the Clerk of the County Civil Court at Law of Bexar County, Texas, in addition to his duties as they are now, or may hereafter be, prescribed by law. The County Clerk of Bexar County, Texas, shall, upon the taking effect of this Act, or as soon thereafter as may be convenient and necessary, appoint a deputy for said County Civil Court at Law of Bexar County, Texas, provided, however, that the person so appointed must be acceptable to the Judge of said Court, and such appointment must be confirmed in writing by the Judge of said Court before the same becomes effective. Said deputy so appointed shall take the oath of office prescribed by the Constitution of Texas, and the County Clerk of Bexar County, Texas, shall have the power and authority to require said deputy to furnish bond in such amount as he may prescribe and such bond shall be conditioned as prescribed by law. Said deputy shall

act in the name of his principal and he may do and perform all such official acts as may be lawfully done and performed by said County Clerk of Bexar County in person; and it shall be the duty of said deputy to attend all sessions of the County Civil Court at Law of Bexar County, Texas, and to perform such services in and for said Court as are usually performed by the County Clerk and his deputies in and for the several County Courts of this State, and said deputy shall also perform any and all other services that may, from time to time, be assigned him by the Judge of said Court. Said deputy shall, in all cases, that may be filed in said County Civil Court at Law of Bexar County, Texas, or that may be transferred to said Court from the County Court of Bexar County, Texas, tax and assess and collect the same fees and costs, and in the same manner as now provided by law for the County Courts of this State, and all such fees and costs, when collected by said County Clerk and his deputies, as well as any and all other sums of money received by them in their official capacity, shall be deposited in such fund, or paid to the proper person or persons entitled to the same and in the manner as may be prescribed by law. Said deputy so appointed shall, from and after his appointment, confirmation and qualification, as herein provided, continue as such deputy at the pleasure of the Judge of said County Civil Court at Law of Bexar County, Texas, and should said Judge, for any reason whatsoever, not further desire the services of such deputy, the County Clerk of Bexar County shall, upon request of such Judge, appoint another deputy for such Court, such appointment, however, to be made in the manner as hereinbefore provided, and all vacancies, however created, shall be filled by appointment made in like manner. The salary of the deputy appointed for said Court shall be fixed and determined by the Judge of said Court, but shall not exceed the salary now being paid to, or that may in the future be paid to, the deputies for the County Courts at Law of Bexar County, Texas, said annual salary to be paid to such deputy in equal monthly installments in the manner provided by law out of such fund of Bexar County, Texas, as may be provided for the payment of the salaries of the several deputies of the County Clerk. Provided, however, that before such monthly salary is paid to said deputy the Judge of the County Civil Court at Law of Bexar County, Texas, shall cause to be filed with the County Clerk of Bexar County, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy has performed the services required of him and that he is entitled to receive said salary and such salary of said deputy shall be paid to him only upon certification so filed by said Judge. Provided, however, that nothing contained in this Section of this Act is intended to change or alter the duties and powers that have heretofore been and are now being exercised by the County Clerk of Bexar

County, Texas, except as herein specifically and expressly set out.

Sec. 17. The Sheriff of Bexar County, Texas, shall, by and through a deputy to be appointed as hereinafter provided, attend all sessions of said County Civil Court at Law of Bexar County, Texas, and said Sheriff shall, upon the taking effect of this Act, or as soon thereafter as may be necessary and convenient, appoint one deputy for said Court, provided, however, that the person so appointed must be acceptable to the Judge of said Court and said appointment of said deputy must be approved and confirmed in writing by said Judge before the same becomes effective. The deputy so appointed shall, before assuming his duties, take the oath of office prescribed by law and the Sheriff of Bexar County, Texas, shall be authorized and empowered to require said deputy to furnish bond in such amount as he may determine, the same to be conditioned and payable as may be prescribed by law. Said deputy shall do and perform all such official acts as may be lawfully done and performed by the Sheriff of Bexar County, Texas, in person, and such deputy shall, from and after his appointment, confirmation and qualification as hereinabove provided, continue as such at the pleasure of the Judge of the County Civil Court at Law of Bexar County, Texas, and should said Judge, for any reason whatsoever, no longer desire the services of said deputy, the Sheriff of Bexar County shall, upon request of such Judge, appoint another deputy for said Court, such appointment, however, to be made in the same manner as hereinabove prescribed. It shall be the duty of such deputy to attend all sessions of said Court and also to perform and render such services in and for said Court, and for the Judge thereof, as are usually and generally performed and rendered by Sheriffs and their deputies in and about the several District and County Courts of this State, including the serving of any and all process, subpoenas, warrants and writs of any and all kinds, nature or character, in civil matters and proceedings, and it shall be the duty of said deputy to also perform and render any and all other services that may, from time to time, be assigned to him by the Judge of said Court. Said deputy shall have, possess and enjoy the same rights, powers, authority and privileges that the Sheriffs and their deputies throughout this State now, or may hereafter, have, possess and enjoy; and said deputy is authorized to act for the deputy Sheriff of the County Court of Bexar County, Texas, and each such deputy shall be authorized and empowered to act for each other, and it shall be the duty of such deputies to act for one another when required to do so by either of the Judges of said Courts, or by the Sheriff, but the deputy thus acting for the other shall not be entitled to receive, nor shall he be paid, any additional compensation. The Sheriff of Bexar County shall, in the event of a vacancy, caused for any reason whatsoever, immediately appoint another deputy for such Court, such

appointment, however, to be subject to the written approval and confirmation of the Judge of said Court. The salary of the deputy Sheriff appointed for said Court shall be determined and fixed by the Judge of said Court but shall not exceed the salary now being paid to the deputy Sheriffs for the County Courts at Law of Bexar County, Texas; said annual salary shall be paid to such deputy in equal monthly installments out of such funds of Bexar County as is provided by law for the payment of the salaries of the several deputies of the Sheriff of Bexar County, and payment to be made in the manner prescribed by law. Provided, however, that before such monthly salary is paid to said deputy, the Judge of the County Civil Court at Law of Bexar County, Texas, shall cause to be filed with the Sheriff of Bexar County, Texas, or with the proper officer of said County, a written statement, signed by said Judge, certifying that said deputy has performed and rendered the services required of him and that he is entitled to receive his salary. And provided, further, that nothing contained in this Section of this Act is intended to change or alter the duties and powers of the Sheriff of Bexar County, Texas, except as herein specifically and expressly provided.

Sec. 18. The County Civil Court at Law of Bexar County, Texas, or the Judge thereof, shall have power to issue writs of injunction, of mandamus and all other writs necessary to the enforcement of the jurisdiction of said Court.

Sec. 19. The seal of the County Civil Court at Law of Bexar County, Texas, shall be the same as that prescribed by law for County Courts except that such seal shall contain the words "County Civil Court at Law of Bexar County, Texas," and said seal shall be judicially noticed.

Sec. 20. For the purpose of disposing of the business of said County Civil Court at Law of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for the purpose of conducting the duties of his office in said Court. Said assistant shall be paid a salary to be set by the said Criminal District Attorney and approved by the Commissioners Court of Bexar County, Texas, the same to be paid in equal monthly installments by said County upon warrants drawn against the General Fund of Bexar County by orders of the Commissioners Court.

[Acts 1963, 58th Leg., p. 302, ch. 114; Acts 1973, 63rd Leg., p. 382, ch. 170, § 16, eff. Aug. 27, 1973.]

Art. 1970-301f.1. County Court at Law No. 6 of Bexar County; Terms of Court; Assistant

The County Court at Law Number 6 of Bexar County, Texas, shall hold six terms of court each year, commencing on the first Monday in January, March, May, July, September, and

November of each year and each term shall continue until the business of said court shall have been disposed of; provided, however, that no term of said court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

For the purpose of disposing of the business of said County Court at Law Number 6 of Bexar County, Texas, there shall be appointed by the Criminal District Attorney of Bexar County, Texas, in addition to the assistants now provided by law, one assistant for said county court at law for the purpose of conducting the duties of his office in said court. Said assistant shall be paid the same salary as is now, or may be hereafter, paid to the assistants serving in County Courts at Law Numbers 1, 2, 3, 4, and 5 of Bexar County, the same to be paid in equal monthly installments, by said county, upon warrants drawn against the General Fund by orders of the commissioners court.

[Acts 1973, 63rd Leg., p. 384, ch. 170, § 17, eff. Aug. 27, 1973.]

Art. 1970-301g. County Court of Bexar County for Criminal Cases

Sec. 1. There is hereby created a court to be held in Bexar County, Texas to be called the "County Court of Bexar County for Criminal Cases."

Sec. 2. The County Court of Bexar County for Criminal Cases shall have exclusive jurisdiction of all criminal matters and causes, original and appellate, over which, by the General Laws of the State of Texas, the County Court of said county would have jurisdiction, and the same are hereby transferred to the County Court of Bexar County for Criminal Cases; and all criminal writs and processes heretofore issued by or out of said County Court, be, and the same are hereby made returnable to the County Court of Bexar County for Criminal Cases.

Sec. 3. The jurisdiction hereby transferred to the County Court of Bexar County for Criminal Cases shall include all criminal cases and matters, the forfeiture of bonds in criminal cases, all proceedings in relation thereto; but the County Court of Bexar County shall retain, as heretofore, the jurisdiction of all cases of eminent domain; the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of administrators, executors and guardians; transact all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors, as provided by law. The county judge of Bexar county shall be the judge of the County Court of Bexar County, and all ex-officio duties of the county judge shall be exercised by the said

judge of the County Court of Bexar County, except in so far as the same shall, by this Act and by Act of the Thirty-second Legislature, General Laws pages 15-17, House Bill No. 111, Chapter 10, be committed to the judge of the County Court of Bexar County for Civil Cases. The county judge of Bexar County shall retain authority to determine all matters relating to or arising out of or connected with the granting or revoking of liquor licenses, and all matters appertaining thereto, try all applications for liquor licenses and shall approve all liquor bonds as may be provided by law. He shall also retain jurisdiction of the Juvenile Court.

Sec. 4. The said County Court of Bexar County for Criminal Cases, and the judge thereof shall have the power to issue writs of injunction, certiorari, supersedeas, mandamus, and all other writs necessary to the enforcement of the jurisdiction of said court; and also power to punish for contempt under such provisions as are or may be provided by the General Laws governing County Courts throughout the State; and to issue writs of habeas corpus in cases within the jurisdiction of said court.

Sec. 5. The County Court of Bexar County for Criminal Cases shall hold at least four terms for criminal business annually as may be provided by the Commissioners Court of Bexar County under authority of law, and such other terms each year as may be fixed by the Commissioners Court of Bexar County; provided the Commissioners Court having fixed the terms of said court, shall not change the same until the expiration of one year.

Sec. 6. There shall be elected in said county by the qualified voters thereof, at each general election, a judge of the County Court of Bexar County for Criminal Cases, who shall be learned in the laws of the State, who shall hold his office for two years, and until his successor shall have been duly qualified.

Sec. 7. The judge of the County Court of Bexar County for Criminal Cases shall execute a bond in the sum of five thousand (\$5,000.00) dollars and take the oath of office as required by the law relating to county judges.

Sec. 8. Special judge of the County Court of Bexar County for Criminal Cases may be appointed or elected as provided by laws relating to County Courts, and to the judges thereof, and shall receive salary and compensations similar to the judge of the court hereby created, but which shall be prorated and paid to him only for the actual number of days he actually serves.

Sec. 9. The county clerk of Bexar County shall be the clerk of the County Court of Bexar County for Criminal Cases. The seal of said court shall be the same as that provided for County Courts, except that the seal shall contain the words "County Court of Bexar County for Criminal Cases." The sheriff of Bexar County shall in person or by deputy attend the court when required by the judge thereof.

Sec. 10. The jurisdiction and authority now vested by law in the County Court of Bexar County, and the County Court of Bexar County for Civil Cases, for the selection and service of jurors shall be exercised by each of the three courts within their jurisdiction.

Sec. 11. Any vacancy in the office of the judge of the court created by this Act may be filled by the Commissioners Court of Bexar County until the next general election. The Commissioners Court of the county shall, as soon as may be, after this Act shall take effect, appoint a judge of the County Court of Bexar County for Criminal Cases, who shall serve until the next general election, and until his successor shall be duly elected and qualified.

Sec. 12. [Not included.]

Sec. 13. The judge of the County Court of Bexar County for Criminal Cases may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this State.

Sec. 14. The provisions of this law are not intended to in any manner affect the jurisdiction of the County Court of Bexar County for Civil Cases, and this law is intended to create another court somewhat similar to said County Court of Bexar County for Civil Cases, but the court hereby created to have jurisdiction of criminal matters only.

[Acts 1915, 34th Leg., p. 78, ch. 39.]

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 1970-301h. Salaries of Judges

From and after the effective date of this Act the Judge of the County Court at Law No. 1, of Bexar County, Texas, and the Judge of the County Court at Law No. 2, of Bexar County, Texas, and the Judge of the County Court at Law No. 3, of Bexar County, Texas, and the Judge of the County Civil Court at Law of Bexar County, Texas, shall each receive an annual salary of not less than Eighteen Thousand Five Hundred Dollars (\$18,500) nor more than Twenty-two Thousand, Five Hundred Dollars (\$22,500). Such annual salary to be paid to each of said judges shall be determined and fixed by the Commissioners Court of Bexar County, Texas, and, when so determined and fixed, such annual salary shall be paid to each of said judges in equal monthly installments by warrants drawn on the County Treasury of Bexar County, Texas, upon orders of the Commissioners Court of said county.

[Acts 1967, 60th Leg., p. 769, ch. 322, § 1, eff. May 27, 1967; Acts 1969, 61st Leg., p. 1872, ch. 626, § 1, eff. June 11, 1969.]

MENARD COUNTY

Art. 1970-302. Jurisdiction and Time for Holding Menard County Court

Sec. 1. Hereafter the County Court of Menard County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Menard County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Menard County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Menard County, Texas, within thirty days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said

Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 112, ch. 38.]

STERLING COUNTY

Art. 1970-303. Jurisdiction and Time for Holding Sterling County Court

Sec. 1. Hereafter the County Court of Sterling County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Sterling County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Sterling County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Sterling County, Texas, within thirty days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk

shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 25, ch. 14.]

Art. 1970-303a. Jurisdiction of Sterling County Court Diminished; Civil and Criminal Causes Transferred to District Court

Sec. 1. The county court of Sterling County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as are now or may be provided by general law governing county courts throughout the State, but the said county court of Sterling county shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the District Court of Sterling county shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the county court of said Sterling County would have jurisdiction, except as provided in Section 1 of this Act; all causes, other than probate matters and such as are provided by Section 1 of this Act, be and the same are hereby transferred to the District Court of Sterling County, and all writs and process relating to any civil or criminal matters included in the subject matter of jurisdiction prescribed in Section 1 of this Act, issued by or out of said County Court of Sterling County, be and the same are hereby made returnable to the next term of the District Court of said county after this Act takes effect.

Sec. 3. That the county clerk of Sterling County be and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which by Section 2 of this Act, are required to be transferred to the District Court of said County, together with all the papers pertaining to such case, a certified bill of

costs in each case and all such cases shall be immediately docketed by the District Court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect judgments heretofore rendered by said County Court of Sterling County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said county, but the County Clerk of said county shall issue all executions, and orders of sale, and proceedings thereunder, and this Act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by Section 2 therein contemplated.

[Acts 1933, 43rd Leg., Spec.Laws, p. 63, ch. 52.]

IRION COUNTY

Art. 1970-304. Jurisdiction and Time for Holding Irion County Court

Sec. 1. Hereafter the County Court of Irion County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for County Courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Irion County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Irion County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in Civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed one hundred dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now

conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Irion County, Texas, within thirty days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County, of which cases by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August and the first Monday in November of each year, and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners' Court.

[Acts 1927, 40th Leg., 1st C.S., p. 24, 13.]

CAMERON COUNTY

Art. 1970-305. County Court at Law of Cameron County Created

Sec. 1. There is hereby created a court to be held in Brownsville, Cameron County, Texas, which shall be known as the County Court of Cameron County at Law.

Sec. 2. The County Court at Law of Cameron County shall have and exercise the jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the general laws of the State, the County Court of said County would have jurisdiction except as herein provided in Section 3 of this Act.

Sec. 3. The County Court of Cameron County at Law shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the general laws of this State is conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court of Cameron County at Law in Civil cases of which said court has appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100.00) exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said County Court of Cameron County at Law over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal to the County Court of Cameron County at Law from the Justice Court where the right of appeal to the County Court now exists by law. The jurisdiction of the County Court of Cameron County at Law, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Cameron County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners' Court nor of the County Judge of Cameron County as the presiding officer of said Commissioners' Court as to roads, bridges, and public highways, or matters of eminent domain which are now in the jurisdiction of the Commissioners' Court or the Judge of the County Court of Cameron County.

Sec. 6. (a) The County Court at Law of Cameron County shall also have the general jurisdiction of a probate court, and all jurisdiction now conferred by law over probate matters, within the limits of Cameron County, concurrent with the jurisdiction of the County Court of Cameron County in such matters and proceedings. The County Court at Law of Cameron County shall have no other jurisdiction than that specifically provided by law, and the County Court of Cameron County as now and as heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Cameron County by this Act, or as may be otherwise specifically given by law to said County Court at Law of Cameron County, but the County Court of Cameron County shall have no other jurisdiction, civil or criminal. The County Judge of Cameron County shall be the Judge of the County Court of said County, and all ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Cameron County, except insofar as the same shall be herein, or as may be otherwise by law specifically committed to the County Court at Law of Cameron County, or the Judge thereof.

(b) The Judge of the County Court at Law of Cameron County or the judge of the County Court of Cameron County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any probate matter on his docket to the docket of the other court.

The Judges of the Courts may, in their discretion, in any probate matter exchange benches from time to time. Whenever a Judge in one of the Courts is disqualified in a probate matter, he shall transfer the matter from his Court to the other Court.

Either Judge may, in his own courtroom, try and determine any probate matter pending in

either Court, without having the case transferred, or may sit in the other Court and there hear and determine any probate matter there pending. Each judgment and order shall be entered in the minutes of the Court in which the matter is pending.

The Judges may try different probate matters in the same Court at the same time and each may occupy his own courtroom or the courtroom of the other. In case of absence, sickness, or disqualification of either Judge, the other Judge may hold court for him in any probate matter. Either of the Judges may hear any part of or question in any probate matter pending in either of the Courts and determine the matter or question. Either Judge may complete the hearing and render judgment in the case.

In any matter transferred by order of the Judge of one of the Courts, all process, writs, bonds, recognizances, or other obligations issued or made in the matter shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in the matter shall bind the parties for their appearance or to fulfill the obligations of the bonds or recognizances at the terms of the Court to which the matter is transferred to as are fixed by law and by this Act. All processes issued or returned before transfer of the matter as well as all bonds and recognizances before taken shall be valid and binding as though originally issued out of the court to which the transfer may be made.

Sec. 7. The County Court at Law of Cameron County, Texas, shall hold six (6) terms of Court each year, commencing on the first Monday in January, March, May, July, September, and November of each year and each term shall continue until the business of said Court shall have been disposed of; provided, however, that no term of said Court shall continue beyond the date fixed for the commencement of its new term, except upon an order entered on its minutes during the term extending the term for any particular causes therein specified.

Sec. 8. There shall be elected in Cameron County by the qualified voters thereof at each general election a Judge of the County Court of Cameron County at Law who shall be well informed in the laws of the State, and who shall hold his office for two years, and until his successor shall have been duly elected and qualified. No person shall be elected Judge of said court who has not been a resident citizen and practicing attorney of Cameron County, Texas, for at least one year prior to his election, and shall possess all of the qualifications for the office that are now required by the general laws of the State for County Judge, before entering upon the duties.

Sec. 9. The County Attorney of Cameron County shall represent the State in all prosecutions pending in said County Court of Cameron County at Law, and shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this bill becomes effective the Governor shall appoint a Judge of the County Court of Cameron County at Law, who shall hold his office until the next general election.

Sec. 11. In case of the disqualification of the Judge of the County Court at Law of Cameron County in any case pending in said court, the County Judge of Cameron County shall sit in such case to hear all matters of such disqualification and the appointment of a Judge to hear such case and the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases; and in default of such agreement, a majority of the practicing lawyers of Cameron County, not less than three, present and voting in open court, shall elect a Special Judge to try such case or cases, and the County Judge hearing such disqualification shall so order.

Sec. 12. The County Court of Cameron County at Law, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas and all writs necessary to the enforcement of jurisdiction of said court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court, or of any other court of said county of inferior jurisdiction to said County Court at Law.

Sec. 13. The County Clerk of Cameron County, Texas, shall be the clerk of the County Court of Cameron County at Law, and the seal of said court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court of Cameron County at Law," and the Sheriff of Cameron County shall in person or by deputy attend said court when required by the judge thereof, and the County Clerk of Cameron County, Texas, is hereby authorized, if it becomes necessary, in his judgment, to appoint a deputy to specially attend to the matters pertaining to the County Court of Cameron County at Law, and said deputy shall be allowed a salary of one hundred dollars per month.

Sec. 14. The jurisdiction or authority now vested by law in the County Court for the appointment of jury commission and selection and service of jurors shall be exercised by the County Court of Cameron County at Law and all petit jurors for criminal¹ under existing laws at the time this act takes effect, shall be as valid as if no change had been made, and the persons constituting such juries shall be required to appear and serve at the next ensuing terms of said courts as fixed by this act, and their acts as jurors shall be as valid and legal as if they had served as jurors in the court for which they were originally drawn.

Sec. 15. Any vacancy in the office of the Judge of the County Court of Cameron County at Law may be filled by the Commissioners' Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 16. The judge of the County Court of Cameron County at Law shall receive a salary of not less than Twenty-five hundred dollars (\$2,500.00) per annum, nor more than Thirty hundred (\$3,000.00) dollars per annum at the discretion of the Commissioners' Court, to be paid out of the County Treasury of Cameron County, Texas, on the order of the Commissioners' Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court of Cameron County at Law shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this section.

Sec. 17. All cases appealed from the Justice Court and other inferior courts in Cameron County, Texas, shall be made direct to the County Court of Cameron County at Law, under the provisions heretofore governing such appeals.

Sec. 18. The judge of the County Court of Cameron County at Law may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

[Acts 1927, 40th Leg., 1st C.S., p. 167, ch. 59; Acts 1955, 54th Leg., p. 223, ch. 57, §§ 1, 2; Acts 1959, 56th Leg., p. 283, ch. 159, § 1; Acts 1969, 61st Leg., p. 1255, ch. 394, §§ 1, 2, eff. May 29, 1969; Acts 1971, 62nd Leg., p. 1862, ch. 549, § 1, eff. June 1, 1971.]

¹ So in enrolled bill. The word "cases" should probably be inserted.

Section 2 of the 1971 amendatory act provided: "In any matter or proceeding within the jurisdiction of both the County Court at Law of Cameron County and the County Court of Cameron County, any transfer from the docket of one court to the docket of the other, exchange of benches by the judges of the two courts or any other similar action authorized by this Act prior to the effective date of this Act is hereby validated."

Art. 1970-305a. Name Changed to County Court at Law of Cameron County

Sec. 1. The name of the "County Court of Cameron County at Law," created by House Bill No. 91, Chapter 59, Acts of the Fortieth Legislature, First Called Session, 1927, codified as Article 1970-305 of Vernon's Civil Statutes of the State of Texas, is hereby changed to County Court at Law of Cameron County.

Sec. 2. All laws heretofore or hereafter enacted by the Legislature, applicable or relating to the "County Court of Cameron County at Law" shall hereafter be applicable and relate to the County Court at Law of Cameron County.

[Acts 1951, 52nd Leg., p. 115, ch. 70.]

Art. 1970-305b. Salary of Judge

The salary of the Judge of the County Court of Law of Cameron County shall be not less than the present salary actually being paid the Judge of the County Court of Law of Cameron County and not more than Six Thousand Dollars (\$6,000) to be determined annually by the Commissioners Court of Cameron County. The

annual salary provided herein shall be paid in twelve (12) equal installments out of the General Fund or Officers' Salary Fund of Cameron County.

[Acts 1953, 53rd Leg., p. 459, ch. 145, § 1.]

BOWIE COUNTY

Art. 1970-306. Jurisdiction of Bowie County Court Diminished

Sec. 1. That the County Court of Bowie County shall have and exercise the general jurisdiction of probate courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons¹ non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the partition, settlement and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are or may be provided by general law governing County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Courts of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by General Laws of the State of Texas, the County Court of said County would have jurisdiction, except as provided in Section 1 of this Act, and that all cases other than probate matters and such as are provided in Section 1 of this Act be and the same are hereby transferred to the District Courts of said County, and all writs and process, civil and criminal, heretofore issued by or out of said County Court, other than those appertaining to matters over which by Section 1 of this Act jurisdiction is given to the County Court of said County, be and the same are hereby made returnable to the next term of the District Courts in and for said County.

Sec. 3. That the Clerk of the County Court of said Bowie County be and he is hereby required, within twenty days after this Act takes effect, to file with the Clerk of the District Court of said County all original papers in all of said causes, both civil and criminal, and all dockets and orders and proceedings had in all such causes, and said District Clerk shall immediately docket all of such causes on the docket or dockets of the District Courts of said County, and all of such causes, both civil and criminal shall stand on the dockets of said District Courts in the same manner and place as each individual case stood on the docket of the County Court of said County.

[Acts 1927, 40th Leg., 1st C.S., p. 19, ch. 9.]

¹ So in enrolled bill. Session Laws omit word "persons."

KERR COUNTY

Art. 1970-307. Jurisdiction and Time for Holding County Court of Kerr County

Sec. 1. That the County Court of Kerr County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars, and shall not exceed five hundred dollars exclusive of interest, and that it shall have concurrent jurisdiction with the District Court of said County when the matter in controversy shall exceed five hundred dollars and not exceed one thousand dollars.

Sec. 2. Said County Court shall have appellate jurisdiction in civil cases over which Justice's Courts of said County have original jurisdiction when the judgment of the Court appealed from or the amount in controversy shall exceed twenty dollars, exclusive of interest, and said County Court shall have the power to hear and determine cases brought up from the Justice's Courts by certiorari under the provisions of law relating thereto.

Sec. 3. The County Judge of said County shall have authority either in term time or in vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said Court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution and laws have not exclusively conferred the power on the District Judge or District Court thereof.

Sec. 4. Said Court shall have, as now, the general jurisdiction of a probate court; shall probate wills, appoint guardians of minors, idiots, lunatics, and common drunkards, grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons; apprentice minors as provided by law; and to issue all writs necessary to the enforcement of its jurisdiction, orders, and decrees; and generally to exercise all the powers in probate matters conferred upon such courts by the Constitution and laws of the State.

Sec. 5. Such Court shall have jurisdiction in the forfeiture of all bonds and recognizances taken in criminal cases of which said Court has original or appellate jurisdiction.

Sec. 6. Said Court shall have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty that may be imposed by law is a fine, without imprisonment, that does not exceed two hundred dollars; and said Court shall have appellate jurisdiction of criminal cases in which Justice Courts and other inferior tribunals of said County have original jurisdiction.

Sec. 7. The District Court of said County shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct, and shall no longer have jurisdiction of civil cases of which the County Court of said County, by the provisions of this Act, has original or appellate jurisdiction.

Sec. 8. It shall be the duty of the District Clerk of said County, within thirty days after this Act shall take effect, to make full and complete transcript of orders on the criminal and civil dockets then pending before the District Court of said County, of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court, and to file said transcript together with the original papers in each case, in the County Court of said County, and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 9. The said Court shall also have the power to hear and determine all motions against sheriffs and other officers of the Court for failure to pay over moneys collected under the process of said Court, or other defalcations of official duty in connection with said process, and shall have power to punish by fine not exceeding one hundred dollars, and by imprisonment in the County jail not exceeding three days, any person guilty of contempt of said Court, and all other powers, and jurisdictions conferred on County Courts by the Constitution and General Laws of the State of Texas.

Sec. 10. The terms of said Court shall commence on the first Monday in February, and on the first Monday in May, and on the first Monday in August, and on the first Monday in November, in each year, and shall continue in session for three weeks at each term, or until the business may be disposed of; provided, that the County Commissioners' Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary. [Acts 1927, 40th Leg., 1st C.S., p. 254, ch. 96.]

WASHINGTON COUNTY

Art. 1970-308. Jurisdiction of Washington County Court

Sec. 1. The county court of Washington County shall have and exercise original concurrent jurisdiction with the justices' courts in all civil matters which by the general laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said county court shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said county court in civil cases of which said court has appellate jurisdiction or original concurrent jurisdiction with the justices' court where the judgment or

amount in controversy does not exceed one hundred dollars exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justices' courts of the jurisdiction now conferred upon them by law or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the Justices' court to said county court in any case originally brought in any justice court where the right of appeal now exists by General law.

[Acts 1929, 41st Leg., p. 542, ch. 265.]

OFFICIAL SHORTHAND REPORTERS

Art. 1970-309. Reporters and Compensation

That the Official Shorthand Reporters of the County Courts at Law of each county having a population of not less than 202,000 and not more than 203,000, according to the 14th Census of the United States of the year 1920, shall, from and after the passage and taking effect of this Act, be entitled to receive the same fee allowed the Official Shorthand Reporters of the District Courts, and, in addition thereto, shall be entitled to receive a salary of Two Thousand Five Hundred (\$2,500.00) Dollars, annually, to be paid in equal monthly installments by said county by warrants drawn from the general funds thereof, out of the County Treasury by the orders of the Commissioners' Court.

[Acts 1929, 41st Leg., 2nd C.S., p. 19, ch. 14, § 1.]

PARTICULAR COUNTY COURTS

Art. 1970-310. Other Acts Creating or Affecting Jurisdiction of Particular County Courts

Angelina—Jurisdiction restored: Acts 1893, March 21, ch. 34, p. 31.
Atascosa—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
Bailey—Jurisdiction increased: Acts 1911, March 20, ch. 93, p. 171.
Bandera—Jurisdiction diminished: Acts 1881, Feb. 25, ch. 19, p. 13; Jurisdiction restored: Acts 1953, 53rd Leg., p. 1044, ch. 431, eff. June 13, 1953.
Bee—Jurisdiction increased: Acts 1903, March 26, ch. 62, p. 88.
Blanco—Jurisdiction diminished: Acts 1881, Feb. 9, ch. 6, p. 3.
Bosque—Jurisdiction diminished: Acts 1881, March 26, ch. 60, p. 64.
Brazoria—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
Brazos—Jurisdiction restored: Acts 1959, 56th Leg., p. 4, ch. 2, eff. Feb. 19, 1959.
Brewster—Jurisdiction restored: Acts 1889, Feb. 21, ch. 9, p. 6.
Brown—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Burnet—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
Callahan—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
Camp—Jurisdiction restored: Acts 1895, April 26, ch. 65, p. 91; General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 1952, ch. 592, §§ 1, 2, eff. June 2, 1971.
Cameron—Jurisdiction diminished: Acts 1931, April 9, ch. 307, p. 769.
Carson—Jurisdiction restored: Acts 1919, July 15, 2d C.S., ch. 17, p. 37.
Cass—Jurisdiction diminished: Acts 1879, July 8, C.S., ch. 25, p. 21; General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 1168, ch. 273, §§ 1 to 6, eff. May 19, 1971.
Chambers—Jurisdiction restored: Acts 1905, April 12, ch. 79, p. 111.
Coke—Jurisdiction restored: Acts 1901, March 29, ch. 37, p. 47.
Coleman—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.
Comal—Jurisdiction diminished: Acts 1883, March 16, ch. 35, p. 24.
Comanche—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.
Concho—Jurisdiction restored: Acts 1909, April 7, 1st C.S., ch. 5, p. 268.
Coryell—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.
Crockett—Acts 1909, 31st Leg., 1st C.S., ch. 31, repealed in part and jurisdiction restored: Acts 1955, 54th Leg., p. 384, ch. 105, effective April 26, 1955.
Dawson—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
Delta—Jurisdiction restored: Acts 1895, March 12, ch. 27, p. 32.
Dickens—Jurisdiction increased: Acts 1915, March 15, ch. 59, p. 108.
Dimmitt—Jurisdiction restored: Acts 1905, 90 days after April 15, date of adjournment, ch. 92, p. 136.
Donley—Jurisdiction restored: Acts 1889, March 21, ch. 53, p. 48.
Duval—Jurisdiction diminished: Acts 1899, Jan. 31, ch. 3, p. 2.
Erath—Jurisdiction restored: Acts 1885, March 31, ch. 109, p. 103.
Falls—Jurisdiction diminished: Acts 1917, March 20, ch. 89, p. 243.
Fannin—General jurisdiction in matters of eminent domain transferred to district court: Acts 1971, 62nd Leg., p. 820, ch. 89, §§ 1 to 6.
Franklin—Jurisdiction restored: Acts 1905, Feb. 9, ch. 10, p. 12.
Frio—Jurisdiction restored: Acts 1907, March 18, ch. 25, p. 40.

- Gaines**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Garza**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Gillespie**—Jurisdiction diminished: Acts 1881, Feb. 25, ch. 19, p. 13.
- Glasscock**—Jurisdiction restored: Acts 1957, 55th Leg., p. 399, ch. 196, effective May 6, 1957.
- Goliad**—Civil jurisdiction increased: Acts 1895, April 15, ch. 45, p. 57.
- Gonzales**—Jurisdiction increased: Acts 1957, 55th Leg., p. 278, ch. 127, § 1, effective April 30, 1957; Jurisdiction diminished: Acts 1957, 55th Leg., p. 867, ch. 383, effective April 30, 1957.
- Gray**—Jurisdiction restored: Acts 1907, April 4, ch. 58, p. 125.
- Greer**—Jurisdiction restored: Acts 1889, March 21, ch. 53, p. 48.
- Gregg**—Jurisdiction restored: Acts 1895, Feb. 15, ch. 8, p. 6.
- Grimes**—Jurisdiction restored: Acts 1885, Feb. 10, ch. 10, p. 11.
- Hamilton**—Jurisdiction restored: Acts 1893, March 13, ch. 24, p. 22.
- Hansford**—Jurisdiction restored: Acts 1917, Feb. 13, ch. 19, p. 31.
- Hardin**—Jurisdiction restored: Acts 1897, March 20, ch. 31, p. 28.
- Hartley**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64.
- Haskell**—Jurisdiction increased: Acts 1919, 90 days after March 19, date of adjournment, ch. 33, p. 55.
- Hemphill**—Jurisdiction increased: Acts 1915, March 22, ch. 125, p. 192.
- Henderson**—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14, and Acts 1909, 90 days after March 13, date of adjournment, ch. 37, p. 80.
- Hidalgo**—Jurisdiction restored: Acts 1903, March 26, ch. 62, p. 88.
- Hopkins**—Original jurisdiction in matters of eminent domain transferred to district courts: Acts 1967, 60th Leg., p. 84, ch. 44, §§ 1 to 6, eff. April 7, 1967.
- Houston**—Jurisdiction restored: Acts 1883, April 13, ch. 87, p. 84.
- Hutchinson**—Jurisdiction diminished: Acts 1905, Jan. 31, ch. 8, p. 8.
- Karnes**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 14, p. 20.
- Kimble**—Jurisdiction increased: Acts 1931, April 16, ch. 320, p. 793.
- King**—Jurisdiction restored: Acts 1903, 90 days after April 1, date of adjournment, ch. 46, p. 64.
- Lamb**—Jurisdiction increased: Acts 1911, 90 days after March 11, date of adjournment, ch. 93, p. 171.
- Lampasas**—Jurisdiction restored: Acts 1897, May 7, ch. 127, p. 181.
- La Salle**—Jurisdiction diminished: Acts 1889, March 27, ch. 97, p. 109; Jurisdiction restored: Acts 1971, 62nd Leg., p. 1214, ch. 295, eff. May 24, 1971.
- Leon**—Jurisdiction restored: Acts 1897, April 3, ch. 80, p. 103.
- Liberty**—Jurisdiction restored: Acts 1895, April 15, ch. 44, p. 55.
- Lipscomb**—Jurisdiction restored: Acts 1907, March 13, ch. 17, p. 28.
- Live Oak**—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.
- Llano**—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
- Lynn**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- McCulloch**—Jurisdiction restored: Acts 1901, 90 days after April 9, date of adjournment, ch. 82, p. 216.
- McMullen**—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.
- Marion**—Jurisdiction diminished: Acts 1897, March 11, ch. 36, p. 38.
- Mason**—Jurisdiction diminished: Acts 1887, March 26, ch. 73, p. 54.
- Matagorda**—Jurisdiction restored: Acts 1903, Jan. 30, ch. 5, p. 5.
- Medina**—Jurisdiction restored: Acts 1895, April 15, ch. 44, p. 55.
- Mills**—Jurisdiction restored: Acts 1907, April 15, ch. 101, p. 199.
- Mitchell**—Jurisdiction increased: Acts 1919, 90 days after March 19, date of adjournment, ch. 11, p. 15.
- Montgomery**—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.
- Morris**—Jurisdiction diminished: Acts 1883, Feb. 9, ch. 11, p. 6; Jurisdiction restored: Acts 1957, 55th Leg., p. 78, ch. 37, effective March 29, 1957; Original jurisdiction in matters of eminent domain transferred to district court: Acts 1967, 60th Leg., p. 872, ch. 378, eff. June 8, 1967; amended by Acts 1969, 61st Leg., p. 707, ch. 246, eff. May 21, 1969.
- Nacogdoches**—Jurisdiction restored: Acts 1891, March 10, ch. 23, p. 24.
- Navarro**—Jurisdiction restored: Acts 1881, March 12, ch. 37, p. 28.
- Newton**—Jurisdiction restored: Acts 1905, May 9, ch. 126, p. 312.
- Nueces**—Jurisdiction diminished: Acts 1930, 90 days after March 20, date of adjournment, 5th C.S., ch. 69, p. 224.
- Ochiltree**—Jurisdiction restored: Acts 1909, 90 days after March 13, date of adjournment, ch. 63, p. 115.

Orange—Jurisdiction restored: Acts 1897, March 31, ch. 74, p. 92, and Acts 1903, March 6, ch. 29, p. 41.

Palo Pinto—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Panola—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.

Parker—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14.

Pecos—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.

Polk—Jurisdiction restored: Acts 1903, March 7, ch. 33, p. 46.

Potter—Creating County Court at law: Acts 1931, March 17, ch. 303, p. 760.

Presidio—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.

Real—Jurisdiction diminished: Acts 1917, March 1, ch. 53, p. 92.

Red River—Jurisdiction restored: Acts 1883, Feb. 3, ch. 26, p. 14.

Roberts—Jurisdiction restored: Acts 1905, 90 days after April 15, date of adjournment, ch. 79, p. 111.

Robertson—Jurisdiction diminished: Acts 1917, March 26, ch. 96, p. 256.

Sabine—Jurisdiction diminished: Acts 1959, 56th Leg., 2nd C.S., p. 90, ch. 7.

San Augustine—Jurisdiction diminished: Acts 1959, 56th Leg., 2nd C.S., p. 90, ch. 7.

San Jacinto—Jurisdiction restored: Acts 1907, March 21, ch. 34, p. 55.

San Patricio—Jurisdiction restored: Acts 1893, April 28, ch. 65, p. 85.

San Saba—Jurisdiction restored: Acts 1903, March 10, ch. 35, p. 51.

Schleicher—Jurisdiction increased: Acts 1931, March 6, ch. 298, p. 754.

Scurry—Jurisdiction increased: Acts 1919, July 15, 2d C.S., ch. 13, p. 39.

Starr—Jurisdiction restored: Acts 1903, March 26, ch. 62, p. 88.

Stephens—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Taylor—Jurisdiction restored: Acts 1881, March 30, ch. 71, p. 74.

Terry—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.

Throckmorton—Jurisdiction restored: Acts 1887, March 25, ch. 68, p. 47.

Titus—Jurisdiction restored: Acts 1901, 90 days after April 9, date of adjournment, ch. 78, p. 201 and Acts 1905, 90 days after April 15, date of adjournment, ch. 45, p. 56.

Tom Green—Jurisdiction restored: Acts 1883, April 9, ch. 66, p. 55.

Travis—Jurisdiction restored: Acts 1891, March 25, ch. 56, p. 75.

Trinity—Jurisdiction restored: Acts 1905, Jan. 25, ch. 6, p. 5.

Tyler—Jurisdiction restored: Acts 1893, March 8, ch. 16, p. 12.

Uvalde—Jurisdiction restored: Acts 1883, Feb. 8, ch. 26, p. 14.

Webb—Jurisdiction diminished: Acts 1893, Feb. 11, ch. 9, p. 5.

Wharton—Jurisdiction restored: Acts 1893, March 13, ch. 24, p. 22.

Willacy—Jurisdiction restored: Acts 1965, 59th Leg., p. 999, ch. 486, § 1.

Wilson—Jurisdiction restored: Acts 1889, March 16, ch. 46, p. 41.

Yoakum—Jurisdiction increased: Acts 1915, March 22, ch. 88, p. 141.

Young—Jurisdiction restored: Acts 1885, March 24, ch. 49, p. 47.

POTTER COUNTY

Art. 1970-311. Jurisdiction of Potter County Court at Law Diminished; Transfer of Causes to County Court and Justice Court

Sec. 2. All causes of action pending in the County Court of Potter County at Law on the effective date of this Act over which the County Court of Potter County would have had jurisdiction under general law had it not been for the creation of said County Court of Potter County at Law, are hereby transferred to the County Court of Potter County, and all process, writs, and bonds, civil and criminal, issued in said causes prior to and executed subsequent to the taking effect of this Act, shall be returnable to the County Court of Potter County. And all bonds executed and recognizances entered into in the County Court of Potter County at Law shall bind the parties for their appearance and to fulfill the obligations of such bonds and recognizances at the terms of the County Court of Potter County; and all process of every nature heretofore issued and returned or executed prior to the taking effect of this Act and returned before or after the taking effect of this Act, as well as all bonds and recognizances heretofore or hereafter taken or entered into in the County Court of Potter County at Law, shall all likewise be as valid and binding in the County Court of Potter County as they would have been in the County Court of Potter County at Law had this Act not been passed.

Sec. 3. All causes of action pending in the County Court of Potter County at Law over which any Justice Court of Potter County would have had jurisdiction under general law had it not been for the creation of said County Court of Potter County at Law, shall be and the same are hereby transferred to the proper Justice Court, and all process, writs, and bonds, civil and criminal, issued prior to and/or executed subsequent to the taking effect of this Act out of such causes, shall be and the same are hereby made returnable to the proper Justice Court. And all bonds executed and recognizances entered into in the County Court of Potter County at Law in such cases shall bind the parties for their appear-

ance and to fulfill the obligations of such bonds and recognizances at the terms of the proper Justice Court to which said causes are hereby transferred, and all process of every nature whatsoever issued in said causes as well as all bonds and recognizances, shall all likewise be valid and binding in such Justice Court as they would have been in the County Court of Potter County at Law had this Act not been passed.

[Acts 1933, 43rd Leg., Spec.Laws, p. 65, ch. 54.]

Art. 1970-311a. County Court at Law of Potter County Created, etc.

Sec. 1. There is hereby created a court to be held in Amarillo, Potter County, Texas which shall be known as the County Court at Law of Potter County.

Sec. 2. The County Court at Law of Potter County shall have original and concurrent jurisdiction with the County Court of Potter County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this state, County Courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Potter County, Texas as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the judge of Potter County.

With the consent of the other, the judge of either of such courts shall have the power to transfer to the other court any case over which the courts have concurrent jurisdiction pending upon the docket of his court except in cases where the writ of certiorari has been granted.

Sec. 3. The County Court at Law of Potter County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil matters which by the General Laws of this state is conferred upon Justice Courts. Neither the County Court at Law of Potter County nor the judge thereof shall have jurisdiction to act as a coroner nor to preside at inquests, nor have jurisdiction of claims which come within the jurisdiction of the Small Claims Court as prescribed by Article 2460a of the Revised Civil Statutes of Texas.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law of Potter County in civil cases of which said court had appellate or original concurrent jurisdiction with the Justice Court where the judgment or amount in controversy would not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law of Potter County over such matters as are specified in this Act; nor shall this

Act be construed to deny the right of an appeal to the County Court at Law of Potter County from the Justice Court, where the right of appeals to the County Court now exists by law.

Sec. 6. The County Court of Potter County shall retain, as heretofore, the general jurisdiction of a Probate Court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said court, or the judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said court; and also to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the state. The County Judge of Potter County shall be the judge of the County Court of Potter County. All ex officio duties of the County Judge shall be exercised by the judge of the County Court of Potter County except in so far as the same shall, by this Act, be committed to the judge of the County Court at Law of Potter County.

Sec. 7. The terms of the County Court at Law of Potter County shall be as prescribed by the laws relating to the County Courts. The terms of the County Court at Law of Potter County shall be held as now established for the terms of the County Court of Potter County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Potter County.

Sec. 8. There shall be elected in Potter County by the qualified voters thereof, at each general election, a judge of the County Court at Law of Potter County. No person shall be elected or appointed judge of the court who is not a resident citizen of Potter County. He shall also be a licensed attorney of the State of Texas and shall have been a licensed attorney of the State of Texas for at least two years immediately prior to his appointment or election. The person elected such judge shall hold his office for four years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Potter County shall represent the state in all prosecutions in the County Court at Law of Potter County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Commissioners Court of Potter County shall appoint a judge of the County Court at Law of Potter County, who shall hold his office until the next general election and until his successor shall have been duly elected and

qualified, and shall provide suitable quarters for the holding of said court.

Sec. 11. The judge of the County Court at Law of Potter County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this state.

Sec. 12. The judge of the County Court at Law of Potter County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 13. A special judge of the County Court at Law of Potter County may be appointed or elected as provided by law relating to County Courts and to the judge thereof. He shall receive the sum of Thirty (\$30.00) Dollars per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 14. In the case of the disqualification of the judge of the County Court at Law of Potter County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the judge of the County Court at Law of Potter County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 13 of this Act.

Sec. 15. The County Court at Law of Potter County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in said county of inferior jurisdiction to the County Court at Law.

Sec. 16. The County Clerk of Potter County shall be the clerk of the County Court at Law of Potter County, and the seal of the court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Potter County."

Sec. 17. The sheriff of Potter County shall in person or by deputy attend the County Court at Law of Potter County when required by the judge thereof.

Sec. 18. The jurisdiction and authority now vested by law in the County Court of Potter County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Potter County and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the judge of the

County Court at Law of Potter County and the judge of the County Court of Potter County jurors may be summoned for service in both courts and shall be used interchangeably in both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 19. Any vacancy in the office of the judge of the County Court at Law of Potter County shall be filled by the Commissioners Court, and when so filled the judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 20. The judge of the County Court at Law of Potter County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Potter County, to be paid out by the County Treasurer of Potter County, Texas, on the order of the Commissioners Court of said county, and said salary shall be paid monthly in equal installments.

Sec. 21. The judge of the County Court at Law of Potter County shall assess the same fees as are prescribed by law relating to the County Judge's fees all of which shall be collected by the clerk of the court and shall be paid into the County Treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as above specified in this Act.

Sec. 22. The judge of the County Court at Law of Potter County may appoint an official shorthand reporter for such court who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Potter County to be paid out of the County Treasury of Potter County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and is hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Potter County, and shall be applicable to and govern the proceedings in and appeals to and

appeals from the County Court at Law of Potter County.

[Acts 1955, 54th Leg., p. 219, ch. 56.]

GILLESPIE COUNTY

Art. 1970-312. Jurisdiction of County Court of Gillespie County Increased

Sec. 1. Hereafter the County Court of Gillespie County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Gillespie County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Gillespie County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said County Court in civil cases, of which said Court has appellate, original or concurrent jurisdiction with Justices Courts, where the amount in controversy does not exceed One Hundred Dollars (\$100.00) exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Court of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Gillespie County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil docket then pending in the District Court of said County of which cases, by the provisions of this Act, original or appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk

shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said County Court of Gillespie County shall commence on the first Monday in January, first Monday in April, first Monday in July and first Monday in October each year and each of said terms shall continue in session for three weeks, or until the business may be disposed of; providing that the Commissioners Court of said County may hereafter change the terms of said Court and the length of the terms whenever it may be deemed necessary by said Commissioners Court.

[Acts 1933, 43rd Leg.Spec.Laws, p. 84, ch. 64.]

DUVAL COUNTY

Art. 1970-313. Jurisdiction of County Court of Duval County Increased

Sec. 1. The county court of Duval County shall, from and after the passage of this Act have, as now, general jurisdiction of the probate court and generally exercise all powers in probate matters conferred upon such courts by the Constitution and laws of the State, and keep and maintain all jurisdiction which it now has and exercises in all civil matters.

Sec. 2. Said court shall also have and exercise exclusive jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except misdemeanors in which the highest penalty which may be imposed by law is a fine without imprisonment and does not exceed Two Hundred (\$200) Dollars, and shall have appellate jurisdiction of all criminal cases in which justice courts and other inferior tribunals of said county have original jurisdiction, and the district court of said county shall no longer have jurisdiction of misdemeanors, except misdemeanors involving official misconduct.

Sec. 3. That Chapter 3, of the General Laws of the Regular Session of the Twenty-sixth Legislature be, and the same is hereby repealed.

Sec. 4. The district clerk of Duval County is hereby required within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon the criminal docket of said court in cases now pending therein, which, under this Act, are now within the jurisdiction of the county court, and shall transfer all such cases, together with the papers pertaining thereto, and a certified bill of the costs in each case, to the county clerk of Duval County, and all such cases shall be immediately docketed by the county clerk; all such cases so transferred from the district court to the county court shall stand on the docket of said court as appearance cases for the next succeeding term and shall be docketed and disposed of in the same manner as if same had been originally filed in the county court and all processes now issued and returnable to said district court shall be returnable to said county

court; all processes heretofore issued by the district court in said cases as well as all bonds and recognizances heretofore taken in the district court shall be as valid as though no change had been made as to the jurisdiction of said respective courts, and all bonds executed and recognizances entered in said district court shall bind the parties for their appearance to the next term of the county court after this law becomes effective.

Sec. 5. This Act shall not be construed to in any manner affect judgments heretofore rendered by the district court of Duval County in causes, which by this Act, are transferred to the county court of said county, and the district clerk of said county shall issue all executions and orders of sale and the proceedings thereunder shall be as valid and binding to all intents and purposes as though this Act had not been passed.

[Acts 1933, 43rd Leg., 1st C.S., p. 163, ch. 60.]

RED RIVER COUNTY

Art. 1970-314. Repealed by Acts 1965, 59th Leg., p. 1276, ch. 585, § 4, eff. Aug. 30, 1965

Art. 1970-314a. Jurisdiction of County Court of Red River County

Sec. 1. The County Court of Red River County, Texas, shall have and exercise the general jurisdiction of Probate Courts, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as prescribed by law, and to exercise jurisdiction over all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State, and shall enter orders providing for the support of deserted wives and children or both, pendente lite, and may punish for the violation or refusal to obey such order as for contempt; and to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts under such provisions as are, or may be, provided by General Law governing County Courts throughout the State; and said County Court shall also have original concurrent jurisdiction with the District Court of said County in all juvenile delinquency proceedings and in all criminal cases of which County Courts throughout the State, under the General Laws of the State, have original jurisdiction; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. The District Court of said County shall have and exercise jurisdiction in all matters and causes, civil or criminal, over which, by General Laws of the State of Texas, the

County Court of said County shall have jurisdiction; and that said District Court shall have exclusive appellate jurisdiction over all criminal cases appealed from the Justice Courts of said County; and that all criminal cases, now on the docket of the County Court of Red River County, Texas, which have been appealed from the Justice Courts of said County be, and the same are hereby, transferred to the District Court of said County; and writs and processes heretofore issued out of or by said County Court in such cases be, and the same are, hereby made returnable to the next term of the District Court of said County.

Sec. 3. That the Clerk of the County Court of Red River County, Texas, be, and he is hereby, required, within ten (10) days after this Act becomes effective, to make full and complete transcripts of all of the entries on his criminal docket heretofore made in those criminal cases which have been appealed from Justice Courts of said County, which by Section 2 hereof are transferred to the District Court of said County, and file the same, together with all original papers of all of said causes and proceedings, with the Clerk of the District Court of said County; and all of such causes under this Act transferred to the District Court shall be immediately docketed by the Clerk of said Court and shall stand on the docket of said Court as other cases which have been originally filed in the District Court of said County.

Sec. 4. The following laws are repealed: Chapter 498, Acts of the 44th Legislature, 3rd Called Session, 1936; Chapter 457, Acts of the 45th Legislature, Regular Session, 1937; and Chapter 23, page 196, General Laws, Acts of the 46th Legislature, 1939 (Article 1970-314, Vernon's Texas Civil Statutes).

[Acts 1965, 59th Leg., p. 1276, ch. 585.]

COLLINGSWORTH COUNTY

Art. 1970-315. Jurisdiction of County Court of Collingsworth Increased

Sec. 1. The County Court of Collingsworth County shall have and exercise original concurrent jurisdiction with the justice courts in all civil matters which by the General Laws of this State is conferred upon said justice of the peace courts.

Sec. 2. Said County Court of Collingsworth County shall also have and exercise such jurisdiction over and pertaining to all matters, things and proceedings as is by the General Laws of this State conferred upon county courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment in said County Court in civil cases of which said court has appellate jurisdiction, or original concurrent jurisdiction with the justice's court where the judgment or amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 4. Nothing in this Act shall be construed to deprive the justice courts of the jurisdiction now conferred upon them by law, or in any manner to impair or alter their jurisdiction, but only to give original concurrent jurisdiction to said county court over such matters as are specified in Section 1 of this Act; nor shall this Act be construed to deny the right of appeal from the justice's court to said county court in any case originally brought in a justice court where the right of appeal now exists by general law.

[Acts 1937, 45th Leg., p. 375, ch. 184.]

STERLING COUNTY

Art. 1970-316. Jurisdiction of Sterling County Increased

Sec. 1. Hereafter the County Court of Sterling County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county records.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which by this Act are made returnable to the County Court, and the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Sterling County shall be such as provided by the Constitution and General Laws of the State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Sterling County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justices Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original, or concurrent jurisdiction with the Justices Courts where the amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said County Court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of this State.

Sec. 7. It shall be the duty of the District Clerk of Sterling County, Texas, within thirty (30) days after this Act shall take effect to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case, in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November of each year, and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court.

Sec. 9. All laws and parts of laws in conflict with this Act are hereby expressly repealed in so far as they relate to Sterling County, Texas.

[Acts 1937, 45th Leg., p. 266, ch. 140; Acts 1937, 45th Leg., p. 362, ch. 176.]

CROSBY AND FISHER COUNTIES

Art. 1970-317. Crosby and Fisher County Courts, Civil Jurisdiction Increased

Sec. 1. That the County Courts of Crosby and Fisher Counties shall have and exercise original concurrent jurisdiction with the Justices Courts in all civil matters which by the General Laws of this State is conferred upon Justices Courts.

Sec. 2. Said County Courts shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the General Laws of this State is conferred upon County Courts.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Courts in civil cases of which said Courts have appellate or original concurrent jurisdiction with the Justices Courts where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interests and costs.

Sec. 4. This Act shall not be construed to deprive the Justices Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said Courts over such matters as are specified in Section 1 of this Act, nor shall this Act be construed to deny the right of appeal from the Justices Courts to the said County Courts in any case originally brought in the Justices Courts where the right of appeal now exists by law.

[Acts 1937, 45th Leg., p. 771, ch. 372.]

GILLESPIE COUNTY

Art. 1970-318. Gillespie County Court; Probate Jurisdiction Conferred; Civil and Criminal Jurisdiction Diminished

Sec. 1. That hereafter the County Court of Gillespie County, Texas, shall have and exercise the general jurisdiction of a Probate Court; shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators, and guardians and transact all business pertaining to estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition and distribution and settlement of estates of deceased persons; and to apprentice minors as required by law and all matters of eminent domain over which the County Courts have jurisdiction under the General Laws of this State; and to issue all writs necessary to the enforcement of its jurisdiction; and to punish contempt under such provisions as are, or may be provided by General Law covering County Courts throughout the State; but said County Court shall have no other jurisdiction, civil or criminal.

Sec. 2. That the District Court or Courts of said County shall have and exercise jurisdiction in all matters and causes, civil and criminal, over which, by the General Laws of this State, the County Court would have jurisdiction, except as provided in Section 1 of this Act and excepting all causes and matters, civil and criminal, over which by the General Laws of the State, the Justice Courts of said County would have jurisdiction; and that all causes, other than probate matters and such as are provided in Section 1, be and the same are hereby transferred to the District Court or Courts of said County; and writs and processes, civil and criminal, heretofore issued out or by said County Court other than those pertaining to matters which by Section 1 of this Act, jurisdiction is given to the County Court, be and the same are hereby made returnable to the next term of the District Court or Courts of said County.

Sec. 3. That the Clerk of the County Court of Gillespie County, Texas, be and he is hereby required immediately after this Act becomes effective, to make full and complete transcripts of all the entries on his dockets, civil and criminal, heretofore made in causes, which by Section 2 are transferred to the District Court or Courts of said County, and file the same, together with all original papers of all of said causes and proceedings with the Clerk of the District Court or Courts of said County which shall include all judgments, both civil and criminal, that remain uncollected and not satisfied; and for the purpose of carrying into effect this Act, the Court having jurisdiction of such matters shall have full and ample power to enforce the same by issuing execution or other process required by law and all of such causes under this Act transferred to the Dis-

trict Court, shall be immediately docketed by the Clerk of said Court, and shall stand on the dockets of said Courts as appearance cases for the next term of said Court; for each of said transcripts, the County Clerk shall receive Twenty-five (25) Cents per one hundred (100) words, and Fifty (50) Cents for certificate thereto to be taxed against the party cast in the suit, if a civil suit and if criminal, against the defendant if convicted.

Sec. 4. This Act shall not be construed in any wise or in any manner as affecting judgments rendered by the County Court pertaining to matters and causes which by this Act are made returnable to the District Court but the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder shall be as valid and binding to all intents and purposes as though the change had not been made in this Act.

[Acts 1937, 45th Leg., p. 1136, ch. 458.]

Art. 1970-318a. Civil and Criminal Jurisdiction Restored

Sec. 1. Hereafter the County Court of Gillespie County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Gillespie County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Gillespie County shall, in addition to the civil and criminal jurisdiction conferred upon county courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the justices courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon justices courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said court in civil cases, of which court has appellate, original or concurrent jurisdiction with the justices courts, where the amount in controversy does not exceed One Hundred (\$100.00) Dollars, exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the justices courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to

deny the right of appeal from the justice court to said county court in any case originally brought in the justice court, where the right to appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Gillespie County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said county of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said county court and to file said transcript, together with the original papers in each case in the county court of said county and the County Clerk shall enter said cases on the respective dockets of said county court as appearance cases for trial by said court.

Sec. 8. The terms of said courts shall commence on the first Monday in January, and on the first Monday in May, and on the first Monday in August, and the first Monday in November, of each year; and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said county may hereafter change the terms of said court whenever it may be deemed necessary by said Commissioners Court.

[Acts 1951, 52nd Leg., p. 770, ch. 421.]

KENDALL COUNTY

Art. 1970-319. County Court of Kendall County; Civil and Criminal Jurisdiction

Sec. 1. That the County Court of Kendall County shall hereafter have exclusive original jurisdiction in civil cases where the matter in controversy shall exceed in value two hundred dollars (\$200.00) and shall not exceed five hundred dollars (\$500.00) exclusive of interest and shall have concurrent jurisdiction with the district court of said county when the matter in controversy shall exceed five hundred dollars (\$500.00) and not exceed one thousand dollars (\$1,000.00).

Sec. 2. Said county court shall have appellate jurisdiction in civil cases over which justices' court have original jurisdiction when the judgment of the court appealed from or the amount in controversy shall exceed twenty dollars (\$20.00), and said county court shall have power to hear and determine cases brought up from the justice's court by certiorari under the provisions of the title of the Revised Civil Statutes relating thereto.

Sec. 3. The county judge of said county shall have authority, either in term time or vacation, to grant writs of mandamus, injunction, sequestration, garnishment, attachment, certiorari, supersedeas, and all other writs necessary to the enforcement of the jurisdiction of said court, and shall also have power to issue writs of habeas corpus in all cases in which the Constitution has not exclusively conferred the power on the district court or judge thereof.

Sec. 4. Said county court shall have jurisdiction in the forfeiture and judgment of all bonds and recognizances taken in criminal cases of which criminal cases said court has jurisdiction.

Sec. 5. Said county court shall have exclusive original jurisdiction of all misdemeanors, except misdemeanors involving official misconduct, and except cases in which the highest penalty or fine that may be imposed under the law may not exceed two hundred dollars, and said courts shall also have appellate jurisdiction in criminal cases of which justices of the peace and other inferior tribunals of said county have jurisdiction.

Sec. 6. The District Court of Kendall County shall no longer have jurisdiction of cases of which the county court of said county by the provisions of this Act has exclusive original or appellate jurisdiction, and it shall be the duty of the clerk of the district court of said county within thirty days from the passage of this Act to make a full and complete transcript of all orders on his dockets in cases now pending before said district court of which cases by the terms of this Act exclusive jurisdiction is given to the county court, and to deliver said transcripts, together with the original papers and a certified bill of costs, to the clerk of said county court, and said county clerk shall enter said case or cases on his dockets for trial by said county court.

Sec. 7. The county court of said county shall hereafter hold its regular terms for civil and criminal business as provided in the Constitution and General Laws of the State, and process heretofore issued from the district court of said county in cases to be transferred under this Act to the county court shall be returnable to the first term of the county court, and all civil cases transferred shall be entered as appearance cases upon the dockets of said county court.

Sec. 8. The county court of said Kendall County shall have, as now, the general jurisdiction of probate courts for the probate of wills, appointments of guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, and for the issuance of letters testamentary and of administration, settlement of accounts of administrators and guardians and the settlement of distribution of decedent's estates, and the apprenticeship of minors, and all other necessary powers conferred by law on courts of probate.

Sec. 9. That all laws and parts of laws in conflict with the provisions of this Act be and the same are hereby repealed.

[Acts 1915, 34th Leg., 1st C.S. p. 55, ch. 27.]

GLASSCOCK COUNTY

Art. 1970-320. Glasscock County Court; Civil and Criminal Jurisdiction Diminished

Sec. 1. The County Court of Glasscock County shall have and exercise the general jurisdiction of a Probate Court, shall probate

wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle the accounts of executors, administrators, and guardians, transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons, and to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as are now or may be provided by General Law governing County Courts throughout the State, but the said County Court of Glasscock County shall have no other jurisdiction, civil or criminal, whatsoever.

Sec. 2. That the District Court of Glasscock County shall have and exercise jurisdiction in all civil and criminal matters and causes over which, by the laws of this State, the County Court of said Glasscock County would have jurisdiction, except as provided in Section 1 of this Act; all causes other than probate matters and such as are provided by Section 1 of this Act be and the same are hereby transferred to the District Court of Glasscock County, and all writs and process relating to any civil or criminal matters included in the subject matter of jurisdiction prescribed in Section 1 of this Act, issued by or out of said County Court of Glasscock County, be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Glasscock County be and he is hereby required, within thirty (30) days after this Act takes effect, to make a full and complete transcript of all entries upon his civil and criminal docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, together with all the papers pertaining to such cases, a certified bill of costs in each case, and all cases shall be immediately docketed by the District Court as appearance cases for the next succeeding term, and all criminal cases shall be docketed and disposed of in the same manner as if the same had been originally filed in and triable in said District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect judgments heretofore rendered by said County Court of Glasscock County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County, but the County Clerk of said County shall issue all executions, and orders of sale, and proceedings thereunder, and this Act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as by Section 2 therein contemplated.

[Acts 1939, 46th Leg., p. 191.]

STEPHENS COUNTY

Art. 1970-321. Stephens County Court; Civil and Criminal Jurisdiction Diminished

Sec. 1. That the County Court of Stephens County shall retain and continue to have and exercise the general jurisdiction in matters of eminent domain, and the general jurisdiction of Probate Courts, and all jurisdiction other than in civil and criminal matters, jurisdiction of which is here conferred on the District Court of Stephens County, Texas, now or hereafter conferred upon such County Court by the Constitution and Laws of the State, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil or criminal jurisdiction, except as to final judgments referred to in Section 2 hereof.

Sec. 2. That the District Court having jurisdiction in said Stephens County shall have and exercise jurisdiction in all matters and cases of a civil and criminal nature, whether the same be of original jurisdiction or of appellate jurisdiction, over which, by the General Laws of the State of Texas now existing and hereinafter enacted, the County Court of said County would have had jurisdiction, and that all pending civil and criminal cases be and the same are hereby transferred to the District Court for the Ninetieth Judicial District of Texas, sitting in Stephens County, Texas, and all writs and process heretofore issued by or out of said County Court in said civil or criminal cases be and the same are hereby made returnable to the next term of the District Court, in and for the Ninetieth Judicial District of Texas, sitting in Stephens County, Texas. Provided, however, that there shall not be transferred to said District Court jurisdiction over any judgments, even in civil or criminal cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by execution, order of sale, or other appropriate process. Provided further, however, that as to any civil or criminal case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, same shall be remanded to the District Court of Stephens County, Texas, and all jurisdiction in respect to said particular case shall thereafter vest in the District Court sitting in and having jurisdiction of Stephens County, Texas.

Sec. 3. That the County Attorney of Stephens County, Texas, shall represent the State in all misdemeanor cases before the District Court of Stephens County, Texas, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. That the Clerk of the County Court of said Stephens County be and is hereby re-

quired, within twenty (20) days after this Act takes effect, to file with the Clerk of the District Court of said County, all original papers in cases here transferred to the said District Court, and all Judges' dockets and certified copies of any interlocutory judgment or other order entered in the Minutes of the County Court in said cases so transferred, and the District Clerk shall immediately docket all such cases on the docket of the said District Court for the Ninetieth Judicial District of Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court. Provided, further, that it shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Court as a deposit in the particular case for which same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1939, 46th Leg., p. 198.]

MARION COUNTY

Art. 1970-322. County Court of Marion County; Jurisdiction in Criminal Matters; Fee of County Judge

Sec. 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Marion County, Texas, and the County Judge of Marion County, Texas, the said County Court shall have jurisdiction within Marion County of all criminal matters and causes of misdemeanor over which the District Court of Marion County, Texas, now has jurisdiction, and the jurisdiction of said Courts over such matters shall be concurrent, provided that the jurisdiction of the District Court of Marion County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Marion County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said Court.

Sec. 2. The County Judge of Marion County, Texas, shall receive a fee of Three Dollars (\$3) for each and every case tried before him in which a plea of guilty is entered, and the fees of the other officers of the Court shall be and remain as is now provided by the laws of this State.

[Acts 1939, 46th Leg., p. 194.]

Art. 1970-322a. County Court of Marion County; Concurrent Jurisdiction of Certain Criminal Matters

Sec. 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Marion County, Texas, and the County Judge of Marion County, Texas, the said County Court shall have jurisdiction within Marion County of all criminal matters and causes of misdemeanor over which the District Court of Marion County, Texas, now has jurisdiction, and the jurisdiction of said Courts over such matters shall be concurrent, provided that the jurisdiction of the District Court of Marion County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Marion County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said Court.

Sec. 3. The County Judge of Marion County, Texas, shall receive a fee of Three (\$3.00) Dollars for each and every misdemeanor case tried before him, and the fees of the other officers of the court shall be and remain as is now provided by the laws of this state.

Sec. 4. The County Attorney of Marion County shall represent the state in all misdemeanor cases before the District Court of Marion County, Texas, and shall receive the same compensation to which he would be entitled under the law as county attorney had said cases been tried in the county court.

[Acts 1947, 50th Leg., p. 214, ch. 121; Acts 1969, 61st Leg., p. 519, ch. 181, §§ 1, 3, eff. May 9, 1969.]

Section 2 of the Act of 1947 provided that "The Clerk of the District Court of Marion County, Texas, shall, and is hereby required within twenty (20) days after this Act takes effect, to file with the Clerk of the County Court of said county, all the original misdemeanor cases, judges' dockets and certified copies of any interlocutory judgments or other orders entered in the minutes of the District Court in said causes so transferred; and the County Clerk of Marion County, Texas, shall immediately docket all such cases on the docket of the District Court. It shall not be necessary that the County Clerk shall re-file any papers theretofore filed by the District Clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the District Clerk prior to the time of said transfer, shall be held to have been filed in the case as of the date filed, without being re-filed by the County Clerk. Said District Clerk, in cases so transferred, shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the District Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the County Clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the District Court."

Section 2 of the amendatory act of 1969 provided:

"(a) All misdemeanor cases, except those in which pleas of guilty were filed, docketed in the County Court of Marion County, Texas, prior to the effective date of this Act shall be transferred to the docket of the District Court of Marion County, Texas. The Judge of the District Court of Marion County, Texas, shall have the power to try all cases and determine all ancillary matters as if the cases had been originally filed in that court.

"(b) All writs and processes issued prior to the effective date of this Act, by the County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the district court as if issued from that court.

"(c) All bonds returnable to the County Court of Marion County, Texas, in cases transferred to the District Court of Marion County, Texas, shall be returnable to the court to which the case is transferred."

PANOLA COUNTY

Art. 1970-323. Repealed by Acts 1947, 50th Leg., p. 42, ch. 31, § 7

Art. 1970-323a. Panola County Court; Panola District Court; Jurisdiction; Transfer of Dockets

Sec. 1. The County Court of Panola County, Texas, from and after the effective date of this Act, shall have and exercise jurisdiction in all probate, civil and criminal matters, as provided in the Constitution of the State of Texas and the general law governing county Courts throughout the State.

Sec. 2. That the District Court of Panola County, Texas, shall have and exercise the general jurisdiction, both original and appellate, in all civil and criminal matters and causes, as provided in the Constitution of the State of Texas and in the general law governing the jurisdiction of district Courts throughout the State.

Sec. 3. All causes pending in the County Court of Panola County and in the District Court of Panola County, the jurisdiction of which is changed by this Act, shall be and the same are hereby transferred in conformity with the provisions of this Act to the Court having jurisdiction of such cause under the provisions hereof, and all writs and process relating to such causes which have been issued by or out of either of said Courts shall be and the same are hereby made returnable to the next term of the Court having jurisdiction of said cause under the provisions of this Act.

Sec. 4. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court of Panola County pertaining to matters and causes which by this Act are made returnable to the County Court of Panola County, and the Clerk of the District Court of said County shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 5. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the County Court of Panola County pertaining to matters and causes which by this Act are made returnable to the District Court of Panola County, and the Clerk of the County Court of said County shall issue all executions and orders of sale and proceedings thereunder which shall be as valid and binding to all intents and purposes as though the change had not been made as directed by this Act.

Sec. 6. The clerks of the respective Courts shall transfer the dockets of all cases the jurisdiction of which is changed by the provisions of this Act to the Court having such jurisdiction after the effective date of this Act, and shall transfer all Court papers and do such other things as may be necessary to fully transfer all said causes and matters to the

Court having jurisdiction of same under the provisions of this Act.

[Acts 1947, 50th Leg., p. 42, ch. 31.]

TRAVIS COUNTY

Art. 1970-324. County Court at Law No. 1 of Travis County

Sec. 1. That there is hereby created a Court to be held in Austin, Travis County, Texas, to be called the County Court at Law No. 1 of Travis County, Texas, in lieu of the present County Court at Law of Travis County, Texas.

Sec. 2. The County Court at Law No. 1 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State the County Court of said County would have jurisdiction; and all cases pending in the County Court at Law of Travis County, Texas, shall be and the same are hereby transferred to the County Court at Law No. 1 of Travis County, Texas, and all writs and process, civil and criminal, heretofore issued by or out of the County Court at Law of Travis County, Texas, shall be and the same are hereby made returnable to the County Court at Law No. 1 of Travis County, Texas. The jurisdiction of the County Court at Law No. 1 of Travis County, Texas, and of the Judge thereof shall extend to all matters of which jurisdiction has heretofore vested in the County Court or in the County Judge or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 1 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other numbered County Court at Law of Travis County, now or hereafter created, as to all probate matters.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; but such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 1 of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 1 of Travis County or to any other numbered County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such trans-

fer shall be returned to and filed in the County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, having jurisdiction thereof, now or hereafter created, and shall be as valid and binding as though originally issued out of said County Court at Law No. 1 of Travis County or any other numbered County Court at Law of Travis County, now or hereafter created. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 1 of Travis County and any other numbered County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and the jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 1 of Travis County, Texas, shall be held in the Courthouse of Travis County as follows, to wit: Beginning on the first Mondays in January, March, May, July, September and November in each year, and each term of said Court shall continue in session until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom shall be as prescribed by the laws of this state relating to County Courts except as herein expressly provided.

Sec. 6. The present Judge of the County Court at Law No. 1 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 1 of Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 1 of Travis County, Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 1 of Travis County, Texas. The Judge of the County Court at Law No. 1 of Travis County, Texas, must be a qualified voter in Travis County, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding the General Election.

Sec. 7. The Judge of the County Court at Law No. 1 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 1 of Travis County, may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the same compensation per day for each day he so actually serves as the Judge of the County Court at Law No. 1 of Travis County, Texas, to be paid out of the General Funds of the County by the Commissioners Court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 1 of Travis County shall be filled by the Commis-

sioners Court, and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide suitable quarters for the holding of said County Court at Law No. 1 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 1 of Travis County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law No. 1 of Travis County is disqualified.

Sec. 11. The Judge of the County Court at Law No. 1 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of any County Court at Law may be removed under the laws of this State.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 1, or any other numbered County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than Ten Dollars (\$10) per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the Court, shall apply to all statements of facts in civil cases tried in said Court, and all provisions of law governing statement of facts and bills of exception to be filed in District Court and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 13. The County Court at Law No. 1 of Travis County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of concurrent or inferior jurisdiction to said County Court at Law No. 1 of Travis County.

Sec. 14. All cases appealed from the justice courts and other inferior courts in Travis County, Texas, shall be made direct to the County Court at Law No. 1 of Travis County, or to any other numbered County Court at Law of Travis County, now or hereafter created.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law No. 1 of Travis County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law

No. 1 of Travis County." The Sheriff of Travis County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Travis County shall represent the State in all prosecutions pending in said County Court at Law No. 1 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law No. 1 or by any other numbered County Court at Law of Travis County, now or hereafter created, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

[Text of section 17 as amended by Acts 1971, 62nd Leg., p. 1444, ch. 401, § 1]

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, may be paid by the Commissioners Court of Travis County a yearly salary not less than the amount paid District Judges from the general revenue fund of the State of Texas and not more than the total salary, including supplements, paid any District Judge sitting in Travis County, Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 1 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Text of section 17 as amended by Acts 1971, 62nd Leg., 1st C.S., p. 11, ch. 1, § 1]

Sec. 17. The Judge of the County Court at Law No. 1 of Travis County, Texas, may be paid by the Commissioners Court a yearly salary not less than \$19,000 and not more than the amount paid District Judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 1 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Acts 1941, 47th Leg., p. 188, ch. 136; Acts 1943, 48th Leg., p. 312, ch. 203, § 1; Acts 1949, 51st Leg., p. 338, § 1; Acts 1962, 57th Leg., 3rd C.S., p. 117, ch. 41, § 1; Acts 1963, 58th Leg., p. 123, ch. 72, § 1; Acts 1965, 59th Leg., p. 175, ch. 69, §§ 1, 2, 3, eff. April 8, 1965; Acts 1967, 60th Leg., p. 1196, ch. 532, § 2, eff. Jan. 1, 1968; Acts 1971, 62nd Leg., 1st C.S., p. 11, ch. 1, § 1, eff. June 7, 1971; Acts 1971, 62nd Leg., p. 1444, ch. 401, § 1, eff. Aug. 30, 1971.]

Art. 1970-324a. County Court at Law No. 2 of Travis County

Sec. 1. That there is hereby created a Court to be held in Austin, Travis County, Texas, to be called the County Court at Law No. 2 of Travis County, Texas, in addition to the present County Court at Law of Travis County, Texas. The effective date of this Act shall be January 1, 1964.

Sec. 2. The County Court at Law No. 2 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction and all cases pending in the County Court at Law of Travis County, Texas, shall be and the same are hereby transferred to the County Court at Law No. 2 of Travis County, Texas, and all writs and process, civil and criminal, heretofore issued by or out of the County Court at Law of Travis County, Texas, shall be and the same are hereby made returnable to the County Court at Law No. 2 of Travis County, Texas. The jurisdiction of the County Court at Law No. 2 of Travis County, Texas, and of the Judge thereof, shall extend to all matters of which jurisdiction has heretofore vested in the County Court or in the County Judge or in the County Court at Law of Travis County, Texas; and such County Court at Law No. 2 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the County Court or County Judge or any other numbered County Court at Law of Travis County, now or hereafter created, as to all probate matters.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; and such jurisdiction shall hereafter be concurrent as herein provided; but the County Court of said County as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the County Court at Law No. 2 of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law No. 2 of Travis County or any other County Court at Law of Travis County, now or hereafter created, until otherwise provided by law,

and shall be as valid and binding as though originally issued out of said County Court at Law No. 2 of Travis County or any other such County Court at Law of Travis County. The County Court of Travis County shall have and retain concurrently with the County Court at Law No. 2 of Travis County and any other County Court at Law of Travis County, now or hereafter created, the general jurisdiction of a Probate Court and of jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law No. 2 of Travis County shall be held in the courthouse of Travis County as follows, to-wit: Beginning on the first Mondays in January, March, May, July, September, and November in each year, and each term of said Court shall continue in session until the convening of the next succeeding term. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts, except as herein expressly provided.

Sec. 6. The present Judge of the County Court at Law No. 2 of Travis County, Texas, shall serve as the Judge of the County Court at Law No. 2 of Travis County, Texas, until the General Election in 1966 and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law No. 2 of Travis County, Texas, at the General Election in 1966 shall serve for a term of four (4) years, and there shall be elected every four (4) years thereafter a Judge of the County Court at Law No. 2 of Travis County, Texas. The Judge of the County Court at Law No. 2 of Travis County, Texas, must be a qualified voter in Travis County, Texas, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four (4) years next preceding the General Election.

Sec. 7. The Judge of the County Court at Law No. 2 of Travis County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law No. 2 of Travis County, may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive such compensation as may be provided by law for Special Judges of County Courts or County Courts at Law, whichever is the greater, to be paid out of the general funds of the County by the Commissioners Court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Travis County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide a suitable quarters for the

holding of said County Court at Law No. 2 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law No. 2 of Travis County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law No. 2 of Travis County is disqualified. Otherwise, a Special Judge may be appointed or elected as is now or may hereafter be provided by law for County Judges or for Judges of County Courts at Law.

Sec. 11. The Judge of the County Court at Law No. 2 of Travis County may be removed from office in the same manner and for the same causes as any County Judge or Judge of a County Court at Law may be removed under the laws of this state.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law No. 2, or any other County Court at Law of Travis County, now or hereafter created, applies therefor, the Judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official Court reporters, and shall receive not less than Ten Dollars (\$10.00) per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the Court, shall apply to all statements of facts in civil cases tried in said Courts, and all provisions of law governing statement of facts and bills of exception to be filed in District Courts and the use of same on appeal, shall apply to civil cases tried in said Courts.

Sec. 13. The County Court at Law No. 2 of Travis County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of concurrent or inferior jurisdiction to said County Court at Law No. 2 of Travis County.

Sec. 14. All cases appealed from the Justice Courts and other inferior Courts in Travis County, Texas, shall be made direct to the County Court at Law No. 2 of Travis County, or to any other County Court at Law of Travis County, now or hereafter created until otherwise provided by law.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law No. 2 of Travis County. The seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law No. 2 of Travis County." The Sheriff of Travis

County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Travis County shall represent the state in all prosecutions pending in said County Court at Law No. 2 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law No. 2 or by any other County Court at Law of Travis County, but juries summoned for either or any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to any of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

[Text of section 17 as amended by Acts 1971, 62nd Leg., p. 1445, ch. 401, § 2]

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, may be paid by the Commissioners Court of Travis County a yearly salary not less than the amount paid District Judges from the general revenue fund of the State of Texas and not more than the total salary, including supplements, paid any District Judge sitting in Travis County, Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 2 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Text of section 17 as amended by Acts 1971, 62nd Leg., 1st C.S., p. 12, ch. 1, § 2]

Sec. 17. The Judge of the County Court at Law No. 2 of Travis County, Texas, may be paid by the Commissioners Court a yearly salary not less than \$19,000 and not more than the amount paid District Judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasurer upon Orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law No. 2 shall assess the same fees and costs as are now prescribed by law for County Judges, to be deposited in the County Treasury as prescribed by law.

[Acts 1965, 59th Leg., p. 175, ch. 69, §§ 4, 5, eff. April 8, 1965; Acts 1967, 60th Leg., p. 1196, ch. 532, § 2, eff. Jan. 1, 1968; Acts 1971, 62nd Leg., 1st C.S., p. 12, ch. 1, § 2, eff. June 7, 1971; Acts 1971, 62nd Leg., p. 1445, ch. 401, § 2, eff. Aug. 30, 1971.]

Art. 1970-324a.1. County Court at Law No. 3 of Travis County

Sec. 1. That there is hereby created a court to be held in Austin, Travis County, Texas, to be called the County Court at Law Number 3 of

Travis County, Texas, in addition to the present county courts at law of Travis County, Texas. The effective date of this Act shall be January 1, 1974.

Sec. 2. The County Court at Law Number 3 of Travis County, Texas, shall have and exercise jurisdiction in all matters and causes, civil and criminal, original and appellate, over which by the general laws of the state the county court of said county would have jurisdiction and all cases pending in the county courts at law of Travis County, Texas, shall be and the same are hereby transferred to the County Court at Law Number 3 of Travis County, Texas, and all writs and process, civil and criminal, heretofore issued by or out of the county courts at law of Travis County, Texas, shall be and the same are hereby made returnable to the County Court at Law Number 3 of Travis County, Texas. The jurisdiction of the County Court at Law Number 3 of Travis County, Texas, and of the judge thereof, shall extend to all matters of which jurisdiction has heretofore vested in the county court or in the county judge or in the county courts at law of Travis County, Texas; and such County Court at Law Number 3 of Travis County, Texas, shall exercise and have concurrent jurisdiction with the county court or county judge or any other numbered county court at law of Travis County, now or hereafter created, as to all probate matters.

Sec. 3. The County Court of Travis County shall have and retain, as heretofore, jurisdiction now conferred by law over probate matters; and such jurisdiction shall hereafter be concurrent as herein provided; but the county court of said county as now existing shall have no jurisdiction over other matters civil or criminal. The County Judge of Travis County shall be the judge of the county court of said county, and all ex officio duties of the county judge shall be exercised by said judge of the County Court of Travis County, except insofar as the same shall by this Act or otherwise be committed exclusively to the county courts at law of Travis County, Texas, now or hereafter created.

Sec. 4. The County Judge of Travis County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Travis County transfer to the County Court at Law Number 3 of Travis County or any other county court at law of Travis County, now or hereafter created, any such probate matter or proceeding then pending in the County Court of Travis County and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law Number 3 of Travis County or any other county court at law of Travis County, now or hereafter created, until otherwise provided by law, and shall be as valid and binding as though originally issued out of said County Court at Law Number 3 of Travis County or any other such county court at law of Travis County. The County Court of Travis

County shall have and retain concurrently with the County Court at Law Number 3 of Travis County and any other county court at law of Travis County, now or hereafter created, the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters.

Sec. 5. The terms of the County Court at Law Number 3 of Travis County shall be held in the courthouse of Travis County as follows, to wit: beginning on the first Mondays in January, March, May, July, September, and November in each year, and each term of said court shall continue in session until the convening of the next succeeding term. The practice in said court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts, except as herein expressly provided.

Sec. 6. The Commissioners Court of Travis County, Texas, shall appoint a Judge of the County Court at Law Number 3 of Travis County, Texas, who shall serve until the next general election, and until his successor shall have been duly elected and qualified. The person elected Judge of the County Court at Law Number 3 of Travis County, Texas, shall serve for a term of four years, and there shall be elected every four years thereafter a Judge of the County Court at Law Number 3 of Travis County, Texas. Such judge must be a qualified voter in said county, must be a regularly licensed attorney at law in this state, and must be a resident of Travis County, Texas, who shall have been actively engaged in the practice of law for a period of not less than four years next preceding such general election.

Sec. 7. The Judge of the County Court at Law Number 3 of Travis County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 8. A Special Judge of the County Court at Law Number 3 of Travis County may be appointed or elected as provided by law relating to county courts and to the judges thereof, who shall receive such compensation as may be provided by law for special judges of county courts or county courts at law, whichever is the greater, to be paid out of the general funds of the county by the commissioners court.

Sec. 9. Any vacancy in the office of the Judge of the County Court at Law Number 3 of Travis County shall be filled by the commissioners court, and when so filled, the judge shall hold office until the next general election and until his successor is elected and qualified. The Commissioners Court of Travis County, Texas, shall provide a suitable quarters for the holding of said County Court at Law Number 3 of Travis County, Texas.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law Number 3 of Travis County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try

such case or cases where the Judge of the County Court at Law Number 3 of Travis County is disqualified. Otherwise, a special judge may be appointed or elected as is now or may hereafter be provided by law for county judges or for judges of county courts at law.

Sec. 11. The Judge of the County Court at Law Number 3 of Travis County may be removed from office in the same manner and for the same causes as any county judge or judge of a county court at law may be removed under the laws of the state.

Sec. 12. When either party to a civil case pending in the County Court or County Court at Law Number 3, or any other county court at law of Travis County, now or hereafter created, applies therefor, the judge thereof shall appoint a competent stenographer, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than \$10 per day, to be taxed and collected as costs. In such cases, the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court, shall apply to all statements of facts in civil cases tried in said courts, and all provisions of law governing statement of facts and bills of exception to be filed in district courts and the use of same on appeal shall apply to civil cases tried in said courts.

Sec. 13. The County Court at Law Number 3 of Travis County, and the judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court, or of any other court in said county of concurrent or inferior jurisdiction to said County Court at Law Number 3 of Travis County.

Sec. 14. All cases appealed from the justice courts and other inferior courts in Travis County, Texas, shall be made direct to the County Court at Law Number 3 of Travis County, or to any other county court at law of Travis County, now or hereafter created, until otherwise provided by law.

Sec. 15. The County Clerk of Travis County, Texas, shall be the Clerk of the County Court at Law Number 3 of Travis County. The seal of said court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law Number 3 of Travis County". The Sheriff of Travis County shall in person or by deputy attend the said court when required by the judge thereof. The County Attorney of Travis County shall represent the state in all prosecutions pending in said County Court at Law Number 3 of Travis County, and he shall be entitled to the same fee as now prescribed by law for such prosecution in the county courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Travis County for the drawing, selection, and service of jurors shall be exercised by said County Court at Law Number 3 or by any other county court at law of Travis County, but juries summoned for either or any of said courts may by order of the judge of the court in which they are summoned be transferred to any of the other courts for service therein and may be used therein as if summoned for the court to which they may be thus transferred.

Sec. 17. The Judge of the County Court at Law Number 3 of Travis County, Texas, may be paid by the commissioners court a yearly salary not less than \$19,000 and not more than the amount paid district judges from the general revenue fund of the State of Texas. The salary shall be paid out of the general fund of the county in equal monthly installments by warrants drawn upon the county treasurer upon orders of the Commissioners Court of Travis County, Texas. The Judge of the County Court at Law Number 3 shall assess the same fees and costs as are now prescribed by law for county judges, to be deposited in the county treasury as prescribed by law.

Sec. 18. The Judge of the County Court at Law Number 3 of Travis County, Texas, shall not engage in the private practice of law while holding the office of judge of the said court.

[Acts 1963, 58th Leg., p. 333, ch. 127; Acts 1973, 63rd Leg., p. 1077, ch. 414, eff. Jan. 1, 1974.]

Art. 1970-324b. Exchange of Benches of County Courts at Law of Travis County

The Judge of each of the County Courts at Law of Travis County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause, civil or criminal, on his docket, to the docket of the other County Court at Law; and the Judges of said Courts may, in their discretion, exchange benches from time to time; and whenever a Judge of one of said Courts is disqualified, he shall transfer the case from his Court to the other County Court at Law, and either Judge may, in his own courtroom, try and determine any case or proceeding pending in either County Court at Law, without having the case transferred, or may sit in the other County Court at Law and there hear and determine any case there pending; and each judgment and order shall be entered in the minutes of the Court in which the case is pending; and the Judges may try different cases in the same Court at the same time and each may occupy his own courtroom or the room of any County Court at Law. In case of absence, sickness, or disqualification of either Judge of the County Courts at Law, the other Judge of the County Court at Law may hold Court for him. Either of said Judges may hear any part of any case or proceeding pending in either of said County Courts at Law and determine the same or may

hear and determine any question in any case and either Judge may complete the hearing and render judgment in said case. In cases transferred to any one of the County Courts at Law by order of the Judge of one of said Courts, all process, writs, bonds, recognizances or other obligations issued or made in said cases shall be returned to and filed in the Court to which transfer is made. All bonds executed and recognizances entered into in said cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the Court to which the cases are transferred to as are fixed by law and by this Act. And all processes issued or returned before transfer of said cases as well as all bonds and recognizances before taken in said cases shall be valid and binding as though originally issued out of the Court to which such transfer may be made.

[Acts 1965, 59th Leg., p. 175, ch. 69, § 6, eff. April 8, 1965.]

Art. 1970-324c. Practice of Law by Judges of County Courts at Law of Travis County

The Judges of the County Court at Law No. 1 and the County Court at Law No. 2 of Travis County, Texas shall not engage in the private practice of law while holding the office of judge of said courts.

[Acts 1967, 60th Leg., p. 1196, ch. 532, § 3, eff. Jan. 1, 1968.]

Art. 1970-324d. Eminent Domain Cases in Travis County

Sec. 1. The County Courts at Law shall have concurrent original jurisdiction over eminent domain proceedings with the County Court of Travis County and the administrative and ministerial jurisdiction to file and dispose of proceedings in eminent domain concurrently and coextensively with the County Court and other County Courts at Law of Travis County now or hereafter created.

Sec. 2. Eminent domain cases filed in Travis County shall be assigned in rotation to the County Courts at Law by the County Clerk.

[Acts 1971, 62nd Leg., p. 1446, ch. 401, § 3, eff. Aug. 30, 1971; Acts 1971, 62nd Leg., 1st C.S., p. 13, ch. 1, § 3, eff. June 7, 1971.]

OFFICIAL INTERPRETERS

Art. 1970-325. Official Interpreters for County Courts at Law

Sec. 1. The judge of the County Court at Law of any county having a County Court at Law, is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the salary of said official interpreter and provide for the payment of such salary, and shall prescribe the duties of such official interpreter.

Sec. 2. The judge of the County Court at Law shall have authority to terminate such employment of such interpreter at any time.

Sec. 3. The official interpreter so appointed by the judge of the County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oath shall suffice for his service as official interpreter of such court in all cases before such court during his term of office.

[Acts 1941, 47th Leg., p. 357, ch. 195.]

NAVARRO COUNTY

Art. 1970-326. County Court of Navarro County; Jurisdiction

Sec. 1. The County Court of Navarro County shall have and exercise the general jurisdiction of a Probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such courts; to conduct lunacy hearings; to apprentice minors, as provided by law; and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provision as now or may be provided for by General Law governing County Courts throughout the State; but neither said County Court of Navarro County, nor the Judge thereof, shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction; and the said County Court of Navarro County shall have criminal jurisdiction under such provisions as are now or may be provided for by General Law governing County Courts throughout the State; and said County Court shall have such appellate jurisdiction, save as to eminent domain, as is now or may hereafter be given it by law; provided, however, that all future statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Navarro County, as fully as though this statute had not been enacted.

Sec. 2. That the District Court of Navarro County and the presiding judge thereof shall have and exercise original jurisdiction in matters of eminent domain and in all civil matters and causes over which, by the laws of this State, the County Court of Navarro County would have had original jurisdiction, but for the provisions set out in Section 1 of this Act: all causes, other than probate matters, criminal matters and cases appealed from the Justice of the Peace Courts, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Navarro County, and all writs and process relating to such civil matters and causes included in the subject matter of jurisdiction prescribed in

this Act, issued by or out of said County Court of Navarro County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect.

Sec. 3. That the County Clerk of Navarro County be and he is hereby required, within thirty days after this Act takes effect, to make a full and complete transcript of all entries upon his civil docket heretofore made in cases which by Section 2 of this Act are required to be transferred to the District Court of said County, to prepare a certified bill of costs in each case, and to transmit the same together with all the papers pertaining to such cases to the Clerk of the District Court of said county; all such cases shall be immediately docketed by the District Clerk as appearance cases for the next succeeding term of such District Court, and all process now issued and returnable to said County Court shall be returnable to said District Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by said County Court of Navarro County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said County shall issue all writs of execution and orders of sale, and proceedings thereunder, and his act in so doing shall be valid and binding to all intents and purposes, the same as if no change had been made as set out in Section 2.

[Acts 1941, 47th Leg., p. 553, ch. 350.]

Art. 1970-327. Repealed by Acts 1943, 48th Leg., p. 689, ch. 38, § 6

MORRIS COUNTY

Art. 1970-328. County Court of Morris County; Jurisdiction

Sec. 1. In addition to the jurisdiction heretofore conferred by law upon the County Court of Morris County, Texas, and the County Judge of Morris County, Texas, the said County Court shall have jurisdiction within Morris County of all criminal matters and causes of misdemeanor or over which the District Court of Morris County, Texas, now has jurisdiction, and the jurisdiction of said courts over such matters shall be concurrent; provided that the jurisdiction of the District Court of Morris County, Texas, shall be and remain as now fixed by law and be in nowise affected by this Act; and provided further, that the jurisdiction hereby conferred upon the County Judge of Morris County, Texas, shall extend to and only to those cases in which pleas of guilty are entered by the defendant in any cases of misdemeanor filed in said court.

Sec. 2. The County Judge of Morris County, Texas, shall receive a fee of Three (\$3.00) Dollars for each and every case tried before him in which a plea of guilty is entered, and the

fees of the other officers of the Court shall be and remain as is now provided by the laws of this state.

[Acts 1943, 48th Leg., p. 411, ch. 278.]

POWERS

Art. 1970-329. Judge of County Court at Law in Counties Under 500,000 May Act for County Judge in Certain Cases

Sec. 1. That the Judge of any County Court at Law in any county having a population of less than five hundred thousand (500,000) inhabitants according to the last preceding, or any future Federal Census, may act for the County Judge of the county in any juvenile, lunacy, probate and condemnation proceeding or matter and also may perform for the County Judge any and all other ministerial acts required by the laws of this State of the County Judge, during the absence, inability or failure of the County Judge for any reason to perform such duties; and any and all such acts thus performed by the Judge of the County Court at Law, while acting for the County Judge, shall be valid and binding upon all parties to such proceedings or matters the same as if performed by the County Judge. Provided that the powers thus given the Judges of the County Courts at Law of this State shall extend to and include all powers of the County Judge except his powers and duties in connection with the transaction of the business of the county, as presiding officer of the Commissioners Court and as the budget officer for the Commissioners Court.

Sec. 2. That the absence, inability or failure of the County Judge to perform any of the duties hereinabove set forth shall be certified by the County Judge or the Commissioners Court to the Judge of any such County Court at Law, and when such certification is for the purpose of conferring powers to do some judicial act, such certificate shall be spread upon the minutes of the appropriate Court.

Sec. 3. That notwithstanding the additional powers and duties conferred upon the Judges of the County Courts at Law of this State no additional compensation or salary shall be paid to them, but the compensation or salary of such Judges of the County Courts at Law shall remain the same as now, or as may be hereafter, fixed by law.

Sec. 4. That it is not intended by this Act to repeal any law providing for the election and/or appointment of a special County Judge, but this Act shall be cumulative of, and in addition to, such law or laws.

Sec. 5. That if any part, section, subsection, paragraph, sentence, clause, phrase, or word, of this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not in any manner affect the validity of the remaining portions of this Act.

[Acts 1943, 48th Leg., p. 689, ch. 382.]

TITUS COUNTY

Art. 1970-330. Titus County Court; Jurisdiction Diminished; District Court's Jurisdiction; Prosecutor in Misdemeanor Cases

Sec. 1. The County Court of Titus County shall retain and continue to have and exercise the general jurisdiction of probate courts, and all other jurisdiction now or hereafter conferred by the Constitution and laws of this State, except as is hereinafter provided, and shall retain all jurisdiction and power to issue all writs necessary to the enforcement of its jurisdiction, and to punish contempts; but said County Court shall have no civil jurisdiction and no criminal jurisdiction except jurisdiction to receive and enter pleas of guilty in misdemeanor cases, and except as to final judgments referred to in Section 2, hereof, and shall have no general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners.

Sec. 2. The district court having jurisdiction in Titus County shall have and exercise jurisdiction in all matters and cases of a civil nature and in all matters of a criminal nature, except as to such jurisdiction that the County Court has to receive and enter pleas of guilty in misdemeanor cases as is provided in Section 1 hereof, whether the same be of original jurisdiction or of appellate jurisdiction, and shall have the general jurisdiction in trial of all matters of eminent domain on appeal from the awards of commissioners, over which by the General Laws of the State of Texas now existing and hereinafter enacted the County Court of said County would have had jurisdiction and all pending civil and criminal cases and eminent domain appeals from the awards of commissioners, be and the same are, hereby transferred to the district court having jurisdiction in Titus County, Texas, and all writs and process heretofore issued by or out of said County Court in all pending civil or criminal cases or eminent domain appeals from the awards of commissioners be, and the same are hereby, made returnable to the district court sitting in Titus County, Texas. However, there shall not be transferred to said district court jurisdiction over any judgments, either in civil, criminal or eminent domain cases, rendered prior to the time this Act takes effect and which have become final, but as to such judgments the said County Court shall retain jurisdiction for the enforcement thereof by all appropriate process.

Sec. 3. The County Attorney of Titus County shall represent the State in all misdemeanor cases before the District Court of Titus County, and shall receive therefor the same fees to which he would be entitled under the law as County Attorney had said cases been tried in the County Court.

Sec. 4. The Clerk of the County Court of Titus County is, and he is hereby required within twenty (20) days after this Act takes effect to file with the Clerk of the District Court of said County all original papers in cas-

es here transferred to the said District Court, and all Judge's dockets and certified copies of any interlocutory judgment, or other order entered in the minutes of the County Court in said cases so transferred; and the District Clerk shall immediately docket all such cases on the docket of the District Court of Titus County in the same manner and place as each stands on the docket of the County Court. It shall not be necessary that the District Clerk refile any papers theretofore filed by the County Clerk, nor shall he receive any fees for the filing of the same, but papers in said case bearing the file mark of the County Clerk, prior to the time of said transfer, shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost and against all cost deposits, if any, the County Clerk shall charge accrued fees due him, and the remainder of the deposit he shall pay to the District Clerk as a deposit in the particular case for which the same was deposited. Credit shall also be given the litigants for all jury fees paid in the County Court.

[Acts 1945, 49th Leg., p. 225, ch. 169; Acts 1963, 58th Leg., p. 158, ch. 96, §§ 1, 2.]

FRANKLIN COUNTY

Art. 1970-331. Repealed by Acts 1965, 59th Leg., p. 800, ch. 385, § 2, eff. Aug. 30, 1965

Art. 1970-331a. Repealed by Acts 1967, 60th Leg., p. 722, ch. 302, § 5, eff. May 25, 1967

Art. 1970-331b. Repealed by Acts 1971, 62nd Leg., p. 951, ch. 161, § 5, eff. May 11, 1951

Art. 1970-331c. County Court and District Courts of Franklin County; Jurisdiction and Related Matters

Sec. 1. The County Court of Franklin County has the full jurisdiction granted by the Constitution and general law to county courts.

Sec. 2. The district courts having jurisdiction in Franklin County have the jurisdiction granted by the Constitution and general law to district courts.

Sec. 3. (a) All cases pending on the effective date of this Act in the district courts having jurisdiction in Franklin County which are within the jurisdiction of the county court under Section 1 of this Act are transferred to the County Court of Franklin County.

(b) All writs and process relating to cases transferred under Subsection (a) are returnable to the next term of the County Court of Franklin County.

Sec. 4. This Act may not be construed to affect judgments rendered by the district courts having jurisdiction in Franklin County prior to the effective date of this Act. The clerks of the district courts having jurisdiction in Franklin County shall issue all executions

and orders of sale and proceedings thereunder, which shall be valid and binding.

[Acts 1971, 62nd Leg., p. 951, ch. 161, eff. May 11, 1971.]

GRAYSON COUNTY

Art. 1970-332. Grayson County; County Court at Law; Jurisdiction; Terms; Judge; Prosecutor; Writs; Clerk and Court Reporter

Sec. 1. There is hereby created a Court to be held in Sherman, Grayson County, Texas, which shall be known as the County Court at Law of Grayson County.

Sec. 2. The County Court at Law of Grayson County shall have and exercise the jurisdiction in all matters and cases, civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction except as herein provided in Section 3 of this Act, and all cases pending in the County Court of said County, other than probate matters such as are provided in Section 3 of this Act, at the time this Act shall become effective, shall be and the same are hereby transferred to the County Court at Law of Grayson County, and all writs and process, civil and criminal, heretofore issued by or out of the said County Court other than those pertaining to matters which are hereby exempt from this Act that are to remain in the County Court of Grayson County shall be and the same are hereby made returnable to the County Court at Law of Grayson County.

Sec. 3. The County Court at Law of Grayson County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State are conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court at Law of Grayson County in civil cases of which said Court has appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy does not exceed One Hundred Dollars (\$100) exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the said County Court at Law of Grayson County over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal to the County Court at Law of Grayson County from the Justice Court where the right of appeal to the County Court now exists by law. The jurisdiction of the County Court at Law of Grayson County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Grayson County or in the County Judge; but this provision shall not affect the jurisdiction of the

Commissioners Court nor of the County Judge of Grayson County as presiding officer of said Commissioners Court as to roads, bridges, and public highways, or matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge of the County Court of Grayson County.

Sec. 6. The County Court of Grayson County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and all jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Grayson County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Grayson County in this Act, but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Grayson County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Grayson County, except in so far as the same shall by this Act be committed to the County Court at Law of Grayson County.

Sec. 7. The terms of the County Court at Law of Grayson County, and the practice therein, and the appeals and writs of error therefrom shall be as prescribed by the laws relating to County Courts. The terms of the County Court at Law of Grayson County shall be held in the Courthouse of Grayson County, and shall begin on the first Monday in February, April, June, August, October and December of each year, and shall continue in session until the Saturday before the first Monday in April, June, August, October, December and February of each year.

Sec. 8. There shall be elected in Grayson County by the qualified voters thereof at each general election a Judge of the County Court at Law of Grayson County, who shall be a qualified voter in said County, and who shall be a regularly licensed attorney at law in this State, and who shall be a resident of Grayson County, Texas, and shall have been actively engaged in the practice of law for a period of not less than one (1) year next preceding such general election, who shall hold such office for two (2) years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Grayson County shall represent the State in all prosecutions pending in said County Court at Law of Grayson County, and shall be entitled to the same fee as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Governor shall appoint a Judge of the County Court at Law of Grayson County, who shall hold his office until the next general election.

Sec. 11. In the case of the disqualification of the Judge of the County Court at Law in

any case pending in this Court, the County Judge shall sit in such case, or, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases; and in default of such agreement a majority of the practicing lawyers of Grayson County shall elect a Judge to try such cases where the County Judge at Law is disqualified.

Sec. 12. The County Court at Law of Grayson County, or the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law.

Sec. 13. The County Clerk of Grayson County shall be the Clerk of the County Court at Law of Grayson County, and the Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law of Grayson County."

Sec. 14. The jurisdiction or authority now vested by law in the County Court for the selection and service of jurors shall be exercised by the County Court at Law of Grayson County and all petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such juries shall be required to appear and serve at the next ensuing terms of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had served as jurors in the Court for which they were originally drawn.

Sec. 15. Any vacancy in the office of the Judge of the County Court at Law of Grayson County may be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 16. The Judge of the County Court at Law of Grayson County shall receive a salary of not more than Fourteen Thousand Dollars (\$14,000) per year to be paid out of the County Treasury of Grayson County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Grayson County shall assess the same fees as are now prescribed by law relating to the County Judge's fee, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Section.

Sec. 17. All cases appealed from the Justice Court and other inferior Courts in Grayson County, Texas, shall be made direct to the County Court at Law of Grayson County, under

the provisions heretofore governing such appeals.

Sec. 18. The Judge of the County Court at Law of Grayson County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 18A. The Judge of the County Court at Law of Grayson County may appoint an official shorthand reporter for his court in the manner now provided for district courts in this State who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than the compensation paid the official shorthand reporters of the district courts of Grayson County, Texas, said salary to be fixed, determined, set and allowed by the commissioners court of Grayson County, and shall be in addition to transcript fees, fees for statement of facts and all other fees. Said salary when so fixed and determined by the commissioners court shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners court, in the same manner as salaries of other county officers are paid. From and after passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the commissioners court of Grayson County.

Sec. 19. All laws and parts of laws in conflict herewith, if any, are hereby repealed.

Sec. 20. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1947, 50th Leg., p. 219, ch. 126; Acts 1967, 60th Leg., p. 859, ch. 365, §§ 1, 2, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 161, ch. 60, §§ 1, 2, eff. April 3, 1969.]

HILL COUNTY

Art. 1970-333. Hill County; Jurisdiction of Courts; Clerk's Duties

Sec. 1. The County Court of Hill County shall have and exercise the general jurisdiction of a probate Court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement and distribution of estates of deceased persons pending in such Court; to conduct lunacy hearings; to apprentice minors

as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State, but neither said County Court of Hill County nor the Judge thereof shall have any jurisdiction over matters of eminent domain, or other original civil jurisdiction, or other original criminal jurisdiction, or appellate civil jurisdiction, or other appellate criminal jurisdiction; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas, shall be operative in said Hill County as fully as though this Statute had not been enacted.

Sec. 2. That the District Court of Hill County and the presiding Judge thereof shall have and exercise original jurisdiction in matters of eminent domain and that the District Court of Hill County, Texas, and the presiding Judge thereof shall have and exercise original and appellate jurisdiction in all civil and criminal matters and causes over which by the laws of this State the County Court of Hill County would have had original or appellate jurisdiction, but for the provisions set out in Section 1 of this Act; all causes, other than probate matters, as are provided in Section 1 of this Act shall be and the same are hereby transferred to the District Court of Hill County, and all writs and process relating to such civil and criminal matters and causes included in the subject matter of jurisdiction prescribed in this Act, issued by or out of said County Court of Hill County be and the same are hereby made returnable to the next term of the District Court of said County after this Act takes effect. Provided further, however, that as to any civil or criminal case on appeal from said County Court, should a judgment be entered by the Court of Civil Appeals or the Supreme Court, or the Court of Criminal Appeals, remanding the case for a new trial or for further proceedings, same shall be remanded to the District Court of Hill County and all jurisdiction in respect to said particular case shall thereafter vest in the District Court of Hill County, Texas.

Sec. 3. That the County Clerk of Hill County be and is hereby required, within thirty (30) days after this Act takes effect to file with the Clerk of the District Court of said County all original papers in cases here transferred to the said District Court and all Judges' dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the County Court in said cases so transferred, and the District Clerk shall immediately docket all such cases on the docket of the said District Court for Hill County, Texas, and all such cases shall stand on the docket of said Court in the same manner and place as each stands on the docket of the County Court. Provided further that it shall not be necessary that the District Clerk refile any papers theretofore filed by the County Court, but papers in said case

bearing the file mark of the County Clerk prior to the time of the said transfer shall be held to have been filed in the case as of the date filed without being refiled by the District Clerk. Said County Clerk in cases so transferred shall accompany the papers with a certified bill of cost, and against all cost deposits, if any, the County Clerk shall charge accrued fees due him and the remainder of the deposit he shall pay to the District Court as a deposit in the particular case for which same was deposited. Credit shall be given litigants for all jury fees paid in the County Court.

Sec. 4. That this Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by said County Court of Hill County pertaining to matters and causes which by Section 2 of this Act are transferred to the District Court of said County; but such County Court shall retain jurisdiction to enforce said final judgments and the County Clerk of said County shall issue all writs of execution and orders of sale and proceedings thereunder and his act in so doing shall be valid and binding to all intents and purposes the same as if no change had been made as set out in Section 2.

Sec. 5. That all laws and parts of laws in conflict herewith be and the same are hereby repealed.

[Acts 1947, 50th Leg., p. 470, ch. 271.]

Art. 1970-333a. Jurisdiction Restored; Jurisdiction of District Court

Sec. 1. There is hereby restored to the County Court of Hill County, original jurisdiction in matters of eminent domain which had been transferred to the District Court of Hill County by the provisions of House Bill No. 648, Acts of the 50th Legislature, Regular Session 1947, Chapter 271 (codified in Vernon's Civil Statutes as Article 1970-333), and original jurisdiction in matters of eminent domain is hereby transferred from the District Court of Hill County to the County Court of Hill County.

From and after the effective date of this Act, the County Court of Hill County shall have and exercise original jurisdiction in matters of eminent domain.

Sec. 2. The District Clerk of Hill County is hereby required within thirty days after this Act takes effect to file with the Clerk of the County Court of Hill County all original papers in cases or proceedings here transferred to the County Court of Hill County, and all dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the District Court in said cases or proceedings so transferred, and the Clerk of the County Court shall immediately docket all such cases on the docket of the County Court of Hill County and all such cases or proceedings shall stand on the docket of said court in the same manner and place as each stands on the docket of the District Court. It shall not be necessary that the Clerk of the County Court refile any

papers theretofore filed by the District Clerk, but papers in said case or proceeding bearing the file marks of the District Clerk prior to the time of such transfer shall be held to have been filed in the case or proceeding as of the date filed, without being refiled by the Clerk of the County Court. The District Clerk in cases or proceedings so transferred shall accompany the papers with the certified bill of costs, and against all costs deposits, if any, the District Clerk shall charge accrued fees to him and the remainder of the deposit he shall pay to the County Court as a deposit in the particular case for which the same was deposited. Credit shall be given litigants for all jury fees paid in the District Court.

Sec. 3. All writs and process relating to such cases or proceedings issued by or out of the District Court of Hill County are hereby made returnable to the next term of the County Court of Hill County after this Act takes effect. Any case or proceeding on appeal which has been transferred by this Act to the County Court, should a judgment be rendered by the Court of Civil Appeals or the Supreme Court remanding the case or proceeding for a new trial or for further proceedings, shall be remanded to the County Court of Hill County, and all jurisdiction in respect to said particular case or proceeding shall vest in the County Court of Hill County.

Sec. 4. This Act shall not be construed to in anywise or manner affect final judgments heretofore rendered by the District Court of Hill County pertaining to matters transferred by the provisions of this Act to the County Court, but the District Court shall retain jurisdiction to enforce said final judgments.

[Acts 1955, 54th Leg., p. 674, ch. 243.]

KENT COUNTY

Art. 1970-334. Kent County; Concurrent Jurisdiction of County Court with Justices' Courts

Sec. 1. The County Court of Kent County, shall have and exercise concurrent jurisdiction with the Justices' Courts in all civil matters, which, by the General Laws of this State, is conferred upon Justices' Courts.

Sec. 2. Said County Court shall also have and exercise such jurisdiction over and pertaining to all matters and things and proceedings as by the General Laws of this State is conferred upon the County Court.

Sec. 3. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court in civil cases of which said Court has appellate or original concurrent jurisdiction with the Justice Court where the amount in controversy does not exceed One Hundred Dollars (\$100) exclusive of interest and costs.

Sec. 4. This Act shall not be construed to deprive the Justice Courts of the jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said

County Court over such matters as are specified in Section 1 of this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court where the right of appeal now exists by law. [Acts 1947, 50th Leg., p. 791, ch. 392.]

JOHNSON COUNTY

Art. 1970-335. Johnson County; Jurisdiction of County Court Diminished; Jurisdiction of District Court

Sec. 1. The County Court of Johnson County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such Court; to conduct lunacy hearings; to apprentice minors as provided by law, and to issue all writs necessary for the enforcement of its own jurisdiction; to punish contempt under such provisions as now or may be provided for by General Law governing County Courts throughout the State; and in addition thereto, said County Court of Johnson County and the Judge thereof, subject to the conditions hereinafter stated, shall have jurisdiction over matters of eminent domain and other original civil jurisdiction, and original criminal jurisdiction and appellate civil jurisdiction and appellate criminal jurisdiction as are normally exercised by County Courts under the Constitution and General Laws of this State; provided, however, that all future Statutes pertaining to probate matters enacted by the Legislature of the State of Texas shall be operative in Johnson County as fully as though this Statute had not been enacted.

Sec. 2. The Judge of the District Court of Johnson County will be the presiding Judge, insofar as said District Court and said County Court are concerned, over original jurisdiction in matters of eminent domain, as well as original and appellate jurisdiction in all civil and criminal matters in causes over which by the laws of this State the County Court of Johnson County would have original or appellate jurisdiction; and all such causes will be filed with the District Clerk of Johnson County in said District Court. The Judge of the District Court of Johnson County may, in his discretion, assign to the County Court of Johnson County for trial and disposition, cases, or portions thereof, of eminent domain as well as cases of original and appellate jurisdiction in civil and criminal matters and causes over which, by the General Laws of this State, the County Court of Johnson County would have original or appellate jurisdiction. Such as-

signments shall be made by docket notation. The purpose and intent of this Statute is to vest the District Court of Johnson County and the County Court of Johnson County with concurrent jurisdiction over matters of eminent domain as well as original and appellate jurisdiction in all civil and criminal matters over which, by the General Laws of this State, the County Court of Johnson County would have original or appellate jurisdiction, subject to the control over assignments of such cases, or parts thereof, by the said District Court, as hereinabove set out.

Sec. 3. The District Clerk of Johnson County shall continue to perform all the clerical functions of and for the County Court of Johnson County, insofar as all matters and causes over which the said District Court and County Court have concurrent jurisdiction, as hereinabove set out. Insofar as all cases over which the said District Court and County Court have concurrent jurisdiction, as hereinabove set out, said Clerk shall charge fees at the rate set by law for County Court cases.

Sec. 4. The duties of the County Attorney of Johnson County shall not be in any manner changed or affected by this Act; and said County Attorney shall have and perform the same duties as were had and performed prior to the passage of this Act.

Sec. 5. The duties of the County Attorney of Johnson County shall not be in any wise or manner changed or affected by this Act; and the County Attorney of Johnson County shall have and perform the same duties as were had and performed prior to the passage of this Act. [Acts 1949, 51st Leg., p. 185, ch. 102; Acts 1971, 62nd Leg., p. 26, ch. 11, § 1, eff. March 4, 1971.]

COUNTIES OF 225,000 INHABITANTS

Art. 1970-336. Salary of Judge in Counties Having Only One County Court at Law

Sec. 1. In all counties in this State having a population of not less than two hundred and twenty-five thousand (225,000) inhabitants according to the last preceding Federal Census and having within said county only one County Court at Law the salary of the Judge of said County Court at Law shall be Seven Thousand, Four Hundred Dollars (\$7,400) per annum. Said salary shall be paid out of the County General Fund in twelve (12) equal monthly installments. The Commissioners Court of the county out of whose funds said salary is paid may, if it so elects, order such payments to be made out of the Jury Fund.

Sec. 2. The term "County Court at Law" as used in this Act shall mean and include County Courts at Law having jurisdiction over civil cases only or criminal cases only or both civil and criminal cases.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 4. All laws or parts of laws fixing the salaries of Judges of County Courts at Law in any county having not less than two hundred and twenty-five thousand (225,000) population and having within said county only one County Court at Law as herein defined to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salary in such counties over any classification by population of such counties heretofore made.

[Acts 1949, 51st Leg., p. 452, ch. 244.]

BLANCO COUNTY

Art. 1970-337. Jurisdiction Extended; Civil and Criminal; Concurrent with Justices Court

Sec. 1. Hereafter the County Court of Blanco County, Texas, in addition to its present jurisdiction, shall have civil and criminal jurisdiction as provided by the General Laws for county courts.

Sec. 2. This Act shall not be construed to in anywise, or in any manner affect judgments heretofore rendered by the District Court pertaining to matters and causes which, by this Act are made returnable to the County Court, and the Clerk of the District Court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 3. The jurisdiction of the District Court of Blanco County shall be such as provided by the Constitution and General Laws of this State, consistent with the change in jurisdiction of the County Court herein made.

Sec. 4. The County Court of Blanco County shall, in addition to the civil and criminal jurisdiction conferred upon County Courts by the Constitution and General Laws of this State, have and exercise concurrent jurisdiction with the Justices Courts in all criminal and civil matters which, by the General Laws of this State, is conferred upon Justice Courts.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from a final judgment of said Court in civil cases, of which Court has appellate, original or concurrent jurisdiction with the Justices Courts, where the amount in controversy does not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justices Courts of jurisdiction now conferred upon them by law, but is only to give concurrent and original jurisdiction to said county court over such matters as are specified in this Act, nor shall this Act be construed to deny the right of appeal from the Justice Court to said County Court in any case originally brought in the Justice Court, where the right of appeal exists under the Constitution and General Laws of the State.

Sec. 7. It shall be the duty of the District Clerk of Blanco County, Texas, within thirty (30) days after this Act shall take effect, to make full and complete transcripts of orders on the criminal and civil dockets then pending before the District Court of said County of which cases, by the provisions of this Act, original and appellate jurisdiction is given to said County Court and to file said transcript, together with the original papers in each case in the County Court of said County and the County Clerk shall enter said cases on the respective dockets of said County Court as appearance cases for trial by said Court.

Sec. 8. The terms of said Courts shall commence on the first Monday in January, and on the first Monday in May and on the first Monday in August and the first Monday in November of each year and each of said terms shall continue in session for six weeks, or until the business may be disposed of; provided, that the County Commissioners Court of said County may hereafter change the terms of said Court whenever it may be deemed necessary by said Commissioners Court.

[Acts 1949, 51st Leg., p. 491, ch. 267.]

ELLIS COUNTY

Art. 1970-338. Repealed by Acts 1969, 61st Leg., p. 2135, ch. 739, § 7, eff. June 12, 1969

Art. 1970-338A. Original and Appellate Jurisdiction in Misdemeanor Cases

Sec. 1. The County Court of Ellis County, Texas, and the County Judge thereof shall have and exercise original and appellate jurisdiction in all misdemeanor cases over which the laws of this state has conferred jurisdiction in the County Court. All misdemeanor cases now pending in the District Court of Ellis County, Texas, and all writs and processes relating to such criminal cases issued by or out of said District Court of Ellis County are hereby made returnable to the next term of the County Court of Ellis County after this Act takes effect; provided further, however, that as to any misdemeanor case on appeal from said District Court should a judgment be entered by the Court of Criminal Appeals remanding the case for a new trial or for further proceedings, same shall be remanded to the County Court of Ellis County and all jurisdiction in and to said particular case shall thereafter rest in the County Court of Ellis County, Texas.

Sec. 2. The District Clerk of Ellis County be and he is hereby required, within thirty days after this Act takes effect, to file with the County Clerk of said county all original papers in misdemeanor cases here transferred to said County Court, together with all Judge's dockets and certified copies of any interlocutory judgment or other order entered in the minutes of the District Court in said misdemeanor cases so transferred, and the County Clerk shall immediately docket all such cases on the docket of said County Court of Ellis County,

Texas, and all such misdemeanor cases shall stand on the docket of said County Court in the manner and place as each stands on the docket of the District Court. Providing further, that it shall not be necessary that the County Clerk re-file any papers theretofore filed by the District Clerk; but papers in said case bearing the file mark of the District Clerk prior to the time of the said transfer shall be held to have been filed in the case as of the date filed without being re-filed by the County Clerk. Said District Clerk in misdemeanor cases so transferred shall accompany the papers with a certified bill of costs.

Sec. 3. All unfinished business and all final judgments heretofore rendered by the District Court of Ellis County pertaining to misdemeanor cases shall likewise be transferred to said County Court and the County Clerk of said county shall issue all writs of process thereunder, and his act in doing so shall be valid and binding to all intents and purposes the same as if no change had been made in said criminal jurisdiction.

[Acts 1959, 56th Leg., p. 50, ch. 26.]

Art. 1970-338B. Jurisdiction of Courts; Transfer of Cases; Judgments

Sec. 1. That the County Court of Ellis County, Texas, from and after the effective date of this Act, shall have and exercise jurisdiction in all probate, civil, and criminal matters, as provided in the Constitution of the State of Texas and the general law governing county courts throughout the state.

Sec. 2. The District Court of Ellis County, Texas, shall have and exercise the general jurisdiction, both original and appellate, in all civil and criminal matters and causes, as provided in the Constitution of the State of Texas and in the general law governing the jurisdiction of district courts throughout the state.

Sec. 3. All causes pending in the County Court of Ellis County and in the District Court of Ellis County, the jurisdiction of which is changed by this Act, shall be and the same are hereby transferred in conformity with the provisions of this Act to the court having jurisdiction of such cause under the provisions hereof, and all writs and process relating to such causes which have been issued by or out of either of said courts shall be and the same are hereby made returnable to the next term of the court having jurisdiction of said cause under the provisions of this Act.

Sec. 4. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the District Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the County Court of Ellis County, and the clerk of the district court of said county shall issue all executions and orders of sale and proceedings thereunder, which shall be as valid and binding to all intents and purposes as though the change had not been made as directed in this Act.

Sec. 5. This Act shall not be construed to in anywise or in any manner affect judgments heretofore rendered by the County Court of Ellis County pertaining to matters and causes which by this Act are made returnable to the District Court of Ellis County, and the clerk of the county court of said county shall issue all executions and orders of sale and proceedings thereunder which shall be as valid and binding to all intents and purposes as though the change had not been made as directed by this Act.

Sec. 6. The clerks of the respective courts shall transfer the dockets of all cases the jurisdiction of which is changed by the provisions of this Act to the court having such jurisdiction after the effective date of this Act, and shall transfer all court papers and do such other things as may be necessary to fully transfer all said causes and matters to the court having jurisdiction of same under the provisions of this Act.

Sec. 7. Chapter 355, Acts of the 51st Legislature, Regular Session, 1949 (Article 1970-338, Vernon's Texas Civil Statutes), together with any and all other acts or laws and parts of acts or laws in conflict herewith are hereby expressly repealed.

[Acts 1969, 61st Leg., p. 2135, ch. 739, eff. June 12, 1969.]

NUECES COUNTY

Art. 1970-339. County Court at Law No. 1 of Nueces County

Sec. 1. There is hereby created a Court to be held in Corpus Christi, Nueces County, Texas, to be called the County Court at Law of Nueces County, Texas.

Sec. 2. The County Court at Law No. 1 of Nueces County, Texas, shall have and exercise concurrent jurisdiction with the County Court of Nueces County, Texas, in all matters and causes, civil and criminal, original and appellate, over which the County Court of Nueces County, Texas, would have jurisdiction under the general laws of Texas. Such jurisdiction shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Nueces County or in the County Judge; provided, however, that nothing herein shall affect the jurisdiction of the commissioners court or of the County Judge of Nueces County as the presiding officer of such commissioners court, as to roads, bridges, and public highways which are now within the jurisdiction of the commissioners court or the presiding judge thereof. Said court shall also have the general jurisdiction of a probate court within the limits of Nueces County, Texas, concurrent with jurisdiction of the County Court in such matters and proceedings. County Court at Law No. 1 of Nueces County, Texas, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, and transact

all business pertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and the conduct of lunacy proceedings.

Sec. 3. The County Court at Law of Nueces County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State are conferred upon Justice Courts.

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. 1 of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. 1 of Nueces County.

Sec. 5. The County Court at Law No. 1 of Nueces County shall hold four (4) terms of Court each year in the Courthouse of Nueces County, said terms to be as follows: One term beginning on the first Monday in January, one term beginning on the first Monday in April, one term beginning on the first Monday in July, and one term beginning on the first Monday in October; and each of said terms shall continue until and including the Sunday next before the first Monday of the term immediately following.

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. 1 of Nueces County, who shall be a qualified voter in said county, a resident of said county, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the County Court at Law No. 1 shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. The present Judge of the County Court at Law No. 1 having been elected in 1966, he shall continue in such capacity for the full term of four years to which he was elected, and his successor shall be elected in the general election to be held in 1970 for the term of four years, and a like election shall be held every four years thereafter.

Sec. 7. The Judge of the County Court at Law of Nueces County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A special judge of the County Court at Law No. 1 of Nueces County may be appointed or elected as provided by law relating to County Courts and to the judges thereof,

who shall receive the sum of Twenty-five Dollars (\$25) per day for each day he so actually serves, to be paid out of the General Fund of the County by the Commissioners Court.

Sec. 9. As soon as this Act becomes effective, the Commissioners Court of Nueces County shall appoint a Judge to the County Court at Law of Nueces County, who shall hold his office as Judge of the County Court at Law of Nueces County until the next general election and until his successor is elected and qualified. Any subsequent vacancies in the office of the Judge of the County Court at Law of Nueces County shall be filled by appointment by the Commissioners Court of Nueces County and when so filled, the Judge of the County Court at Law shall hold office until the next general election and until his successor is elected and qualified.

Sec. 10. In the case of the disqualification of the Judge of the County Court at Law of Nueces County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nueces County is disqualified.

Sec. 11. The Judge of the County Court at Law of Nueces County may be removed from office in the same manner and for the same causes as any other County Judge may be removed under the laws of this State.

Sec. 12. The Judge of the County Court at Law is authorized to appoint an official shorthand reporter for such County Court at Law; such official shorthand reporter shall receive the same compensation as provided in Article 2326, Revised Civil Statutes of Texas; the Judge of the County Court at Law of Nueces County shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 13. The County Court at Law of Nueces County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said county of inferior jurisdiction to said County Court at Law of Nueces County.

Sec. 14. All cases appealed from the Justice Courts and other inferior Courts in Nueces County, Texas, shall be made direct to the County Court at Law of Nueces County, under the provisions heretofore governing such appeals.

Sec. 15. The County Clerk of Nueces County, Texas shall be the Clerk of the County Court at Law No. 1 of Nueces County, Texas. The Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law No. 1 of Nueces County." The Sheriff of Nueces County shall in person or by deputy

attend the said Court when required by the Judge thereof. The County Attorney of Nueces County shall represent the State in all prosecutions pending in said County Court at Law No. 1 of Nueces County, and he shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Nueces County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 17. The Judge of the County Court at Law No. 1 of Nueces County shall receive a salary of Twenty Thousand Dollars per annum, to be paid out by the County Treasury by order of the commissioners court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law No. 1 of Nueces County shall assess the same fees as are now prescribed or may be established by law, relating to the County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, and no part of which shall be paid to said Judge, but he shall draw the salary as above specified in this section.

[Acts 1949, 51st Leg., p. 692, ch. 362; Acts 1951, 52nd Leg., p. 542, ch. 318, § 1; Acts 1953, 53rd Leg., p. 791, ch. 320, § 1; Acts 1954, 53rd Leg., 1st C.S., p. 42, ch. 14, §§ 25, 26; Acts 1955, 54th Leg., p. 5, ch. 5, §§ 1, 2; Acts 1967, 60th Leg., pp. 435, 436, ch. 200, §§ 1 to 4, eff. May 15, 1967; Acts 1971, 62nd Leg., p. 3053, ch. 1014, § 2, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1337, ch. 503, § 10, eff. Aug. 27, 1973.]

Acts 1967, 60th Leg., p. 435, ch. 200, §§ 1 to 4 amended sections 2, 4, 6 and 17 of this article; sections 5 to 8 of the act of 1967 amended sections 4, 6, 10 and 18 of article 1970-339A; sections 9 to 15 of the act of 1967 amended sections 2, 3, 6, 8, 13, 14 and 18 of article 2338-10, and sections 16 to 18 of the act of 1967 provided:

"Sec. 16. The division of functions, responsibilities, and jurisdiction between the Court of Domestic Relations and the County Court at Law No. II of Nueces County, Texas, as achieved in the foregoing sections of this Act, shall come into legal existence on July 1, 1967, and the present consolidated court shall maintain its present legal status, perform its present legal duties, and shall receive its present compensation until on and after said date. The present Judge now holding the consolidated position as Judge of both of said courts shall continue thereafter as Judge of the Domestic Relations Court of Nueces County, serving in that capacity for the full term of years to which he was elected in 1966. A Judge for the County Court at Law No. II of Nueces County shall be appointed by the commissioners court of Nueces County as soon as practicable after the effective date of this Act, and the person so appointed shall qualify for such office on July 1, 1967, or as soon thereafter as practicable, and shall hold office until December 31, 1968. Candidates for the position of Judge of the County Court at Law No. II shall be nominated by the respective political parties of Texas in the political primaries to be held in May and June of 1968 in the same manner and under the same legal provisions as govern the holding of all other primary elections, and the selection of a Judge for the full term of four years shall occur in the general election to be held in 1968, and every four years thereafter.

"Sec. 17. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional or void, such declaration shall not affect or impair the remaining provisions hereof, and the Legislature specifically declares that it would have passed this Act notwithstanding the absence of such portion as may be declared unconstitutional or void.

"Sec. 18. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

Art. 1970-339A. County Court at Law No. 2 of Nueces County

Sec. 1. There is hereby created a Court to be held in Corpus Christi, Nueces County, Texas, to be called the County Court at Law No. 2 of Nueces County, Texas.

Sec. 2. The name of the County Court at Law of Nueces County, created by Acts, 1949, Fifty-first Legislature, Page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas, is hereby changed to County Court at Law No. 1 of Nueces County, Texas, and all laws heretofore or hereafter enacted by the Legislature applicable or relating to the County Court at Law of Nueces County shall hereafter be applicable and shall relate to the County Court at Law No. 1 of Nueces County.

Sec. 3. The County Court at Law No. 2 of Nueces County shall have and exercise jurisdiction in the matters and causes, civil and criminal, original and appellate, over which the County Court at Law No. 1 of Nueces County has jurisdiction according to the provisions of Sections 2 and 3 of Acts, 1949, Fifty-first Legislature, page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas. Its jurisdiction shall be concurrent with that of the County Court at Law No. 1 of Nueces County, except that each Court shall give priority to cases according to the provisions contained in this Act.

Sec. 4. The County Court of Nueces County shall have and retain concurrently with the County Court at Law No. 2 of Nueces County the general jurisdiction of a Probate Court with jurisdiction now conferred or which may be conferred by law in the future over probate matters, but shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the County Judge shall be exercised and retained by the Judge of the County Court of Nueces County, except insofar as same shall by this Act be committed to the County Court at Law No. 2 of Nueces County.

Sec. 5. The County Court at Law No. 2 of Nueces County shall hold four (4) terms of Court each year in the Courthouse of Nueces County, said terms to be as follows: One term beginning on the first Monday in January, one term beginning on the first Monday in April, one term beginning on the first Monday in July, and one term beginning on the first Monday in October; and each of said terms shall continue until and including the Sunday next before the first Monday of the term immediately following.

Sec. 6. There shall be elected in Nueces County by the qualified voters thereof a Judge of the County Court at Law No. 2 of Nueces County, who shall be a qualified voter in said county, a resident of said County, a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select

such Judge. The Judge of the County Court at Law No. 2 of Nueces County shall hold his office for a term of four years, and until his successor shall have been duly elected and qualified. As soon as practicable after the effective date of this Act, the commissioners court of Nueces County shall appoint a suitable person to be Judge of the County Court at Law No. 2, who shall take office on July 1, 1967 and shall hold office until December 31, 1968 and until his successor has been duly elected and qualified. His successor shall be elected in the general election to be held in 1968, for the term of four years, and a like election shall be held every four years thereafter.

Sec. 7. The Judge of the County Court at Law No. 2 of Nueces County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A special Judge of the County Court at Law No. 2 of Nueces County may be appointed or elected as provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Twenty-five Dollars (\$25) per day for each day he so actually serves, to be paid out of the General Fund of the County by the Commissioners Court.

Sec. 9. The County Court at Law No. 2 of Nueces County, Texas, as herein created, shall come into legal existence on January 1, 1955, and said Court shall have no legal status, shall perform no duties, and shall receive no compensation until on or after said date. The first Judge of the County Court at Law No. 2 of Nueces County shall be elected by the qualified voters of Nueces County at the General Election to be held in November, 1954, and the person so elected shall qualify for such office on January 1, 1955, or as soon thereafter as practicable. Candidates for the position of Judge of the County Court at Law No. 2 shall be nominated by the respective political parties of Texas in the primaries to be held in July and August of 1954 in the same manner and under the same legal provisions as govern the holding of all other primary elections.

Sec. 10. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Nueces County shall be filled by appointment by the commissioners court of Nueces County, and the Judge so appointed shall hold office until the next general election and until his successor is duly elected and qualified.

Sec. 11. In the event that the Judge of the County Court at Law No. 2 of Nueces County is disqualified for any reason to try any case pending in his Court, the parties or their attorneys may agree upon the selection of a special Judge to try such case or cases in the same manner and under the same provisions of law as govern the selection of Special Judges for County Courts of the State of Texas.

Sec. 12. The Judge of the County Court at Law No. 2 of Nueces County may be removed from office in the same manner and for the

same causes as any other County Judge may be removed under the laws of this State.

Sec. 13. The Judge of the County Court at Law No. 2 is authorized to appoint an official shorthand reporter for such County Court at Law. Such official shorthand reporter shall receive the same compensation provided for in Article 2326, Revised Civil Statutes of Texas. The Judge of the County Court at Law No. 2 of Nueces County shall have the authority to terminate the employment of such official shorthand reporter at any time.

Sec. 14. The County Court at Law No. 2 of Nueces County, and the Judge thereof, shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 2 of Nueces County.

Sec. 15. All cases appealed from the Justice Courts and other inferior Courts in Nueces County, Texas, shall be made direct to the County Courts at Law of Nueces County, Texas, under the provisions heretofore governing such appeals; provided, however, that such appeals shall be assigned to the proper Court and shall be docketed and heard in accordance with the provisions of this Act.

Sec. 16. The County Clerk of Nueces County, Texas, shall be the Clerk of the County Court at Law No. 2 of Nueces County, Texas. The Seal of said Court shall be the same as that provided by law for County Courts, except the Seal shall contain the words "County Court at Law No. 2 of Nueces County." The Sheriff of Nueces County shall in person or by deputy attend the said Court when required by the Judge thereof. The County Attorney of Nueces County shall represent the State in all prosecutions pending in said County Court at Law No. 2 of Nueces County, and he shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 17. The jurisdiction and authority now vested by law in the County Court of Nueces County and the County Court at Law No. 1 of Nueces County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to either of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 18. The Judge of the County Court at Law No. 2 of Nueces County shall receive a salary of Twenty Thousand Dollars per annum, to be paid out of the County Treasury by order of the commissioners court, and said salary

shall be paid monthly in equal installments. The Judge of the County Court at Law No. 2 of Nueces County shall assess the same fees as are now prescribed or may be established by law, relating to County Judge's fees, all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection and no part of which shall be paid to said Judge, but he shall draw the salary as above specified in this section.

Sec. 19. On or before January 1, 1955, the County Clerk of Nueces County shall establish a separate docket for County Court at Law No. 1 and a separate docket for County Court at Law No. 2. The present docket of the County Court at Law shall become the docket of the County Court at Law No. 1. All criminal cases on which original jurisdiction is vested by law at the County Court level shall be retained by the Clerk on the docket of the County Court at Law No. 1. All civil cases, plus all criminal cases which have been appealed to the County Court level from inferior Courts, shall be transferred by the County Clerk to the docket of the County Court at Law No. 2. Thereafter, as new cases are filed with the County Clerk, he shall docket said cases as follows: All criminal cases on which original jurisdiction is vested by law at the County Court level shall be docketed in the County Court at Law No. 1; and all civil cases, plus all criminal cases appealed from Courts of inferior jurisdiction, shall be docketed in the County Court at Law No. 2. Each of said Courts shall give preference to the cases which are originally docketed in their Court.

Sec. 20. Each of the judges of said County Courts at Law may, with the consent of the Judge of the Court to which transfer is to be made, transfer any case, action or proceeding from his Court to the other Court by the entry of an order to that effect upon the docket, and the Court to which such case, action or proceeding is transferred shall have full power and authority to hear and determine same in the same manner and with the same legal effect as if said case had been originally docketed in his Court.

Sec. 21. The Judges of said County Courts at Law may exchange benches from time to time and hear and determine any case, action or proceeding pending in the other Court in the same manner and with the same legal effect as if said case were originally docketed in the Court of the Judge hearing same. The Judge of either of said Courts may issue restraining orders, injunctions, and other extraordinary writs returnable to the other Judge or Court, and either of said Judges may hear and determine preliminary matters with respect to cases, actions or proceedings pending in the other Court; provided, however, that every judgment and order shall be entered in the minutes of the Court in which the case is pending.

Sec. 22. The practice of said County Courts at Law, and in cases of appeal and writs of er-

ror therefrom and thereto, shall be the same as is now or may hereafter be prescribed for County Courts.

Sec. 23. All process issued out of the County Court at Law of Nueces County, Texas, prior to the time when the County Clerk shall transfer cases from the present docket to the docket of the County Court at Law No. 2, as provided in Section 19 of this Act shall be returned to and filed in the appropriate County Court at Law as herein provided for; and such process shall be equally as valid and binding upon the parties as though such process had originally been issued out of the County Court at Law to which it is returned. Likewise, in cases hereafter transferred from one of the County Courts at Law to the other by order of the judge of one of said Courts as provided for in Section 20 of this Act, all process extant at the time of such transfer shall be returned to and filed in the Court to which such transfer is made, and shall be as valid and binding as though originally issued out of the Court to which such transfer may be made.

Secs. 24 to 26. [Amend. art. 1970-339, §§ 5, 8, 15]

Sec. 27. Acts 1949, Fifty-first Legislature, Page 692, Chapter 362, known and cited as Article 1970-339, Vernon's Annotated Civil Statutes of the State of Texas, as amended, creating the County Court at Law of Nueces County shall be liberally construed in order that the provisions of same will be harmonized and made consistent with the provisions of this Act.

[Acts 1954, 53rd Leg., 1st C.S., p. 42, ch. 14; Acts 1955, 54th Leg., p. 5, ch. 5, §§ 3, 4; Acts 1967, 60th Leg., p. 437, ch. 200, §§ 5, 6, 7, 8, eff. May 15, 1967; Acts 1971, 62nd Leg., p. 3054, ch. 1014, § 3, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1337, ch. 503, § 11, eff. Aug. 27, 1973.]

Art. 1970-339B. County Courts at Law Nos. 1 and 2 of Nueces County; Eminent Domain Jurisdiction Concurrent with County Court

The Judge of the County Court of Nueces County, Texas, shall have concurrent jurisdiction with the Judges of County Court at Law No. 1 of Nueces County, Texas, and County Court at Law No. 2 of Nueces County, Texas, to file the statement in eminent domain proceedings and to appoint Special Commissioners, and, where no objections are filed to the award, to cause the decision of the Commissioners to be recorded in the Minutes of the County Court, to make same the judgment of the Court, and to issue necessary process to enforce the same. In all such proceedings where objections to the decision of the Commissioners are filed, the proceedings shall be filed in the County Court at Law No. 1 of Nueces County, Texas, or County Court at Law No. 2 of Nueces County, Texas.

[Acts 1971, 62nd Leg., p. 3053, ch. 1014, § 1, eff. June 15, 1971.]

Art. 1970-339C. County Court at Law No. 3 of Nueces County

Creation and Jurisdiction

Sec. 1. (a) On January 1, 1975, the County Court at Law No. 3 of Nueces County is created.

(b) The Court created by this Act has the same jurisdiction over all causes and proceedings, civil, criminal and probate, original and appellate, including eminent domain proceedings, prescribed by law for either the County Court at Law No. 1 of Nueces County or the County Court at Law No. 2 of Nueces County.

(c) The judge of the court created by this Act may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. The judge of the court may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county.

County Court

Sec. 2. The County Court of Nueces County shall have and retain concurrently with the court created by this Act and the other county courts at law in Nueces County the general jurisdiction of a probate court. The county court shall have no other jurisdiction, civil or criminal, original or appellate. All ex officio duties of the county judge shall be exercised and retained by the judge of the County Court of Nueces County, except as provided by this Act or otherwise provided by law.

Terms of Court

Sec. 3. The terms of the court created by this Act are the same as those of the County Court at Law No. 1 and County Court at Law No. 2 of Nueces County.

Judge

Sec. 4. (a) The judge of the court created by this Act shall be a resident of and qualified voter in Nueces County. He shall be a licensed attorney in this State, who has been actively engaged in the practice of law for a period of not less than five years next preceding his election.

(b) At the general election in 1974, there shall be elected a judge of the court created by this Act for a four-year term beginning on January 1, 1975. Every four years thereafter, this officer shall be elected for a regular four-year term as provided in Section 30, Article V, and Section 65, Article XVI, Constitution of Texas.

(c) Any vacancy occurring in the office of the judge of County Court at Law No. 3 shall be filled by the commissioners court of Nueces County, and the appointee shall hold office until the next general election and until his successor is elected and has qualified.

(d) The judge of County Court at Law No. 3 shall execute a bond and take the oath of of-

fice prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(e) The judge of County Court at Law No. 3 shall receive an annual salary of \$20,000. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge shall assess the fees prescribed by law for county judges, which fees shall be collected by the clerk of the court and paid into the county treasury.

(f) A special judge of County Court at Law No. 3 may be selected in the manner provided by law for selection of a special county judge. A special judge is entitled to compensation at a rate of \$25 for each day he actually serves, to be paid out of the general fund of the county by the commissioners court.

Court Officials and Personnel

Sec. 5. (a) The county attorney, county clerk, and sheriff of Nueces County shall serve as county attorney, clerk, and sheriff, respectively, for the court created by this Act. The Nueces County commissioners court may employ as many deputy sheriffs and bailiffs as are necessary to serve the court. Those serving shall perform the duties and are entitled to the compensation, fees, and allowances prescribed for their respective offices in Nueces County.

(b) The judge of County Court at Law No. 3 may appoint an official shorthand reporter. The reporter serves at the pleasure of the judge and is entitled to the compensation fixed for the shorthand reporters for the other county courts at law in Nueces County.

Transfer of Cases; Exchange of Benches

Sec. 6. (a) As soon as practicable following the date specified in Section 1(a) of this Act, the Nueces County Clerk shall establish a separate docket for the court created by this Act from among pending matters filed originally in the other county courts at law in the county and shall transfer those matters to the docket of the court created by this Act. Thereafter, as new cases are filed with the County Clerk, he shall equalize the dockets of the three county courts at law, consistent with the docketing preferences assigned by law for the County Court at Law No. 1 and County Court at Law No. 2.

(b) With the consent of the judge of the court to which transfer is to be made, any of the judges of the county courts at law in Nueces County may transfer any case, action, or proceeding from his court to either of the other courts by the entry of an order to that effect upon the docket. The court to which the case, action, or proceeding is transferred shall have full power and authority to hear and determine the matter in the same manner and with the same legal effect as if the case had been originally docketed in his court.

(c) In cases transferred under authority of Subsections (a) or (b) of this section, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

(d) The judges of the county courts at law in Nueces County may exchange benches from time to time and hear and determine any case, action, or proceeding in any of the other county courts at law in the county in the same manner and with the same legal effect as if the matter were originally docketed in the court of the judge hearing it. The judge of any of the courts may issue restraining orders, injunctions, and other extraordinary writs returnable to any other of the judges or courts. Any of the judges may hear and determine preliminary matters with respect to cases, actions, or proceedings pending in the other courts. Every judgment and order shall be entered in the minutes of the court in which the case is pending.

Practice; Juries

Sec. 7. (a) Practice in County Court at Law No. 3 shall conform to that prescribed by general law for county courts.

(b) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the court created by this Act. Juries summoned for the County Court of Nueces County or any of the county courts at law in that county, by order of the judge of the court in which they are summoned, may be transferred to any of the other courts for service therein and may be used therein as if summoned for the court to which they are transferred.

Facilities

Sec. 8. The commissioners court of Nueces County shall furnish and equip a suitable courtroom and office space for the court created by this Act.

Seal

Sec. 9. The seal of the court created by this Act shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law No. 3 of Nueces County."

[Acts 1973, 63rd Leg., p. 1334, ch. 503, §§ 1 to 9, eff. Aug. 27, 1973.]

Section 10 of the 1973 Act amended art. 1970-339, § 17; § 11 thereof amended art. 1970-339A, § 10; § 12 amended art. 2338-10, § 2; and §§ 13, 14 provided:

"Sec. 13. The provisions of this Act shall be severable. Should any section, paragraph, sentence, clause, or other part hereof, be declared for any reason unconstitutional

or void, such declaration shall not affect or impair the remaining provisions hereof, and the Legislature specifically declares that it would have passed this Act notwithstanding the absence of such portion as may be declared unconstitutional or void.

"Sec. 14. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict."

LUBBOCK COUNTY

Art. 1970-340. County Court at Law No. 1 of Lubbock County

Sec. 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which shall be known as the County Court of Lubbock County at Law.

Sec. 1a. The name and designation of the court created by this Act is hereby changed to the "County Court at Law No. 1 of Lubbock County" and wherever the name "County Court at Law of Lubbock County" shall appear in this Act it shall be deemed to refer to the "County Court at Law No. 1 of Lubbock County."

Sec. 2. The County Court at Law of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes; civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, except as provided in Section 6 of this Act; and all cases pending in the County Court of said County, other than probate matters and such as are provided in Section 6 of this Act, shall be and the same is hereby transferred to the County Court of Lubbock County at Law, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said County, other than those pertaining to matters over which by Section 6 of this Act jurisdiction remains in the County Court of Lubbock County, shall be and the same are hereby made returnable to the County Court at Law of Lubbock County.

The jurisdiction of the County Court at Law of Lubbock County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Lubbock County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 2a. In addition to the jurisdiction now conferred upon the County Court at Law No. 1 of Lubbock County, by the Constitution and Laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County, in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter

incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons. This court and the judges thereof shall have the power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2b. In addition to the jurisdiction now conferred upon the County Court at Law No. 1 of Lubbock County by the Constitution and Laws of the State of Texas said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County in all civil cases and matters when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Ten Thousand Dollars (\$10,000), exclusive of interest.

Sec. 2c. After the effective date of this amendment all cases of concurrent jurisdiction enumerated or included in Section 2a of this Act may be instituted in or transferred between the district courts of Lubbock County and the County Court at Law No. 1 of Lubbock County. The District Clerk of Lubbock County shall be the clerk of the County Court at Law No. 1 in all those cases enumerated in Section 2a.

Sec. 2d. Practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in this court involving those matters of concurrent jurisdiction enumerated in Section 2a of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. In cases in which this court has concurrent jurisdiction with the district courts as herein provided, juries shall be composed of 12 members. Nothing in this Act shall diminish the jurisdiction of the several district courts in Lubbock County and the county court of Lubbock County, and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the jurisdiction given herein is concurrent with the jurisdiction of said courts.

Sec. 2e. The County Court at Law No. 1 in only those cases of concurrent jurisdiction enumerated in Section 2a of this Act, shall have the same terms of court as those district courts sitting only in Lubbock County as are presently established or as they may hereinafter be changed. In all cases, other than those of concurrent jurisdiction enumerated in Section 2a of this Act, the terms of this court shall be unchanged.

Sec. 3. The County Court at Law of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court of Lubbock County at Law in civil cases of which said

Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Court of Lubbock County at Law over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Court of Lubbock County at Law from the Justice Court, where the return of appeals to the County Court now exists by law.

Sec. 6. The County Court of Lubbock County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and of jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Lubbock County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law of Lubbock County in this Act; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex-officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the same shall by this Act be committed to the County Court at Law of Lubbock County.

Sec. 7. The jurisdiction and authority now vested by law in the Court of Lubbock County for drawing, selection and service of jurors shall be exercised by said Court by jury summons for either the County Court of Lubbock County or the County Court at Law of Lubbock County may, by the Judge of the Court in which they are summoned, be transferred to the other County Court for service therein and may be used in such other Court as if summoned for jury service for the Court to which they may be thus transferred.

Sec. 8. The terms of the County Court of Lubbock County at Law and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts. The terms of the County Court of Lubbock County at Law shall be held as now established for the terms of the County Court of Lubbock County and the same may be changed in accordance with the law governing the change in the terms of the County Court of Lubbock County, Texas.

Sec. 9. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citi-

zen of said Lubbock County for the immediate preceding two years and a practicing attorney of the State of Texas for at least five years immediately prior to his appointment or election. The person elected such Judge shall hold his office for two years, and until his successor shall have been duly elected and qualified.

Sec. 10. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 11. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 12. The Judge of the County Court at Law of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 13. The Judge of the County Court at Law of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 14. A special Judge of the County Court at Law of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 15. In the case of the disqualification of the Judge of the County Court at Law of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 14 of this Act.

Sec. 16. The County Court at Law of Lubbock County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law.

Sec. 17. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law of Lubbock County, and the seal of said Court shall be the same as that provided by

law for County Courts, except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 18. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 19. The jurisdiction of authority now vested by law in the County Court for the selection and service of jurors shall be exercised by the County Court at Law of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 20. Any vacancy in the office of the Judge of the County Court at Law of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 21. After the effective date of this amendment, the Judge of the County Court at Law No. 1 of Lubbock County shall receive an annual salary in an amount not less than three-fourths ($\frac{3}{4}$) of the total annual salary paid to the Judge of the 99th Judicial District of Texas by the State of Texas. This sum shall be paid in equal monthly installments out of the General Fund of Lubbock County on orders from the Commissioners Court.

Sec. 22. The Judge of the County Court at Law of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 23. The Judge of the County Court at Law of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall receive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and is hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein

authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 24. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law of Lubbock County.

Sec. 25. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 26. The Judge of the County Court at Law of Lubbock County is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation of said official interpreter and provide for the payment of such compensation and shall prescribe the duties of such official interpreter. The Judge of the County Court at Law of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law, and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office.

Sec. 27. If any part, section, paragraph, sentence, or clause contained in this Act shall be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portion of this Act, and the Legislature hereby declares that it would have passed such remaining portion despite such invalidity.

[Acts 1950, 51st Leg., 1st C.S., p. 74, ch. 16; Acts 1962, 57th Leg., 3rd C.S., p. 169, ch. 62, § 1; Acts 1973, 63rd Leg., p. 1381, ch. 532, § 1, eff. June 14, 1973.]

Art. 1970-340.1 County Court at Law No. 2 of Lubbock County

Sec. 1. There is hereby created a Court to be held in Lubbock, Lubbock County, Texas, which shall be known as the County Court at Law No. 2 of Lubbock County, Texas.

Sec. 2. The County Court at Law No. 2 of Lubbock County, Texas, shall have and exercise jurisdiction in all matters and causes; civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of said County would have jurisdiction, except as provided in Section 7 of this Act.

The jurisdiction of the County Court at Law No. 2 of Lubbock County, and the Judge thereof, shall extend to all matters of eminent domain of which jurisdiction has heretofore vested in the County Court of Lubbock County or

in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Lubbock County as the presiding officers of such Commissioners Court, as to roads, bridges, and public highways, and matters of eminent domain which are now in the jurisdiction of the Commissioners Court or the Judge thereof.

Sec. 2a. In addition to the jurisdiction now conferred upon the County Court at Law No. 2 of Lubbock County, by the Constitution and Laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County, in suits, causes, and matters involving adoptions, removal of disability of minority and coverture, and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child support and custody of minors, and change of name of persons. This court and the judges thereof shall have the power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2b. In addition to the jurisdiction now conferred upon the County Court at Law No. 2 of Lubbock County by the Constitution and Laws of the State of Texas said court shall hereinafter have and exercise concurrent civil jurisdiction with the district courts in Lubbock County in all civil cases and matters when the matter in controversy shall exceed Five Hundred Dollars (\$500) and not exceed Ten Thousand Dollars (\$10,000), exclusive of interest.

Sec. 2c. After the effective date of this amendment all cases of concurrent jurisdiction enumerated or included in Section 2a of this Act may be instituted in or transferred between the district courts of Lubbock County and the County Court at Law No. 2 of Lubbock County. The District Clerk of Lubbock County shall be the clerk of the County Court at Law No. 2 in all those cases enumerated in Section 2a.

Sec. 2d. Practice and procedure, rules of evidence, issuance of process and writs, and all other matters pertaining to the conduct of trials and hearings in this court involving those matters of concurrent jurisdiction enumerated in Section 2a of this Act shall be governed by the provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts. In cases in which this court has concurrent jurisdiction with the district courts as herein provided, juries shall be composed of 12 members. Nothing in this Act shall diminish the jurisdiction of the several district courts in Lubbock County and the county court of Lubbock County, and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law, and the

jurisdiction given herein is concurrent with the jurisdiction of said courts.

Sec. 2e. The County Court at Law No. 2 in only those cases of concurrent jurisdiction enumerated in Section 2a of this Act, shall have the same terms of court as those district courts sitting only in Lubbock County as are presently established or as they may hereinafter be changed. In all cases, other than those of concurrent jurisdiction enumerated in Section 2a of this Act, the terms of this court shall be unchanged.

Sec. 3. The County Court at Law No. 2 of Lubbock County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil and criminal matters which by the General Laws of this State is conferred upon Justice Courts.

Sec. 4. The County Court at Law No. 2 of Lubbock County shall have concurrent original jurisdiction with the County Court at Law No. 1 of Lubbock County. The Judges in either County Court at Law may try cases in the other County Court at Law and cases may be transferred by the respective Judges from one (1) Court to the other County Court at Law.

Sec. 5. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of said County Court at Law No. 2 of Lubbock County in civil cases of which said Court had appellate or original concurrent jurisdiction with the Justice Court, where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 6. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to said County Courts at Law of Lubbock County over such matters as are specified in this Act, nor shall this Act be construed to deny the return of an appeal to the County Courts at Law of Lubbock County from the Justice Court, where the return of appeals to the County Court at Law or the County Court now exists by law.

Sec. 7. The County Court of Lubbock County shall have and retain, as heretofore, the general jurisdiction of the Probate Court and of jurisdiction now conferred by law over probate matters, and the Court herein created shall have no other jurisdiction than that named in this Act, and the County Court of Lubbock County as now and heretofore existing shall have all jurisdiction which it now has, save and except that which is given the County Court at Law No. 1 and County Court at Law No. 2 of Lubbock County; but the County Court now existing shall have no jurisdiction over other matters, civil or criminal. The County Judge of Lubbock County shall be the Judge of the County Court of said County, and all ex officio duties of the County Judge shall be exercised by said Judge of the County Court of Lubbock County, except in so far as the

same shall by this Act be committed to the County Court at Law No. 2 of Lubbock County.

Sec. 8. The jurisdiction and authority now vested by law in the County Court of Lubbock County and the County Court at Law No. 1 of Lubbock County, for the drawing, selection, and service of jurors, shall be exercised by said Court; but juries summoned for any of said Courts may by order of the Judge of the Court in which they are summoned be transferred to either of the other Courts for service therein and may be used therein as if summoned for the Court to which they may be thus transferred.

Sec. 9. The terms of the County Court at Law No. 2 of Lubbock County and the practice therein, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to County Courts. The terms of the County Court at Law No. 2 of Lubbock County, shall be held as now established for the terms of the County Court of Lubbock County and the same may be changed in accordance with the law governing the change in the terms of the County Court of Lubbock County, Texas.

Sec. 10. There shall be elected in Lubbock County by the qualified voters thereof, at each general election, a Judge for the County Court at Law No. 2 of Lubbock County, who shall be a regularly licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a resident citizen of said Lubbock County for the immediate preceding two (2) years and a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected as such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

Sec. 11. The County Attorney of Lubbock County shall represent the State in all prosecutions in said County Court at Law No. 2 of Lubbock County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 12. As soon as this Act becomes effective the Commissioners Court of Lubbock County shall appoint a Judge of the County Court at Law No. 2 of Lubbock County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said Court.

Sec. 13. The Judge of the County Court at Law No. 2 of Lubbock County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 14. The Judge of the County Court at Law No. 2 of Lubbock County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 15. A special Judge of the County Court at Law No. 2 of Lubbock County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the sum of Fifteen Dollars (\$15) per day for each day he so actually served, to be paid out of the general fund of the County by the Commissioners Court.

Sec. 16. In the case of the disqualification of the Judge of the County Court at Law No. 2 of Lubbock County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special Judge to try such case or cases where the Judge of the County Court at Law No. 2 of Lubbock County is disqualified. In case of the selection of such special Judge by agreement of the parties or their attorneys, such special Judge shall draw the same compensation as that provided in Section 15 of this Act.

Sec. 17. The County Court at Law No. 2 of Lubbock County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law No. 2.

Sec. 18. The County Clerk of Lubbock County shall be the Clerk of the County Court at Law No. 2 of Lubbock County, and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Lubbock County."

Sec. 19. The Sheriff of Lubbock County shall in person or by deputy attend the said Court when required by the Judge thereof.

Sec. 20. The jurisdiction and authority now vested by law in the County Court and in the County Court at Law No. 1, of Lubbock County for the selection and service of jurors shall also be exercised by the County Court at Law No. 2 of Lubbock County. All petit jurors summoned for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 21. Any vacancy in the office of the Judge of the County Court at Law No. 2 of Lubbock County shall be filled by the Commissioners Court, and when so filled the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Sec. 22. After the effective date of this amendment, the Judge of the County Court at

Law No. 2 of Lubbock County shall receive an annual salary in an amount not less than three-fourths ($\frac{3}{4}$) of the total annual salary paid to the Judge of the 99th Judicial District of Texas by the State of Texas. This sum shall be paid in equal monthly installments out of the General Fund of Lubbock County on orders from the Commissioners Court.

Sec. 23. The Judge of the County Court at Law No. 2 of Lubbock County shall assess the same fees as are now prescribed by law relating to the County Judge's fees, all of which shall be collected by the clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the said Judge, but he shall draw the salary as above specified in this Act.

Sec. 24. The Judge of the County Court at Law No. 2 of Lubbock County, Texas, shall appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official Court Reporters and shall receive a salary as set by the Commissioners Court of Lubbock County, Texas, of not less than Three Thousand Dollars (\$3,000) per annum, to be paid out of the County Treasury of Lubbock County, Texas, as other County officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended and all other provisions of the law relating to official Court Reporters shall be and are hereby made to apply in all their provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 25. The laws of Texas and the rules of procedure and rules of evidence governing trials in and appeals from all proceedings in County Courts shall be applicable to, govern and control proceedings in and appeals from the County Court at Law No. 2 of Lubbock County.

Sec. 26. All cases appealed from the Justice Court and other inferior Courts of Lubbock County, Texas, shall be made direct to the County Court at Law No. 1 or No. 2 of Lubbock County, under the provisions governing appeals to County Courts.

Sec. 27. The Judge of the County Court at Law No. 2 of Lubbock County is authorized to appoint an official interpreter for such County Court at Law. And the County Commissioners shall by resolution fix the compensation and shall prescribe the duties of such official interpreter. The Judge of the County Court at Law No. 2 of Lubbock County shall have authority to terminate the employment of such interpreter at any time. The official interpreter so appointed by the Judge of the said County Court at Law shall take the constitutional oath of office, and in addition thereto shall make oath

that as such official interpreter he will faithfully interpret all testimony given in the County Court at Law No. 2 and which oaths shall qualify him for service as official interpreter of such Court in all cases before such Court during his term of office.

[Acts 1957, 55th Leg., p. 227, ch. 109; Acts 1973, 63rd Leg., p. 1382, ch. 532, § 2, eff. June 14, 1973.]

HIDALGO COUNTY

Art. 1970-341. County Court at Law of Hidalgo County

Sec. 1. There is hereby created a Court to be held in and for Hidalgo County, Texas, which shall be known as the County Court at Law of Hidalgo County, Texas, and which shall be a court of record.

Sec. 2. Said County Court at Law of Hidalgo County, Texas, shall have and exercise jurisdiction in all matters and causes civil and criminal, original and appellate, over which by the General Laws of the State, the County Court of Hidalgo County, Texas, would have jurisdiction; and all cases pending in the County Court of said County, except as hereafter provided, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of Hidalgo County except those pertaining to matters as hereafter provided to remain in the County Court of Hidalgo County, shall be and the same are hereby made returnable to the County Court at Law of Hidalgo County; and all cases pending in the District Court of the 92nd Judicial District which cases involve matters over which, by General Law, the County Court of Hidalgo County would have exclusive original jurisdiction, shall be and the same are hereby transferred to the County Court at Law of Hidalgo County, and all writs and processes heretofore issued by or out of the said District Court of the 92nd Judicial District pertaining to such cases shall be and the same are made returnable to the County Court at Law of Hidalgo County.

The jurisdiction of the County Court at Law of Hidalgo County and of the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Hidalgo County or in the County Judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Hidalgo County as the presiding officer of said Commissioners Court as to roads, bridges, and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof.

Sec. 3. The County Court at Law of Hidalgo County shall also have the general jurisdiction of a probate court within the limits of Hidalgo County, concurrent with jurisdiction of the County Court of Hidalgo County in such matters and proceedings. Such County Court at Law of Hidalgo County shall probate wills, appoint guardians of minors, idiots, lunatics,

persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

As soon as may be practical but not later than one month after the effective date of this Act, there shall be transferred to the probate docket of the County Court at Law of Hidalgo County, under the direction of the County Judge and by order entered on the minutes of the County Court of Hidalgo County, such number of such probate proceedings and matters pending on the effective date of this Act in the County Court of Hidalgo County as shall be, as near as may be, one half (1/2) in number of the total of all of same then pending, and all writs and processes theretofore issued by or out of said County Court in Hidalgo County in such matters or proceedings shall be returnable to the County Court at Law of Hidalgo County as though originally issued therefrom. All such new probate matters and proceedings filed after the effective date of this Act with the County Clerk of Hidalgo County irrespective of the Court or Judge to which the matter or proceeding is addressed shall be filed by said Clerk alternately in said respective courts in the order in which same are deposited with him for filing, beginning first with the County Court of Hidalgo County. The County Judge of Hidalgo County, in his discretion, may from time to time, by order or orders entered upon the minutes of the County Court of Hidalgo County transfer to the County Court at Law of Hidalgo County any such probate matter or proceeding then pending in the County Court of Hidalgo County, and all processes extant at the time of such transfer shall be returned to and filed in the County Court at Law of Hidalgo County, and shall be as valid and binding as though originally issued out of said County Court at Law of Hidalgo County.

Sec. 4. The County Court of Hidalgo County shall have and retain concurrently with the County Court at Law of Hidalgo County the general jurisdiction of a probate court and of jurisdiction now conferred or which may be conferred by law over probate matters, but shall have no other jurisdiction criminal or civil, original or appellate. The District Court of the 92nd Judicial District shall have and retain all jurisdictions conferred by Acts, 1931, Forty-second Legislature, Page 876, Chapter 370, (Article 199, Section 92, Vernon's Annotated Civil Statutes of Texas, 1925), save and except jurisdiction over all civil matters which, by general law the County Court of Hidalgo County would have exclusive original jurisdiction and said jurisdiction over all civil matters which by general law, the County Court of Hidalgo County would have exclusive original jurisdiction is hereby transferred from said Dis-

trict Court of the 92nd Judicial District to the County Court at Law of Hidalgo County. The County Judge of Hidalgo County shall be the Judge of the County Court of Hidalgo County and all ex-officio, executive, ministerial and administrative duties of the County Judge of Hidalgo County, as they now exist, shall continue to be exercised by the County Judge of Hidalgo County. Administrative, executive, ministerial and ex-officio duties of the County Judge shall include the duty of the County Judge to preside over and be a member of the Commissioners Court of Hidalgo County, to receive and hear applications for license as a dealer in beer or wine, to process applications to State Tuberculosis Sanatoriums, and the like; this listing of duties shall not be construed or deemed to be exclusive but is given to be illustrative only of administrative, executive, ministerial and ex-officio duties to be exercised by the County Judge of Hidalgo County, the only limitation being that he shall no longer act in any proceeding of a judicial nature save in probate matters.

Sec. 5. The terms of the County Court at Law of Hidalgo County shall be held in the County seat of Hidalgo County as follows, to wit: Beginning on the first Mondays of January, March, May, July, September and November of each year; and each term of said Court shall continue in session for eight (8) weeks. The practice in said Court, and appeals and writs of error thereto and therefrom, shall be as prescribed by the laws and rules relating to County Courts.

Sec. 6. There shall be elected in Hidalgo County by the qualified voters thereof, at each general election, a Judge of the County Court at Law of Hidalgo County who shall be a regularly licensed attorney at law in this State, and who shall be a resident citizen of Hidalgo County, and shall have been actively engaged in the practice of law in this State for a period of not less than four (4) years next preceding such general election, who shall hold his office for two (2) years and until his successor shall have been duly elected and qualified. As soon as this Act becomes effective, the Commissioners Court of Hidalgo County shall appoint a Judge to the County Court at Law of Hidalgo County who shall hold this office as such Judge until the next general election and until his successor is elected and qualified; any subsequent vacancies in the office of the Judge of the County Court at Law of Hidalgo County shall be filled by appointment of the Commissioners Court of Hidalgo County and when so filled, the said Judge shall hold his office until the next general election and until his successor is elected and qualified.

Sec. 7. The Judge of the County Court at Law shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 8. A Special Judge of the County Court at Law of Hidalgo County may be appointed or elected as provided by law relating

to County Courts and to the Judges thereof, who shall be compensated in the same manner as provided for special judges of the County Courts. In probate matters, in the absence, disqualification or incapacity of the Judge of the County Court at Law of Hidalgo County, the County Judge of Hidalgo County may sit and act as Judge of the County Court at Law, and may hear and determine, either in his own courtroom or in the courtroom of the County Court at Law any matter or proceedings there pending, and enter any orders in such matters or proceedings as the Judge of the County Court at Law may enter if personally presiding therein. Likewise, in probate matters, the Judge of the County Court at Law, may, in the absence, disqualification or incapacity of the County Judge, sit and act as Judge of the County Court, and may hear and determine, either in his own courtroom or in the courtroom of the County Court, any matter or proceeding there pending and enter any orders in such matters or proceedings as the County Judge may enter if personally presiding therein. The signature of either Judge on an order shall be conclusive that all conditions have been met or complied with to qualify him to act for the other in such probate matters.

Sec. 9. The Judge of the County Court at Law of Hidalgo County may be removed from office in the same manner and for the same causes as provided by law for County Judges.

Sec. 10. The Judge of the County Court at Law shall appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office at the pleasure of said Judge. The duties of such reporter shall be the same as provided by general law for reporters of the District Courts and such reporter shall receive a salary not to exceed Eleven Thousand, Five Hundred Dollars (\$11,500), to be paid monthly by the Commissioners Court out of any funds available for the purpose. The clerk of the Court shall tax as costs in each case, civil, criminal and probate where a record or any part thereof is made of the evidence in said case by the reporter, a stenographer's fee of Three Dollars (\$3). Said fee shall be paid as other costs in the case and paid by the clerk, when collected, into the general fund of the County.

Sec. 11. (a) The Judge of the County Court at Law of Hidalgo County is entitled to receive an annual salary, the amount of which shall be fixed by the Commissioners Court of Hidalgo County. The salary shall be paid in the same manner and from the same fund as prescribed by law for payment of the salary of the County Judge of Hidalgo County.

(b) The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

Sec. 12. The official interpreter of the District Courts of Hidalgo County shall serve as official interpreter of the County Court at Law of Hidalgo County, Texas, but if such official interpreter be not available when needed for service in said County Court at Law, the Judge of said Court is authorized to appoint an interpreter who shall serve only temporarily and who shall be paid not to exceed Five Dollars (\$5) per day out of the general fund of the County on certificate of said Judge. Upon concurrence of the County Commissioners Court, the Judge of the County Court at Law may appoint an official interpreter for such Court as provided by general law.

Sec. 13. The County Court at Law of Hidalgo County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of said Court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court, or of any other Court in said County of inferior jurisdiction to said County Court at Law, and to punish for contempt under such provisions as are or may be provided by general laws governing County Courts, and said Judge shall have all other powers, duties, immunities and privileges as are or may be provided by general law for Judges of Courts of Record and for Judges of County Courts at Law, and he shall be a magistrate and a conservator of the peace.

Sec. 14. The County Clerk of Hidalgo County shall be the Clerk of the County Court at Law of Hidalgo County, and as clerk of such Court he shall have the same powers, duties, privileges and immunities as provided by law for County Clerks and the seal of said Court shall be the same as that provided by law for County Courts, except the seal shall contain the words "County Court at Law of Hidalgo County, Texas."

Sec. 15. The sheriff of Hidalgo County shall in person or by deputy attend the said County Court at Law when required by the Judge thereof.

Sec. 16. The jurisdiction and authority now vested by law in the County Court of Hidalgo County and the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned, be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law and the County Judge, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts.

Jurors regularly impaneled for the week by the District Court or Courts may on request of either the County Judge or the Judge of the

County Court at Law, be made available by the District Judge or Judges in such numbers as may be requested, for service for the week in either or both the County Court or the County Court at Law and such jurors shall serve in the County Court and County Court at Law the same as if they had been drawn and selected as is otherwise provided by law.

Sec. 17. All laws and parts of laws in conflict with the provisions of this Act are hereby repealed to the extent of such conflict only. As to all other laws and parts of laws, this Act shall be cumulative.

Sec. 18. If any part or parts of this Act shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this Act. The Legislature hereby declares that it would have passed the remaining parts of this Act if it had known that such invalid part or parts thereof would be so declared unconstitutional.

[Acts 1951, 52nd Leg., p. 33, ch. 25; Acts 1965, 59th Leg., p. 844, ch. 406, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 1847, ch. 619, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 908, ch. 133, § 1, eff. May 10, 1971; Acts 1973, 63rd Leg., p. 723, ch. 313, § 2, eff. June 11, 1973.]

GALVESTON COUNTY

Art. 1970-342. Probate Court of Galveston County

Sec. 1. The Probate Court of Galveston County provided by Section 1, Chapter 187, Acts of the 53rd Legislature, Regular Session, 1953, shall hereafter be known as the "County Court No. 2 of Galveston County." The court shall have, in addition to its present jurisdiction, civil and criminal jurisdiction as provided by the Constitution and General Laws for county courts and as provided herein.

Sec. 1a. The County Court No. 2 of Galveston County shall be known hereafter as the "Probate Court at Galveston County," and the seal of the court shall be the same as now provided by law except that the seal shall contain the words "Probate Court of Galveston County, Texas." Wherever the name "County Court No. 2 of Galveston County" appears in this Act, it shall hereafter be understood to mean "Probate Court of Galveston County."

Sec. 2. The county clerk of Galveston County shall be the clerk of the County Court No. 2 of Galveston County. The court shall have a seal consisting of a star of five (5) points with the words "County Court No. 2, Galveston County, Texas" engraved thereon. The sheriff of Galveston County may appoint a deputy to attend the court when required by the judge thereof.

Sec. 3. All cases over which County Court No. 2 has jurisdiction may be instituted in or transferred to the County Court No. 2. The county judge and the district judges of Galveston County may transfer to County Court No. 2 all cases pending in their respective courts of which the court has jurisdiction, including all filed papers and certified copies of all orders

theretofore entered in said cases, with the consent of the Judge of the County Court No. 2.

All cases and matters over which the County Court No. 2 is given jurisdiction may be transferred by the Judge thereof to the county or district courts having jurisdiction under the laws of this state, with the consent of the judge of the court concerned. All cases and matters over which the County Court No. 2 and the County Court of Galveston County have concurrent jurisdiction and over which the district courts also have jurisdiction may be transferred to one of the district courts of Galveston County with the consent of the judge thereof.

Provided that the Judge of the County Court and the Judge of County Court No. 2 shall have authority to transfer any case pending for trial from the docket of such court to the docket of such other court, and during the absence, illness, or inability of either judge to preside in his own court of the other court shall be and is hereby authorized to act for such judge absent for any of the above reasons in the trial or other disposition of cases on the docket of such other court.

All writs or process issued by a court prior to the time any case is transferred shall be returned and filed in the court to which the case is transferred and shall be as valid and binding upon the parties to such transferred case as though such writ or process had been issued out of the court to which transferred, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 4. In the event of a vacancy in this office the Governor shall appoint some suitable person who is a resident citizen of Galveston County as Judge of the County Court No. 2 of Galveston County as herein constituted, who shall hold such office until the next general election after his appointment, and until his successor shall have been elected and qualified, and all vacancies in said office shall also be filled by appointment by the Governor until the next applicable general election thereafter. At the first general election in said county and at each applicable general election thereafter there shall be elected by the qualified voters a Judge of the County Court No. 2 of Galveston County who shall be well informed in the laws of this state, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified; provided that no person shall be eligible for Judge of the County Court No. 2 of Galveston County by election, unless he shall be a citizen of the United States and of this state; who shall have been a practicing lawyer of this state or a judge of a court in this state for at least four (4) years next preceding his election, and who shall have resided in the County of Galveston for two (2) years next preceding his election.

Sec. 4a. Any vacancy occurring in the office of Judge of the County Court at Law No. 2

of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election, and until his successor shall be duly elected and qualified.

Sec. 5. The Judge of the County Court No. 2 of Galveston County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 6. A special judge of the County Court No. 2 of Galveston County may be appointed or elected as provided by laws relating to county courts and the judges thereof.

Sec. 7. The terms of the County Court No. 2 of Galveston County and the practice therein and appeals and writs of error therefrom shall be, as prescribed by law relating to county courts. The County Court No. 2 of Galveston County shall hold at least four (4) terms for both civil and criminal business annually, and such other terms each year as may be fixed by the Commissioners Court. After having fixed the times and number of terms of the County Court No. 2 of Galveston County, the Commissioners Court shall not change the same until the expiration of one (1) year. Until otherwise provided by the Commissioners Court, the term of the County Court No. 2 of Galveston County shall be held on the first Monday in March, June, September and December.

Sec. 8. Both the said County Court of Galveston County, and the County Court No. 2 of Galveston County or either of the judges thereof shall have the power to issue writs of injunction, sequestration, attachments, garnishment, certiorari, supersedeas and all other writs necessary to the enforcement of the jurisdiction of said courts; and also power to punish for contempt under such provisions as are, or may be provided by the General Laws governing county courts throughout the state, and to issue writs of habeas corpus, in cases where the offense charged is within the jurisdiction of said courts or of any court or tribunal inferior to said courts.

Sec. 9. The Judge of the County Court No. 2 may be paid by the Commissioners Court of Galveston County a yearly salary not more than the total salary, including supplements, paid any District Judge sitting in Galveston County. The salary shall be paid out of the general fund of the County in equal monthly installments by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County, Texas.

Sec. 10. The Judge of the County Court No. 2 of Galveston County may be removed from office in the same manner and for the same causes as any other county judge may be removed under the laws of this state.

[Acts 1953, 53rd Leg., p. 521, ch. 187; Acts 1962, 57th Leg., 3rd C.S., p. 148, ch. 50, § 2; Acts 1965, 59th Leg., p. 286, ch. 123, § 1, eff. Aug. 30, 1965; Acts 1969, 61st Leg., 2nd C.S., p. 133 ch. 31, § 1, eff. Dec. 9, 1969; Acts 1969, 61st Leg., p. 2131, ch. 755, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2845, ch. 932,

§ 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 751, ch. 326, § 1, eff. June 12, 1973; Acts 1973, 63rd Leg., p. 1347, ch. 512, § 1, eff. June 14, 1973.

Art. 1970-342a. County Court No. 1 of Galveston County

Sec. 1. There is hereby created on the effective date of this Act, a Court to be held in Galveston County, Texas, to be known and designated as the "County Court No. 1 of Galveston County."

Sec. 2. (a) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction over criminal matters that is now or may be vested in county courts having jurisdiction in criminal actions, matters, and proceedings under the constitution and laws of Texas, and shall have appellate jurisdiction in all appeals in criminal cases from justice courts and corporation courts within Galveston County, Texas, and the judge of said court shall have the same powers, rights, and privileges as to criminal matters as are now or may be vested in the judges of county courts having criminal jurisdiction.

(b) The County Court No. 1 of Galveston County shall have, and it is hereby granted, the same jurisdiction and powers in civil actions, matters, and proceedings that are now or may be conferred by law upon the vested in the County Court of Galveston County, Texas, and in the County Court No. 2 of Galveston County, and the judges thereof. Provided, however, that the jurisdiction of said County Court of Galveston County, Texas, the jurisdiction of said County Court No. 2 of Galveston County, and the jurisdiction of the County Court No. 1 of Galveston County, over all such actions, matters, and proceedings, civil and criminal, within Galveston County, shall be concurrent.

Sec. 3. (a) Upon the effective date of this Act, the pending civil and criminal cases on the docket of the County Court of Galveston County and the County Court No. 2 of Galveston County, save and except probate matters, mental illness cases, condemnation cases and alcoholic hearings, shall be automatically transferred to the County Court No. 1 of Galveston County. Thereafter, civil and criminal cases, except matters described in Subsection (b) of this Section, shall be filed and docketed in the County Court No. 1 of Galveston County.

(b) Probate matters, mental illness cases, condemnation cases and alcoholic hearings shall continue to be filed and docketed in the County Court of Galveston County and the County Court No. 2 of Galveston County in the same manner as they have been heretofore filed and docketed.

Sec. 4. The clerk of the County Court No. 1 of Galveston County shall keep a separate docket for the court, in the same manner as now or may be provided by law for the keeping of dockets for the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County. He shall tax the official court reporter's fee as costs in civil actions in

said County Court No. 1 of Galveston County in like manner as the fee is taxed in civil cases in the district courts of this state. The Judge of the County Court of Galveston County, Texas, the Judge of the County Court No. 1 of Galveston County, and the Judge of the County Court No. 2 of Galveston County may, with the consent of the judge of the court to which transfer is to be made, transfer civil or criminal actions, matters, and proceedings from his respective court to any one of the other courts by entry of an order to that effect upon the docket of his court; and the judge of the court to which any such action, matter, or proceeding, civil or criminal, shall have been transferred, shall have jurisdiction to hear and determine said matter or matters and render and enter the necessary and proper orders, decrees and judgments therein, and in the same manner and with the same force and effect as if such case, action, matter, or proceeding had been originally filed in the court to which transferred. Provided, however, that no cause, action, matter, case, or proceeding shall be transferred without the consent of the judge of the court to which transferred.

Sec. 5. The Judge of the County Court No. 1 of Galveston County, together with the Judges of the County Court of Galveston County, Texas, and the County Court No. 2 of Galveston County, may, at any time, exchange benches and may, at any time, sit and act for and with each other in any civil or criminal case, matter, or proceeding now, or hereafter, pending in their courts; and any and all such acts thus performed by any of said judges shall be valid and binding upon all parties to such cases, matters, and proceedings.

Sec. 6. The practice in said County Court No. 1 of Galveston County shall be the same as prescribed by law relating to county courts and county courts at law. Appeals and writs of error may be taken from judgments and orders of said County Court No. 1 of Galveston County, and from judgments and orders of the judge thereof, in civil and criminal cases, and in the same manner as now is, or may hereafter be, prescribed by law relating to such appeals and writs of error. Appeals may also be taken from interlocutory orders of said County Court No. 1 of Galveston County, appointing a receiver, or from orders overruling a motion to vacate or appointing a receiver; provided, however, that the procedure and manner in which such appeals from interlocutory orders are taken shall be governed by the laws relating to appeals from similar orders of the district courts throughout this state.

Sec. 7. The Judges of the County Court of Galveston County, the County Court No. 1 of Galveston County and the County Court No. 2 of Galveston County shall appoint an official shorthand reporter for the County Court No. 1, who shall be well-skilled in his profession and shall be a sworn officer of the court, and shall hold his office at the pleasure of the court. All of the provisions of Chapter 13, Title 42,

Revised Civil Statutes of Texas, 1925, as amended, and all other applicable provisions of the law relating to "official court reporters" shall apply to the official shorthand reporter herein authorized to be appointed. Such official shorthand reporter shall be entitled to the same compensation, to be paid in the same manner, as provided for the official shorthand reporters of the district courts of Galveston County, Texas. Said court reporter shall be required primarily to report cases in the County Court No. 1 of Galveston County, but shall be made available, when not engaged in a jury trial in said court, to report jury trials in the County Court of Galveston County and the County Court No. 2 of Galveston County and to the District Attorney for examining trials in Justice Courts and trials in the Court of Domestic Relations.

Sec. 8. The County Clerk of Galveston County shall be the Clerk of the County Court No. 1 of Galveston County. The court shall have a seal consisting of a star of five points with the words "County Court No. 1 of Galveston County" engraved thereon. The Sheriff of Galveston County shall appoint a deputy to attend the court when required by the judge thereof.

Sec. 9. The Criminal District Attorney of Galveston County, Texas, shall represent the state in all prosecutions in the County Court No. 1 of Galveston County as provided by law for prosecutions in county courts, and shall be entitled to the same fees as in other cases.

Sec. 10. At the next general election after the effective date of this Act, there shall be elected a Judge of the County Court No. 1 of Galveston County, who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five years; who shall be well-versed in the laws of the state; who shall have resided in and been actively engaged in the practice of law in Galveston County, Texas, for a period of not less than four years prior to such general election; and who shall hold his office for four years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Governor shall appoint a Judge of the County Court No. 1 of Galveston County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of the County Court at Law No. 1 of Galveston County shall be filled by the Commissioners Court of Galveston County, Texas, and the appointee shall hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. (a) The Judge of the County Court No. 1 of Galveston County shall take the oath of office prescribed by the Constitution, but no bond shall be required of him.

(b) The Judges of the County Court No. 1 and of the County Court No. 2 may each be

paid an annual salary of not more than the total salary, including supplements, paid any District Judge in and for Galveston County. The salary shall be paid to each Judge in equal monthly installments out of the General Fund of Galveston County, Texas, by warrants drawn upon the County Treasury upon orders of the Commissioners Court of Galveston County, Texas.

Sec. 12. A special judge may be appointed or elected for the County Court No. 1 of Galveston County in the same manner as may now or hereafter be provided by the General Laws of this state relating to the appointment and election of special judges. Every such special judge thus appointed or elected for said court shall receive for the services he may actually perform the same amount of pay which the regular judge of said court would be entitled to receive for such services; and said amount to be paid to such special judge shall be deducted from or paid out of the salary of the regular judge of said court.

Sec. 13. The County Court No. 1 of Galveston County, or the judge thereof, shall have power to grant all writs necessary to the enforcement of the jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of the court, or of any other court in Galveston County of inferior jurisdiction to the County Court No. 1 of Galveston County.

Sec. 14. The County Court No. 1 of Galveston County shall hold six terms of court, commencing on the first Monday in January, March, May, July, September, and November of each year, and each term shall continue until the business of the court is disposed of; provided, however, that no term of the court shall extend beyond the date fixed for the commencement of the succeeding term except pursuant to an order entered upon the minutes during the term to be extended.

[Acts 1965, 59th Leg., p. 523, ch. 269, eff. May 28, 1965; Acts 1969, 61st Leg., p. 2130, ch. 734, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2844, ch. 931, § 1, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1346, ch. 511, § 1, eff. June 14, 1973.]

TAYLOR COUNTY

Art. 1970-343. County Court at Law of Taylor County

Sec. 1. There is hereby created a court in and for Taylor County, to be called the County Court at Law of Taylor County. It is expressly provided that the provisions of this Act shall not become effective until the Commissioners Court of Taylor County enters an order adopting the same.

Sec. 2. The County Court at Law of Taylor County shall have jurisdiction in all matters and causes, civil and criminal, original and appellate, over which, by the general laws of the State, the County Court of said county would have jurisdiction except as provided in Section 3 of this Act; and all cases now pending in the County Court of said county, other than

probate matters and such as are provided in Section 3 of this Act, are hereby transferred to the County Court at Law of Taylor County, and all writs and process, civil and criminal, heretofore issued by or out of the County Court of said county, other than pertaining to matters over which, by Section 3 of this Act, jurisdiction remains in the County Court of Taylor County, are hereby made returnable to the County Court at Law of Taylor County. The jurisdiction of the County Court at Law of Taylor County and the Judge thereof shall extend to all matters of eminent domain of which jurisdiction has been heretofore vested in the County Court or in the County Judge, but this provision shall not affect the jurisdiction of the Commissioners Court, or of the County Judge of Taylor County as the presiding officer of such Commissioners Court as to roads, bridges, and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the Judge thereof. The County Court at Law of Taylor County shall be the Juvenile Court of Taylor County and shall exercise the jurisdiction conferred on juvenile courts by Chapter 204, Acts of the Forty-eighth Legislature,¹ as heretofore or hereafter amended. All cases pending in the Juvenile Court of Taylor County on the effective date of this Act, along with all the books and records thereof, shall be transferred to the County Court at Law of Taylor County. The County Court at Law of Taylor County and the Judge thereof shall have concurrent jurisdiction with the County Court of Taylor County and the Judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to State Hospitals and Special Schools where admissions are by application, and the power to punish for contempt.

Sec. 3. The County Court of Taylor County shall retain, as heretofore, the general jurisdiction of a probate court; it shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, administrators and guardians, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons, and to apprentice minors as provided by law; and the said Court and the judge thereof shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court, and also to punish contempts under such provisions as are or may be provided by law governing County Courts throughout the State; but said County Judge of Taylor County shall have no other jurisdiction, civil or criminal. The County Judge of Taylor County shall be the Judge of the County Court of Taylor County. All ex-officio duties of the County Judge shall be exercised by the said Judge of the County Court of Taylor Coun-

ty, except in so far as the same shall by this Act be committed to the Judge of the County Court at Law of Taylor County.

Sec. 4. The terms of the County Court at Law of Taylor County shall be held as follows:

On the third Mondays in February, April, June, August, October, and December in each year, and each term of said Court shall continue in session until and including the Saturday next preceding the beginning of the next succeeding term thereof. The practice in said Court, and appeals and writs of error therefrom, shall be as prescribed by the laws relating to county courts.

Sec. 5. There shall be elected in Taylor County by the qualified voters thereof, at a general election, a Judge of the County Court at Law of Taylor County, who shall be a qualified voter in said county and who shall be a regularly licensed attorney in this State, well informed in the laws of this State, and who shall have resided in and been actively engaged in the practice of law in this State or as the Judge of a Court for a period of not less than three (3) years next preceding such general election, who shall hold his office for four (4) years, and until his successor shall have been duly qualified. Any vacancy in the office of the Judge of the Court created by this Act shall be filled by the Commissioners Court of Taylor County until the next general election. The Commissioners Court of Taylor County shall, upon the adoption of this Act, appoint a Judge of the County Court at Law of Taylor County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

Sec. 6. The Judge of the County Court at Law of Taylor County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 7. A Special Judge of the County Court at Law of Taylor County may be appointed or elected when and under such circumstances as are provided by law relating to County Courts and to the Judges thereof, who shall receive the sum of Ten Dollars (\$10) per day for each day he so actually serves, to be paid out of the General Fund of the county by the Commissioners Court.

Sec. 8. The Court created by this Act and the Judges thereof shall have power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, and super-sedeas, and all writs necessary to the enforcement of the jurisdiction of said Court, and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of said Court or of any other Court or tribunal inferior to said Court.

Sec. 9. The clerk of the County Court of Taylor County shall be the clerk of the County Court at Law of Taylor County. The seal of said Court shall be the same as that provided by law for county courts except that the seal shall contain the words "Clerk of the County

Court at Law of Taylor County." The sheriff of Taylor County shall in person or by deputy² attend the said Court when required by the Judge thereof.

Sec. 10. Upon authorization by the Commissioners Court, the Judge of the County Court at Law of Taylor County may appoint a secretary for such County Court at Law. Such secretary shall receive the same compensation as is now allowed to the secretary of the Judge of the County Court, to be paid out of the treasury of Taylor County as other county officials are paid, in equal monthly installments. The Judge of the County Court at Law of Taylor County shall have the authority to terminate the employment of said secretary at any time.

Sec. 11. Upon authorization by the Commissioners Court, the Judge of the County Court at Law of Taylor County may appoint an official shorthand reporter for such court, who shall be well skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Taylor County, to be paid out of the county treasury of Taylor County as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as they may hereafter be amended, and all other provisions of the law relating to official court reporters shall apply in so far as they may be made applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 12. The Judge of the County Court at Law of Taylor County shall assess the same fees as are or may be established by law relating to County Judges, all of which shall be collected by the clerk of said court and be by him paid monthly into the county treasury. The Judge of said County Court at Law shall receive an annual salary which shall be fixed by the Commissioners Court of Taylor County at an amount not less than the salary paid to the County Judge of Taylor County, and which shall be payable monthly, out of the county treasury of Taylor County.

[Acts 1955, 54th Leg., p. 556, ch. 177; Acts 1971, 62nd Leg., p. 1140, ch. 255, § 1, eff. May 17, 1971.]

¹ Article 2338-1.

² So in enrolled bill. Probably should be "deputy."

HUNT COUNTY

Art. 1970-344. Expired

TARRANT COUNTY

Art. 1970-345. Tarrant County Probate Court

Sec. 1. There is hereby created in and for Tarrant County, Texas, effective September 1, 1957, a county court to be called Probate Court of Tarrant County.

Sec. 2. The Probate Court of Tarrant County shall have the general jurisdiction of a Probate Court within the limits of Tarrant County, concurrent with the jurisdiction of the County Court of Tarrant County in such matters and proceedings. It shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and habitual drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and habitual drunkards, including the settlement, partition and distribution of estates of deceased persons, lunacy proceedings and the apprenticing of minors as provided by law.

Sec. 3. On the first day of the initial term of said Probate Court of Tarrant County there shall be transferred to the docket of said court, under the direction of the county judge and by order entered on the minutes of the County Court of Tarrant County, such number of such proceedings and matters then pending in the County Court of Tarrant County as shall be, as near as may be, one-half in number of the total of all of the same then pending, and all writs and processes theretofore issued by or out of said County Court of Tarrant County in such matters or proceedings shall be returnable to the Probate Court of Tarrant County as though originally issued therefrom. All such new matters and proceedings filed on said day, or thereafter filed with the County Clerk of Tarrant County, irrespective of the court or judge to which the matter or proceeding is addressed, shall be filed by said clerk alternately in said respective courts in the order in which the same are deposited with him for filing, beginning first with the County Court of Tarrant County. No proceeding had in either of said courts, nor any order entered therein, shall be invalid because of any failure of said clerk to file new matters and proceedings alternately as above provided. The judge of either of said courts, in his discretion, may, by an order entered upon the minutes, on or after the first day of the initial term of said Probate Court of Tarrant County, transfer from either of said courts to the other, any such matter or proceeding then or thereafter pending therein, and all processes extant at the time of such transfer shall be returned to and filed in the court to which such transfer is made and shall be as valid and binding as though originally issued out of the court to which such transfer may be made. No application, pleading, motion, order, judgment, oath, bond, citation, return of citation, or any other matter or proceeding shall be invalid because of any reference therein to either of said courts by the name of the other, and any reference therein to either of said courts by the name of the other of said courts shall be legally sufficient for every purpose.

Sec. 4. The County Court of Tarrant County shall retain, as heretofore, the powers and jurisdiction of said Court existing at the time of the passage of this Act, and shall exercise its powers and jurisdiction as a Probate Court

with respect to all matters and proceedings of such nature other than those provided in Section 3 of this Act to be transferred to and filed in the Probate Court of Tarrant County. The County Judge of Tarrant County shall be the Judge of the County Court of Tarrant County, and all ex officio duties of the County Judge of Tarrant County, as they now exist, shall be exercised by the County Judge of Tarrant County, except in so far as the same shall by this Act expressly be committed to the Judge of the Probate Court of Tarrant County. Nothing in this Act contained shall be construed as in anywise impairing or affecting the jurisdiction of the County Court at Law of Tarrant County.

Sec. 5. The practice and procedure in the Probate Court of Tarrant County shall be the same as that provided by law generally for the county courts of this State; and all Statutes and Laws of the State, as well as all rules of court relating to proceedings in the County Courts of this State, or to the review thereof or appeals therefrom, shall, as to all matters within the jurisdiction of said Court, apply equally thereto.

Sec. 6. The Probate Court of Tarrant County shall have power to issue writs of injunction, mandamus, execution, attachment, and all writs and process necessary to the exercise and enforcement of the jurisdiction of said Court, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing County Courts throughout the State.

Sec. 7. There shall be two (2) terms of said Probate Court of Tarrant County in each year, and the first of such terms shall be known as the January-June Term; it shall begin on the first Monday in January and shall continue until and including Sunday next before the first Monday in July; and the second of such terms, which shall be known as the July-December Term, shall begin on the first Monday in July and shall continue until and including Sunday next before the first Monday in the following January. The initial term of said Court shall begin on the first Monday after the effective date of this Act.

Sec. 8. There shall be elected in said County by the qualified voters thereof, at the General Election, for a term of four (4) years and until his successor shall have been duly qualified, a Judge of the Probate Court of Tarrant County, who shall be well informed in the laws of the State, and shall have been a duly licensed and practicing member of the Bar of this State for not less than five (5) consecutive years prior to his election. A judge of said Court shall be appointed by the Commissioners Court of Tarrant County as soon as may be after the passage of this Act, who shall hold office from the date of his appointment until the next General Election, and until his successor shall be duly elected and qualified.

Sec. 9. The Judge of the Probate Court of Tarrant County shall execute a bond and take

the oath of office as required by the laws relating to the County Judges.

Sec. 10. Any vacancy in the office of the Judge of the Probate Court of Tarrant County may be filled by the Commissioners Court of Tarrant County by the appointment of a Judge of said Court, who shall serve until the next General Election, and until his successor shall be duly elected and qualified.

Sec. 11. In case of the absence, disqualification or incapacity of either the Judge of the Probate Court of Tarrant County, or the County Judge of Tarrant County, or in the discretion of either of them for any other reason, the County Judge of Tarrant County may sit and act as Judge of the Probate Court of Tarrant County, and the Judge of the Probate Court of Tarrant County may sit and act as Judge of the County Court of Tarrant County, with respect to any matters referred to in Section 2 of this Act, and either of said judges may hear and determine, either in his own courtroom or, with the consent of the judge thereof, in the courtroom of the other of said courts, any matter or proceeding pending in either of said courts, and may enter any orders in such matters or proceedings as the judge of said other court might enter if personally presiding therein.

Sec. 12. In case of the absence, disqualification or incapacity of the Judge of the Probate Court of Tarrant County and the County Judge of Tarrant County, a Special Judge of the Probate Court of Tarrant County may be appointed or elected, as provided by the general laws relating to the County Courts and to the Judges thereof.

Sec. 13. The County Clerk of Tarrant County shall be the Clerk of the Probate Court of Tarrant County. The seal of the Court shall be the same as that provided by law for County Courts, except that the seal shall contain the words "Probate Court of Tarrant County." The sheriff of Tarrant County shall, in person or by deputy, attend the said Court when required by the Judge thereof.

Sec. 14. The Judge of the Probate Court of Tarrant County shall collect the same fees as are now or hereafter may be established by law relating to County Judges as to matters within the jurisdiction of said Court, all of which shall be paid by him into the County Treasury as collected, and from and after the effective date of this Act, the Judge of said Court shall receive, upon qualifying, an annual salary to be fixed by order of the Commissioners Court of Tarrant County, of not less than Sixteen Thousand Dollars (\$16,000), payable out of the County Treasury by the Commissioners Court.

Sec. 15. The Commissioners Court of Tarrant County shall provide the following employees for the Judge of the County Probate Court of Tarrant County: (a) a secretary to be paid not less than Four Thousand, One Hundred and Forty Dollars (\$4,140) per annum, and (b) a chief clerk to be paid not less than Six Thousand Dollars (\$6,000) per annum, at

salaries to be fixed by the Commissioners Court but not less than the figures indicated, which salaries shall be paid monthly out of the County Treasury by the Commissioners Court from any funds available for this purpose, provided, however, that the Judge of the County Probate Court of Tarrant County is hereby authorized to employ, supervise, and terminate each and every one of said employees. The Commissioners Court of Tarrant County may also provide such other and additional clerical assistance as may be required to properly carry on the business of said Court at salaries to be fixed by the Commissioners Court.

Sec. 15a. No action taken, nor any order made or entered, nor any application, pleading, motion, bond, citation, return of citation filed, nor any other proceeding had in the County Court of Tarrant County or in the Probate Court of Tarrant County, heretofore or hereafter, shall ever be held invalid because done in either of said courts when it should have been done in the other of said courts, or because of erroneous reference therein to either of said courts by the name of the other of said courts, and as against any complaint or charge of such nature, all of the same heretofore done are hereby validated for every purpose.

Sec. 16. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year of 1957, if necessary, from and at the effective date of this Act for the balance of said fiscal year, in order to provide for the salaries of the Judge of the Probate Court and employees authorized in this Act.

[Acts 1957, 55 Leg., p. 1204, ch. 400; Acts 1959, 56th Leg., p. 739, ch. 334, §§ 1, 2, 3; Acts 1961, 57th Leg., p. 1083, ch. 485, § 1; Acts 1967, 60th Leg., p. 2093, ch. 782, § 1, eff. Aug. 28, 1967.]

ECTOR COUNTY

Art. 1970-346. County Court at Law for Ector County

Sec. 1. There is hereby created a court to be held in Odessa, Ector County, Texas, which shall be known as the County Court at Law of Ector County, and which shall be a court of record.

Sec. 2. The County Court at Law of Ector County shall have original and concurrent jurisdiction with the County Court of Ector County in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this state, county courts have jurisdiction, except as provided in Section 5 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the county judge of Ector County, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding judge thereof.

Sec. 3. The jurisdiction of the County Court at Law of Ector County and of the judge thereof shall extend to all matters of eminent

domain of which jurisdiction has heretofore been vested in the County Court of Ector County or in the county judge; but this provision shall not affect the jurisdiction of the Commissioners Court or of the county judge of Ector County as the presiding officer of said Commissioners Court as to roads, bridges, and public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding judge thereof.

Sec. 4. The County Court at Law of Ector County shall also have the general jurisdiction of a probate court within the limits of Ector County, concurrent with jurisdiction of the County Court of Ector County in such matters and proceedings. Such County Court at Law of Ector County shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law, and conduct lunacy proceedings.

The County Court at Law of Ector County shall have the jurisdiction conferred upon probate courts specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to probate courts, whether specially created by the Legislature or otherwise, shall be and are hereby made to apply in all their provisions insofar as they are applicable to the County Court at Law of Ector County and insofar as they are not inconsistent with this Act.

Sec. 5. The County Judge of Ector County shall be the judge of the county court of Ector County. All ex-officio duties of the county judge shall be exercised by the judge of the County Court of Ector County except insofar as the same shall, by this Act, be committed to the judge of the County Court at Law of Ector County.

Sec. 6. The respective judges of the County Court of Ector County and of the County Court at Law of Ector County shall, from time to time as occasion may require, transfer cases from one of such courts to the other of such courts in order that the business may be equally distributed among them, that the judges thereof may at all times be provided with cases to be tried or otherwise considered, and that the trial of no case need be delayed because of the disqualification of the judge in whose court it is pending; provided, however, that no case shall be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and provided further, that no case may be transferred from the County Court of Ector County which does

not come within the jurisdiction of the County Court at Law of Ector County as prescribed in this Act.

Sec. 7. In probate matters, in the absence, disqualification or incapacity of the judge of the County Court at Law of Ector County the County Judge of Ector County may sit and act as judge of the County Court at Law, and may hear and determine, either in his own courtroom or in the courtroom of the County Court at Law any matter or proceedings there pending, and enter any orders in such matters or proceedings as the judge of the County Court at Law may enter if personally presiding therein. Likewise, in probate matters, the judge of the County Court at Law may, in the absence, disqualification or incapacity of the county judge sit and act as judge of the county court, and may hear and determine, either in his own courtroom or in the courtroom of the county court, any matter or proceeding there pending and enter any orders in such matters or proceedings as the county judge may enter if personally presiding therein. The signature of either judge on any order shall be conclusive that all conditions have been met or complied with to qualify him to act for the other in such probate matters.

Sec. 8. The judge of the County Court at Law of Ector County and the judge of the County Court of Ector County may, at any time, exchange benches, and may, at any time, sit and act for and with each other in any civil or criminal case, matter or proceeding of which the said courts have concurrent jurisdiction, pending now, or hereafter, in either the County Court at Law of Ector County or the County Court of Ector County; and any and all such acts thus performed by the judge of the County Court of Ector County or the judge of the County Court at Law of Ector County shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 9. The terms of the County Court at Law of Ector County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law of Ector County shall be held as now established for the terms of the County Court of Ector County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Ector County.

Sec. 10. At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Ector County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Ector County, Texas, for a period of not less than two (2) years prior to such general election, and who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Ector County, Texas, shall ap-

point a judge of said Court at Law of Ector County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law of Ector County shall in like manner, as hereinabove provided, be filled by said Commissioners Court of Ector County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 11. The county attorney of Ector County shall represent the state in all prosecutions in the County Court at Law of Ector County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 12. The judge of the County Court at Law of Ector County may be removed from office in the same manner and for the same causes as any county judge may be removed under the laws of this state.

Sec. 13. The judge of the County Court at Law of Ector County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 14. A special judge of the County Court at Law of Ector County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive the sum of Thirty Dollars (\$30.00) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 15. In the case of the disqualification of the judge of the County Court at Law of Ector County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge of the County Court at Law to try such case or cases where the judge of the County Court at Law of Ector County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 14 of this Act.

Sec. 16. The County Court at Law of Ector County, or the judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in said county of inferior jurisdiction to the County Court at Law, and also the power to punish for contempt under such provisions as are or may be provided by the general laws governing county courts throughout the state, and said judge shall have all other powers, duties, immunities and privileges as are or may be provided by general law for judges of courts

of record and for judges of County Courts at Law, and he shall be a magistrate and a conservator of the peace.

Sec. 17. The county clerk of Ector County shall be the clerk of the County Court at Law of Ector County, and the seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Ector County."

Sec. 18. The sheriff of Ector County shall in person or by deputy attend the County Court at Law of Ector County when required by the judge thereof.

Sec. 19. The jurisdiction and authority now vested by law in the county clerk of Ector County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned, be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the judge of the County Court at Law and the county judge, jurors may be summoned for service in both courts and shall be used interchangeably in both such courts.

Sec. 20. Jurors regularly impaneled for the week by the district court or courts, if there be more than one, may on request of either the judge of the county court or the judge of the County Court at Law, be made available by the district judge or judges in such numbers as may be requested, for service for the week in either or both the county court or the County Court at Law and such jurors shall serve in the county court and County Court at Law the same as they had been drawn and selected as is otherwise provided by law.

Sec. 21. The judge of the County Court at Law of Ector County shall appoint an official shorthand reporter for such court who shall be well skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Ector County to be paid out of the county treasury of Ector County, as other county officials are paid in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all their provisions insofar as they are applicable to the official shorthand reporter herein authorized to be appointed and insofar as they are not inconsistent with this Act.

Sec. 22. The judge of the County Court at Law of Ector County shall receive the same salary and be paid from the same fund and the same manner as is now prescribed or may be

established by law for the county judge of Ector County, to be paid out of the county treasury of Ector County, Texas, on the order of the Commissioners Court of said county, and said salary shall be paid monthly in equal installments.

Sec. 23. The judge of the County Court at Law of Ector County shall assess the same fees as are prescribed by law relating to the county judge's fees, all of which will be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the judge, but he shall draw the salary as above specified in this Act.

Sec. 24. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Ector County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Ector County.

[Acts 1959, 56th Leg., p. 6, ch. 4.]

NOLAN COUNTY

Art. 1970-347. County Court at Law of Nolan County

Sec. 1. There is hereby created a Court to be held in Sweetwater, Nolan County, Texas, which shall be known as the County Court at Law of Nolan County; providing, however, that the provisions of this Act shall not become operative until the Commissioners Court of Nolan County enters an order adopting same.

Sec. 2. (a) The County Court at Law of Nolan County shall have original and concurrent jurisdiction with the County Court of Nolan County, in all matters and causes, civil and criminal, original and appellate, over which by the General Laws of this State, County Courts have jurisdiction, except as provided in Section 6 of this Act; but this provision shall not affect jurisdiction of the Commissioners Court or the County Judge of Nolan County, Texas, as the presiding officer of the Commissioners Court as to roads, bridges and public highways, and matters of eminent domain, which are now within the jurisdiction of the Commissioners Court or the Judge of Nolan County.

(b) With the consent of the other, the Judge of either of such Courts shall have the power to transfer to the other Court any case over which the Courts have concurrent jurisdiction pending upon the docket of his Court except in cases where the writ of certiorari has been granted.

Sec. 3. The County Court at Law of Nolan County shall have and exercise original concurrent jurisdiction with the Justice Courts in all civil matters which by the General Laws of this State is conferred upon Justice Courts. Neither the County Court at Law of Nolan County nor the Judge thereof shall have jurisdiction to act as a Coroner nor to preside at inquests, nor have jurisdiction of claims which

come within the jurisdiction of the Small Claims Court as prescribed by Article 2460a of the Revised Civil Statutes of Texas.

Sec. 4. No appeal or writ of error shall be taken to the Court of Civil Appeals from any final judgment of the County Court at Law of Nolan County in civil cases of which said court had appellate or original concurrent jurisdiction with the Justice Court where the judgment or amount in controversy would not exceed One Hundred Dollars (\$100), exclusive of interest and costs.

Sec. 5. This Act shall not be construed to deprive the Justice Courts of jurisdiction now conferred upon them by law, but only to give concurrent original jurisdiction to the County Court at Law of Nolan County over such matters as are specified in this Act; nor shall this Act be construed to deny the right of an appeal to the County Court of Law of Nolan County from the Justice Court, where the right of appeal to the County Court now exists by law.

Sec. 6. The County Court of Nolan County shall retain, as heretofore, the general jurisdiction of a Probate Court; it shall probate wills; appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle accounts of executors, administrators and guardians; transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition and distribution of estates of deceased persons; and to apprentice minors as provided by law; and the said Court, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of said Court; and also to punish contempts under such provisions as are or may be provided by General Law governing County Courts throughout the State. The County Judge of Nolan County shall be the Judge of the County Court of Nolan County. All ex-officio duties of the County Judge shall be exercised by the Judge of the County Court of Nolan County except in so far as the same shall, by this Act, be committed to the Judge of the County Court at Law of Nolan County.

Sec. 7. The terms of the County Court at Law of Nolan County shall be as prescribed by the laws relating to the County Courts. The terms of the County Court at Law of Nolan County shall be held as now established for the terms of the County Court of Nolan County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Nolan County.

Sec. 8. There shall be elected in Nolan County by the qualified voters thereof, at each General Election, a Judge of the County Court at Law of Nolan County. No person shall be elected or appointed Judge of the Court who is not a resident citizen of Nolan County. He shall also be a licensed Attorney of the State of Texas and shall have been a licensed Attor-

ney of the State of Texas for at least two (2) years immediately prior to his appointment or election. The person elected such Judge shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

Sec. 9. The County Attorney of Nolan County shall represent the State in all prosecutions in the County Court at Law of Nolan County, as provided by law for such prosecutions in County Courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the County Courts.

Sec. 10. As soon as this Act becomes effective the Commissioners Court of Nolan County shall appoint a Judge of the County Court at Law of Nolan County, who shall hold his office until the next General Election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 11. The Judge of the County Court at Law of Nolan County may be removed from office in the same manner and for the same causes as any County Judge may be removed under the laws of this State.

Sec. 12. The Judge of the County Court at Law of Nolan County shall execute a bond and take the oath of office as required by law relating to County Judges.

Sec. 13. A special Judge of the County Court at Law of Nolan County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof. He shall receive the sum of Thirty Dollars (\$30) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 14. In the case of the disqualification of the Judge of the County Court at Law of Nolan County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a Special Judge to try such case or cases where the Judge of the County Court at Law of Nolan County is disqualified. In case of the selection of such Special Judge by agreement of the parties or their Attorneys, such Special Judge shall draw the same compensation as that provided in Section 13 of this Act.

Sec. 15. The County Court at Law of Nolan County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the Court and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said Court or of any other Court in said County of inferior jurisdiction to the County Court at Law.

Sec. 16. The County Clerk of Nolan County shall be the clerk of the County Court at Law of Nolan County, and the seal of the Court shall be the same as that provided by law for County Courts, except the seal shall contain

the words "County Court at Law of Nolan County."

Sec. 17. The Sheriff of Nolan County shall in person or by deputy attend the County Court at Law of Nolan County when required by the Judge thereof.

Sec. 18. The jurisdiction and authority now vested by law in the County Court of Nolan County and the Judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Nolan County and the Judge thereof; but jurors and talesmen summoned for either of said Courts may by order of the Judge of the Court in which they are summoned be transferred to the other Court for service therein and may be used therein as if summoned for the Court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Nolan County and the Judge of the County Court of Nolan County, jurors may be summoned for service in both Courts and shall be used interchangeably in both such Courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said Courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the Court for which they were originally drawn.

Sec. 19. Any vacancy in the office of the Judge of the County Court at Law of Nolan County shall be filled by the Commissioners Court, and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Sec. 20. The Judge of the County Court at Law of Nolan County shall receive the same salary and be paid from the same fund and in the same manner as is now prescribed or may be established by law for the County Judge of Nolan County, to be paid out by the County Treasurer of Nolan County, Texas, on the order of the Commissioners Court of said County, and said salary shall be paid monthly in equal installments.

Sec. 21. The Judge of the County Court at Law of Nolan County shall assess the same fees as are prescribed by law relating to the County Judge's fees all of which shall be collected by the Clerk of the Court and shall be paid into the County Treasury on collection, no part of which shall be paid to the Judge, but he shall draw the salary as above specified in this Act.

Sec. 22. The Judge of the County Court at Law of Nolan County may appoint an official shorthand reporter for such Court who shall be well-skilled in his profession and shall be a sworn officer of the Court and shall hold his office at the pleasure of the Court. Such reporter shall take the oath required of official

court reporters and shall receive a salary as set by the Commissioners Court of Nolan County to be paid out of the County Treasury of Nolan County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 23. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Nolan County, and shall be applicable to and govern the proceedings in and appeals to and appeals from the County Court at Law of Nolan County.

[Acts 1959, 56th Leg., p. 179, ch. 100.]

SMITH COUNTY

Art. 1970-348. County Court at Law of Smith County

Sec. 1. There is hereby created a court to be held in Tyler, Smith County, Texas, which shall be known as the County Court at Law of Smith County.

Sec. 2. (a) The County Court at Law of Smith County shall have jurisdiction in all matters, causes, and proceedings, civil, criminal and probate, original and appellate, and also including eminent domain proceedings, over which by the General Laws of this State county courts have jurisdiction, and jurisdiction of said County Court at Law shall be concurrent with that of the County Court of Smith County; but this provision shall not affect the jurisdiction of the Commissioners Court or the County Judge of Smith County as the presiding officer of the Commissioners Court.

(b) The Judge of the County Court at Law may sit in the absence of the County Judge of Smith County from the courtroom in all matters, causes, and proceedings without the necessity of transferring those matters, causes, and proceedings except matters coming under the jurisdiction of the Commissioners Court where the County Judge would be the presiding officer of that Court.

(c) The County Judge, if a duly licensed attorney, may sit in the absence of the Judge of the County Court at Law from the courtroom in all matters and causes without the necessity of transferring those matters and causes.

Sec. 3. Nothing in this Act shall diminish the jurisdiction of the County Court of Smith County. The County Court of Smith County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, and all writs necessary to the enforcement of the jurisdiction of the court; and also to punish contempt under such provisions as are or may be

provided by General Law governing county courts throughout the State. The County Judge of Smith County shall be the Judge of the County Court of Smith County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Smith County, except insofar as the same shall, by this Act, be committed to the Judge of the County Court at Law of Smith County.

Sec. 4. The terms of the County Court at Law of Smith County shall be as prescribed by the laws relating to the county courts. The terms of the County Court at Law of Smith County shall be held as now established for the terms of the County Court of Smith County and the same may be changed in accordance with the laws governing the change in the terms of the County Court of Smith County.

Sec. 5. At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Smith County who shall have been a duly licensed and practicing member of the State Bar of Texas for not less than five (5) years, well-informed in the laws of the state, who shall have resided in and been actively engaged in the practice of law in Smith County, Texas, for a period of not less than two (2) years prior to such general election, and who shall hold his office for the unexpired term. At the general election in November, 1966, he shall be elected to hold his office for four (4) years and until his successor shall have been duly elected and qualified. When this Act becomes effective, the Commissioners Court of Smith County, Texas, shall appoint a judge of said court at law of Smith County, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the judge of said County Court at Law of Smith County shall in like manner, as hereinabove provided, be filled by said Commissioners Court of Smith County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

Sec. 6. The Criminal District Attorney of Smith County shall represent the state in all prosecutions in the County Court at Law of Smith County, as provided by law for such prosecutions in county courts, and shall be entitled to the same fees as now prescribed by law for such prosecutions in the county courts.

Sec. 7. As soon as this Act becomes effective the Commissioners Court of Smith County shall appoint a Judge of the County Court at Law of Smith County, who shall hold his office until the next general election and until his successor shall have been duly elected and qualified, and shall provide suitable quarters for the holding of said court.

Sec. 8. The Judge of the County Court at Law of Smith County may be removed from office in the same manner and for the same

causes as any county judge may be removed under the laws of this state.

Sec. 9. The Judge of the County Court at Law of Smith County shall execute a bond and take the oath of office as required by law relating to county judges.

Sec. 10. A special judge of the County Court at Law of Smith County may be appointed or elected as provided by law relating to county courts and to the judge thereof. He shall receive the sum of Thirty Dollars (\$30) per day for each day he so actually serves, to be paid out of the general fund of the county by the Commissioners Court.

Sec. 11. In the case of the disqualification of the Judge of the County Court at Law of Smith County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the County Court at Law of Smith County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 10 of this Act.

Sec. 12. The County Court at Law of Smith County, or the Judge thereof, shall have the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary to the enforcement of jurisdiction of the court, and to issue writs of habeas corpus in such cases where the offense charged is within the jurisdiction of said court or of any other court in the county of inferior jurisdiction to the County Court at Law. The County Court at Law or the Judge thereof shall also have the power to punish for contempt as prescribed by law for County Courts.

Sec. 13. The County Clerk of Smith County shall be the clerk of the County Court at Law of Smith County, and the seal of the court shall be the same as that provided by law for county courts, except the seal shall contain the words "County Court at Law of Smith County."

Sec. 14. The Sheriff of Smith County shall in person or by deputy attend the County Court at Law of Smith County when required by the judge thereof.

Sec. 15. The jurisdiction and authority now vested by law in the County Court of Smith County and the judge thereof, for the drawing, selection and service of jurors and talesmen shall also be exercised by the County Court at Law of Smith County and the judge thereof; but jurors and talesmen summoned for either of said courts may by order of the judge of the court in which they are summoned be transferred to the other court for service therein and may be used therein as if summoned for the court to which they may be thus transferred. Upon concurrence of the Judge of the County Court at Law of Smith County and the Judge of the County Court of Smith County jurors may be summoned for service in both courts and shall be used interchangeably in

both such courts. All summons for petit jurors for all civil and criminal cases under existing laws at the time this Act takes effect, shall be as valid as if no change had been made and the persons constituting such jury panels shall be required to appear and serve at the ensuing term of said courts as fixed by this Act, and their acts as jurors shall be as valid as if they had been selected as jurors in the court for which they were originally drawn.

Sec. 16. Any vacancy in the office of the Judge of the County Court at Law of Smith County shall be filled by the Commissioners Court, and when so filled the judge shall hold office until the next general election and until his successor is elected and qualified.

Sec. 17. From and after the passage of this Act the Judge of the County Court at Law of Smith County shall receive an annual salary of not less than \$12,000 nor more than \$16,000 as set by the Commissioners Court, to be paid out of the county treasury on the order of the Commissioners Court, and said salary shall be paid monthly in equal installments. The Judge of the County Court at Law of Smith County shall assess the same fees as are now prescribed or may be established by law, relating to the county judge's fees, all of which shall be collected by the clerk of the court and shall be paid into the county treasury on collection, no part of which shall be paid to the said judge, but he shall draw the salary as above specified in this Section.

Sec. 18. The Judge of the County Court at Law of Smith County may appoint an official shorthand reporter for such court who shall be well-skilled in his profession and shall be a sworn officer of the court and shall hold his office at the pleasure of the court. Such reporter shall take the oath required of official court reporters and shall receive a salary as set by the Commissioners Court of Smith County to be paid out of the County Treasury of Smith County, as other county officials are paid, in equal monthly installments. All other provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended and as the same may hereafter be amended, and all other provisions of the law relating to official court reporters shall be and are hereby made to apply in all its provisions in so far as they are applicable to the official shorthand reporter herein authorized to be appointed and in so far as they are not inconsistent with this Act.

Sec. 18a. The Judge of the County Court at Law of Smith County, with the consent of the Commissioners Court, may employ a secretary. The secretary is entitled to a salary as determined by the Commissioners Court.

Sec. 19. The laws of the State of Texas, the rules of procedure and the rules of evidence shall be applicable to and control trials and proceedings in the County Court at Law of Smith County, and shall be applicable to and govern the proceedings in and appeals to and

appeals from the County Court at Law of Smith County.

[Acts 1963, 58th Leg., p. 627, ch. 232; Acts 1965, 59th Leg., p. 859, ch. 420, § 1, eff. June 14, 1965; Acts 1965, 59th Leg., p. 1011, ch. 496, § 1, eff. June 16, 1965; Acts 1969, 61st Leg., p. 1871, ch. 624, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 24, ch. 10, § 1, eff. March 2, 1971; Acts 1971, 62nd Leg., p. 25, ch. 10, §§ 2, 3, eff. March 2, 1971.]

ORANGE COUNTY

Art. 1970-349. County Court at Law of Orange County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Orange County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Orange County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the Court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the Court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Orange County is the Judge of the County Court of Orange County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Orange County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Orange County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Orange County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than four years, be well informed in the laws of this State, and who must have resided and been actively engaged in the practice of law in Orange County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this State.

(b) When this Act becomes effective, the Commissioners Court of Orange County shall appoint a Judge to the County Court at Law of Orange County. The Judge appointed must have the qualifications prescribed in Subsection (a) of this Section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the Judge of the County Court at Law may be filled in like manner by the Commissioners Court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive not less than the same salary prescribed by the Commissioners Court of Orange County for the County Judge of Orange County and not more than \$15,000 per annum. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Orange County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Orange County. The Commissioners Court of Orange County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the Court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Orange County.

(b) The Judge of the County Court at Law shall appoint an official court reporter, who shall have the qualifications and duties provided by law. The official court reporter shall receive a salary, to be fixed by the Commissioners Court of Orange County, of not more than \$9,000 per year.

Practice

Sec. 5. (a) Practice in the County Court at Law of Orange County shall conform to that prescribed by law for the County Court of Orange County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Orange County, Texas, may, at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective Date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Orange County duly entered in its minutes.

[Acts 1965, 59th Leg., p. 1012, ch. 498, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 2126, ch. 730, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1006, ch. 194, § 1, eff. May 13, 1971.]

Art. 1970-349A. County Court at Law of Orange County; Jurisdiction Concurrent with District and County Courts

Sec. 1. In addition to the jurisdiction now conferred upon the County Court at Law of Orange County, by the Constitution and laws of the State of Texas, said court shall hereinafter have and exercise concurrent civil jurisdiction with the District Courts in Orange County, in suits, causes and matters involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, and said Court and the Judges thereof shall have power to issue writs

of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Sec. 2. After the effective date of this Act all cases of concurrent jurisdiction enumerated or included above may be instituted or transferred between the District Courts of Orange County and the County Court at Law of Orange County.

Sec. 3. Should the Judge be disqualified to try a particular case, or should the Judge by reason of illness or otherwise fail or refuse to hold court as needed, on matters pending in the County Court at Law of Orange County, such fact shall be brought to the attention of a Judge of the District Courts of Orange County by any attorney, whereupon such matters as required attention shall be promptly acted by the said Judge of the District Courts of Orange County and disposed of in the manner as other matters or trials in the several District Courts. In the event it should ever become necessary to select a special Judge for the County Court at Law of Orange County, such special Judge shall be selected in the manner provided by law for the selection of a special Judge of the District Court.

Sec. 4. Nothing in the Act shall diminish the jurisdiction of the District Courts of Orange County, but such Courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law. Such District Courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the County Court at Law of Orange County and none of the District Courts of Orange County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the County Court at Law of Orange County as time and the condition of the dockets of such District Courts will permit.

Sec. 5. The County Court at Law of Orange County shall retain concurrent jurisdiction with the County Court of Orange County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the Constitution of this State County Courts have jurisdiction, and in addition thereto any additional jurisdiction which may hereafter be assigned to the County Courts at Law of the State of Texas as now constituted or as they may hereafter be constituted, except the executive functions of the County Judge as a member of the Commissioners Court, Board of Equalization, Budget Officer and other executive and administrative functions.

Sec. 6. The jurisdiction of the County Court at Law of Orange County shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Courts of Orange County, but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Or-

ange County as the presiding officer of said Commissioners Court as to roads, bridges, public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof, including the right of the County Judge of Orange County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this Section to vest in the County Court at Law of Orange County jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the County Court at Law of Orange County or to the County Court only.

Sec. 7. The County Court at Law of Orange County shall also have the general jurisdiction of a Probate Court within the limits of Orange County, concurrent with the jurisdiction of the County Court of Orange County in such matters and proceedings. Said County Court at Law of Orange County shall have authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The County Court at Law of Orange County shall have jurisdiction concurrent with the County Court of Orange County conferred upon County Courts or upon Probate Court specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to Probate Courts whether specially created by the Legislature or otherwise, shall be and they are hereby made to apply concurrently in all their provisions insofar as they are applicable to the County Court at Law of Orange County and insofar as they are not inconsistent with this Act. It is the intention of the Legislature in this Act that the County Judge of Orange County shall be the Judge of the County Court of Orange County; all ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Orange County and all duties and jurisdiction vested in the County Court of Orange County by this Act now being performed by the County Judge of Orange County, Texas, is and shall be concurrent.

Sec. 8. With reference to all matters, civil, criminal and probate, over which the County Court at Law is given concurrent jurisdiction with the County Court of Orange County, the Judge of the County Court at Law of Orange County shall use the same dockets as now provided by said County Clerk in accordance with law for the use of the Judge of the County Court and Probate Court of Orange County and the Judge of the County Court at Law of Or-

ange County and County Judge shall have concurrent jurisdiction over all matters therein insofar as provided in this Act. All suits and other proceedings instituted in the County over which the County Court or Probate Court has jurisdiction shall be addressed to the County Court of the County. The Judge of either the County Court at Law of Orange County or the County Judge may hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Orange County without the necessity of transferring the suit or other proceeding, either civil, criminal or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the County Court or Probate Court and the Clerk of the County Court in said County shall keep one set of minutes in which shall be recorded all the judgments and orders of the County Court at Law of Orange County and the County Court of Orange County. All citations and other process issued by the County Clerk and all notices, restraining orders and other process authorized to be issued by the Clerk of the County Court shall be returnable to the County Court of Orange County, and on the return of such process the hearing or trial may be presided over by the Judge of the County Court at Law of Orange County insofar as provided by this Act or the Judge of the County Court, and any and all such Acts thus performed by the County Court at Law of Orange County or the County Court of Orange County shall be valid and binding upon all parties to such cases, matters and proceedings.

Sec. 9. Immediately after this Act takes effect, the District Clerk of Orange County, who shall be the Clerk of the County Court at Law of Orange County in all matters wherein the County Court at Law of Orange County has concurrent jurisdiction with the District Courts of Orange County may file in the County Court at Law of Orange County any cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the names of persons and all divorce cases. The County Clerk of Orange County shall be the Clerk of the County Court at Law of Orange County in all matters wherein the County Court at Law of Orange County has concurrent jurisdiction with the County Court.

Sec. 10. The said County Court at Law of Orange County shall be a Court of Record, shall sit and hold court in the county seat of Orange County, shall have a seal and maintain all necessary dockets, records and minutes as herein provided. These dockets, records and minutes shall be separate from the dockets, records and minutes of the District Courts of Orange County and as provided hereinbefore with the County Court of Orange County, Texas.

Sec. 11. It shall be the duty of the Probation Department, the Sheriff, Constables and other law enforcement agencies of the State of

Texas and Orange County and the cities thereof as well as Welfare Agencies, to furnish said County Court at Law of Orange County such services in the line of their respective duties as shall be required by said Court and all Sheriffs and Constables within the State of Texas shall render the same services with reference to process and writs from the District Court, County Courts and Probate Courts.

Sec. 12. The said County Court at Law of Orange County and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts and County Courts, when necessary or proper in cases or matters in which said County Court at Law of Orange County has jurisdiction. It shall also have power to punish for contempt.

Sec. 13. The County Court at Law of Orange County as herein created shall have the same terms of Court as the District Courts of Orange County as are presently established or as they may hereinafter be changed.

Sec. 14. The Judge of the County Court at Law of Orange County may be appointed a member of the Juvenile Board of Orange County and may be paid additional compensation therefor by the Commissioners Court of Orange County, not to exceed the amount paid by Orange County, to the District Judges and/or the County Judge of Orange County for acting as members of the Juvenile Board.

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals as is now or may be hereafter provided for appeals from District and County Courts and in all criminal cases shall be to the Court of Criminal Appeals.

Sec. 16. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearing in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts, general or special, as well as County Courts; provided that juries in all matters civil or criminal shall always be composed of twelve (12) members except that in misdemeanor criminal cases the juries shall be composed of six (6) members, as well as six (6) member juries in cases where this Court has concurrent jurisdiction with the County Court as herein provided.

Sec. 17. The Judge of the County Court at Law of Orange County shall have authority to appoint a Court Reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter may be paid a salary out of the general fund of the County as may be fixed by the Commissioners Court, and shall not exceed the amount paid to reporters of the District Courts of Orange County. The Judge shall also have the power

and authority to appoint a court interpreter, in such cases as may be necessary, who may be paid such fees and compensation out of the general fund of the County for such service as may be fixed by the Commissioners Court.

Sec. 18. The Judge of the County Court at Law of Orange County shall not appear as an attorney at law in any court of record in this State nor shall he appear and practice as an attorney at law in any Court or Justice Court over which he has original or appellate jurisdiction.

Sec. 19. From and after the passage of this Act the Judge of the County Court at Law of Orange County shall receive an annual salary of not less than is presently being paid by the County of Orange to the Judge of the County Court at Law of Orange County nor more than that which is paid by the State of Texas to the Judges of the District Courts of Orange County, Texas, as set by the Commissioners Court to be paid out of the county treasury on the order of the Commissioners Court and said salary shall be paid monthly in equal installments.

Sec. 20. Nothing in this Act shall diminish the jurisdiction of the several District Courts of Orange County and the County Court of Orange County and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said Courts.

[Acts 1971, 62nd Leg., p. 3060, ch. 1019, eff. June 15, 1971.]

BELL COUNTY

Art. 1970-350. County Court at Law of Bell County

Creation and Jurisdiction

Sec. 1. (a) On the effective date of this Act (as provided in Section 6), the County Court at Law of Bell County is created.

(b) The County Court at Law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Bell County.

(c) The County Court at Law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Bell County is the Judge of the County Court of Bell County. All

ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Bell County unless by this Act committed to the Judge of the County Court at Law.

Terms of Court

Sec. 2. The Commissioners Court of Bell County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Bell County.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a Judge of the County Court at Law of Bell County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Bell County for a period of not less than two years prior to the general election. The Judge elected holds office for four years and until his successor has been duly elected and qualified. During his term of office the Judge may not appear and plead as an attorney at law in any court of record in this state.

(b) If any vacancy occurs in the office of the Judge of the County Court at Law, the Commissioners Court shall appoint the Judge of the County Court at Law who must have the same qualifications prescribed in Subsection (a) of this Section and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The Judge of the County Court at Law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law shall receive a salary in an amount determined by the Commissioners Court not to exceed the salary prescribed by the Commissioners Court for the County Judge of Bell County. Such salary shall be paid in equal monthly installments out of the county treasury on order of the Commissioners Court. The Judge of the County Court at Law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the Judge.

(e) A special judge of the County Court at Law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

(f) The Judge of the County Court at Law shall be a member of the Juvenile Board of Bell County, and for this additional work as a member of the Juvenile Board he shall be allowed compensation in like manner as other members of said Juvenile Board, such compensation to

be determined and fixed by order of the Commissioners Court and to be paid in addition to any other compensation to which he is entitled under the provisions of law.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Bell County, Texas shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Bell County. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Bell County.

(b) The Judge of the County Court at Law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Bell County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Bell County shall conform to that prescribed by law for the County Court of Bell County.

(b) The Judges of the County Court and the County Court at Law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law unless it is within the jurisdiction of that Court.

(c) Jurors regularly impaneled for the week by the District Courts of Bell County, Texas, may at the request of either the Judge of the County Court or of the County Court at Law, be made available by the District Judges in the numbers requested and shall serve for the week in either or both the County Court or the County Court at Law.

Effective Date

Sec. 6. The Act becomes effective upon order of the Commissioners Court of Bell County duly entered in its minutes.

[Acts 1967, 60th Leg., p. 457, ch. 208, eff. Aug. 28, 1967; Acts 1972, 62nd Leg., 4th C.S., p. 21, ch. 4, § 2, eff. Oct. 17, 1972.]

GUADALUPE COUNTY

Art. 1970-351. County Court at Law of Guadalupe County

Creation and Jurisdiction

Sec. 1. (a) The County Court at Law of Guadalupe County is created on the effective date of this Act provided in Section 7. It sits in Seguin.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of

Guadalupe County. However, the county court at law does not have jurisdiction over eminent domain proceedings or over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court or County Court of Guadalupe County.

(c) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the same power to punish for contempt prescribed by law for county courts.

(d) The County Judge of Guadalupe County is the Judge of the County Court of Guadalupe County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Guadalupe County unless by this Act committed to the Judge of the County Court at Law of Guadalupe County.

Terms of Court

Sec. 2. The terms of the County Court at Law of Guadalupe County are the same as those of the County Court of Guadalupe County.

Judge

Sec. 3. (a) At the general election in November 1970, a Judge of the County Court at Law of Guadalupe County shall be elected if this Act has taken effect in accordance with Section 7.

(b) To be eligible for the office of Judge of the County Court at Law of Guadalupe County, a person must be 30 years old or older, have been a duly licensed and practicing member of the State Bar of Texas for not less than five years before the election, and have resided and been actively engaged in the practice of law in Guadalupe County for a period of not less than two years before the election.

(c) The judge elected holds office for four years and until a successor has been duly elected and qualified.

(d) Any vacancy occurring in the office of the judge of the county court at law shall be filled by the commissioners court appointing a person with the qualifications prescribed in Subsection (b) of this section. The appointee holds office until the next general election and until a successor has been duly elected and qualified. The appointee is entitled to the same compensation as his predecessor.

(e) The Judge of the County Court at Law of Guadalupe County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(f) The Commissioners Court of Guadalupe County shall fix the salary of the Judge of the County Court at Law of Guadalupe County.

(g) When the Judge of the County Court at Law of Guadalupe County is disqualified, the Commissioners Court of Guadalupe County shall appoint a special judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Court Officials and Personnel

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Guadalupe County shall serve as County Attorney, Clerk, and Sheriff, respectively, for the County Court at Law of Guadalupe County. The Commissioners Court of Guadalupe County may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Guadalupe County.

(b) The judge of the county court at law may appoint an official court reporter, who must have the qualifications prescribed by law for district court reporters, who serves at the pleasure of the judge, and who is entitled to the compensation fixed by the Commissioners Court of Guadalupe County.

Practice

Sec. 5. (a) Practice in the County Court at law of Guadalupe County shall conform to that prescribed by law for the County Court of Guadalupe County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Guadalupe County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in a case unless it is within the jurisdiction of his court.

(d) Jurors regularly impaneled for the week by the district courts whose districts include Guadalupe County may, at the request of either

the Judge of the County Court or County Court at Law of Guadalupe County, be made available by the district judges in the numbers requested and shall serve for the week in either or both the county court or county court at law.

Facilities and Equipment

Sec. 6. (a) The Commissioners Court of Guadalupe County shall furnish and equip a suitable courtroom and office space for the county court at law.

(b) The county court at law has a seal identical with the seal of the County Court of Guadalupe County except that it contains the words "County Court at Law of Guadalupe County."

Effective Date

Sec. 7. (a) This Act takes effect when the Commissioners Court of Guadalupe County appoints a judge to the County Court at Law of Guadalupe County.

(b) The judge appointed must have the qualifications prescribed in Section 3(b) of this Act and serves until December 31, 1970, and until a successor has been duly elected and qualified.

[Acts 1967, 60th Leg., p. 2056, ch. 761, eff. June 18, 1967.]

DENTON COUNTY

Art. 1970-352. County Court at Law of Denton County

Creation and Jurisdiction

Sec. 1. (a) The County Court at Law of Denton County, Texas, is created.

(b) The court has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. However, it does not have jurisdiction over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the Commissioners Court of Denton County.

(c) The jurisdiction of the County Court at Law of Denton County extends to all matters of eminent domain and is concurrent with that of the County Court and Commissioners Court of Denton County.

(d) The county court at law has the general jurisdiction of a probate court within the limits of Denton County, and its jurisdiction is concurrent with that of the County Court of Denton County in probate matters and proceedings.

(e) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county

court at law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(f) The County Judge of Denton County is the judge of the County Court of Denton County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Denton County except insofar as the same are, by this Act, committed to the judge of the County Court at Law of Denton County.

Terms of Court

Sec. 2. The terms of the County Court at Law of Denton County are the same as those for the County Court of Denton County, Texas.

Judge

Sec. 3. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Denton County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than five years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Denton County, Texas, for a period of not less than two years prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Denton County, Texas, shall appoint a judge to the County Court at Law of Denton County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. Any vacancy occurring in the office of the judge of the County Court at Law of Denton County may be filled in like manner by the commissioners court and the appointee holds office until the next general election and until his successor has been duly elected and has qualified.

(c) The judge of the County Court at Law of Denton County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the County Court at Law of Denton County is entitled to receive the same salary, to be paid from the same fund and in the same manner, as the County Judge of Denton County receives. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to receive \$30 a day for each day he

serves, to be paid out of the general fund of Denton County by the commissioners court.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided by Subsection (e) of this section.

Court Officials

Sec. 4. (a) The County Attorney, County Clerk, and Sheriff of Denton County, Texas, shall serve as County Attorney, Clerk, and Sheriff, respectively, of the County Court at Law of Denton County. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the county court at law shall appoint an official court reporter, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$7500 per annum, nor more than \$10,600 per annum, and this compensation shall be fixed by the Commissioners Court of Denton County.

(c) The seal of the court shall contain the words "County Court at Law of Denton County", but in other respects is identical with the seal of the County Court of Denton County.

Practice

Sec. 5. (a) Practice in the County Court at Law of Denton County shall conform to that prescribed by law for the County Court of Denton County, Texas.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Denton County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Denton County Court.

Juries

Sec. 6. (a) The jurisdiction and authority now vested by law in the County Clerk and County Judge of Denton County for the drawing, selection, and service of jurors and talesmen shall also be exercised by the county court at law and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. Upon concurrence of the judge of the county court at law and the county judge, jurors may be summoned for service in both courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1969, 61st Leg., p. 1626, ch. 505, eff. June 10, 1969.]

PARKER COUNTY

Art. 1970-353. Parker County; Jurisdiction of County Court Diminished

Sec. 1. The County Court of Parker County shall have and exercise the general jurisdiction of a probate court, shall probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards; grant letters testamentary and of administration; settle the accounts of executors, administrators, and guardians; transact all business pertaining to the estates of deceased persons, minors, lunatics, persons non compos mentis, and common drunkards, including the partition, settlement, and distribution of estates of deceased persons pending in such court; conduct lunacy hearings; apprentice minors as provided by law, and issue all writs necessary for the enforcement of its own jurisdiction; punish for contempt under such provisions as now or may be provided for by general law governing county courts throughout the state; and in addition thereto, the County Court of Parker County and the judge thereof, subject to the conditions hereinafter stated, shall have original and appellate civil jurisdiction, exclusive of matters of eminent domain, and original and appellate criminal jurisdiction as normally exercised by county courts under the constitution and general laws of this state; provided, however, neither the County Court of Parker County, nor the judge thereof shall have any jurisdiction over matters of eminent domain, and further provided, however, that all future statutes pertaining to probate matters enacted by the Legislature of the State of Texas shall be operative in Parker County as fully as though this statute had not been enacted.

Sec. 2. The County Court of Parker County and the 43rd District Court shall have and exercise concurrent original civil jurisdiction, exclusive of probate matters and matters of eminent domain, over causes which by the general laws of this state the County Court of Parker

County would have original civil jurisdiction; and the county court and the district court shall have and exercise concurrent original criminal jurisdiction over causes in which the punishment that may be assessed includes confinement in the county jail or with the Texas Department of Corrections, and over which said causes, by the general laws of the state, the County Court of Parker County would have original jurisdiction; all such civil and criminal causes shall be filed with the District Clerk of Parker County in the district court. The judge of the 43rd District Court will be the presiding judge, insofar as the district court and the county court are concerned in matters over which said courts exercise concurrent jurisdiction and may, in his discretion, assign to the County Court of Parker County for trial and disposition, cases or portions thereof over which concurrent jurisdiction is exercised by said courts. Such assignments shall be made by docket notation. The purpose and intent of this Act is to vest the 43rd District Court and the County Court of Parker County with concurrent jurisdiction over matters of original civil jurisdiction, exclusive of probate matters and eminent domain matters, and concurrent jurisdiction over matters of original criminal jurisdiction of cases in which the punishment that may be assessed includes confinement in the county jail or with the Texas Department of Corrections, over which said civil and criminal matters, by the general laws of this state, the County Court of Parker County would have original jurisdiction; the concurrent jurisdiction being subject to the control over assignments of such cases, or parts thereof, by the district court and the judge thereof. However, there shall not be any concurrent jurisdiction in matters of probate, or original criminal jurisdiction of cases in which the punishment that may be assessed does not include confinement in the county jail or with the Texas Department of Corrections, nor shall there be concurrent jurisdiction by the courts of matters over which the constitution or general laws of this state confer appellate jurisdiction upon the county courts, all of such jurisdiction remaining exclusively with the County Court of Parker County and the judge thereof; nor shall there be concurrent original jurisdiction in matters of eminent domain, the original jurisdiction of which shall remain exclusively in the 43rd District Court. The trial of cases assigned to the county court shall be governed by the rules applicable to the trial of cases in the county courts.

Sec. 3. Except as otherwise provided in this article, jurisdiction over juvenile matters in Parker County shall be as established by the constitution and general laws of this state.

Sec. 4. The District Clerk of Parker County shall continue to perform all clerical functions of and for the County Court of Parker County, pertaining to all matters and causes over which the district court and the county court have concurrent jurisdiction. Insofar as all cases over which the district court and the

county court have concurrent jurisdiction, the clerk shall charge fees at the rate set by law for county court cases or such other rates as may be authorized by the constitution or general laws of this state.

Sec. 5. The duties of the county attorney of Parker County shall not be affected by this article. The county attorney of Parker County shall have and perform the same duties as were had and performed prior to the effective date of this article, including, but not limited to, the prosecution of all misdemeanor cases which come within the jurisdiction of either the 43rd District Court or the inferior courts within the county.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 5, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1769, ch. 647, § 1, eff. Aug. 27, 1973.]

Sections 6 to 8 of the 1971 act provided:

"Sec. 6. This Act shall take effect September 1, 1971.

"Sec. 7. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

"Sec. 8. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict and in any and all cases of such conflict, the provisions of this Act shall prevail."

HUNT COUNTY

Art. 1970-354. County Court at Law of Hunt County

Sec. 1. There is hereby created a Court in Hunt County, to be called the County Court at Law of Hunt County.

Sec. 2. (a) The County Court at Law of Hunt County, Texas, is created.

(b) The court has the same jurisdiction over all causes and proceedings, civil and criminal, original and appellate, prescribed by law for county courts. However, this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Hunt County as the presiding officer of the commissioners court as to roads, bridges, and public highways, as are now within the jurisdiction of the commissioners court or the county judge as presiding officer.

(c) The jurisdiction of the County Court at Law of Hunt County extends to all matters of eminent domain and is concurrent with that of the County Court and Commissioners Court of Hunt County.

(d) The County Court at Law has the general jurisdiction of a probate court within the limits of Hunt County, and its jurisdiction is concurrent with that of the County Court of Hunt County in probate matters and proceedings.

(e) The County Court at Law of Hunt County and the judge thereof shall have concurrent jurisdiction with the County Court of Hunt County and the judge thereof in the trial of insanity cases and the restoration thereof, approval of applications for admission to state hospitals and special schools where admissions are by application, and the power to punish for contempt.

(f) The County Court at Law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the County Court at Law has all other powers, duties, immunities, and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(g) The County Judge of Hunt County is the judge of the County Court of Hunt County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Hunt County except insofar as the same which are, specified by this Act, committed to the judge of the County Court at Law of Hunt County.

Sec. 3. The terms of the County Court at Law of Hunt County are the same as those for the County Court of Hunt County, Texas.

Sec. 4. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Hunt County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than two years, who must be well informed in the laws of this state, and who must have been a bona fide resident of Hunt County, Texas, and been actively engaged in the practice of law in Hunt County, Texas, for a period of not less than two years prior to his appointment initially, and after the initial appointment, for a period not less than two (2) years prior to the general election. The judge holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Hunt County, Texas, shall appoint a judge to the County Court at Law of Hunt County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. At the general election in 1974 and every fourth year thereafter, there shall be elected by the qualified voters of Hunt County a Judge of the County Court at Law of Hunt County for a regular term of four years to commence on the first day of January following his election. Any vacancy in the office shall be filled by the Commissioners Court of Hunt County until the next general election. The judge of the Hunt County Court at Law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The Judge of the County Court at Law of Hunt County shall execute a bond and take the oath of office prescribed by law for county

judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Judge of the County Court at Law of Hunt County is entitled to receive the same salary, to be paid from the same fund and in the same manner, as the County Judge of Hunt County receives. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the County Court at Law may be appointed or elected as provided by law for county courts. A special judge is entitled to receive \$15.00 a day for each day he serves, to be paid out of the general fund of Hunt County by the commissioners court.

(f) If a judge of the County Court at Law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided by Subsection (e) of this section.

(g) The Clerk of the County Court of Hunt County shall be the Clerk of the County Court at Law of Hunt County. The County Attorney of Hunt County shall represent the state in all prosecutions pending in the court, and he shall be entitled to the same fee as now prescribed by law for such prosecutions in the county courts. The Sheriff of Hunt County shall in person or by deputy attend the court when required by the judge; and the various sheriffs and constables of this state executing process issued out of the court shall receive the fees fixed by law for execution of process out of county courts.

Sec. 5. (a) The Judge of the County Court at Law of Hunt County shall assess the same fees as are or may be established by law relating to county judges, all of which shall be collected by the clerk of the court and be by him paid into the county treasury, no part of which shall be paid to the said Judge. The Judge of the County Court at Law shall receive an annual salary set by the commissioners court in the same manner as the other elected county officials who are on a salary basis.

(b) The seal of the court shall contain the words "County Court at Law of Hunt County," but in other respects is identical with the seal of the County Court of Hunt County.

Sec. 6. The Judge of the County Court at Law of Hunt County shall have the power to make and publish rules as to the docketing and disposition of criminal and civil cases in the court not inconsistent with the laws of the State of Texas or the Texas Rules of Civil Procedure. Practice in the County Court at Law of Hunt County shall conform to that prescribed by law for the County Court of Hunt County, Texas.

Sec. 7. (a) The judges of the county court and the County Court at Law may transfer cas-

es to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Hunt County unless it is within the jurisdiction of that court.

(b) The county judge and the judge of the County Court at Law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or County Court at Law; and he may rule and enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the County Court at Law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Hunt County Court.

Sec. 8. The Judge of the County Court at Law of Hunt County shall be entitled to traveling expenses and shall be entitled to necessary office expenses in the same manner as is allowed county judges.

[Acts 1971, 62nd Leg., p. 1719, ch. 497, eff. May 28, 1971.]

ANGELINA COUNTY

Art. 1970-355. County Court at Law of Angelina County

Sec. 1. (a) On the effective date of this Act, the County Court at Law of Angelina County is created.

(b) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, including eminent domain proceedings, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Angelina County.

(c) The county court at law, or its judge, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. The court and judge also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Angelina County is the judge of the County Court of Angelina County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Angelina County unless by this Act committed to the judge of the county court at law.

Sec. 2. (a) The judge of either the County Court of Angelina County or the County Court at Law of Angelina County may, in his discretion, either in term-time or in vacation, on motion of any party or on agreement of the parties, or on his own motion, transfer any cause on his docket to the docket of the other court.

(b) The judges of the courts may, in their discretion, exchange benches from time to time. Whenever a judge of one of the courts is disqualified, he shall transfer the case from his court to the other court.

(c) Either judge may, in his own courtroom, try and determine any case or proceeding pending in either court without having the case transferred or may sit in the other court and there hear and determine any case there pending. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In case of absence, sickness, or disqualification of either judge, the other judge may hold court for him. Either of the judges may hear any part of any case or proceeding pending in either of the courts and determine them or may hear and determine any question in any case, and either judge may complete the hearing and render judgment in the case.

(e) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances or other obligations issued or made in the cases shall be returned to and filed in the court to which transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law.

(f) All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 3. The Commissioners Court of Angelina County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law of Angelina County.

Sec. 4. (a) At the next general election after the effective date of this Act there shall be elected a judge of the County Court at Law of Angelina County who must have been a duly licensed and practicing member of the State Bar of Texas, be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Angelina County for a period of not less than two years prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and qualified.

(b) When this Act becomes effective, the Commissioners Court of Angelina County shall

appoint a judge to the County Court at Law of Angelina County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until January 1st of the year following the next general election and until his successor has been duly elected and qualified. Any vacancy occurring in the office of the judge of the county court at law may be filled in like manner by the commissioners court and the appointee holds office until January 1st of the year following the next general election and until his successor has been duly elected and qualified.

(c) The judge of the county court at law shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The judge of the county court at law shall receive a salary of not less than \$14,000 per year nor more than \$18,000 per year. Such salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The judge of the county court at law shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Angelina County, shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Angelina County. The Commissioners Court of Angelina County may employ as many additional assistant county attorneys, deputy sheriffs and clerks as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Angelina County; provided that the county attorney shall receive a salary of not less than \$2,000 per year less than the salary paid to the judge of the county court at law.

(b) The judge of the county court at law may appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Angelina County.

Sec. 6. Practice in the County Court at Law of Angelina County shall conform to that prescribed by law for the County Court of Angelina County.

Sec. 7. This Act becomes effective on January 8, 1972.

[Acts 1971, 62nd Leg., p. 1169, ch. 274, eff. Jan. 8, 1972.]

VICTORIA COUNTY

Art. 1970-356. County Court at Law of Victoria County

Sec. 1. The County Court at Law of Victoria County is created.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceedings, civil, criminal, juvenile, and probate, original and appellate, prescribed by law for county courts, and its jurisdiction is concurrent with that of the County Court of Victoria County. This provision does not affect the jurisdiction of the commissioners court or of the County Judge of Victoria County as the presiding officer of the commissioners court as to roads, bridges, and public highways, as are now within the jurisdiction of the commissioners court or the county judge as presiding officer.

(b) The county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court. It may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court or of any other court of inferior jurisdiction in the county. The court and judge have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, immunities, and privileges provided by law for county court judges.

(d) The County Judge of Victoria County is the judge of the County Court of Victoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Victoria County unless by this Act committed to the judge of the county court at law.

(e) The judge of the County Court at Law of Victoria County, shall be a member of the juvenile board in Victoria County and shall be entitled to additional compensation for the additional duties hereby imposed, to be fixed by the commissioners court and paid in 12 equal installments out of the general fund or other available fund of the county. Such compensation shall be in addition to all other compensation provided in this Act.

Sec. 3. The terms of the County Court at Law of Victoria County are the same as those for the County Court of Victoria County.

Sec. 4. (a) The judge of the County Court at Law of Victoria County must be a duly licensed and practicing member of the State Bar of Texas who has been a bona fide resident of Victoria County, and actively engaged in the practice of law in Victoria County for a period

of not less than two years prior to his appointment or election.

(b) When this Act becomes effective, the Commissioners Court of Victoria County shall appoint a judge to the County Court at Law of Victoria County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. At the general election in 1974 and every fourth year thereafter, there shall be elected by the qualified voters of Victoria County a judge of the County Court at Law of Victoria County for a regular term of four years as provided in Article V, Section 30, and Article XVI, Section 65, of the Texas Constitution. Any vacancy in the office shall be filled by the Commissioners Court of Victoria County until the next general election. The judge of the county court at law may be removed from office in the same manner and for the same causes as provided by the laws of this state for removal of county judges.

(c) The judge of the County Court at Law of Victoria County shall execute a bond and take the oath of office prescribed by law for county judges.

(d) The judge of the County Court at Law of Victoria County shall receive the same salary, to be paid from the same fund and in the same manner, as the County Judge of Victoria County. He shall be entitled to traveling expenses and necessary office expenses, including administrative and clerical help, in the same manner as is allowed the county judge.

(e) A special judge of the county court at law with the same qualifications as the regular judge may be appointed in the manner provided by law for the appointment of a special county judge. If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. A special judge is entitled to the same rate of compensation as the regular judge.

Sec. 5. (a) The Criminal District Attorney, County Clerk, and Sheriff of Victoria County shall serve as criminal district attorney, clerk, and sheriff, respectively, of the County Court at Law of Victoria County. They shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices.

(b) The judge of the county court at law may appoint an official court reporter who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. The official court reporter is entitled to the compensation fixed by the Commissioners Court of Victoria County; however, such compensation shall not be less than the total compensation paid to official court reporters serving the district courts in Victoria County.

(c) The seal of the court shall contain the words "County Court at Law of Victoria County," but in other respects is identical with the seal of the County Court of Victoria County.

Sec. 6. (a) Practice in the County Court at Law of Victoria County shall conform to that prescribed by law for the County Court of Victoria County.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred, and no case may be transferred unless it is within the jurisdiction of the court to which it is transferred.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the case involved. Either judge may hear all or any part of a case pending in the county court or county court at law and may rule and enter orders on and continue, determine, or render judgment on all or any part of the case without the necessity of transferring it to his own docket. However, the judge of either court may not sit or act in a case unless it is within the jurisdiction of his court. Each judgment and order shall be entered in the minutes of the court in which the case is pending.

(d) In cases transferred to either of the courts by order of the judge of the other court, all processes, writs, bonds, recognizances, or other obligations issued or made in the cases shall be returned to and filed in the court to which the transfer is made. All bonds executed and recognizances entered into in those cases shall bind the parties for their appearance or to fulfill the obligations of such bonds or recognizances at the terms of the court to which the cases are transferred to as are fixed by law. All processes issued or returned before transfer of the cases as well as all bonds and recognizances before taken in the cases shall be valid and binding as though originally issued out of the court to which the transfer is made.

Sec. 7. (a) The laws which govern the drawing, selection, service, and pay of jurors for county courts apply to the county court at law.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1973, 63rd Leg., p. 409, ch. 183, §§ 1 to 7, eff. May 25, 1973.]

BRAZORIA COUNTY

Art. 1970-357. County Courts at Law Nos. 1 and 2 of Brazoria County

Sec. 1. (a) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County are hereby created. The County Court at Law No. 1 of Brazoria County is created on the effective date of this Act, and the County Court at Law No. 2 is created effective January 1, 1975.

(b) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County have the same jurisdiction over all causes and proceedings, civil, criminal, and probate, original and appellate, prescribed by law for county courts, and their jurisdiction is concurrent with that of the County Court of Brazoria County. Each county court at law has jurisdiction concurrent with the district court in eminent domain cases and in civil cases when the matter in controversy exceeds \$500 and does not exceed \$5,000, exclusive of interest, as provided by general law.

(c) The County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County, or the judge of either court, may issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and may issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court of inferior jurisdiction in the county. Both courts and judges also have the power to punish for contempt as prescribed by law for county courts.

(d) The County Judge of Brazoria County is the judge of the County Court of Brazoria County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Brazoria County unless by this Act committed to the judges of the county courts at law.

Sec. 2. The Commissioners Court of Brazoria County by order duly entered of record, shall prescribe not less than four terms each year for the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County.

Sec. 3. (a) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall be qualified voters of Brazoria County. Each judge shall be a regularly licensed attorney at law in this state, and shall have resided in this state and have been actively engaged in the practice of law or as the judge of a court for a period of not less than three years next preceding his appointment or election.

(b) Upon the effective date of this Act the Commissioners Court of Brazoria County, shall make the initial appointment of the Judge of

the County Court at Law No. 1 of Brazoria County, who shall serve until the next general election and until his successor shall be duly elected and qualified.

(c) At the general election in 1974 and every four years thereafter, the Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, Constitution of Texas. Any vacancy occurring in the office of the Judge of the County Court at Law No. 1 of Brazoria County or the Judge of the County Court at Law No. 2 of Brazoria County shall be filled by the Commissioners Court of Brazoria County, and the appointee shall hold office until the next general election and until his successor is duly elected and qualified.

(d) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall execute a bond and take the oath of office prescribed by law for county judges. Either judge may be removed from office in the same manner and for the same causes as a county judge.

(e) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall receive not less than the total compensation received by the County Judge of Brazoria County, including the same salary prescribed by the Commissioners Court of Brazoria County for the County Judge of Brazoria County and other compensation for office expense, travel expense, service on the juvenile board and other allowances paid by the county. The salary shall be paid in equal monthly installments out of the county treasury on order of the commissioners court. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judges.

(f) A special judge of the County Court at Law No. 1 of Brazoria County or the County Court at Law No. 2 of Brazoria County may be appointed in the manner provided by law for the appointment of a special county judge. A special judge must have the same qualifications, and is entitled to the same rate of compensation, as the regular judge.

Sec. 4. (a) The Criminal District Attorney, County Clerk, and Sheriff of Brazoria County, shall serve as Criminal District Attorney, Clerk, and Sheriff, respectively, of the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County. The Commissioners Court of Brazoria County may employ as many additional assistant criminal district attorneys, deputy sheriffs, and

clerks as are necessary to serve the courts created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances, prescribed by law for their respective offices in Brazoria County.

(b) The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County may each appoint an official court reporter, who must meet the qualifications prescribed by law for that office and who is entitled to the compensation fixed by the Commissioners Court of Brazoria County.

Sec. 5. (a) Practice in the County Court at Law No. 1 of Brazoria County and the County Court at Law No. 2 of Brazoria County shall conform to that prescribed by law for the County Court of Brazoria County.

(b) The judges of the County Court of Brazoria County and the County Courts at Law Nos. 1 and 2 of Brazoria County may transfer cases to and from the dockets of their respective courts so that the business may be equally distributed between them. However, no case may be transferred from one court to the other without the consent of the judge of the court to which it is transferred; and no case may be transferred to a county court at law unless it is within the jurisdiction of that court.

(c) Jurors regularly impaneled for the week by the district courts of Brazoria County, may, at the request of either the Judge of the County Court of Brazoria County, the Judge of the County Court at Law No. 1 of Brazoria County, or the Judge of the County Court at Law No. 2 of Brazoria County be made available by the district judges in the numbers requested and shall serve for the week in either the county court or the county courts at law.

Sec. 6. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 shall not engage in the private practice of law while serving as judges of the county court at law.

Sec. 7. The Judge of the County Court at Law No. 1 of Brazoria County and the Judge of the County Court at Law No. 2 of Brazoria County shall be members of the Juvenile Board of Brazoria County and receive as additional compensation thereof the same as paid by Brazoria County to the county judge of Brazoria County for acting as a member of the juvenile board.

[Acts 1973, 63rd Leg., p. 672, ch. 283, eff. June 11, 1973.]

HAYS COUNTY

Art. 1970-358. County Court at Law of Hays County

Sec. 1. There is created a court in Hays County to be called the County Court at Law of Hays County.

Sec. 2. (a) The county court at law has the same jurisdiction over all causes and proceed-

ings, civil, criminal, original, and appellate, prescribed by the law for county courts, and its jurisdiction is concurrent with that of the County Court of Hays County. However, the county court at law does not have jurisdiction over eminent domain proceedings or over causes and proceedings concerning roads, bridges, and public highways which are now within the jurisdiction of the commissioners court or County Court of Hays County.

(b) The county court at law has the general jurisdiction of a probate court within the limits of Hays County, and its jurisdiction is concurrent with that of the County Court of Hays County in probate matters and in proceedings.

(c) The county court at law, or its judge, has the power to issue writs of injunction, mandamus, sequestration, attachment, garnishment, certiorari, supersedeas, and all writs necessary for the enforcement of the jurisdiction of the court; and to issue writs of habeas corpus in cases where the offense charged is within the jurisdiction of the court, or of any other court in the county of inferior jurisdiction. The court and judge also have the power to punish for contempt as prescribed by law for county courts. The judge of the county court at law has all other powers, duties, and immunities and privileges provided by law for county court judges, and he is a magistrate and conservator of the peace.

(d) The County Judge of Hays County is a judge of the County Court of Hays County. All ex officio duties of the county judge shall be exercised by the Judge of the County Court of Hays County except insofar as the same are, by this Act, committed to the Judge of the County Court at Law of Hays County.

Sec. 3. The terms of the County Court at Law of Hays County are the same as those for the County Court of Hays County, Texas.

Sec. 4. (a) At the next general election after the effective date of this Act, there shall be elected a judge of the County Court at Law of Hays County who must have been a duly licensed and practicing member of the State Bar of Texas for not less than three years, who must be well informed in the laws of this state, and who must have resided and been actively engaged in the practice of law in Hays County, Texas, for a period of not less than one year prior to the general election. The judge elected holds office for four years and until his successor has been duly elected and has qualified.

(b) When this Act becomes effective, the Commissioners Court of Hays County, Texas, shall appoint a judge to the County Court at Law of Hays County. The judge appointed must have the qualifications prescribed in Subsection (a) of this section and serves until the next general election and until his successor has been duly elected and has qualified. Any vacancy occurring in the office of the Judge of the County Court at Law of Hays

County may be filled in like manner by the commissioners court and the appointee holds office until the next general election and until his successor has been duly elected and has qualified.

(c) The Judge of the County Court at Law of Hays County shall execute a bond and take the oath of office prescribed by law for county judges. He may be removed from office in the same manner and for the same causes as a county judge.

(d) The Commissioners Court of Hays County shall fix the salary of the Judge of the County Court at Law of Hays County. The judge shall assess the fees prescribed by law for county judges, which shall be collected by the clerk of the court and paid into the county treasury, and which may not be paid to the judge.

(e) A special judge of the county court at law may be appointed or elected as provided by law for county courts. A special judge is entitled to the same rate of compensation as the regular judge.

(f) If a judge of the county court at law is disqualified to try a case pending in his court, the parties or their attorneys may agree on the selection of a special judge for the case. The special judge selected is entitled to the compensation provided in Subsection (e) of this section.

Sec. 5. (a) The county attorney, county clerk, and sheriff of Hays County shall serve as county attorney, clerk, and sheriff, respectively, of the County Court at Law of Hays County. The Commissioners Court of Hays County may employ as many assistant county attorneys, deputy sheriffs, and bailiffs as are necessary to serve the court created by this Act. Those serving shall perform the duties, and are entitled to the compensation, fees, and allowances prescribed by law for their respective offices in Hays County.

(b) The judge of the county court at law may appoint an official court reporter who serves at the pleasure of the judge and who is entitled to the compensation fixed by the commissioners court. The official court reporter must have the qualifications prescribed by law for district court reporters.

(c) The seal of the court shall contain the words "County Court at Law of Hays County," but in other respects is identical with the seal of the County Court of Hays County.

Sec. 6. (a) Practice in the County Court at Law of Hays County shall conform to that prescribed by law for the County Court of Hays County, Texas.

(b) The judges of the county court and the county court at law may transfer cases to and from the dockets of their respective courts in order that the business may be equally distributed between them. However, no case may be transferred from one court to the other with-

out the consent of the judge of the court to which it is transferred; and no case may be transferred to the County Court at Law of Hays County unless it is within the jurisdiction of that court.

(c) The county judge and the judge of the county court at law may freely exchange benches and courtrooms with each other so that if one is ill, disqualified, or otherwise absent, the other may hold court for him without the necessity of transferring the cause or proceeding, civil, criminal, or probate, involved. Either judge may hear all or any part of a cause or proceeding pending in the county court or county court at law; and he may rule or enter orders on and continue, determine, or render judgment on all or any part of the cause or proceeding without the necessity of transferring it to his own docket. However, the judge of the county court at law may not sit or act in any cause or proceeding over which exclusive jurisdiction is vested by this Act in the Hays County Court.

Sec. 7. (a) The jurisdiction and authority now vested by law in the county clerk and the county judge of Hays County for the drawing, selection, and service of jurors and talesman shall be also exercised by the county court at law and its judge. Jurors and talesmen summoned for either court may by order of the judge of the court to which they are summoned be transferred to the other court for service. Upon concurrence of the judge of the county court at law and the county judge, jurors may be summoned for service in both courts and used interchangeably.

(b) Jurors regularly impaneled for a week by the district court or courts may, on request of either the county judge or the judge of the county court at law, be made available and shall serve for the week in either the county court or county court at law.

[Acts 1973, 63rd Leg., p. 702, ch. 298, eff. June 11, 1973.]

JURISDICTION OF PROBATE COURTS

Art. 1970a-1. Probate Courts Specially Created; Jurisdiction as to Mentally Ill, Mentally Retarded and Persons Afflicted with Tuberculosis

Sec. 1. In all counties of the State of Texas having Probate Courts specially created by the Legislature, such courts shall share jurisdiction concurrently with the County Courts of such counties in relation to proceedings under the Mentally Retarded Persons Act, and such Probate Courts shall have jurisdiction concurrently with the County Courts of such counties in relation to all proceedings for the commitment, temporarily or otherwise, of persons who are not charged with any criminal offense who are mentally ill, or against whom information of mental illness has been given to the judge of any such Probate Court, whether such proceeding is for the commitment of such persons for treatment or for observation and/or treatment. The judges of such Probate Courts shall have the authority to hear and determine matters relating to the foregoing proceedings in the same manner and with the same powers as are vested in the County Courts and the judges thereof under the laws of the State of Texas.

Sec. 2. The Probate Courts referred to in Section 1 hereof shall have jurisdiction, concurrently with the County Courts of their respective counties, in relation to all proceedings with respect to the treatment of persons afflicted with tuberculosis or epilepsy, and the judges of such Probate Courts shall have authority to do all things relative to the commitment of persons so afflicted which the county judges are authorized to do.

Sec. 3. Nothing in this Act shall be construed to divest or in any manner impair or reduce the jurisdiction or authority of the County Courts and the Judges thereof, or to limit the jurisdiction conferred upon Probate Courts by other laws.

[Acts 1957, 55th Leg., p. 799, ch. 334.]

TITLE 42

COURTS—PRACTICE IN DISTRICT AND COUNTY

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CHAPTER ONE. INSTITUTION, PARTIES AND VENUE

1. INSTITUTION OF SUITS

Article

1971 to 1974. Repealed.

2. SUITS AGAINST NON-RESIDENTS

1975. Actions Maintainable.

1976. Actual Possession Not Necessary.

1977 to 1979. Repealed.

3. PARTIES TO SUITS

1980. Repealed.

1981. By Executors, etc.

1982. For Lands Against Decedents.

1983 to 1985. Repealed.

1986. Several Obligors to Contract.

1987. Parties Conditionally Liable.

1988 to 1990. Repealed.

1991. Suit in Name of State.

1992, 1993. Repealed.

1994. Suit and Representation by Next Friend.

4. VENUE

1995. Venue, General Rule.

1996. When Water Course or Highway is Boundary.

1. INSTITUTION OF SUITS

Arts. 1971 to 1974. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

2. SUITS AGAINST NON-RESIDENTS

Art. 1975. Actions Maintainable

Persons claiming a right to or interest in property in this State may bring and prosecute to final decree, judgment or order, actions against non-residents of this State, or persons whose place of residence is unknown, or who are transient persons, who claim an adverse estate, or interest in, or who claim any lien or in-

cumbrance on said property, for the purpose of determining such estate, interest, lien, or incumbrance, and granting the title to said property, or settling the lien or incumbrance thereon.

[Acts 1925, S.B. 84.]

Art. 1976. Actual Possession Not Necessary

Such action as provided for in Article 1975, Title 42, Chapter 1, of the 1925 Revised Civil Statutes, of the State of Texas, may be maintained by any such person whether or not he is in actual possession of such property. Service on the defendant or defendants may be made by publication as is now or may be hereafter provided by law for publication of citation against such defendants, or by service of notice of the character and in the manner provided for by Articles 2037 and 2038, of Title 42, Chapter 3, of the 1925 Revised Civil Statutes, of the State of Texas.

[Acts 1925, S.B. 84; Acts 1934, 43rd Leg., 4th C.S., p. 68, ch. 26, § 1.]

Repeal by Rules of Civil Procedure

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 811, Vernon's Texas Rules of Civil Procedure.

Arts. 1977 to 1979. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. PARTIES TO SUITS

Art. 1980. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1981. By Executors, etc.

Suits for the recovery of personal property, debts or damages, and suits for title or possession of lands, or for any right attached to, or growing out of the same, or for injury or damage done thereto, may be instituted by executors, administrators or guardians appointed in this State; and judgment in such cases shall be conclusive, but may be set aside by any person interested for fraud or collusion on the part of such executor or administrator.

[Acts 1925, S.B. 84.]

Art. 1982. For Lands Against Decedents

In every suit against the estate of a decedent involving the title to real estate, the executor or administrator, if any, and the heirs shall be made parties defendant.

[Acts 1925, S.B. 84.]

Art. 1983. Repealed by Acts 1967, 60th Leg., p. 735, ch. 309, § 6, eff. Jan. 1, 1968

Art. 1984. Repealed by Acts 1965, 59th Leg., p. 1010, ch. 495, § 2, eff. Aug. 30, 1965

Art. 1985. Repealed by Acts 1967, 60th Leg., p. 735, ch. 309, § 6, eff. Jan. 1, 1968

Art. 1986. Several Obligors to Contract

The acceptor of a bill of exchange, or a principal obligor in a contract, may be sued either alone or jointly with any other party who may be liable thereon; but no judgment shall be rendered against a party not primarily liable on such bill or other contract, unless judgment be also rendered against such acceptor or other principal obligor, except where the plaintiff may discontinue his suit against such principal obligor as hereinafter provided.

[Acts 1925, S.B. 84.]

Art. 1987. Parties Conditionally Liable

The assignor, indorser, guarantor and surety upon a contract, and the drawer of a bill which has been accepted, may be sued without suing the maker, acceptor or other principal obligor, when the principal obligor resides beyond the limits of the State, or where he cannot be reached by the ordinary process of law, or when his residence is unknown and cannot be ascertained by the use of reasonable diligence, or when he is dead, or actually or notoriously insolvent.

[Acts 1925, S.B. 84.]

Arts. 1988 to 1990. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1991. Suit in Name of State

Whenever an official bond is made payable to the State of Texas, or any officer thereof, and a recovery thereon is authorized by, or would inure to the benefit of parties other than the State, suit may be brought on such bond in the name of the State alone for the benefit of all parties entitled to recover thereon.

[Acts 1925, S.B. 84.]

Arts. 1992, 1993. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 1994. Suit and Representation by Next Friend

Minors, lunatics, idiots or non compos mentis persons who have no legal guardian may sue and be represented by "next friend" under the following rules:

1. In such cases when a judgment is recovered for money or other personal property the value of which does not exceed One Thousand, Five Hundred Dollars (\$1,500), the court may by order entered of record, authorize such next friend or

other person to take charge of such money or other property for the use and benefit of the plaintiff when he has executed a proper bond [in a sum at least double the value of the property], payable to the county judge, conditioned that he will pay said money with lawful interest thereon or deliver said property and its increase to the person entitled to receive the same when ordered by the court to do so, and that he will use such money or property for the benefit of the owner under the direction of the court. The bond shall be in a sum at least double the value of the property and money recovered, with the exception that a bond which is executed by the next friend or other person taking charge of the money or property, as principal, and by a solvent surety company authorized under the laws of Texas to execute such bonds, as surety, shall be in a sum equal to the value of the property and money recovered.

2. The judge of the court in which the judgment is rendered upon an application and hearing, in termtime or vacation, may provide by decree for an investment of the funds accruing under such judgment. Such decree, if made in vacation, shall be recorded in the minutes of the succeeding term of the court.

3. The person who takes such money or property shall receive such compensation as the court may allow and shall make such disposition thereof as the court may order; and he shall return such money or property into court upon the order of the court.

4. If any person has an interest in such recovery, the court may hear evidence as to such interest, and order such claim, or such part as is deemed just, to be paid to whoever is entitled to receive the same.

5. If not otherwise invested in the manner provided in this article, any moneys recovered by the plaintiff, regardless of the amount, may be invested as follows by either the next friend or the Clerk of the Court:

(a) in savings accounts or certificates of any savings and loan association domiciled in this State provided such accounts are insured by the Federal Savings & Loan Insurance Corporation; or

(b) in interest-bearing time deposits in any bank doing business in this State provided the payment of such time deposits is insured by the Federal Deposit Insurance Corporation; and if such moneys are so invested in such manner as to prevent the withdrawal of such moneys from the financial institution in which they are invested without an order of the court no bond shall be required of the "next

friend" in respect to such moneys until the same are withdrawn from such financial institution, at which time the court shall order such bond to be made as may be appropriate under the other provisions of this article, or the court may order such funds turned over directly to the person entitled thereto upon the court finding that the previous disability had ceased to exist.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., p. 201, § 1; Acts 1961, 57th Leg., p. 709, ch. 334, § 1; Acts 1971, 62nd Leg., p. 1381, ch. 367, § 1, eff. Aug. 30, 1971.]

4. VENUE

Art. 1995. Venue, General Rule

No person who is an inhabitant of this State shall be sued out of the county in which he has his domicile except in the following cases:

1. Repealed by Acts 1967, 60th Leg., p. 951, ch. 419, § 1, eff. Aug. 28, 1967.

2. Transient persons.—A transient person may be sued in any county in which he may be found.

3. Non-residents; residence unknown.—If one or all of several defendants reside without the State or if their residence is unknown, suit may be brought in the county in which the plaintiff resides.

4. Defendants in different counties.—If two or more defendants reside in different counties, suit may be brought in any county where one of the defendants resides. The transfer or assignment of a note or chose in action shall not entitle any subsequent holder to sue thereon in any other county than that in which such suit could have been prosecuted if no assignment or transfer had been made.

5. Contract in writing.—(a) Subject to the provisions of Subsection (b), if a person has contracted in writing to perform an obligation in a particular county, expressly naming such county, or a definite place therein, by such writing, suit upon or by reason of such obligation may be brought against him, either in such county or where the defendant has his domicile.

(b) In an action founded upon a contractual obligation of the defendant to pay money arising out of or based upon a consumer transaction for goods, services, loans, or extensions of credit intended primarily for personal, family, household or agricultural use, suit by a creditor upon or by reason of such obligation may be brought against the defendant either in the county in which the defendant in fact signed the contract, or in the county in which the defendant resides at the time of the commencement of the action. No term or statement contained in an obligation described in this subsection shall constitute a waiver of this provision.

6. Executors, administrators, etc.—If the suit is against an executor, administrator or guardian, as such, to establish a money demand

against the estate which he represents, the suit may be brought in the county in which such estate is administered.

7. Fraud and defalcation.—In all cases of fraud, and in all cases of defalcation by public officers, suit may be brought in the county where the fraud was committed or where the defalcation occurred, or any of such suits may be brought where the defendant has his domicile.

8. Attachment, sequestration, etc.—A suit for damages resulting from the suing out of a writ of attachment or sequestration, or for levying any such writ, may be brought in the county from which such writ was issued, or in any county where such levy was made in whole or in part.

9. Crime or trespass.—A suit based upon a crime, offense, or trespass may be brought in the county where such crime, offense, or trespass was committed by the defendant, or by his agent or representative, or in the county where the defendant has his domicile. This subdivision shall not apply to any suit based upon negligence per se, negligence at common law or any form of negligence, active or passive.

9a. Negligence.—A suit based upon negligence per se, negligence at common law or any form of negligence, active or passive, may be brought in the county where the act or omission of negligence occurred or in the county where the defendant has his domicile. The venue facts necessary for plaintiff to establish by the preponderance of the evidence to sustain venue in a county other than the county of defendant's residence are:

1. That an act or omission of negligence occurred in the county where suit was filed.

2. That such act or omission was that of the defendant, in person, or that of his servant, agent or representative acting within the scope of his employment.

3. That such negligence was a proximate cause of plaintiff's injuries.

10. Personal property.—Suit for the recovery of personal property may be brought in any county where the property may be or where the defendant resides.

11. Inheritances.—If the defendant has inherited an estate concerning which the suit is commenced, suit may be brought in the county where such estate principally lies.

12. Lien.—A suit for the foreclosure of a mortgage or other lien may be brought in the county where the property or any part thereof subject to such lien is situated.

13. Partition.—Suits for the partition of land or other property may be brought in the county where such land or other property, or a part thereof, may be, or in the county in which one or more of the defendants reside, or in the county of the residence of any defendant who may assert an adverse claim to or interest in such property, or seeks to recover the title to

the same. Nothing herein shall be construed to fix venue of a suit to recover the title to land.

14. Lands.—Suits for the recovery of lands or damages thereto, or to remove incumbrances upon the title to land, or to quiet the title to land, or to prevent or stay waste on lands, must be brought in the county in which the land, or a part thereof, may lie.

15. Breach of warranty.—Suits for breach of warranty of title to lands may be brought in any county where either vendor resides, and all other vendors may be joined in the same suit.

16. Divorce.—Suits for divorce shall be brought in the county in which the plaintiff shall have resided for six months next preceding the bringing of the suit. However, the hearing may be held and judgment rendered in any other county within the same judicial district if (a) no answer has been filed, or (b) the parties agree to removal of the hearing to the other county.

17. Injunctions.—Suits to enjoin the execution of a judgment or to stay proceedings in any suit shall be brought in the county in which such judgment was rendered or in which such suit is pending.

17a. Labor disputes.—Suits to enjoin strikes or picketing for an unlawful purpose or conducted in an unlawful manner shall be brought (1) in the county where the strike or picketing is alleged to have occurred; or (2) if service cannot be had on any of the defendants in the county described in clause (1), in the county of the residence of the defendant or any one of the defendants, if there be more than one; or (3) in Travis County when suit is brought by the State of Texas, and the state, its agencies or a political subdivision thereof is a party to the suit. Provided, however, that where suit is filed in a county authorized by the provisions of clauses (1) or (2) above, any party thereto may, within five (5) days after notice of institution of suit, make written application to the Presiding Judge of the Administrative Judicial District within which the suit is filed for the appointment of a substitute judge in the court where suit is filed, whereupon such Presiding Judge of such Administrative Judicial District immediately shall assign another District Judge from such Administrative Judicial District who shall thereafter hear all proceedings in such suit. The judge of the court in which such suit is filed shall have full power to act in the case until receipt by him of a copy of an order of the Administrative Judge removing the case or appointing a substitute judge, and the provisions of this Act shall be cumulative of existing rights of the parties to a change of venue as authorized by law. For the purpose of enabling all parties to procure the personal attendance of witnesses in any suit in a court of competent jurisdiction under the provisions hereof the clerk of said court where such suit is pending, if the suit is brought in or removed to a county other than the county where the strike or picketing is al-

leged to have occurred or the county of the residence of the defendant or any one of the defendants and on the application of any party to said suit, shall issue a subpoena for any witness or witnesses who may be represented to reside within any county in the State of Texas or found therein at the time of trial; and the provisions with respect to the issuance of subpoenas, penalties for failure of witnesses to appear, and the tendering of mileage and traveling expenses as provided in Article 7439a of Vernon's Revised Civil Statutes of Texas, 1925, shall apply.

18. Revision of probate.—Suits to revise the proceedings of the county court in matters of probate must be brought in the district court of the county in which such proceedings were had.

19. Suits against counties.—Suits against a county shall be brought within such county.

20. Heads of departments.—Suits for mandamus against the head of any department of the State Government shall be brought in Travis County.

21. Corporations: charters.—Suits brought by the State for the purpose of forfeiting the charter of a private corporation chartered by Act of the Legislature, or organized under the laws of this State, and for the purpose of canceling the permit authorizing a foreign corporation to transact business in this State, and for the purpose of restraining corporations from exercising powers not conferred upon them by the laws of this State, and for the purpose of preventing persons from engaging in business in this State contrary to the laws thereof, may be brought in Travis County.

22. Railway lands.—Suits on behalf of the State to forfeit land fraudulently or colorably alienated by railway companies in fraud of the rights of the State, under the laws granting lands to railway companies, shall be brought in Travis County.

23. Corporations and associations.—Suits against a private corporation, association, or joint stock company may be brought in the county in which its principal office is situated; or in the county in which the cause of action or part thereof arose; or in the county in which the plaintiff resided at the time the cause of action or part thereof arose, provided such corporation, association or company has an agency or representative in such county; or, if the corporation, association, or joint stock company had no agency or representative in the county in which the plaintiff resided at the time the cause of action or part thereof arose, then suit may be brought in the county nearest that in which plaintiff resided at said time in which the corporation, association or joint stock company then had an agency or representative. Suits against a railroad corporation, or against any assignee, trustee or receiver operating its railway, may also be brought in any county through or into which the railroad of such corporation extends or is operat-

ed. Suits against receivers of persons and corporations may also be brought as otherwise provided by law.

24. Carriers.—Suits arising from damage or loss to any passenger, freight, baggage or other property, by reason of its transportation, or contract in relation thereto, in whole or in part by one or more common carriers or the assignees, lessees, trustees or receivers thereof, operating or doing business as such in this State, or having agents or representatives in this State, may be brought against one or more of those so doing business, in any county where either does business or has an agent or representative.

25. Railway personal injuries.—Suits against railroad corporations, or against any assignee, trustee or receiver operating any railway in this State, for damages arising from personal injuries, resulting in death or otherwise, shall be brought either in the county in which the injury occurred, or in the county in which the plaintiff resided at the time of the injury. If the defendant railroad corporation does not run or operate its railway in, or through, the county in which the plaintiff resided at the time of the injury, and has no agent in said county, then said suit shall be brought either in the county in which the injury occurred, or in the county nearest that in which the plaintiff resided at the time of the injury, in which the defendant corporation runs or operates its road, or has an agent. When an injury occurs within one-half mile of the boundary line dividing two counties, suit may be brought in either of said counties. If the plaintiff is a nonresident of this State then such suit shall be brought in the county in which the injury occurred, or in the county in which the defendant railroad corporation has its principal office.

26. Railroad wages.—Suits by mechanics, laborers and operatives, for their wages due by railroad companies, may be instituted and prosecuted in any county in this State where such labor was performed, or in which the cause of action, or part thereof, accrued, or in the county in which the principal office of such railroad company is situated.

27. Foreign corporations.—Foreign corporations, private or public, joint stock companies or associations, not incorporated by the laws of this State, and doing business within this State, may be sued in any county where the cause of action or a part thereof accrued, or in any county where such company may have an agency or representative, or in the county in which the principal office of such company may be situated; or, when the defendant corporation has no agent or representative in this State, then in the county where the plaintiffs or either of them, reside.

28. Insurance.—Suits against fire, marine or inland insurance companies may also be commenced in any county in which the insured property was situated. Suits on policies may be brought against any life insurance company,

or accident insurance company, or life and accident, or health and accident, or life, health and accident insurance company, in the county where the home office of such company is located, or in the county where loss has occurred or where the policyholder or beneficiary instituting such suit resides.

28a. Fraternal benefit societies and statewide mutual assessment companies.—In all actions brought against Fraternal Benefit Societies and/or Statewide Mutual Assessment Companies, regardless of the plan upon which they operate and whether incorporated or not, growing out of or based upon any alleged right or claim or loss or proceeds due, arising from or predicated upon any policy or contract issued or made by such Fraternal Benefit Society and/or Statewide Mutual Assessment Companies, venue shall lie in the county where the policyholder or beneficiary instituting such suit resides or in the county of the principal office of such association or where such cause of action arose.

29. Libel or slander.—A suit for damages for libel or slander shall be brought, and can only be maintained, in the county in which the plaintiff resided at the time of the accrual of the cause of action, or in the county where the defendant resided at the time of filing suit, or in the county of the residence of defendants, or any of them, or the domicile of any corporate defendant, at the election of the plaintiff.

29a. Two or more defendants.—Whenever there are two or more defendants in any suit brought in any county in this State and such suit is lawfully maintainable therein under the provisions of Article 1995 as to any of such defendants, then such suit may be maintained in such county against any and all necessary parties thereto.

30. Special venue.—Whenever in any law authorizing or regulating any particular character of action, the venue is expressly prescribed, the suit shall be commenced in the county to which jurisdiction may be so expressly given.

31. Breach of warranty by a manufacturer.—Suits for breach of warranty by a manufacturer of consumer goods may be brought in any county where the cause of action or a part thereof accrued, or in any county where such manufacturer may have an agency or representative, or in the county in which the principal office of such company may be situated, or in the county where the plaintiff or plaintiffs reside.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., 1st C.S., p. 197, ch. 72, §§ 1, 2; Acts 1931, 42nd Leg., p. 251, ch. 150, § 1; Acts 1935, 44th Leg., p. 503, ch. 213, § 1; Acts 1943, 48th Leg., p. 350, ch. 228, § 1; Acts 1947, 50th Leg., p. 104, ch. 71, § 1; Acts 1947, 50th Leg., p. 739, ch. 366, § 1; Acts 1953, 53rd Leg., p. 390, ch. 107, §§ 1, 2; Acts 1955, 54th Leg., p. 1031, p. 388, § 1; Acts 1967, 60th Leg., p. 951, ch. 419, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2009, ch. 687, § 1, eff. June 12, 1969; Acts 1969, 61st Leg., p. 2606, ch. 864, § 1, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., pp. 489, 490, ch. 213, §§ 1, 2, eff. Aug. 27, 1973.]

Art. 1996. When Water Course or Highway is Boundary

Where any part of a river, water course, highway, road or street is the boundary line between two counties, the several courts of each of said counties shall have concurrent jurisdiction in all cases over such parts of said river, water course, highway, road or street as shall be the boundary of such county in the same manner as if such parts of said river, water course, highway, road or street were within the body of such county.

[Acts 1925, S.B. 84.]

CHAPTER TWO. PLEADING**1. PLEADING IN GENERAL****Article**

1997 to 2002. Repealed.

2002a. Filing Pleadings; Copy Delivered to Adverse Party or to Clerk; Withdrawal.

2002b. Filing Pleadings; Several Adverse Parties; Number of Copies Furnished.

2002c. Failure to Furnish Copy of Pleadings to Adverse Party; Contempt of Court.

2. PLEADINGS OF THE PLAINTIFF

2003 to 2005. Repealed.

3. PLEADINGS OF THE DEFENDANT

2006. Repealed.

2007. Plea of Privilege.

2008. Hearing on Plea.

2009 to 2020. Repealed.

1. PLEADING IN GENERAL

Arts. 1997 to 2002. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2002a. Filing Pleadings; Copy Delivered to Adverse Party or to Clerk; Withdrawal

Whenever any party files a pleading of any character, he shall at the same time either deliver to the adverse party, or deposit with the Clerk for the adverse party, a copy of such pleading, which copy shall not be filed by the Clerk. All filed pleadings shall remain at all times in the Clerk's office or in the Court or in custody of the Clerk, except that the Court may by order entered on the Minutes allow a filed pleading to be withdrawn for a limited time whenever necessary, on leaving a certified copy on file. The party withdrawing such pleading shall pay the costs of such order and certified copy.

[Acts 1939, 46th Leg., p. 203, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939,

3 West's Tex. Stats. & Codes—90

while the Rules of Civil Procedure became effective September 1, 1941. See Rules 72, 75, Vernon's Texas Rules of Civil Procedure.

Art. 2002b. Filing Pleadings; Several Adverse Parties; Number of Copies Furnished

If there is more than one adverse party and the adverse parties are represented by different attorneys, one copy of such pleading shall on request be furnished to each attorney representing the adverse parties, but a firm of attorneys associated in the case shall count as one. Not more than four (4) copies of any pleading shall be required to be furnished to adverse parties and they shall be delivered to the first four (4) applicants entitled thereto. After a copy of a pleading is furnished to an attorney or deposited with the Clerk for him, he cannot require another copy of the same pleading to be furnished to him.

[Acts 1939, 46th Leg., p. 203, § 2.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 72, Vernon's Texas Rules of Civil Procedure.

Art. 2002c. Failure to Furnish Copy of Pleadings to Adverse Party; Contempt of Court

If any party fails to furnish the adverse party with a copy of any pleading in accordance with this provision, he may be required to do so by order of the Court on motion made and notice given, and if he fails to comply with any such order within five (5) days after its date, he may be punished as for contempt of Court, and a certified copy may be ordered to be furnished by the Clerk and the costs thereof charged to the party who had failed to comply with the order to furnish the same.

[Acts 1939, 46th Leg., p. 203, § 3.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 73, Vernon's Texas Rules of Civil Procedure.

2. PLEADINGS OF THE PLAINTIFF

Arts. 2003 to 2005. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. PLEADINGS OF THE DEFENDANT

Art. 2006. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2007. Plea of Privilege

A plea of privilege to be sued in the county of one's residence shall be sufficient if it be in writing and sworn to, and shall state that the party claiming such privilege was not, at the institution of such suit, nor at the time of the service of process thereon, nor at the time of filing such plea, a resident of the county in which suit was instituted and shall state the county of his residence at the time of such plea, and that "no exception to exclusive venue in the county of one's residence provided by law exists in said cause"; and such plea of privilege when filed shall be prima facie proof of the defendant's right to change of venue; provided that such plea shall not be construed to embrace any of the matters set forth in the Revised Civil Statutes, Article 2010. If the plaintiff desires to controvert the plea of privilege, he shall within five days after appearance day file a controverting plea under oath, setting out specifically the fact or facts relied upon to confer venue of such cause on the court where the cause is pending.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., p. 204, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 86, Vernon's Texas Rules of Civil Procedure.

Art. 2008. Hearing on Plea

Upon the filing of such controverting plea, the judge or justice of the peace shall note on same a time for a hearing on the plea of privilege. Such hearing, unless the parties agree upon the date, shall not be had until a copy of such controverting plea, including a copy of such notation thereon, shall have been served on each defendant, or his attorney, for at least ten days exclusive of the day of service and the date of hearing, after which the court shall promptly hear such plea of privilege and enter judgment thereon. Either party may appeal from the judgment sustaining or overruling the plea of privilege, and if the judgment is one sustaining the plea of privilege and an appeal is taken, such appeal shall suspend the

transfer of the venue and a trial of the cause pending the final determination of such appeal. [Acts 1925, S.B. 84.]

Repeal by Rules of Civil Procedure

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rules 87 and 385, Vernon's Texas Rules of Civil Procedure.

Arts. 2009 to 2020. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER THREE. CITATION

Article

- 2021 to 2026. Repealed.
- 2027. Against Counties.
- 2028. Against Cities and Towns, etc.
- 2029. Against Corporations and Joint Stock Associations.
- 2030. Receiver of Railroad Company.
- 2031. Repealed.
- 2031-1. Repealed.
- 2031a. Repealed.
- 2031b. Service of Process Upon Foreign Corporation and Nonresidents.
- 2032. Foreign Railway Corporations.
- 2033. Against Partners.
- 2033a. Service on Local Representative of Nonresident Individual or Partnership Supplying Public Utility Service.
- 2033b. Service of Process on Agent or Clerk in Office in County Other than Residence of Principal.
- 2033c. Effect of Service.
- 2034 to 2039. Repealed.
- 2039a. Citation of Nonresident Motor Vehicle Operators by Serving Chairman of State Highway Commission; Forwarding Notice to Defendant.
- 2040. Unknown Heirs or Stockholders of Defunct Corporation.
- 2041. Repealed.
- 2041a. Suits Against Unknown Owners or Claimants of Interest in Land; Citation by Publication.
- 2042 to 2050. Repealed.

Arts. 2021 to 2026. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2027. Against Counties

In suits against a county, the citation shall be served on the county judge of such county. [Acts 1925, S.B. 84.]

Art. 2028. Against Cities and Towns, etc.

In suits against an incorporated city, town or village, the citation may be served on the mayor, clerk, secretary or treasurer thereof. [Acts 1925, S.B. 84.]

Art. 2029. Against Corporations and Joint Stock Associations

In suits against any incorporated company or joint stock association, the citation may be served on the President, Vice President, Secretary, Cashier, Assistant Cashier, or Treasurer of such company or association, or upon the local agent of such company or association in the county where the suit is brought, or by leaving a copy of the same at the principal office of the company during office hours. If

neither the President, Vice President, Secretary, Assistant Secretary, Cashier, Assistant Cashier, or Treasurer reside in the county in which suit is brought, and such company or association has no agent in the county, then the citation may be served upon any agent representing such company, corporation, or association in the State.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 327, ch. 127.]

Art. 2030. Receiver of Railroad Company

In suits against receivers of railroad companies, service may be had either upon the receiver, the general or division superintendent, or any agent of the receiver who resides in the county in which suit is brought. If there be no agent of the receiver in the county in which suit is brought, then service may be had upon any agent of the receiver in the State.

[Acts 1925, S.B. 84.]

Arts. 2031, 2031-1, 2031a. Repealed by Acts 1973, 63rd Leg., p. 125, ch. 63, § 2, eff. April 26, 1973

See, now, Article 2031b and Business Corporation Act, Article 8.10, § D.

Art. 2031b. Service of Process Upon Foreign Corporations and Nonresidents

Failure to Appoint Agent; Designation of Secretary of State as Lawful Attorney

Sec. 1. When any foreign corporation, association, joint stock company, partnership, or non-resident natural person required by any Statute of this State to designate or maintain a resident agent, or any such corporation, association, joint stock company, partnership, or non-resident natural person subject to Section 3 of this Act, has not appointed or maintained a designated agent, upon whom service of process can be made, or has one or more resident agents and two (2) unsuccessful attempts have been made on different business days to serve process upon each of its designated agents, such corporation, association, joint stock company, partnership, or non-resident natural person shall be conclusively presumed to have designated the Secretary of State of Texas as their true and lawful attorney upon whom service of process or complaint may be made.

Engaging in Business in State; Service upon Person in Charge of Business

Sec. 2. When any foreign corporation, association, joint stock company, partnership, or non-resident natural person, though not required by any Statute of this State to designate or maintain an agent, shall engage in business in this State, in any action in which such corporation, joint stock company, association, partnership, or non-resident natural person is a party or is to be made a party arising out of such business, service may be made by serving a copy of the process with the person who, at the time of the service, is in charge of any business in which the defendant or defendants are engaged in this State, provided a copy

of such process, together with notice of such service upon such person in charge of such business shall forthwith be sent to the defendant or to the defendants principal place of business by registered mail, return receipt requested.

Act of Engaging in Business in State as Equivalent to Appointment of Secretary of State as Agent

Sec. 3. Any foreign corporation, association, joint stock company, partnership, or non-resident natural person that engages in business in this State, irrespective of any Statute or law respecting designation or maintenance of resident agents, and does not maintain a place of regular business in this State or a designated agent upon whom service may be made upon causes of action arising out of such business done in this State, the act or acts of engaging in such business within this State shall be deemed equivalent to an appointment by such foreign corporation, joint stock company, association, partnership, or non-resident natural person of the Secretary of State of Texas as agent upon whom service of process may be made in any action, suit or proceedings arising out of such business done in this State, wherein such corporation, joint stock company, association, partnership, or non-resident natural person is a party or is to be made a party.

Doing Business in State; Definition

Sec. 4. For the purpose of this Act, and without including other acts that may constitute doing business, any foreign corporation, joint stock company, association, partnership, or non-resident natural person shall be deemed doing business in this State by entering into contract by mail or otherwise with a resident of Texas to be performed in whole or in part by either party in this State, or the committing of any tort in whole or in part in this State.

Delivery of Process to Secretary of State; Forwarding Copy

Sec. 5. Whenever process against a foreign corporation, joint stock company, association, partnership, or non-resident natural person is made by delivering to the Secretary of State duplicate copies of such process, the Secretary of State shall require a statement of the name and address of the home or home office of the non-resident. Upon receipt of such process, the Secretary of State shall forthwith forward to the defendant a copy of the process by registered mail, return receipt requested.

Nonresidency after Accrual of Cause of Action; Service upon Secretary of State

Sec. 6. When any corporation, association, joint stock company, partnership or natural person becomes a non-resident of Texas, as that term is commonly used, after a cause of action shall arise in this State, but prior to the time the cause of action is matured by suit in a court of competent jurisdiction in this State, when such corporation, association, joint stock company, partnership or natural person is not required to appoint a service agent in this

State, such corporation, association, joint stock company, partnership or natural person may be served with citation by serving a copy of the process upon the Secretary of State of Texas, who shall be conclusively presumed to be the true and lawful attorney to receive service of process; provided that the Secretary of State shall forward a copy of such service to the person in charge of such business or an officer of such company, or to such natural person by certified or registered mail, return receipt requested.

Cumulative Effect of Act

Sec. 7. Nothing herein contained shall be construed as repealing any statute in force in this State in reference to service of process, but this Act shall be cumulative of all existing statutes.

[Acts 1959, 56th Leg., p. 85, ch. 43.]

Art. 2032. Foreign Railway Corporations

Service may also be had on foreign railway corporations by serving citation upon any train conductor who is engaged in handling trains for two or more railway corporations where one is a foreign railway corporation, and the other a domestic corporation, if said conductor handles and operates trains over such foreign and domestic corporation's tracks across the State line of Texas and on the track of the domestic corporation within this State or upon any agent who has an office in Texas who sells tickets or makes contracts for the transportation of passengers or property over any line of railway, or part thereof, of such foreign railway corporation or company. Conductors who are engaged in handling trains and employed by a foreign railway corporation and a domestic corporation, and who operate such trains across the State line of Texas, and agents engaged in selling tickets or making contracts for the transportation of property, are hereby designated as agents of such foreign corporation or companies upon whom service of citation may be had.

[Acts 1925, S.B. 84.]

Art. 2033. Against Partners

Citation served upon one member of a partnership or firm shall be sufficient to authorize a judgment against the firm and the partner actually served.

[Acts 1925, S.B. 84.]

Saved from repeal, see art. 6132b, § 46.

Art. 2033a. Service on Local Representative of Nonresident Individual or Partnership Supplying Public Utility Service

In suits against individuals and partnerships engaging in supplying gas, water, electricity or other public utility service to villages, towns, or cities in Texas, where such individuals or members of such partnerships reside out of the State of Texas, citation may be served upon the local agent, representative, superintendent or

person in charge of the business of such individuals or partnerships.

[Acts 1931, 42nd Leg., p. 209, ch. 122, § 1.]

Art. 2033b. Service of Process on Agent or Clerk in Office in County Other than Residence of Principal

When an individual, partnership or unincorporated association (either being referred to herein as principal, whether one or more) has, for the transaction or doing of any business in Texas, an office, place of business, or agency in any county other than that in which the principal resides, service of citation or other civil process to bind any such principal, may be made on any agent or clerk employed in such office, place of business or agency, in all suits or actions growing out of or connected with such business and brought in the county in which such office, place of business or agency is located; and the provisions hereof shall apply as well to non-residents of the state as to non-residents of such county; and shall also apply to cases where a principal, though claiming or alleged to be a resident of the county wherein is located such office, place of business or agency, has not been found in such county for service on him of process in such suit, in which case, if the officer making return of the process unexecuted shall certify in such return that after diligent search and inquiry a principal cannot be found and served, then process in such suit to any succeeding term of court may be served on such clerk or agent as is herein provided for in case of non-residents of such county; but provided that nothing herein shall prevent or interfere with the application of the articles of the statutes relating to venue of suits.

[Acts 1935, 44th Leg., 2nd C.S., p. 1759, ch. 463, § 1.]

Art. 2033c. Effect of Service

Such service of process, made in the manner herein provided, shall have the same effect as if made personally on the principal and shall especially have effect to subject all non-exempt property in Texas of the principal so served to the jurisdiction and judgment of the court in such suit; but provided that no default judgment shall be rendered on service so obtained until after twenty days after the date of such service, and provided further that the method of service afforded by this Act shall be cumulative.

[Acts 1935, 44th Leg., 2nd C.S., p. 1759, ch. 463, § 2.]

Arts. 2034 to 2039. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2039a. Citation of Nonresident Motor Vehicle Operators by Serving Chairman of State Highway Commission; Forwarding Notice to Defendant

Acceptance of Benefits of Highways Deemed Equivalent to Appointment of Agent; Service

Sec. 1. The acceptance by a nonresident of this State or by a person who was a resident of this State at the time of the accrual of a cause

of action but who subsequently removes therefrom, or the acceptance by his agent, servant, employee, heir, legal representative, executor, administrator or guardian of the rights, privileges and benefits extended by law to such persons of operating a motor vehicle or motorcycle or of having the same driven or operated within the State of Texas shall be deemed equivalent to an appointment by such nonresident and of his agent, servant, employee, heir, legal representative, executor, administrator or guardian, of the Chairman of the State Highway Commission of this State, or his successor in office, to be his true and lawful attorney and agent upon whom may be served all lawful process in any civil action or proceeding now pending or hereafter instituted against said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, growing out of any accident, or collision in which said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, may be involved while operating a motor vehicle or motorcycle within this State, either in person or by his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and said acceptance or operation shall be a signification of the agreement of said nonresident, or his agent, servant, employee, heir, legal representative, executor, administrator or guardian, that any such process against him or against his agent, servant, employee, heir, legal representative, executor, administrator or guardian, served upon said Chairman of the State Highway Commission or his successor in office, shall be of the same legal force and validity as if served personally.

Service of such process shall be made by leaving a certified copy of the process issued in the hands of the Chairman of the State Highway Commission in Texas at least twenty (20) days prior to the return date thereof, to be stated in said process, and such service shall be sufficient upon said nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, provided, however, that notice of such service and a copy of the process be forthwith sent by registered mail by the Chairman of the State Highway Commission to the nonresident defendant, his agent, servant, employee, heir, legal representative, executor, administrator or guardian.

Forwarding Process; Notice; Return

Sec. 2. It shall be the duty of the Chairman of the State Highway Commission of the State of Texas, upon being served with process as provided in Section 1 of this Act, to immediately enclose copy of the process served upon him in a letter properly addressed to the defendant, or to his agent, servant, employee, heir, legal representative, executor, administrator or guardian, and shall forward the same by registered mail, postage prepaid. If and in the event notice of service of the process upon the Chairman of the State Highway Commission

cannot be effected by registered mail or if the person to whom it is addressed refuses to accept or receive the same, then the plaintiff may cause the defendant to be served with a notice of the fact that the process has been served upon the Chairman of the State Highway Commission, stating the date of the service thereof, which notice shall also be accompanied with a certified copy of the process so served upon said Chairman of the State Highway Commission. Such notice may be served by any disinterested person competent to make oath of the fact by delivering to the person to be served in person a true copy of such notice, together with a certified copy of the process served upon the Chairman of the State Highway Commission. The return of service in such case shall be endorsed on or attached to the original notice stating when it was served and upon whom it was served and it shall be signed and sworn to by the party making such service before any person authorized by the Statutes of this State to make affidavit under the hand and official seal of such officer.

Return

Sec. 3. The officer serving such process upon the Chairman of the State Highway Commission, shall in his return state the day and hour of the service upon the Chairman of the State Highway Commission of such process and such other facts as are now required to be made in his return as in the case of service of citations generally.

Certificate of Chairman of Highway Commission

Sec. 4. The Chairman of the State Highway Commission shall upon request of a party and upon the payment of a fee of Three Dollars (\$3), to certify to the court out of which said process is issued or in which any suit or action may be pending against such nonresident, his agent, servant, employee, heir, legal representative, executor, administrator or guardian, the occurrence or performance of any of the duties, acts, omissions, transactions or happenings contemplated or required by this Act, including the wording of any registered letter received, and his certificate, as well as the wording of said registered letter receipt, shall be accepted as prima facie evidence and proof of the statements contained therein.

Judgment by Default

Sec. 5. No judgment by default shall be taken in any such cause or action, suit or proceeding, until after the expiration of at least twenty days after such process shall have been served upon the Chairman of the State Highway Commission as herein provided, and the presumption shall obtain, unless rebutted, that such process was transmitted by the Chairman of the State Highway Commission and received by the defendant after being deposited in the mail by the Chairman of the State Highway Commission.

Continuance or Postponement

Sec. 6. The court in which the action or proceeding is pending shall have the right to

continue or postpone said action or proceeding, as may be necessary to afford the defendant reasonable opportunity to defend the action.

[Acts 1929, 41st Leg., p. 279, ch. 125; Acts 1933, 43rd Leg., p. 145, ch. 70; Acts 1949, 51st Leg., p. 498, ch. 272, § 1; Acts 1953, 53rd Leg., p. 72, ch. 53, § 1; Acts 1959, 56th Leg., p. 1103, ch. 502, § 1.]

¹ So in enrolled bill. The word "to" should probably be omitted.

Art. 2040. Unknown Heirs or Stockholders of Defunct Corporation

Where property in this State has been granted or has accrued to the heirs as such, of any deceased person, or to the stockholders of defunct corporation, any party having a claim or cause of action against them relative to such property, if their names be unknown to him, may bring an action against them, their heirs or legal representatives, describing them as the heirs of such named ancestor or unknown stockholder of such corporation. If the plaintiff, his agent, or attorney, shall make oath that the names of such heirs or stockholders are unknown to the affiant, the clerk shall issue a citation for such heirs or stockholders, addressed to the sheriff or any constable of the county in which such suit is pending. Such citation shall contain a brief statement of the cause of action, and shall command the officer to summon the defendant by making publication of such citation as provided in the preceding article.

[Acts 1925, S.B. 84.]

Repeal by Rules of Civil Procedure

Repealed in part by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1). See Rule 111, Vernon's Texas Rules of Civil Procedure.

Art. 2041. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2041a. Suits Against Unknown Owners or Claimants of Interest in Land; Citation by Publication

Sec. 1. When land in this State or any interest of any kind in land has been or may hereafter be conveyed, or any lease or contract with reference to land made by written instrument (a) to any person or persons as trustee or trustees and in the conveyance or instrument constituting source of title or claim of title the names of the persons taking or holding the equitable or beneficial title are not disclosed and are unknown, or (b) to any association, joint stock company or partnership, in an association, company or firm name, without disclosing the names of the members, shareholders or partners or persons owning interests in such association, company or firm, and such association, joint stock company or partnership shall thereafter be dissolved and the names of the persons holding or acquiring title to such lands after dissolution are not disclosed in such instrument and are unknown; in each of such cases any person claiming ownership of or any interest in such lands or having a claim

or cause of action against such unknown owners or claimants relative to such property, may bring action or actions against such unknown owners or claimants as such. The provisions hereof shall apply to conveyances made to all character and kinds of companies, associations and organizations, and in which conveyance the names and identity of the persons taking and holding the beneficial or equitable title are not disclosed and are unknown; provided, however, that if the grantee in such conveyance is shown therein to be a corporation or if the grantee be known to be a corporation, in such event this Act shall not apply, but the rights of action shall be governed by Article 2040 of Revised Civil Statutes; but if the character of the organization as whether incorporated or unincorporated is not shown in such conveyance and such facts are unknown, then suit brought under the provisions of this Act against the unknown owners or claimants of property under such conveyance shall be sufficient to give the Court jurisdiction over such unknown owners or claimants regardless of whether the named grantee is in fact a corporation or unincorporated.

Secs. 2, 3. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1).
[Acts 1931, 42nd Leg., p. 369, ch. 216.]

Arts. 2042 to 2050. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FOUR. COSTS AND SECURITY THEREFOR

Article

- 2051 to 2071. Repealed.
- 2072. No Security Required.
- 2072a. Banking Commissioner and Board Not Required to Give Security.
- 2073, 2074. Repealed.
- 2075. Taxing Stenographer's Fees.
- 2076. Taxing Interpreters' Fees.
- 2077. Repealed.

Arts. 2051 to 2071. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2072. No Security Required

No security for costs shall be required of the State or of any incorporated city or town in any action, suit or proceeding, or of an executor, administrator or guardian appointed by a court of this State in any suit brought by him in his fiduciary character.

[Acts 1925, S.B. 84.]

Art. 2072a. Banking Commissioner and Board Not Required to Give Security

That hereafter neither the Banking Commissioner of Texas nor the State Banking Board shall be required to give any cost bonds in trial courts in cases to which they may be a party in their official capacities, nor shall they be required to give any cost bond on appeal or

supersedeas bond on appeal, or writ of error, in any civil case which they may be prosecuting, or defending in their official capacities. [Acts 1927, 40th Leg., p. 203, ch. 135, § 1.]

Arts. 2073, 2074. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2075. Taxing Stenographer's Fees

The clerks of all courts having official reporters shall tax as costs in each civil case where an answer is filed, and a record or any part thereof is made of the evidence in said case by the official reporter, except suits to collect delinquent taxes, a stenographer's fee of Three Dollars (\$3.00). Said fee shall be paid as other costs in the case, and paid by said clerk, when collected, into the General Funds of the county in which said court sits; provided, however, that no stenographer's fee shall be taxed as costs in any civil case where no record or any part thereof is made of the evidence in the case by the official reporter. [Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 120, ch. 90, § 1; Acts 1955, 54th Leg., p. 1033, ch. 390, § 3.]

Art. 2076. Taxing Interpreters' Fees

In each civil suit wherein the services of an interpreter are used, three dollars shall be charged and collected as part of the costs as interpreters' fees, to be paid when collected into the general funds of the county. [Acts 1925, S.B. 84.]

Art. 2077. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. ABATEMENT AND DISCONTINUANCE OF SUIT

Article

- 2078 to 2087. Repealed.
- 2088. Discontinuance as to Principal Obligor.
- 2089. Repealed.
- 2090. Discontinuance as to Defendants Served, etc.
- 2091. Repealed.

Arts. 2078 to 2087. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2088. Discontinuance as to Principal Obligor

Where a suit is discontinued as to the principal obligor, no judgment can be rendered therein against an indorser, guarantor, surety or drawer of an accepted bill who is jointly sued, unless it is alleged and proved that such principal obligor resides beyond the limits of the State, or in such part of the same that he cannot be reached by the ordinary process of law, or that his residence is unknown and cannot be ascertained by the use of reasonable diligence, or that he is dead or actually or notoriously insolvent.

[Acts 1925, S.B. 84.]

Art. 2089. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2090. Discontinuance as to Defendants Served, etc.

When it would not operate to the prejudice of the other defendants the court may permit the plaintiff to discontinue his suit as to one or more of several defendants who were served with process, or who have answered, but no such discontinuance shall, in any case, be allowed as to a principal obligor, except in the cases provided for in the second preceding article.

[Acts 1925, S.B. 84.]

Art. 2091. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. CERTAIN DISTRICT COURTS

Article

- 2092. Rules of Practice and Procedure.
- 2093 to 2093b. Repealed.
- 2093c. Assignment Clerk in Certain Counties Having Eight District Courts.
- 2093d. Presiding Judge and Assignment Clerk in 28th, 94th and 117th Judicial Districts.
- 2093e. Assignment Clerk of District Courts of Bexar County.
- 2093f. Assignment, Docketing and Transfer of Cases in Dallas County District Courts.

Art. 2092. Rules of Practice and Procedure

The following rules of practice and procedure shall govern and be followed in the Civil District Courts in counties having two (2) or more District Courts with civil jurisdiction only, whose terms continue three (3) months or longer and in all civil litigation in counties having five (5) or more District Courts with either civil or criminal jurisdiction or both civil and criminal jurisdiction:

1. Citation. Citations issued for personal service in the county in which the suit is pending shall command the officer to summon the defendant to appear and answer the plaintiff's petition at or before ten o'clock a. m. of the Monday next following the expiration of the twenty-five (25) days from the date of citation and shall be executed and returned by the officer twenty (20) days after date of issuance.

2. Execution and Return. Citations or notices issued for personal service on a defendant to appear at or before ten o'clock a. m. of the Monday next after the expiration of fifty-five (55) days from the date the citation or notice is issued, shall be executed or served on or before thirty-five (35) days from the date of issue and shall be made returnable thirty-five (35) days after such date.

3. Out-County Citation. Citation for defendants alleged to reside or be outside of the county in which the suit is pending,

but within this State, shall be directed to the Sheriff or any constable of the county where the defendant is alleged to reside or be and shall command him to summon the defendant to appear and answer the plaintiff's petition at or before ten o'clock a. m. of the Monday next following the expiration of thirty (30) days from the date the citation is issued and shall be executed and returned to the officer within twenty (20) days after the date of issue.

4. Time for Appearance. Citations or notices issued for personal service on a defendant alleged to reside or be outside of the State but within the United States, shall notify the defendant to appear at or before ten o'clock a. m. of the Monday next after the expiration of fifty-five (55) days from the date the citation or notice is issued and shall be executed or served on or before thirty-five (35) days from the date of issue and shall be made returnable thirty-five (35) days after date of issue.

5. Citation Shall Specify Day. In each of said cases the citation or notice shall specify the day of the week, the day of the month and the time of day the defendant is required to appear and answer, and if any defendant so served does not appear and answer at or before the time specified in such citation or notice, judgment by default may be rendered against such defendant.

6. Citation by Publication. If citation is to be served by publication it shall be returnable forty-two (42) days after the date of issue and shall command the defendant to appear at or before ten o'clock a. m. of the Monday next following the expiration of forty-two (42) days after the citation was issued, and shall specify the day of the week, the day of the month and the time of day the defendant is required to appear and answer, and shall be served by being published in the manner and for the length of time required by law for citations by publication in the same kind of cases or matters in other District Courts at the time the publication is made and the first publication shall be at least twenty-eight (28) days before the return day of the citation.

7. Service in Foreign Country. If citation is issued to be served personally on any defendant or party in any foreign country it shall be made returnable at such time as the plaintiff or person procuring its issuance shall direct, which shall not be less than thirty (30) days nor more than one hundred and twenty (120) days after the date of issue and shall notify and command the defendant or person to be served to appear and answer at or before ten o'clock a. m. of the Monday next following the expiration of twenty (20) days after the return day of the citation or notice and shall specify the day of the

week, the day of the month and the time of day the defendant is required to appear and answer, and shall be served on or before the return day, and if any defendant so served does not appear and answer at or before the time specified in the citation or notice, judgment by default may be rendered against such defendant.

8. Where Citation or Service is Quashed. If the citation or service thereof is quashed on motion of the defendant, such defendant shall be deemed to have entered his appearance at ten o'clock a. m. on the Monday next after the expiration of twenty (20) days after the day on which the citation or service is quashed, and such defendant shall be deemed to have been duly served so as to require him to appear and answer at that time, and if he fails to do so, judgment by default may be rendered against him.

9. Writs of Attachment. Writs of attachment shall be executed immediately after their issuance. Every such writ shall be made returnable, on or before ten o'clock a. m. of the Monday next after the expiration of fifteen (15) days from the issuance of the writ, and the officer executing the writ shall return the same at or before that time with his action indorsed thereon or attached thereto, signed by him officially, showing how he has executed the writ.

10. Writs of Garnishment. Writs of garnishment shall be executed immediately after their issuance and every such writ shall command the officer to summon the garnishee to appear at or before ten o'clock a. m. of the Monday next following the expiration of twenty-five (25) days from the date the writ was issued and the writ shall specify when and where the garnishee is required to answer and the officer receiving the writ of garnishment shall within fifteen (15) days after the issuance of the writ make his return showing how he has executed the writ.

11. Failure of Garnishee to Answer. If the garnishee fails to make answer to the writ on or before ten o'clock a. m. of the Monday next following the expiration of twenty-five (25) days from the date of the writ, he shall be in default and it shall be lawful for the Court, at any time after judgment shall have been rendered against the defendant, to render judgment by default against such garnishee for the full amount of such judgment against the defendant, with all accruing interest and costs. The plaintiff in garnishment shall have fifteen (15) days after the garnishee's answer is filed within which to controvert the same if he so desires.

12. Other Writs and Process. All other writs and process not expressly otherwise provided for in this Article and which under the general law are now returnable to

the first day of the next term of Court after the issuance thereof, and which require the defendant or person served to appear on the first day of the next succeeding term, shall be returnable fifteen (15) days after the date thereof and shall be executed and returned at or before the expiration of fifteen (15) days from the date thereof and shall require the defendant or party served to appear and answer at or before ten o'clock a. m. of the Monday next after the expiration of twenty-five (25) days after such writ or process was issued, and all such writs or process shall so specify.

13. **Appealed Cases.** In cases appealed to said District Courts from inferior Courts, the appeal, including transcript, shall be filed in the District Court within thirty (30) days after the rendition of the judgment or order appealed from, and the appellee shall enter his appearance on the docket or answer to said appeal on or before ten o'clock a. m. of the Monday next after the expiration of twenty (20) days from the date the appeal is filed in the District Court.

14. **Pleas of Privilege.** Pleas of privilege shall be filed at or before the time the defendant is required to answer and a contest thereof if any, shall be filed within twenty (20) days after the appearance day, and if a contest is filed, the same shall, when filed, be set for hearing by the Court within not exceeding thirty (30) days after being filed and shall be determined by the Court within not exceeding ten (10) days after the date for which the same is set unless postponed or continued without prejudice, by order or leave of the Court, by agreement of the parties, and shall not be postponed longer than sixty (60) days after being filed unless by order of the Court entered by agreement of the parties.

15. **Amended Pleadings.** Whenever any party files a pleading of any character, he shall at the same time either deliver to the adverse party, or deposit with the Clerk for the adverse party, a copy of such pleading, which copy shall not be filed by the Clerk. All filed pleadings shall remain at all times in the Clerk's office or in the Court or in custody of the Clerk, except that the Court may by order entered on the Minutes allow a filed pleading to be withdrawn for a limited time whenever necessary on leaving a certified copy on file. The party withdrawing such pleading shall pay the costs of such order and certified copy.

16. **Where More Than One Adverse Party.** If there is more than one adverse party and the adverse parties are represented by different attorneys, one copy of each pleading shall on request be furnished to each attorney representing the adverse parties, but a firm or attorneys associated in the case shall count as one.

Not more than four (4) copies of any pleading shall be required to be furnished to adverse parties and they shall be delivered to the first four (4) applicants entitled thereto. After a copy of a pleading is furnished to an attorney or deposited with the Clerk for him, he cannot require another copy of the same pleading to be furnished to him.

17. **Failure to Furnish Copy.** If any party fails to furnish the adverse party with a copy of any pleading in accordance with this Article, he may be required to do so by order of the Court on motion made and notice given, and if he fails to comply with any such order within five (5) days after its date, he may be punished for contempt of Court, and the Court may order the Clerk to furnish a certified copy, the costs thereof to be charged against the party who failed to comply with the order to furnish it.

18. **Setting Cases for Trial, Etc.** On the first Monday in each calendar month the Judge of each Court may, and as far as practicable shall, set for trial during the calendar month next after the month during which the setting is made, all contested cases which are requested to be set, and by agreement of the parties, or on motion of either party, or on the Court's own motion with notice to the parties, the Court may set any case for trial at any time so as to allow the parties reasonable time for preparation. Non-contested cases may be tried or disposed of at any time whether set or not, and may be set at any time for any other time.

18a. **Assignment Clerks.** In all counties having a population of more than three hundred thousand (300,000) inhabitants and less than three hundred and fifty thousand (350,000) inhabitants, according to the preceding Federal Census, a majority of the District Judges of the District Courts with civil jurisdiction only may appoint an Assignment Clerk to serve under the Presiding Judge of said District Courts in the setting and disposing of cases on the general Jury Docket. The salary of said Clerk shall be fixed by the Commissioners Court of the county and paid in monthly installments on voucher approved by the Presiding Judge of said Courts. His appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct.

19. **Postponement or Continuance.** Cases may be postponed or continued by agreement with the approval of the Court, or upon the Court's own motion or for cause. When a case is called for trial and only one party is ready, the Court may for good cause either continue the case for the term or postpone and reset it for a later day in the same or succeeding term.

20. Cases May Be Reset. A case that is set and reached for trial may be postponed for a later day in the term or continued and reset for a day certain in the succeeding term on the same grounds as an application for continuance would be granted in other District Courts. After any case has been set and reached in its due order and called for trial two (2) or more times and not tried, the Court may dismiss the same unless the parties agree to a postponement or continuance but the Court shall respect written agreements of counsel for postponement and continuance if filed in the case when or before it is called for trial unless to do so will unreasonably delay or interfere with other business of the Court.

21. Exchange and Transfer. The Judges of such Courts may, in their discretion, exchange benches or districts from time to time, and may transfer cases and other proceedings from one Court to another, and any of them may in his own courtroom try and determine any case or proceeding pending in another Court without having the case transferred, or may sit in any other of said Courts and there hear and determine any case there pending, and every judgment and order shall be entered in the Minutes of the Court in which the case is pending and at the time the judgment or order is rendered, and two (2) or more Judges may try different cases in the same Court at the same time, and each may occupy his own courtroom or the room of any other Court. The Judge of any such Court may issue restraining orders and injunctions returnable to any other Judge or Court, and any Judge may transfer any case or proceeding pending in his Court to any other of said Courts, and the Judge of any Court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power in his discretion to transfer any such case to any other of said Courts and any other Judge may in his courtroom try any case pending in any other of such Courts.

22. Cases Transferred to Judges not Occupied. When the Judge of any such Court shall become disengaged, he shall notify the Presiding Judge, and the Presiding Judge shall transfer to the Court of the disengaged Judge the next case which is ready for trial in any of said Courts. Any Judge not engaged in his own Court may try any case in any other Court.

23. Judge Disqualified. If a Judge of any Court is disqualified in any case pending in his Court, and his disqualification is certified to the Governor, the Governor may require the Judge of any other of such Courts to exchange benches or districts with the disqualified Judge, and may, at any time, require any of such Judges to exchange districts with each other or with any other District Judge. In case of the absence, sickness, or disqualifi-

cation of any Judge, any other of said Judges may hold Court for him or may transfer from his Court to any other of said Courts any case or proceeding then pending in the Court of said absent, sick, or disqualified Judge and in such circumstances the practicing lawyers of the Court may elect a special Judge of said Court in the same manner as provided in Chapter 1 of Title 40 of the Revised Civil Statutes of 1925,¹ and such special Judge when so elected shall have and exercise all the powers and duties which the regular Judge of said Court could have and exercise.

24. Judge May Hear Only Part of Case. Any Judge may hear any part of any case or proceeding pending in any of said Courts and determine the same, or may hear and determine any question in any case, and any other Judge may complete the hearing and render judgment in the case.

25. Any Judge May Hear Dilatory Pleas, Etc. Any Judge may hear and determine demurrers, motions, petitions for injunction, applications for appointment of receivers, interventions, pleas of privilege, pleas in abatement, all dilatory pleas, motions for new trial and all preliminary matters, questions and proceedings and may enter judgment or order thereon in the Court in which the case is pending without having the case transferred to the Court of the Judge acting, and the Judge in whose Court the case is pending may thereafter proceed to hear, complete, and determine the case or other matter, or any part thereof, and render final judgment therein. Any judgment rendered or action taken by any Judge in any of said Courts in the county shall be valid and binding.

26. Selection of Presiding Judge. The Judges of such Courts shall twice a year, in January and July, select one of their number as Presiding Judge and may at any time cancel and annul such selection and select any other Judge as Presiding Judge. Each such proceeding shall be by majority vote. Each Judge shall enter on his Minutes an order reciting the selection of the Presiding Judge. The Presiding Judge may assign any case in his Court or any of such Courts in the county to any other Judge or Court, or may assign any Judge to try any case in any of the Courts, and the Judge in whose Court an assigned case is pending shall transfer the case to the Court to which it is assigned, and the Judge of the Court to which it is assigned shall receive and try the case, and such Judge shall hold any other Court or try any case which he is requested by the Presiding Judge to try.

27. Judges May Make Rules. The Judges may by a majority vote make rules for the calling of the docket, for the set-

ting and postponement of cases, for the hearing and acting upon motions, questions of law, applications for injunctions and receivers, and for classifying and distributing cases and for having one calendar for all set cases in all Courts and for prescribing when the different Courts shall have jury trials and when they shall have nonjury trials, and such other rules as they deem advisable to facilitate the dispatch of business. All rules made by said Judges shall be adopted by order of each Judge and spread upon the Minutes of his Court, but such rules shall not be inconsistent with any rule adopted or prescribed by the Supreme Court, nor in conflict with any law of this State.

28. Motion for New Trial. A motion for new trial filed during one term of Court may be heard and acted on at the next term of Court. If a case or other matter is on trial or in process of hearing when the term of Court expires, such trial, hearing, or other matter may be proceeded with at the next term of the Court. No motion for new trial or other motion or plea shall be considered as waived or overruled, because not acted on at the term of Court at which it was filed, but may be acted on at the succeeding term or at any time which the Judge may fix or to which it may have been postponed or continued by agreement of the parties with leave of the Court. All motions and amended motions for new trials must be presented within thirty (30) days after the original motion or amended motion is filed and must be determined within not exceeding forty-five (45) days after the original or amended motion is filed, unless by written agreement of the parties in the case, the decision of the motion is postponed to a later date.

29. Time to File Motion for New Trial. A motion for new trial where required shall be filed within ten (10) days after the judgment is rendered or other order complained of is entered, and may be amended by leave of the Court at any time before it is acted on within twenty (20) days after it is filed.

30. Judgment Final, When. Judgments of such civil District Courts shall become as final after the expiration of thirty (30) days after the date of judgment or after a motion for a new trial is overruled as if the term of Court had expired. After the expiration of thirty (30) days from the date the judgment is rendered or motion for new trial is overruled, the judgment cannot be set aside except by bill of review for sufficient cause, filed within the time allowed by law for the filing of bills of review in other District Courts.

31. Appeal Bonds Filed, When. In appeals from such civil District Courts the

appeal bond shall be filed within thirty (30) days after the judgment or order appealed from is rendered, if no motion for new trial is filed, and if a motion for new trial is filed, the appeal bond shall be filed within thirty (30) days after the motion for new trial is overruled. In such appeals the statement of facts and bills of exception shall be filed within ninety (90) days after the judgment is rendered if there is no motion for new trial, but if there is a motion for new trial then ninety (90) days after motion for new trial is overruled. When a statement of facts or bills of exception is presented to the adverse party, or his attorney, it shall be returned within five (5) days signed by the attorney of such adverse party if found correct, and if found incorrect shall be returned within that time with a written statement of the objections thereto.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 476, ch. 222, § 1; Acts 1930, 41st Leg., 5th C.S., p. 227, ch. 70, § 1; Acts 1934, 43rd Leg., 3rd C.S., p. 58, ch. 33, § 1; Acts 1935, 44th Leg., p. 636, ch. 249, § 1; Acts 1939, 46th Leg., p. 205, § 1.]

¹ Articles 1812 to 1826.

Repeal by Rules of Civil Procedure

Subdivisions 1 to 18, 19 to 22, 24 to 31 of this article were included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rules of Civil Procedure, rules 114, 116, 122, 330.

Arts. 2093 to 2093b. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2093c. Assignment Clerk in Certain Counties Having Eight District Courts

In all counties having at least eight (8) District Courts, at least two (2) of which are Criminal District Courts, and at least four (4) County Courts, at least two (2) of which are County Courts at Law and at least one (1) is a County Criminal Court, a majority of the Judges of the District Courts with civil jurisdiction may appoint an assignment clerk to serve under the Judges of said Courts in disposing and setting of cases on the General Jury Docket.

The salary of said clerk shall be set by the Commissioners Court upon recommendation of the District Judges and paid in monthly installments on voucher approved by the presiding Judge of said Courts. His appointment shall be for a term of two (2) years, but he

shall be subject to dismissal by a majority vote of said Judges for inefficiency or misconduct.

[Acts 1941, 47th Leg., p. 156, ch. 118, § 1; Acts 1949, 51st Leg., p. 147, ch. 91, § 1.]

Art. 2093d. Presiding Judge and Assignment Clerk in 28th, 94th and 117th Judicial Districts

The Judges of the three (3) District Courts included within the provisions of this Act may from time to time, as they may see fit, elect a Presiding Judge, who shall attend to the administration of this Act¹ and the setting and assignment of cases in said Courts, in accordance with this Act, and in all other matters not provided for by this Act or some other Law or Rules of Civil Procedure. Such Presiding Judge shall be elected by said Judges for such term as they see fit. A majority of the Judges of the District Courts within the provisions of this Act may appoint an Assignment Clerk to serve said Courts in Nueces County under the Presiding Judge of said District Courts in the setting and disposing of cases on the general docket. Such Assignment Clerk shall perform such duties as are assigned to him by said Judges in connection with the setting and disposing of cases. The salary of such Clerk shall be set by the Commissioners Court of Nueces County and paid in monthly installments out of the General Fund or the Jury Fund of such County, as the Commissioners Court may provide, on voucher approved by the Presiding Judge of said Courts; provided, such salary shall not exceed Three Thousand Dollars (\$3,000) per annum. The appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct.

[Acts 1947, 50th Leg., p. 776, ch. 385, § 4.]

¹ This article and art. 199, subds. 28, 97 and 117.

Art. 2093e. Assignment Clerk of District Courts of Bexar County

Sec. 1. A majority of the Judges of the 37th, 45th, 57th and 73rd District Courts may appoint an Assignment Clerk to serve said Courts in Bexar County under the presiding Judge of said District Courts in the setting and disposing of cases on the general docket. Such Assignment Clerk shall perform such duties as are assigned to him by said Judges in connection with the setting and disposing of cases. The salary of such Clerk shall be set by the Commissioners Court of Bexar County and paid in monthly installments out of the General Fund or the Jury Fund of such County, as the Commissioners Court may provide, on voucher approved by the Presiding Judge of said Courts. The appointment shall be for a term of two (2) years, but he shall be subject to dismissal by a majority of said Judges for inefficiency or misconduct.

[Acts 1949, 51st Leg., p. 965, ch. 532.]

Art. 2093f. Assignment, Docketing and Transfer of Cases in Dallas County District Courts

The district judges of Dallas County shall have authority to adopt by majority vote, rules governing the assignment, docketing, and transfer of all cases in the district courts of Dallas County, including criminal district courts, and in the juvenile and domestic relations courts, subject to jurisdictional limitations. The presiding judge of the district courts of Dallas County, acting in accordance with the Rules, shall have authority to assign and transfer cases and to direct the manner in which they are docketed. The district clerk of Dallas County shall assign, docket, and transfer cases as the presiding judge shall direct.

[Acts 1969, 61st Leg., p. 2128, ch. 732, § 1, eff. June 12, 1969.]

CHAPTER SEVEN. THE JURY

1. JURIES IN CERTAIN COUNTIES

Article

- 2094. Selecting Names for Jury Wheel.
- 2094a. Removal of Prospective Jurors for Cause; Dismissal from Service; Counties of Not Less Than 1,100,000.
- 2095. Cards Put in Wheel; Typists and Expenses.
- 2096. Cards Drawn from Wheel.
- 2097. List Certified.
- 2098. List Delivered to Clerk.
- 2099. Cards to be Used Again.
- 2100. Loss of Wheel.
- 2100a. Selection in Counties with Aid of Mechanical or Electronic Means; Adoption of Plan.
- 2101. Interchangeable Juries.
- 2102. Jury Quarters.
- 2103. Reducing Number in General Panel.
- 2103a. County Judges and Judges of County Courts-at-Law, in Certain Counties; Drawing Additional Jurors.
- 2103b. Repealed.

2. JURY COMMISSIONERS

- 2104 to 2116. Repealed.
- 2116a, 2116b. Unconstitutional.
- 2116c. Repealed.
- 2116d. Summons to Report for Jury Service; Sufficiency; Service.
- 2116d. Notification by the Sheriff.
- 2116e. Repealed.

3. JURY FOR THE WEEK

- 2117. Summoning Jurors.
- 2118. Selection of Jurors.
- 2119. Repealed.
- 2120. Excuses of Jurors.
- 2121. Defaulting Juror.
- 2122. Pay of Jurors.

4. THE JURY IN COURT

- 2123. Right to Jury.
- 2124 to 2132. Repealed.
- 2133. Qualifications.
- 2134. Disqualification.
- 2135. Jury Service.
- 2136. Repealed.
- 2137. Filing of Exemptions.
- 2138 to 2151. Repealed.
- 2151a. Peremptory Challenges; Equalization of Number.

1. JURIES IN CERTAIN COUNTIES

Art. 2094. Selecting Names for Jury Wheel

(a) Between the first and fifteenth days of August of each year, in each county specified in this Article, the tax collector, sheriff, county clerk, and district clerk of the county, each in person or represented by one of his deputies, shall meet at the county courthouse and select from the list of qualified jurors of the county as shown by the tax lists in the tax assessor's office for the current year the jurors to serve the district and county courts of the county for the ensuing year, in the manner provided by law.

(b) All population figures mentioned in this Article refer to the population according to the last preceding federal census.

(c) The provisions of subsection (a) of this Article apply to a county having a population of at least 46,000.

(d) The provisions of subsection (a) of this Article also apply to a county containing a city having a population of at least 18,000.

(e) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 16,700, but not more than 17,200 and containing a city having a population of at least 8,000 but not more than 8,950.

(f) The provisions of subsection (a) of this Article also apply to a county having a population of at least 20,000 and containing a city having a population of at least 13,000 if the county is within a judicial district common to one or more other counties all of which employ the jury wheel system.

(g) The provisions of subsection (a) of this Article also apply to a county which has two or more district courts holding sessions within the county, unless the county has a population of less than 18,500 and the judicial districts of which it is a part embrace more than two counties.

(h) The provisions of subsection (a) of this Article also apply to a county having a population of at least 19,000 but not more than 19,800, and containing a city having a population of at least 12,000 but not more than 12,500.

(i) The provisions of subsection (a) of this Article also apply to a county having a population of at least 21,000 and containing a city having a population of at least 7,000 but not more than 7,200.

(j) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 5,100 but not more than 5,200, and containing a city having a population of at least 1,000 but not more than 1,500.

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 12,530 but not more than 12,690.

[Addition of subsection (k) by Acts 1967, 60th Leg., p. 452, ch. 205 and by Acts 1967,

60th Leg., p. 1217, ch. 548, see subsections (k), post.]

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 5,900 but not more than 6,200 and having two district courts.

[Addition of subsection (k) by Acts 1967, 60th Leg., p. 363, ch. 174 and by Acts 1967, 60th Leg., p. 1217, ch. 548, see subsections (k), ante and post.]

(k) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 10,375 but not more than 10,600.

[Addition of subsection (k) by Acts 1967, 60th Leg., p. 363, ch. 174, § 1 and by Acts 1967, 60th Leg., p. 452, ch. 205, § 1, see subsections (k), ante.]

(l) Blank.

(m) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 23,000 but not more than 23,600.

(n) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 19,300 but not more than 19,500.

(o) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 23,900 but not more than 24,000.

[Addition of subsection (o) by Acts 1969, 61st Leg., p. 1593, ch. 487, see subsection (o), post.]

(o) The provisions of Subsection (a) of this Article also apply to a county having a population of not less than 19,700 but not more than 19,800.

[Addition of subsection (o) by Acts 1969, 61st Leg., p. 705, ch. 244, see subsection (o), ante.]

(p) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 8,450 but not more than 8,550.

(q) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 10,800 but not more than 10,900.

(r) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 11,800 but not more than 11,900.

(s) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 24,700 but not more than 24,800.

(t) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 20,700 but not more than 21,400.

(u) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 12,400 but not more than 12,500.

(v) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 22,000 but not more than 22,500.

(w) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 7,500 but not more than 7,700.

(x) The provisions of Subsection (a) of this Article also apply to a county having a population of at least 22,200 but not more than 22,650.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 89, ch. 43, § 1; Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 1; Acts 1963, 58th Leg., p. 142, ch. 84, § 1; Acts 1965, 59th Leg., p. 373, ch. 180, § 2, eff. July 1, 1965; Acts 1965, 59th Leg., p. 1095, ch. 527, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 524, ch. 228, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 363, ch. 174, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 452, ch. 205, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1218, ch. 548, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 300, ch. 143, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1846, ch. 718, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1593, ch. 487, § 1, eff. June 11, 1969; Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 953, ch. 163, § 1, eff. May 11, 1971; Acts 1971, 62nd Leg., p. 1291, ch. 333, § 1, eff. May 24, 1971; Acts 1971, 62nd Leg., p. 948, ch. 159, § 1, eff. May 11, 1971.]

[For text as amended by Acts 1971, 62nd Leg., p. 2797, ch. 905, § 1, see article 2094, post.]

Art. 2094. Selecting Names for Jury Wheel

[Text as amended by Acts 1971, 62nd Leg., p. 2797, ch. 905, § 1]

Between the first and fifteenth days of August of each year, in each county in this State, the tax collector, sheriff, county clerk, and district clerk of the county, each in person or represented by one of his deputies, shall meet at the county courthouse and reconstitute the jury wheel, using as the sole and mandatory source, all names on the voter registration lists from all precincts in the county.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 89, ch. 43, § 1; Acts 1949, 51st Leg., p. 868, ch. 467, § 1; Acts 1950, 51st Leg., 1st C.S., p. 47, ch. 6, § 1; Acts 1957, 55th Leg., p. 327, ch. 147, § 1; Acts 1963, 58th Leg., p. 1357, ch. 515, § 1; Acts 1965, 59th Leg., p. 373, ch. 180, § 2, eff. July 1, 1965; Acts 1965, 59th Leg., p. 1095, ch. 527, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 300, ch. 143, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 363, ch. 174, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 452, ch. 205, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 524, ch. 228, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1218, ch. 548, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1846, ch. 718, § 1, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 705, ch. 244, § 1, eff. Sept. 1, 1969; Acts 1969, 61st Leg., p. 1593, ch. 487, § 1, eff. June 11, 1969; Acts 1971, 62nd Leg., p. 2797, ch. 905, § 1, eff. July 15, 1971.]

[For text as otherwise amended in 1971, see article 2094, ante.]

Section 1 of Acts 1965, 59th Leg., p. 373, ch. 180, provided: "Purpose. The 58th Legislature amended Article 2094, Revised Civil Statutes of Texas, 1925, by two separate Acts with different provisions. The purpose of this amendment is to clarify the law by combining all of the provisions of both amendments, and to facilitate future amendment."

Section 2 of Acts 1971, 62nd Leg., p. 948, ch. 159 provided: "As used in this Act, 'the last preceding federal census' means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes."

Acts 1971, 62nd Leg., p. 2801, ch. 905, amending this article and various other articles of this chapter, in sections 13, 14, and 16 to 19 provided:

"Sec. 13. [providing for the court's equalization of the number of peremptory challenges of prospective jurors allotted to the parties, appears as article 2151a].

"Sec. 14. Repealed by Acts 1973, 63rd Leg., p. 475, ch. 204, § 2. [See, now, article 2094a.]

"Sec. 16. All statutes, rules of civil procedure, or case laws in conflict herewith are hereby repealed or modified to the extent of such conflict.

"Sec. 17. For all counties under 10,000 population not presently using the jury wheel system for selection of jurors, the district judge of the county or of the judicial district of which the county is a part, may determine whether the county should come under the provisions of this law or may choose to adopt the jury commissioners system for selection of jurors in that county. If the district judge should determine to adopt the jury commissioners system for selection of jurors in a particular county, he must do so by July 15, 1971, otherwise, the county will come under the provisions of this Act. If, pursuant to the passage of this Act, this section is held to be unconstitutional by a court of this State or of the United States, then the jury wheel system for selection of jurors as provided by this Act shall be applicable to all counties of the State.

"Sec. 18. The provisions of this Act shall become effective on July 15, 1971.

"Sec. 19. If any article, section, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, such invalid portion shall not affect the validity of the remaining portions of this Act. The Legislature hereby declares that it would have passed the valid portions of the Act irrespective of the fact that any one or more portions be declared unconstitutional."

Art. 2094a. Removal of Prospective Jurors for Cause; Dismissal from Service; Counties of Not Less Than 1,100,000

In all counties of this state having a population of not less than 1,100,000 inhabitants, once a prospective juror has been removed from a jury panel for cause, by peremptory challenge, or for any reason, he shall be immediately dismissed from jury service and shall not be placed on another jury panel until his name is returned to the jury wheel and drawn again as a prospective juror.

[Acts 1973, 63rd Leg., p. 475, ch. 204, § 1, eff. Aug. 27, 1973.]

Section 2 of the 1973 Act repealed Acts 1971, 62nd Leg., p. 2801, ch. 905, § 14, which prior thereto read: "Once a prospective juror has been removed from a jury panel for cause, by peremptory challenge, or for any reason, he shall be immediately dismissed from jury service and shall not be placed on another jury panel until his name is returned to the jury wheel and drawn again as a prospective juror."

Art. 2095. Cards Put in Wheel; Typists and Expenses

Said officers shall write the names of all persons on said precinct lists, residing in their respective counties, on separate cards of uniform size and color, writing also on said cards, whenever possible, the post-office address of each juror so selected, except that in counties having a population of one hundred forty thousand (140,000) or more, according to the last preceding federal census, the Commissioners Court shall provide out of the jury fund a sum sufficient for the employment of typists and payment of other expenses. The typists, under the direction, control and supervision of the district clerk, shall type the names and addresses of qualified jurors upon the cards as herein described. The expenses so incurred shall be authorized, reported, paid and accounted for under the same laws, rules and regulations as govern the payment of other expenses of the office of the district clerk in such counties, except as otherwise herein specifically provided. The cards containing said names shall be deposited in a jury wheel, to be provided for such purpose by the Commissioners Court of the

county. Said wheel shall be constructed of any durable material and shall be so constructed as to freely revolve on its axle; and may be equipped with a motor capable of revolving said wheel in such a manner as to thoroughly mix said cards; and shall be kept locked at all times, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel, and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that the wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the sheriff and the other by the district clerk. The sheriff and the clerk shall not open such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said sheriff and clerk shall keep such wheel, when not in use, in a safe and secure place, where the same cannot be tampered with.

[Acts 1925, S.B. 84; Acts 1929, 41st Leg., p. 263, ch. 116, § 1; Acts 1949, 51st Leg., p. 720, ch. 383, § 1; Acts 1959, 56th Leg., p. 27, ch. 17, § 1; Acts 1963, 58th Leg., p. 110, ch. 61, § 1; Acts 1971, 62nd Leg., p. 2797, ch. 905, § 2, eff. July 15, 1971.]

Art. 2096. Cards Drawn from Wheel

(a) Not less than 10 days prior to the first day of a term of court, the district clerk or one of his deputies, and the sheriff, or one of his deputies, in the presence and under the direction of the district judge, if the jurors are to be drawn for district court, or the clerk of the county court, or one of his deputies, and the sheriff, or one of his deputies, in the presence and under the direction of the county judge, if the jurors are to be drawn for the county court, shall draw from the wheel containing the names of the jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one the names of those jurors where such judge has so directed to compose as many lists as the term of the district or county courts may require, and shall record the names upon as many lists as the judge shall deem necessary to insure an adequate number of jurors for each session of the court. At such drawing, no person other than those above named shall be permitted to be present, except as hereinafter provided. The officers attending such drawing shall not divulge the names of any person that may be drawn as a juror to any person. If at any time during the term it appears that the lists already drawn will be exhausted before the expiration of the term, additional jurors as are needed may be drawn in the same manner.

(b) Drawing of names observed. Upon the application in writing of any party to any suit pending upon the docket of a court for which a jury is required, said party, or his duly authorized representative, shall have the right to be present and observe the drawing of names from the jury wheel and the placement thereof upon the jury lists for the time period in which

his case is set, provided, however, that the identity of the names so drawn and placed upon the lists at such time shall not be made known to such observer.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 871, ch. 396, § 1; Acts 1971, 62nd Leg., p. 2800, ch. 905, § 7, eff. July 15, 1971.]

Art. 2097. List Certified

The several lists of names so drawn shall be certified under the hand of the clerk or the deputy doing the drawing, and the district or county judge in whose presence the names were drawn from the wheel, to be the lists drawn by him for that term, and shall be sealed up in separate envelopes indorsed, "List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County," (filling in the blanks properly and numbering the envelopes consecutively from one up). The clerk doing the drawing shall write his name across the seals of the envelopes and deliver them to the judge, who shall inspect the envelopes to see that they are properly indorsed and shall then deliver them to the clerk or deputy, and the clerk shall then immediately file them away in some safe and secure place in his office.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 870, ch. 395, § 1.]

Art. 2098. List Delivered to Clerk

The judge shall deliver such envelopes to the clerk, or one of his deputies, and shall in his discretion instruct the clerk to indorse on any of such envelopes that the jury for that week shall be summoned for some other day than Monday of said week, and the judge shall, at the same time, administer to the clerk and to each of his deputies an oath in substance as follows: "You and each of you do solemnly swear that you will not open the jury lists now delivered to you, nor permit them to be opened, until the time prescribed by law, nor communicate to any one the name or names of the men appearing on any of the jury lists, that you will not, directly or indirectly, converse or communicate with any one selected as juror concerning any case pending for trial in this court at its next term. So help you God."

[Acts 1925, S.B. 84.]

Art. 2099. Cards to be Used Again

When the names are drawn for jury service, the cards containing such names shall be sealed in separate envelopes, indorsed, "Cards containing the names of jurors on List No. _____ of the petit jurors drawn on the _____ day of _____, 19____, for the _____ Court of _____ County," (filling in the blanks properly). Each envelope shall be retained securely by the clerk, unopened, until after the jury selected from the corresponding list has been impaneled; and after such jurors so impaneled have served four (4) or more days, the envelope containing the cards bearing the names of the jurors on that list shall then be opened by the clerk, or his deputy, and

those cards bearing the names of persons who have not been impaneled and who have not served as many as four (4) days shall be immediately returned to the wheel by the clerk, or his deputy; and the cards bearing the names of the persons serving as many as four (4) days shall be put in a box provided for that purpose for the use of the officers who shall next select the jurors for the wheel; provided that in any county with a population greater than 100,000 according to the last preceding federal census, the clerk may withhold from the jury wheel all cards so selected, unless ordered by the judge to return such cards to the wheel. If any of the lists drawn for a term of court are not used, the clerk or his deputy shall open the envelopes containing the cards bearing the names on the unused lists immediately after the expiration of the term and return the cards to the wheel.

[Acts 1925, S.B. 84; Acts 1959, 56th Leg., p. 870, ch. 395, § 2; Acts 1971, 62nd Leg., p. 2330, ch. 925, § 1, eff. June 15, 1971.]

Art. 2100. Loss of Wheel

If the wheel containing the names of jurors be lost or destroyed, with the contents thereof, or if all the cards in said wheel be drawn out, such wheel shall immediately be refurnished, and cards bearing the names of jurors shall be placed therein immediately in accordance with the laws of the State.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 2798, ch. 905, § 3, eff. July 15, 1971.]

Art. 2100a. Selection in Counties with Aid of Mechanical or Electronic Means; Adoption of Plan

[Text of section 1 as amended by Acts 1971, 62nd Leg., p. 1408, ch. 386, § 1]

Sec. 1. (a) This Act applies to any county with at least one district court whose jurisdiction is limited to that county.

(b) In lieu of any other method of procedure now provided by law, the Commissioners Court of any such county may, upon recommendation of the judge of that court, or if there is more than one such court, a majority of the judges of these courts, by order entered upon its minutes, adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means.

[Text of section 1 as amended by Acts 1971, 62nd Leg., p. 2799, ch. 905, § 5]

Sec. 1. In lieu of any other procedure now provided by law, the Commissioners Court of any county in the State, upon recommendation of the district judge or a majority of the district judges of said courts, by order entered upon its minutes, may adopt a plan for the selection of persons for jury service with the aid of mechanical or electronic means.

Sec. 2. Any such plan so adopted shall conform to the following requirements:

(a) It shall be proposed in writing to the Commissioners Court by a majority of the

judges of the district courts in such county, including criminal district courts, at a meeting of the district judges called for that purpose.

(b) It shall specify that the sources from which names are to be taken for jury purposes are all voter registration lists from all precincts in the county.

(c) It shall provide a fair, impartial, and objective method of selecting persons for jury service with the aid of mechanical or electronic equipment.

(d) It shall designate the clerk of the district courts as the official to be in charge of the selection process and shall define his duties.

(e) It shall specify that a true and complete written list showing the names and addresses of the persons summoned to begin jury service on a particular date shall be filed of record with the county clerk at least 10 days prior to the date such persons are to begin such jury service.

Sec. 3. In any county where such a plan is adopted, as above provided, the laws relating to the selection of petit juries by jury wheel shall not apply.

[Acts 1969, 61st Leg., p. 1666, ch. 529, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 1408, ch. 386, § 1, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 2799, ch. 905, § 5, eff. July 15, 1971.]

Art. 2101. Interchangeable Juries

The provisions of this article shall be applicable only to such counties of this State as may now maintain three or more district courts, or in which three or more district courts may be hereafter established. A criminal court in any county with jurisdiction in felony cases shall be considered a district court within the meaning of this article. The "Interchangeable Jury Law" shall not apply to a selection of jurors in lunacy cases or in capital cases.

1. Jury Wheel Law governs.—The provisions of the statutes governing jury wheels shall remain in full force and effect, except as modified by the special provisions of this law.

2. Organization and supervision.—In each county under this law, the district judges shall meet together and determine approximately the number of jurors that are reasonably necessary for jury service in all the county courts at law, county courts and district courts of such county, for each week during the time said courts may hold during the year, and shall thereupon order the drawing of such number of jurors from the wheel for each of said weeks, said jury to be known as the general panel of jurors for service in all such courts of such county for the respective weeks for which they are designated to serve. A majority of said district judges are authorized to act in carrying out the provisions of this law; they may increase or diminish the number of jurors to be selected for any week, and shall order said jurors drawn for as many weeks in advance of

service as they deem proper. From time to time they shall designate the judge to whom the general panel shall report for duty, and said judge, for such time as he is chosen to so act shall organize said juries and have immediate supervision and control of them. The said jurors so limited in number shall, after being regularly drawn from the wheel, be served by the sheriff to appear and report for jury service before said judge so designated, who shall hear the excuses of the said jury and swear them in for service for the week that they are to serve to try all cases that may be submitted to them in any of said courts.

3. Used interchangeably.—Said jurors when impaneled shall constitute a general jury panel for service as jurors in all county and district courts in said county, and shall be used interchangeably in all of said courts. In the event of a deficiency of jurors at any given time to meet the requirement of all said courts, the judge having control of the said general panel shall order such additional jurors to be drawn from the wheel as may be sufficient to meet the emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are no longer needed. Resort to the wheel shall be had in all cases to fill out the general panel.

4. Provided, however, that in any county of this state having a population in excess of nine hundred thousand (900,000) according to the last preceding or any future United States Census, it shall be permissible, after having been approved by a majority of the judges for the district courts of any such county, to draw from said jury wheel two separate jury panels for the week; one of which said jury panels for the week shall be drawn and be in attendance upon those criminal district courts and county courts which have a criminal docket, and the other said jury panel for the week shall be drawn and be in attendance upon those courts which have a civil docket.

5. This Article is also applicable to a county that has two district courts and a domestic relations court.

[Acts 1925, S.B. 84; Acts 1961, 57th Leg., p. 882, ch. 385, § 1; Acts 1967, 60th Leg., p. 520, ch. 224, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2798, ch. 905, § 4, eff. July 15, 1971.]

Art. 2102. Jury Quarters

The Commissioners Court of each such county shall set apart for the use and convenience of said general panel or panels some room or rooms or place or places in or near to the court house, which shall be comfortably furnished and fitted up for them to stay when not required for actual jury service. Said quarters shall be occupied by said panel or panels when not in service and they shall remain in or conveniently near thereto so as to be at all times subject to duty in any court in accordance with the preceding Article when called for,

without delaying the proceedings of such court. The sheriff shall assign one of his deputies to look after said panel, call them when needed by the judges, provide for their wants and to have general custody and control of them when not in actual service.

[Acts 1925, S.B. 84; Acts 1961, 57th Leg., p. 883, ch. 386, § 1.]

Art. 2103. Reducing Number in General Panel

When it becomes necessary to diminish the general panel for the week of its selection on account of lack of work in any court or for any other cause, the judge having supervision of said jury for the week shall designate the number to remain. He shall cause the clerk to draw from the names of the general panel the number required, and those jurors whose names are so drawn shall continue in service for the remainder of the week and the others excused.

[Acts 1925, S.B. 84.]

Art. 2103a. County Judges and Judges of County Courts-at-Law in Certain Counties; Drawing Additional Jurors

In all counties having two or more County Courts-at-Law, when a panel of jurors shall not have been drawn by one of the district judges as directed by Article 2101, or when the number of jurors drawn shall be deemed insufficient by the county judge or either of the judges of the County Courts-at-Law, the county judge or judge of either County Court-at-Law may order the drawing of such additional jurors from the jury wheel for service in any of such courts for so long a period of time as the trials in such courts may reasonably require. Such jurors when drawn shall be available for service in either of such courts. All of the provisions of law now otherwise governing the drawing of jurors in the courts in such counties by the district judge shall govern so far as applicable, except as herein otherwise expressly provided. The county judge and the judge of any of the County Courts-at-Law shall concurrently have the same authority with respect to determining and remedying a deficiency in the number of jurors as is now conferred on the judge having control of the general jury panel by Section 3, Article 2101, Revised Civil Statutes of Texas, 1925, as amended.

[Acts 1947, 50th Leg., p. 214, ch. 122, § 1; Acts 1971, 62nd Leg., p. 2799, ch. 905, § 6, eff. July 1, 1971.]

Art. 2103b. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

2. JURY COMMISSIONERS

Arts. 2104 to 2116. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

See, now, article 2094 et seq.

Art. 2116a. Unconstitutional

This article, Acts 1921, 41st Leg., 1st C.S., p. 63, ch. 29, as amended by Acts 1931, 42nd Leg., p. 820, ch. 339, was declared unconstitutional by the Court of Criminal Appeals as a special law in violation of Const. art. 3, § 56. See *Smith v. State*, 120 Cr.R. 431, 49 S.W.2d 739.

Art. 2116b. Unconstitutional

This article, Acts 1929, 41st Leg., 1st C.S., p. 176, ch. 67, §§ 1 to 14, was declared unconstitutional by the Court of Criminal Appeals as being discriminatory. See *Randolph v. State*, 117 Cr.R. 80, 36 S.W.2d 484.

Art. 2116c. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2116d. Summons to Report for Jury Service; Sufficiency; Service

[Text as amended by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 1]

(a) A summons to report for jury service shall be served on the jurors verbally, or if the judge drawing the jury so directs, by registered mail, return receipt requested, or by first class mail to the address shown on the source from which the names of the jurors were taken.

(b) The summons to report for jury service shall be sufficient if it states the time and place for the juror to report, the purpose for which he is to report, and the penalty for failure to report as required.

[Acts 1937, 45th Leg., p. 677, ch. 338, § 1; Acts 1971, 62nd Leg., p. 1676, ch. 475, § 1, eff. May 27, 1971.]

Art. 2116d. Notification by the Sheriff

[Text as amended by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 9]

The sheriff shall notify the several persons named for jury service by mailing notice thereof, which notice shall include the time and place at which said juror is to report, to the juror at the address shown by the card placed in the jury wheel, or the address shown by the last voter registration list in said county, and if said letter be received by some person authorized by the United States mail to receive said letter, said service shall be sufficient.

[Acts 1937, 45th Leg., p. 677, ch. 338, § 1; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 9, eff. July 15, 1971.]

Art. 2116e. Repealed by Acts 1971, 62nd Leg., p. 1676, ch. 475, § 2, eff. May 27, 1971; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

3. JURY FOR THE WEEK

Art. 2117. Summoning Jurors

At any time when the Judge of the County or District Court needs a jury for any particular week of such Court, he shall notify the Clerk of such Court to open the next consecutive unopened list of jurors in his possession, and shall direct him as to the date for which such

jurors shall be summonsed. Such notice shall be given to the Clerk within a reasonable time prior to the time when such jurors are to be summonsed. The Clerk shall immediately note on the list the date for which the jurors are to be summonsed, and deliver said list to the sheriff. On receipt of such list, the sheriff shall immediately notify the several persons named therein to be in attendance on Court on the date so designated by the Judge.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 175, ch. 100, § 1.]

Art. 2118. Selection of Jurors

On any day when a jury has been summoned and there are jury trials the court shall select a sufficient number of qualified jurors, in his discretion, to serve as jurors. Such jurors shall be selected from the names included in the jury lists, if there be the requisite number of such in attendance who are not excused by the court, but if such number be not in attendance at any time, the court shall direct the sheriff to summon a sufficient number of qualified persons to make up the requisite number of jurors which is to be drawn from the jury wheel for jury trials in the district and county courts, under order of the court, to fill the panel. The names of such jurors to be summoned by the sheriff shall be drawn from the jury wheel as herein provided. All said extra jurors summonsed shall be discharged when their services are no longer needed. The court may adjourn the whole number of jurors or any part thereof, to any subsequent day of the term, but the jurors shall not be paid for the time they may stand adjourned.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 314, ch. 229 § 1; Acts 1971, 62nd Leg., p. 2800, ch. 905, § 8, eff. July 15, 1971.]

Art. 2119. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2120. Excuses of Jurors

The court may hear any reasonable sworn excuse of a juror, and may release him entirely or until some other day of the term; provided, however, the court shall not excuse any juror for economic reasons unless all parties of record are present and approve such excuse.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 10, eff. July 15, 1971.]

Art. 2121. Defaulting Juror

Any juror lawfully notified who without reasonable excuse fails to be in attendance on the court in obedience to such notice or who files a false claim of exemption from jury service shall be fined not less than ten nor more than one hundred dollars.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 1560, ch. 421, § 2, eff. May 26, 1971.]

Art. 2122. Pay of Jurors

(a) Each juror in a district or county court or county court at law is entitled to receive not less than \$4 nor more than \$10 for each day or fraction of a day that he attends court as a juror. The commissioners court of each county shall determine annually, within the minimum and maximum prescribed in this subsection, the amount of per diem for jurors, which shall be paid out of the jury fund of the county. A person who responds to the process of a court, but who is excused from jury service by the court for any cause after being tested on voir dire, is entitled to receive not less than \$4 nor more than \$5 for each day or fraction of a day that he attends court in response to such process.

(b) A check drawn on the jury fund by the clerk of the district court of a county may be transferred by endorsement and delivery and is receivable at par from the holder for all county taxes.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 371, ch. 239, § 3; Acts 1953, 53rd Leg., p. 917, ch. 379, § 1; Acts 1965, 59th Leg., p. 484, ch. 246, § 1.]

4. THE JURY IN COURT**Art. 2123. Right to Jury**

The right to trial by jury shall remain inviolate, subject to the following rules and regulations.

[Acts 1925, S.B. 84.]

Arts. 2124 to 2132. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2133. Qualifications

All persons both male and female eighteen years of age or older are competent jurors, unless disqualified under some provision of this chapter. No person shall be qualified to serve as a juror who does not possess the following qualifications:

1. He must be a citizen of the State and of the county in which he is to serve and qualified under the Constitution and laws to vote in said county.
2. He must be of sound mind and good moral character.
3. He must be able to read and write, except as otherwise provided herein.
4. He must not have served as a juror for six (6) days during the preceding six (6) months in the District Court, or during the preceding three (3) months in the County Court.
5. He must not have been convicted of felony.

6. He must not be under indictment or other legal accusation of theft or of any felony.

Whenever it shall be made to appear to the court that the requisite number of jurors able to read and write cannot be found within the county, the court may dispense with the exception provided for in the third subdivision; and the court may in like manner dispense with the exception provided for in the fourth subdivision, when the county is so sparsely populated as to make its enforcement seriously inconvenient.

Where the word "he" is used in this Section it shall be used in the generic term so as to include both male and female persons.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 795, ch. 288, § 1; Acts 1969, 61st Leg., p. 1364, ch. 412, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 11, eff. July 15, 1971; Acts 1973, 63rd Leg., p. 175, ch. 85, § 1, eff. Aug. 27, 1973.]

Art. 2134. Disqualification

The following persons shall be disqualified to serve as jurors in any particular case:

1. Any witness in the case.
2. Any person interested, directly or indirectly, in the subject matter of the suit.
3. Any person related by consanguinity or affinity within the third degree to either of the parties to the suit.
4. Any person who has a bias or prejudice in favor of or against either of the parties.
5. Any person who has sat as a petit juror in a former trial of the same, or of another case, involving the same questions of fact.

[Acts 1925, S.B. 84.]

Art. 2135. Jury Service

All competent jurors are liable to jury service, except the following persons:

1. All persons over sixty-five (65) years of age.
2. All females who have legal custody of a child or children under the age of ten (10) years.
3. All students of public or private secondary schools.
4. Every person who is enrolled and in actual attendance at an institution of higher education.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 88, ch. 63, §§ 1, 2; Acts 1931, 42nd Leg., p. 375, ch. 221; Acts 1933, 43rd Leg., 1st C.S., p. 291, ch. 106, § 1; Acts 1953, 53rd Leg., p. 781, ch. 310, § 1; Acts 1955, 54th Leg., p. 795, ch. 288, § 2; Acts 1957, 55th Leg., p. 802, ch. 337, § 1; Acts 1965, 59th Leg., p. 455, ch. 232, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 2044, ch. 753, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 2801, ch. 905, § 12, eff. July 15, 1971; Acts 1973, 63rd Leg., p. 175, ch. 85, § 2, eff. Aug. 27, 1973.]

Art. 2136. Repealed by Acts 1971, 62nd Leg., p. 2801, ch. 905, § 15, eff. July 15, 1971

Art. 2137. Filing of Exemptions

Sec. 1. Any person summoned as a juror who is exempt by law from jury service may establish his exemption without appearing in person by filing a signed statement of the ground of his exemption with the clerk of the court at any time before the date upon which he is summoned to appear.

Sec. 2. Any person wishing to claim any statutory exemption under Article 2135 in counties employing the jury wheel system may do so by filing a sworn statement stating the nature of and claiming such exemption with the sheriff, the tax assessor-collector, or the district or county clerk of the county of his residence, in which event no card for such person shall be placed in the jury wheel for the ensuing year.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 1107, ch. 489, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1560, ch. 421, § 1, eff. May 26, 1971.]

Arts. 2138 to 2151. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2151a. Peremptory Challenges; Equalization of Number

After proper alignment of parties, it shall be the duty of the court to equalize the number of peremptory challenges provided under Rule 233, Texas Rules of Civil Procedure, Annotated, in accordance with the ends of justice so that no party is given an unequal advantage because of the number of peremptory challenges allowed that party.

[Acts 1971, 62nd Leg., p. 2801, ch. 905, § 13, eff. July 15, 1971.]

CHAPTER EIGHT. TRIAL OF CAUSES

1. APPEARANCE AND PROCEDURE

Article

2152 to 2166. Repealed.

2. CONTINUANCE AND CHANGE OF VENUE

2167, 2168. Repealed.

2168a. Attendance on Legislature.

2169 to 2172. Repealed.

2172a. County in Which Case Filed Liable for Juror's Pay on Change of Venue; Exceptions.

2173, 2174. Repealed.

3. THE TRIAL

2175 to 2183. Repealed.

4. CHARGE OF THE COURT

2184 to 2190. Repealed.

5. CASE TO JURY

2191. Number of Jurors.

2192 to 2194. Repealed.

2194a. Bringing Meals into Jury Room.

Article

2195 to 2198. Repealed.

2199. Disagreement as to Evidence.

2200, 2201. Repealed.

6. VERDICT

2202 to 2207. Repealed.

7. FINDINGS BY COURT

2208 to 2210. Repealed.

1. APPEARANCE AND PROCEDURE

Arts. 2152 to 2166. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

2. CONTINUANCE AND CHANGE OF VENUE

Arts. 2167, 2168. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2168a. Attendance on Legislature

In all suits, either civil or criminal, or in matters of probate, pending in any court of this State, and in all matters ancillary to such suits which require action by or the attendance of an attorney, including appeals but excluding temporary restraining orders, at any time within thirty (30) days of a date when the Legislature is to be in Session, or at any time the Legislature is in Session, or when the Legislature sits as a Constitutional Convention, it shall be mandatory that the court continue such cause if it shall appear to the court, by affidavit, that any party applying for such continuance, or any attorney for any party to such cause, is a Member of either branch of the Legislature, and will be or is in actual attendance on a Session of the same. If the member of the Legislature is an attorney for a party to such cause, his affidavit shall contain a declaration that it is his intention to participate actively in the preparation and/or presentation of the case. Where a party to any cause or an attorney for any party to such cause is a Member of the Legislature, his affidavit need not be corroborated. On the filing of such affidavit, the court shall continue the cause until thirty (30) days after the adjournment of the Legislature and such affidavit shall be proof of the necessity for such continuance, and such continuance shall be deemed one of right and shall not be charged against the party receiving such continuance upon any subsequent application for continuance. It is hereby declared to be the intention of the Legislature that the provisions of this Section shall be deemed mandatory and not discretionary.

Notwithstanding the foregoing, the right to such continuance, where such continuance is based upon an attorney in such cause being a member of the Legislature, shall be discretionary with the Court in the following situations

and under the following circumstances, and none other, to wit:

(1) Where such attorney was employed within 10 days of the date such suit is set for trial.

[Acts 1929, 41st Leg., p. 17, ch. 7, § 1; Acts 1941, 47th Leg., p. 69, ch. 56, § 1; Acts 1949, 51st Leg., p. 1111, ch. 569, § 1; Acts 1973, 63rd Leg., p. 1130, ch. 428, § 1, eff. Aug. 27, 1973.]

Repeal by Rules of Civil Procedure

This article, as to civil actions, was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 254, Vernon's Texas Rules of Civil Procedure.

Sections 2 and 3 of the 1973 amendatory act provided: "Sec. 2. Rule 254, Texas Rules of Civil Procedure, is hereby repealed to the extent of any inconsistency with the provisions of this Act, and said Rule is hereby conformed to the provisions hereof.

"Sec. 3. All laws and rules, or parts of laws or parts of rules, in conflict herewith are hereby repealed to the extent of such conflict; and in the event of conflict between this Act and any other statute or rule, the provisions of this Act shall prevail."

Arts. 2169 to 2172. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2172a. County in Which Case Filed Liable for Juror's Pay on Change of Venue; Exceptions

Sec. 1. In any Civil case which has been filed in one county and removed by change of venue to another county and tried therein by a Jury, the county in which such case was filed shall be liable for the pay of jurors incurred in the trial thereof.

Sec. 2. The County Commissioners of each county, at each regular meeting, shall ascertain whether, since the last regular meeting, any Civil case has been tried by jury upon change of venue from any other county. If they find such to be the case, they shall make out an account against the county in which said case was originally filed showing the number of days the jury in such case was employed in the trial thereof, and setting forth the amount paid for such jury service. Such account shall then be certified to as correct by the County Judge of such county, under his hand and seal, and be, by him, forwarded to the county in which said case was originally filed; and said account shall be paid from the Jury fund of said county made liable therefor by this Act.

Sec. 3. This Act shall not apply to any Civil case transferred by reason of the Order of any Court based upon a plea of privilege filed in said case.

[Acts 1931, 42nd Leg., p. 131, ch. 88.]

Arts. 2173, 2174. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

3. THE TRIAL

Arts. 2175 to 2183. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

4. CHARGE OF THE COURT

Arts. 2184 to 2190. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

5. CASE TO JURY

Art. 2191. Number of Jurors

The jury in the district courts shall be composed of twelve men; but the parties may by consent agree, in a particular case, to try with a less number. In county courts the jury shall be composed of six men.

[Acts 1925, S.B. 84.]

Arts. 2192 to 2194. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2194a. Bringing Meals into Jury Room

(a) Whenever the judge deems it advisable, in order to expedite the final disposition of any district court civil case for which a jury is empaneled, to keep the jury together for deliberation rather than to dismiss it for meals, he shall have the power to draw a warrant on the jury fund or other appropriate fund of the county in which the case is being tried, to cover the cost of buying meals and bringing same into the jury room. However, not more than One Dollar (\$1) may be spent per meal for any juror.

(b) The provisions of this Act shall not apply in any county unless the Commissioners Court has approved jury meals in civil cases as a proper expense of the county.

[Acts 1963, 58th Leg., p. 419, ch. 144, § 1.]

Arts. 2195 to 2198. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2199. Disagreement as to Evidence

If the jury disagree as to the statement of any witness, they may, upon applying to the Court, have read to them from the Court Re-

porter's notes that part of such witness' testimony on the point in dispute; but if there be no such Reporter, or if his notes cannot be read to the jury, the Court may cause such witness to be again brought upon the stand and the Judge shall direct him to repeat his testimony to the point in dispute, and no other, and as nearly as he can in the language used on the trial; and on their notifying the Court that they disagree as to any portion of a deposition or other paper not carried with them in their retirement, the Court may, in like manner, permit such portion of said deposition or paper to be again read to the jury.

[Acts 1939, 46th Leg., p. 213, § 1.]

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 287, Vernon's Texas Rules of Civil Procedure.

Arts. 2200, 2201. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

6. VERDICT

Arts. 2202 to 2207. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

7. FINDINGS BY COURT

Arts. 2208 to 2210. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER NINE. JUDGMENTS AND REMITTITUR

1. JUDGMENTS

Article

- 2211. Repealed.
- 2212. Contribution Between Tort Feasors.
- 2212a. Comparative Negligence; Contribution Among Joint Tort-feasors.
- 2212b. Indemnity Provisions in Mineral Agreements Where Negligence Attributable to Indemnitee.
- 2213. Repealed.
- 2214. May Pass Title.
- 2215 to 2218. Repealed.
- 2218a. Unconstitutional.
- 2218b. Expired.
- 2219 to 2222. Repealed.
- 2223. Against Partners.
- 2224. Contract to Waive or Confess.
- 2225. Repealed.

Article

- 2226. Attorney's Fees.
 - 2226a. Effect of Adjudications in Lower Trial Courts on Proceedings in Higher Courts.
- 2. REMITTITUR AND CORRECTION**
- 2227 to 2231. Repealed.

1. JUDGMENTS

Art. 2211. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2212. Contribution Between Tort Feasors

Any person against whom, with one or more others, a judgment is rendered in any suit on an action arising out of, or based on tort, except in causes wherein the right of contribution or of indemnity, or of recovery, over, by and between the defendants is given by statute or exists under the common law, shall, upon payment of said judgment, have a right of action against his co-defendant or co-defendants and may recover from each a sum equal to the proportion of all of the defendants named in said judgment rendered to the whole amount of said judgment. If any of said persons co-defendant be insolvent, then recovery may be had in proportion as such defendant or defendants are not insolvent; and the right of recovery over against such insolvent defendant or defendants in judgment shall exist in favor of each defendant in judgment in proportion as he has been caused to pay by reason of such insolvency.

[Acts 1925, S.B. 84.]

Supersedure

Acts 1973, 63rd Leg., p. 41, ch. 28, §§ 1, 2, classified as article 2212a, provides for a system of comparative negligence and contribution among joint tort-feasors. Section 2(h) thereof reads: "This section prevails over Article 2212, Revised Civil Statutes of Texas, 1925, and all other laws to the extent of any conflict."

Art. 2212a. Comparative Negligence; Contribution Among Joint Tort-feasors

Modified Comparative Negligence

Sec. 1. Contributory negligence shall not bar recovery in an action by any person or party or the legal representative of any person or party to recover damages for negligence resulting in death or injury to persons or property if such negligence is not greater than the negligence of the person or party or persons or parties against whom recovery is sought, but any damages allowed shall be diminished in proportion to the amount of negligence attributed to the person or party recovering.

Contribution Among Joint Tort-feasors

Sec. 2. (a) In this section:

- (1) "Claimant" means any party seeking relief, whether he is a plaintiff, counter-claimant, or cross-claimant.
- (2) "Defendant" includes any party from whom a claimant seeks relief.

(b) In a case in which there is more than one defendant, and the claimant's negligence does not exceed the total negligence of all defendants, contribution to the damages awarded to the claimant shall be in proportion to the percentage of negligence attributable to each defendant.

(c) Each defendant is jointly and severally liable for the entire amount of the judgment awarded the claimant, except that a defendant whose negligence is less than that of the claimant is liable to the claimant only for that portion of the judgment which represents the percentage of negligence attributable to him.

(d) If an alleged joint tort-feasor pays an amount to a claimant in settlement, but is never joined as a party defendant, or having been joined, is dismissed or nonsuited after settlement with the claimant (for which reason the existence and amount of his negligence are not submitted to the jury), each defendant is entitled to deduct from the amount for which he is liable to the claimant a percentage of the amount of the settlement based on the relationship the defendant's own negligence bears to the total negligence of all defendants.

(e) If an alleged joint tort-feasor makes a settlement with a claimant but nevertheless is joined as a party defendant at the time of the submission of the case to the jury (so that the existence and amount of his negligence are submitted to the jury) and his percentage of negligence is found by the jury, the settlement is a complete release of the portion of the judgment attributable to the percentage of negligence found on the part of that joint tort-feasor.

(f) If the application of the rules contained in Subsections (a) through (e) of this section results in two claimants being liable to each other in damages, the claimant who is liable for the greater amount is entitled to a credit toward his liability in the amount of damages owed him by the other claimant.

(g) All claims for contribution between named defendants in the primary suit shall be determined in the primary suit, except that a named defendant may proceed against a person not a party to the primary suit who has not effected a settlement with the claimant.

(h) This section prevails over Article 2212, Revised Civil Statutes of Texas, 1925, and all other laws to the extent of any conflict.

[Acts 1973, 63rd Leg., p. 41, ch. 28, §§ 1, 2, eff. Sept. 1, 1973.]

Section 3 of the 1973 Act amended section 1 of article 6701b; §§ 4, 5 thereof provided:

"Sec. 4. Saving clause. This Act does not apply to any cause of action arising before its effective date.

"Sec. 5. Severability clause. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable."

Art. 2212b. Indemnity Provisions in Mineral Agreements Where Negligence Attributable to Indemnitee

Sec. 1. The legislature finds that an inequity is fostered on certain contractors by the indemnity provisions contained in some agreements pertaining to wells for oil, gas, or water, or mines for other minerals. It is the intent of the legislature and the purpose of this Act to declare provisions for indemnity in certain agreements where there is negligence attributable to the indemnitee to be against the public policy of the State of Texas.

Sec. 2. Except as specified in Section 4 of this Act, a covenant, promise, agreement, or understanding contained in, collateral to, or affecting an agreement pertaining to a well for oil, gas, or water, or mine for any mineral, is void and unenforceable if it purports to indemnify the indemnitee against loss or liability for damages arising from either death or bodily injury to persons, or injury to property, or any other loss, damage, or expense arising from either death or bodily injury, injury to property, or loss, damage, or expense, which is caused by or results from the sole or concurrent negligence of the indemnitee, or an agent or employee of the indemnitee, or an independent contractor who is directly responsible to the indemnitee.

Sec. 3. The term "agreement pertaining to a well for oil, gas, or water, or mine for any mineral" as used in Section 2 of this Act, means any agreement, or understanding, written or oral, concerning any operations related to drilling, deepening, reworking, repairing, improving, testing, treating, perforating, acidizing, logging, conditioning, altering, plugging, or otherwise rendering services in or in connection with any well drilled for the purpose of producing or disposing of oil, gas, or other minerals, or water, or designing, excavating, constructing, improving, or otherwise rendering services in or in connection with any mine shaft, drift, or other structure intended for use in the exploration for or production of any mineral, or an agreement to perform any portion of any such work or services or any act collateral thereto, including the furnishing or rental of equipment, incidental transportation, and other goods and services furnished in connection with any such service or operation.

Sec. 4. (a) The provisions of this Act do not apply to loss or liability for damages, or any other expenses, arising from

(1) death or bodily injury to persons or injury to property resulting from radioactivity;

(2) injury to property resulting from pollution; or

(3) injury to property resulting from reservoir or underground damage.

(b) The provisions of this Act do not affect the validity of any insurance contract or any benefit conferred by the Workmen's Compensa-

tion Law of this state and do not deprive an owner of the surface estate of the right to secure an indemnity from any lessee, operator, contractor, or other person conducting operations for the exploration or production of minerals of the owner's land.

(c) The provisions of Section 2 of this Act shall not apply to any agreement providing for indemnity with respect to claims for personal injury or death to indemnitor's employees or agents, or the employees or agents of indemnitor's sub-contractors if the parties agree in writing that such indemnity obligation will be supported by available liability insurance coverage to be furnished by indemnitor; provided, however, that such indemnity obligation shall be only to the extent of the coverages and dollar limits of insurance agreed to be furnished; but in no event shall said insurance be required in an amount in excess of twelve times state basic limits for bodily injury, approved by the Board of Insurance Commissioners in accordance with Article 5.15 of the Texas Insurance Code.

(d) The provisions of this Act apply only to agreements or contracts made on or after the effective date of this Act.

Sec. 5. Each party to an agreement defined in Section 3 of this Act shall be responsible for the results of his own actions and for the actions of those persons over whom he exercises control.

[Acts 1973, 63rd Leg., p. 1767, ch. 646, eff. Aug. 27, 1973.]

Art. 2213. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2214. May Pass Title

Where the judgment is for the conveyance of real estate, or for the delivery of personal property, the decree may pass the title to such property without any act to be done on the part of the party against whom the judgment is rendered.

[Acts 1925, S.B. 84.]

Arts. 2215 to 2218. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2218a. Unconstitutional

This article, Acts 1933, 43rd Leg., p. 225, ch. 102, providing for limitation of action on note after sale of real estate security and process to enforce deficiency judgment, was held unconstitutional in *Langever v. Miller*, 124 T. 80, 76 S.W.2d 1025, 96 A.L.R. 836, followed in *Farm & Home Savings & Loan Ass'n of Missouri v. Robertson*, Civ.App., 82 S.W.2d 155; *Lisenbee v. Wichita Falls Building & Loan Ass'n*, Civ.App., 82 S.W. 688; *Texas Nat. Securities Co. v. Oldham*, Civ.App., 82 S.W.2d 621; *Stahlman v. McManus*, Civ.App., 93 S.W.2d 470; *Currie v. First Nat. Bank*, Civ.App., 96 S.W.2d 731; *National Loan & Investment Co. of Detroit, Mich., v. Browne*, Civ.App., 98 S.W.2d 271.

Art. 2218b. Expired

Arts. 2219 to 2222. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2223. Against Partners

Where the suit is against several partners jointly indebted upon contract, and the citation has been served upon some of such partners but not upon all, judgment may be rendered therein against such partnership and against the partners actually served, but no personal judgment or execution shall be awarded against those not served.

[Acts 1925, S.B. 84.]

Saved From Repeal

Acts 1961, 57th Leg., p. 289, ch. 158, enacting the Texas Uniform Partnership Act (Article 6132b), provides in Section 46(C) that the Act should not be deemed to repeal Acts 1858, p. 110, P.D. 1514; G.L. Vol. 4, p. 982, incorporated in this article.

Art. 2224. Contract to Waive or Confess

No acceptance of service and waiver of process, nor entry of appearance in open court, nor a confession of judgment shall be authorized in any case by the contract or writing sued on, or any other instrument executed prior to the institution of such suit, nor shall such acceptance or waiver be made until after suit brought.

[Acts 1925, S.B. 84.]

Art. 2225. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2226. Attorney's Fees

Any person, corporation, partnership, or other legal entity having a valid claim against a person or corporation for services rendered, labor done, material furnished, overcharges on freight or express, lost or damaged freight or express, or stock killed or injured or suits founded upon a sworn account or accounts, may present the same to such persons or corporation or to any duly authorized agent thereof; and if, at the expiration of 30 days thereafter, the claim has not been paid or satisfied, and he should finally obtain judgment for any amount thereof as presented for payment to such persons or corporation, he may, if represented by an attorney, also recover, in addition to his claim and costs, a reasonable amount as attorney's fees. The amount prescribed in the current State Bar Minimum Fee Schedule shall be prima facie evidence of reasonable attorney's fees. The court, in non-jury cases, may take judicial knowledge of such schedule and of the contents of the case file in determining the amount of attorney's fees without the necessity of hearing further evidence.

[Acts 1925, S.B. 84; Acts 1949, 51st Leg., p. 915, c. 494, § 1; Acts 1953, 53rd Leg., p. 101, c. 67, § 1; Acts 1971, 62nd Leg., p. 1073, ch. 225, § 1, eff. May 17, 1971.]

Art. 2226a. Effect of Adjudications in Lower Trial Courts on Proceedings in Higher Courts

Sec. 1. A determination of fact or law or a judgment in any proceeding in the Small

Claims Court, Justice of the Peace Court, County Court, County Civil Court at Law, County Criminal Court at Law, or County Court at Law shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a District Court, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case, and further except that all judgments in probate, guardianship, lunacy and other matters over which said inferior courts shall have exclusive jurisdiction of the subject matter, on a basis other than the amount in controversy, shall not be affected thereby.

Sec. 2. A determination of fact or law or a judgment in any proceeding in the Small Claims Court or Justice of the Peace Court shall not be res judicata and shall not constitute a basis for estoppel by judgment in any proceeding in a County Court, County Civil Court at Law, County Criminal Court at Law or County Court at Law, except that any such judgment shall be binding on the parties thereto as to the recovery or denial thereof rendered in that particular case.

[Acts 1965, 59th Leg., p. 1539, ch. 675, eff. June 18, 1965.]

2. REMITTITUR AND CORRECTION

Arts. 2227 to 2231. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER TEN. NEW TRIALS AND ARREST OF JUDGMENT

Arts. 2232 to 2236. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER ELEVEN. BILLS OF EXCEPTION AND STATEMENT OF FACTS

Article

2237. When Taken; Rules.

2238 to 2241. Repealed.

2241a. Return of Bills of Exceptions and Statement of Facts by Attorney.

2241b to 2245. Repealed.

2246. Time for Filing.

2247, 2247a. Repealed.

2248. Successor to Trial Judge.

Art. 2237. When Taken; Rules

If either party during the progress of a cause is dissatisfied with any ruling, opinion or other action of the Court, he may except thereto at the time the said ruling is made, or announced or such action taken, and at his request time shall be given to embody such exceptions in a written bill. The preparation and filing of bills of exceptions shall be governed by the following rules:

1. No particular form of words shall be required in a bill of exception; but the objection to the ruling or action of the Court shall be stated with such circum-

stances, or so much of the evidence as may be necessary to explain, and no more, and the whole as briefly as possible.

2. Where the statement of facts contains all the evidence requisite to explain the bill of exception evidence need not be set out in the bill; but it shall be sufficient to refer to the same as it appears in the statement of facts.

2a. All objections to the admission or exclusion of evidence and exceptions to the ruling of the Court upon the admission or exclusion of evidence or other matters may be shown by the official stenographer's transcript of the evidence, known as a statement of facts in question and answer form, all as hereinafter provided in Article 2239,¹ and no formal bill of exception to the admission or exclusion of evidence or to any of the Court's rulings shall be required where the matters complained of, the objections, the Court's rulings, and exceptions thereto clearly appear of record in said transcript of evidence, or statement of facts in question and answer form; provided, however, that in any case where such matters do not clearly appear of record the parties may, if they so desire, prepare and have approved and filed, as otherwise provided by law, a formal bill of exception.

3. The ruling of the court in the giving, refusing or qualifying of instructions to the jury shall be regarded as approved unless excepted to.

4. Where the ruling or other action of the Court appears otherwise of record, no bill shall be necessary to reserve an exception thereto; and all motions and answers thereto, the orders thereon and any exceptions shown in such orders shall, for the purpose of this Article, be considered a part of the record without the necessity of bills of exception, provided that if testimony is heard upon a motion, such testimony may be preserved only by bill of exception or in the statement of facts.

5. The party taking a bill of exception shall reduce the same to writing and present it to the Judge for his allowance and signature.

6. The Judge shall submit such bill to the adverse party or his counsel, if in attendance on the Court, and if found to be correct, the Judge shall sign it without delay and file it with the Clerk.

7. If the Judge finds such bill incorrect, he shall suggest to the party or his counsel, such corrections as he deems necessary therein, and if they are agreed to, he shall make such corrections, sign the bill and file it with the Clerk.

8. Should the party not agree to such corrections, the Judge shall return the bill to him with his refusal indorsed thereon, and shall prepare, sign and file with the

Clerk such bill of exception, as will, in his opinion, present the ruling of the court as it actually occurred.

9. Should the party be dissatisfied with said bill filed by the Judge, he may, upon procuring the signatures of three respectable by-standers, citizens of this State, attesting to the correctness of the bill as presented by him, have the same filed as part of the record of the cause; and the truth of the matter in reference thereto may be controverted and maintained by affidavits, not exceeding five in number on each side, to be filed with the papers of the cause, within ten days after the filing of said bill and to be considered as a part of the record relating thereto.

10. This Act shall not serve to repeal other laws regarding or dispensing with exceptions or bills of exception.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., 1st C.S., p. 75, ch. 34, § 1; Acts 1939, 46th Leg., p. 215, § 1.]

¹ Repealed.

Repeal by Rules of Civil Procedure

This article was included in the list of articles deemed repealed by the Rules of Civil Procedure. The Rule Making Act which repealed the laws governing practice and procedure in civil actions in Texas and which directed the Supreme Court, upon the adoption of the Rules of Civil Procedure, to file a list of all Articles deemed repealed by "Section 1 of this (Rule Making) Act" was approved and became effective May 15, 1939, while the Rules of Civil Procedure became effective September 1, 1941. See Rule 372, Vernon's Texas Rule of Civil Procedure.

Arts. 2238 to 2241. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2241a. Return of Bills of Exceptions and Statement of Facts by Attorney

Whenever within the sixty (60) days that are provided by law for filing bills of exceptions and statements of fact in the trial court, the appellant or his attorney shall present bills of exceptions and statements of fact to the appellee or his attorney for the purpose of procuring an agreement thereto as provided in Articles 2239 and 2240, it shall be the duty of the appellee and his attorney to return to the appellant or his attorney the bills of exceptions and statements of fact within ten (10) days after having received said bills of exceptions and statements of fact, with his approval or disapproval of the same. The failure of the attorney for appellee to return such statements of fact or bills of exceptions within such ten-day period shall entitle the appellant to have such bills of exceptions and statements of fact approved by the court without having first obtained the approval thereof by the attorney for appellee.

[Acts 1927, 40th Leg., p. 67, ch. 44, § 1; Acts 1939, 46th Leg., p. 214, § 1.]

Arts. 2241b to 2245. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2246. Time for Filing

When an appeal is taken from a judgment rendered in a civil cause tried in either the District Court, County Court, or County Court at Law, the party appealing shall have fifty (50) days after final judgment or order overruling motion for new trial, if such motion is filed, or perfection of writ of error, within which to prepare and file his statement of facts and bills of exception in the Trial Court.

Sec. 2. Upon application of the party appealing, the Judge of the Court may, in term-time or vacation, for good cause shown, extend the time for filing such statement of facts and bills of exception; but the time shall not be extended in any case so as to delay the filing thereof beyond the time for filing the transcript, bills of exceptions, and statement of facts in the Court of Civil Appeals, as prescribed by law, or as such time has been extended by said Court.

[Acts 1931, 42nd Leg., p. 100, ch. 67; Acts 1939, 46th Leg., p. 217, § 1.]

Arts. 2247, 2247a. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2248. Successor to Trial Judge

Any judge of a district or county court whose term of office expires before the adjournment of the term of such court at which a cause may be tried, or during the period prescribed for the filing of the statement of facts and bills of exception, or conclusions of law and fact, may approve such statement of facts and bills of exception, or file such findings of fact and conclusions of law in such cause, as provided in this title, and where any such judge shall die before the time for such approval or filing, the same may be approved or filed by his successor, as provided by article 2288.¹

[Acts 1925, S.B. 84.]

¹ Repealed; see, now, Vernon's Texas Rules of Civil Procedure, rule 18.

CHAPTER TWELVE. APPEAL AND WRIT OF ERROR

Article

2249. To Court of Civil Appeals.

2249a. Party Participating in Actual Trial; Writ of Error Review by Court of Civil Appeals.

2250. Appeal from Interlocutory Order.

2251. Appeals in Injunctions.

2252 to 2254. Repealed.

2255. Writ of Error Sued Out.

2256 to 2275. Repealed.

2276. No Bond Required.

2276a. Exemption from Appeal Bond of Water Improvement and Other Districts.

2277. Repealed.

2278 to 2282. Repealed.

2283 to 2285. Repealed.

Art. 2249. To Court of Civil Appeals

An appeal or Writ of Error may be taken to the Court of Civil Appeals from every final judgment of the district court in civil cases, and from every final judgment in the county court in civil cases of which the county court has original jurisdiction, and from every final judgment of the county court in civil cases in which the court has appellate jurisdiction, where the judgment or amount in controversy exceeds one hundred dollars exclusive of interest and costs.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 75, ch. 52, § 1.]

Art. 2249a. Party Participating in Actual Trial; Writ of Error Review by Court of Civil Appeals

Sec. 1. No party who participates either in person or by his attorney in the actual trial of the case in the trial court shall be entitled to review by the Court of Civil Appeals through means of writ of error.

Sec. 2. All laws and parts of laws, insofar as they conflict with this Act, are repealed. Writ of error shall continue to be available under the rules and regulations of the law to a party who does not participate in the trial of the case in the trial court.

[Acts 1939, 46th Leg., p. 59.]

Art. 2250. Appeal from Interlocutory Order

An appeal shall lie from an interlocutory order of the District, County Court at Law, or County Court:

1. Appointing a receiver or trustee in any cause.

2. Overruling a motion to vacate an order appointing a receiver or trustee in any cause.

[Acts 1925, S.B. 84; Acts 1943, 48th Leg., p. 456, ch. 305, § 1.]

Art. 2251. Appeals in Injunctions

Appeals from orders of the district and county courts granting or dissolving temporary injunctions shall lie in the cases and in the manner provided in the title "Injunctions."

[Acts 1925, S.B. 84.]

Arts. 2252 to 2254. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 2255. Writ of Error Sued Out**

The writ of error, in cases where the same is allowed, may be sued out at any time within six months after the final judgment is rendered.

[Acts 1925, S.B. 84.]

Arts. 2256 to 2275. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**Art. 2276. No Bond Required**

Neither the State of Texas, nor any county in the State of Texas, nor the Railroad Com-

mission of Texas, nor the head of any department of the State of Texas, prosecuting or defending in any action in their official capacity, shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case.

Executors, administrators and guardians appointed by the courts of this State shall not be required to give bond on any appeal or writ of error taken by them in their fiduciary capacity.

[Acts 1925, S.B. 84.]

Art. 2276a. Exemption from Appeal Bond of Water Improvement and Other Districts

No water improvement district, nor any water control and improvement district, nor any water control and preservation district, nor any levee improvement district, nor any drainage district, organized under the laws of this State, prosecuting or defending in any action in its official capacity, shall be required to give bond on any appeal or writ of error taken by it, or either of them, in any civil case.

[Acts 1933, 43rd Leg., p. 131, ch. 62, § 1.]

Arts. 2277 to 2285. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)**CHAPTER THIRTEEN. GENERAL PROVISIONS****1. MISCELLANEOUS****Article**

2286. Repealed.

2286a. Citations and Notices Improperly Directed; Validation of Proceedings.

2287. Neglect by Officers.

2288, 2289. Repealed.

2290. Deposits Pending Suit.

2291, 2292. Repealed.

2292a. Appointment of Bailiff for 24th and 135th Judicial Districts.

2292b. Bailiffs in Certain Counties with Eight Districts and Four County Courts; Duties; Compensation.

2292c. Bailiffs in Counties of 200,000 to 300,000; Compensation and Expenses.

2292d. Bailiffs in Counties of 300,000 to 425,000; Monthly Car Allowance.

2292e. Bailiffs in Counties with Nine District Courts; Duties; Terms; Compensation.

2292f. Bailiffs in Counties with Population of 250,000 or More; Appointment; Compensation; Removal.

2292g. Bailiffs in Counties of 190,000 to 200,000; Appointment; Compensation.

2292h. Bailiffs in Counties Comprising Part of Two Judicial Districts of Four Counties of 136,000 or More Combined Population.

2292i. Grand Jury Riding Bailiffs in Counties Below 250,000 Population; Compensation.

2292j. Bailiffs in the 22nd, 70th and 161st District Courts.

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2292-1. Travis County; Adult Probation Officer; Secretary; Appointment, Compensation, etc.

2292-2. Tarrant County; Adult Probation and Parole Officer.

2292-3. Anderson County; Probation Officer.

2292-4. Montague County Probation Department.

2. RECEIVERS

Article

- 2293. Appointment.
- 2293a. Appointment for Church or Congregation.
- 2294. Qualifications.
- 2294a. Member of Church or Congregation.
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- 2314. Inventory by Receiver.
- 2315. Where There are Betterments, etc.
- 2316. Preference Claims.
- 2317. Receivership of Corporation Limited; Certain Corporations Excepted.
- 2318. Application for Receiver.
- 2319. Rules of Equity Shall Govern.
- 2320. Repealed.
- 2320a. Unconstitutional.
- 2320b. Receiver of Mineral Interests Owned by Nonresidents or Absentees.
- 2320c. Contingent Interests; Receiver to Make Mineral, Oil or Gas Lease; Pooling.

3. OFFICIAL COURT REPORTER

- 2321. Appointment and Examination.
- 2322. Oath.
- 2323. Deputy Reporter.
- 2323a. Deputy Court Reporter for 70th Judicial District.
- 2324. Duty of Reporter.
- 2324a. Powers as to Depositions, Commissions, Oaths and Affidavits.
- 2325. Repealed.
- 2326. Compensation.
- 2326a. Expenses and Manner of Payment.
- 2326b. Reporters for Judicial Districts, Salary.
- 2326c. Salaries of Reporters for Judicial Districts; Exception of Certain Districts.
- 2326d. Salaries of Official Shorthand Reporters for Districts Composed of Four Counties.
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- 2326j-3. Appointment and Compensation of Reporters for 53rd, 98th and 126th Judicial Districts and Criminal District Court of Travis County.
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- 2326j-6. Compensation of Reporters for Jefferson County.
- 2326j-7. Appointment and Compensation of Reporter for 100th Judicial District.
- 2326j-8. Compensation of Reporter for 49th Judicial District.
- 2326j-9. Appointment and Compensation of Reporters for 72nd, 140th and 99th Judicial Districts.
- 2326j-10. Appointment and Compensation of Reporters for 70th and 161st Judicial Districts.
- 2326j-11. Compensation of Reporter for 118th Judicial District.
- 2326j-12. Appointment and Compensation of Reporter for 112th Judicial District.
- 2326j-13. Repealed.
- 2326j-13a. Compensation of Reporters for 23rd and 130th Judicial Districts.
- 2326j-14. Compensation of Reporter for 115th Judicial District.
- 2326j-15. Compensation of Reporters for 109th and 83rd Judicial Districts.
- 2326j-15a. Compensation of Reporter for 83rd Judicial District.
- 2326j-16. Compensation of Reporter for 142nd Judicial District.
- 2326j-16a. Compensation of Reporter for 143rd Judicial District.
- 2326j-17. Compensation of Reporter for 18th Judicial District.
- 2326j-18. Compensation of Reporters for 64th and 154th Judicial Districts.
- 2326j-18a. Appointment and Compensation of Reporter for 64th Judicial District.
- 2326j-19. Compensation of Reporter for 29th Judicial District.
- 2326j-20. Compensation of Reporter for 121st Judicial District.
- 2326j-21. Compensation of Reporter for 106th Judicial District.
- 2326j-22. Compensation of Reporters for 34th, 41st, 65th, 120th and 171st Judicial Districts.
- 2326j-23. Compensation of Reporters for El Paso County.
- 2326j-24. Compensation of Reporters for 51st, 119th, 33rd, 35th and 63rd Judicial Districts.
- 2326j-24a. Compensation of Reporters for 51st and 119th Judicial Districts.
- 2326j-25. Appointment and Compensation of Reporters for 92nd, 93rd, 139th and 111th Judicial Districts.
- 2326j-25a. Compensation of Reporters for 92nd, 93rd and 139th Judicial Districts.
- 2326j-25b. Compensation of Reporter for 111th Judicial District.
- 2326j-26. Compensation of Reporters for 135th and 24th Judicial Districts.
- 2326j-27. Compensation of Reporter for 59th Judicial District.
- 2326j-28. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts.
- 2326j-29. Appointment and Compensation of Reporter for 31st Judicial District.
- 2326j-30. Compensation of Reporter for 75th Judicial District.

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- 2326j-31. Compensation of Reporter for 15th Judicial District.
- 2326j-32. Repealed.
- 2326j-32a. Appointment and Compensation of Reporters for 117th, 94th, 28th, 105th Judicial Districts, and for Court of Domestic Relations and County Courts at Law Nos. 1 and 2 of Nueces County.
- 2326j-33. Compensation of Reporter for 9th Judicial District.
- 2326j-34. Compensation of Reporter for Second 9th Judicial District.
- 2326j-35. Appointment and Compensation of Reporter for 50th Judicial District.
- 2326j-36. Compensation of Reporters for 124th and 188th Judicial Districts.
- 2326j-37. Compensation of Reporter for 88th Judicial District.
- 2326j-38. Appointment and Compensation of Reporter for 39th Judicial District.
- 2326j-39. Appointment and Compensation of Reporters for 146th and 169th Judicial Districts.
- 2326j-40. Compensation of Reporter for 97th Judicial District.
- 2326j-41. Repealed.
- 2326j-41a. Compensation of Reporters for 2nd and 145th Judicial Districts.
- 2326j-42. Compensation of Reporters for 42nd and 104th Judicial Districts.
- 2326j-43. Compensation of Reporters for 7th and 114th Judicial Districts.
- 2326j-44. Compensation of Reporter for 81st Judicial District.
- 2326j-45. Compensation of Reporters for 128th and 163rd Judicial Districts.
- 2326j-46. Compensation of Reporter for 69th Judicial District.
- 2326j-47. Compensation of Reporter for 21st Judicial District.
- 2326j-48. Repealed.
- 2326j-48a. Compensation of Reporters for 16th and 158th Judicial Districts.
- 2326j-49. Compensation of Reporters for 30th, 78th and 89th Judicial Districts.
- 2326j-50. Compensation of Reporter for 22nd Judicial District.
- 2326j-51. Compensation of Reporter for 38th Judicial District.
- 2326j-51a. Compensation of Reporter for 2nd 38th Judicial District.
- 2326j-52. Appointment and Compensation of Reporters for 17th, 48th, 67th, 96th, 141st and 153rd Judicial District Courts, for Criminal District Courts Nos. 1 to 4, for County Court at Law, for County Criminal Courts Nos. 1 to 3, and for Courts of Domestic Relations Nos. 1 to 4, in Tarrant County.
- 2326j-53. Repealed.
- 2326j-53a. Appointment and Compensation of Reporter for 84th Judicial District.
- 2326j-54. Appointment and Compensation of Reporter for 27th Judicial District.
- 2326j-55. Compensation of Reporter for 43rd Judicial District.
- 2326j-56. Compensation of Reporters for 8th, 40th and 123rd Judicial Districts.
- 2326j-57. Compensation of Reporters for 19th, 54th, 74th and 170th Judicial Districts.
- 2326j-58. Compensation of Reporter for 85th Judicial District.
- 2326j-59. Compensation of Reporter for 156th Judicial District.
- 2326j-60. Compensation of Reporter for 52nd Judicial District.

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- 2326j-61. Compensation of Reporter for 32nd Judicial District.
- 2326j-62. Compensation of Reporter for 46th Judicial District.
- 2326j-62a. Expenses of Reporter for 46th Judicial District.
- 2326j-63. Compensation of Reporters for 3rd and 87th Judicial Districts.
- 2326j-64. Compensation of Reporter for 155th Judicial District.
- 2326j-65. Compensation of Reporter for 6th Judicial District.
- 2326j-66. Compensation of Reporter for 62nd Judicial District.
- 2326j-67. Compensation of Reporter for 132nd Judicial District.
- 2326j-68. Compensation of Reporter for 36th Judicial District.
- 2326j-69. Compensation of Reporter for 66th Judicial District.
- 2326j-70. Compensation of Reporter for 1st Judicial District.
- 2326j-71. Compensation of Reporters for 25th and Second 25th Judicial Districts.
- 2326j-72. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts.
- 2326j-73. Compensation of Reporter for 4th Judicial District.
- 2326j-74. Compensation of Reporters for 5th, 71st, 76th and 102nd Judicial Districts.
- 2326j-75. Compensation of Reporter for 26th Judicial District.
- 2326j-76. Compensation of Reporters for 30th, 50th, 78th, 89th, 100th and 110th Judicial Districts.
- 2326j-77. Compensation of Reporter for 97th Judicial District.
- 2326j-78. Appointment and Compensation of Reporters for County and District Courts of Bexar County.
- 2326j-79. Appointment and Compensation of Reporter for 196th Judicial District.
- 2326j-80. Compensation of Reporter for 235th Judicial District.
- 2326j-81. Compensation of Reporter for 149th Judicial District.
- 2326j-81a. Compensation of Reporter for 149th Judicial District.
- 2326k. Combined with Article 2326.
- 2326l. Shorthand Reporters for District Courts and County Courts at Law in Counties of 613,000 or More Population.
- 2326l-1. Shorthand Reporters for District Courts and County Courts at Law in Counties of 900,000 or More Population.
- 2326l-2. Shorthand Reporters for District Courts and County Courts at Law in Counties of 650,000 to 900,000.
- 2326m. Shorthand Reporters for County Courts at Law in Counties of 360,000 to 612,000.
- 2326n. Reporters for Counties of 1,000,000, or More Population.
- 2326o. Shorthand Reporters for Counties of 1,500,000 or More; Appointment and Compensation.
2327. In County Court.
- 2327a. Repealed.
- 2327a-1. Apportionment of Reporter's Salary Among Counties.
- 2327b. County Court Reporter for Counties of 40,905 to 41,000 Population.
- 2327b-1. County Court Reporter for Counties of 22,100 to 22,500 Population.
- 2327c. Shorthand Reporters for County Courts at Law and County Criminal Courts in Certain Counties.
- 2327d. Shorthand Reporters for County Judges and for Certain Judges of Probate Court.
4. MANDAMUS
2328. Repealed.

5. CIVIL JUDICIAL COUNCIL

Article

2328a. Civil Judicial Council.

6. ENFORCEMENT OF SUPPORT

2328b-1 to 2328b-3. Repealed.

2328b-4. Repealed.

1. MISCELLANEOUS

Art. 2286. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2286a. Citations and Notices Improperly Directed; Validation of Proceedings

Sec. 1. All citations and notices in all cases of lunacy, guardianship, or estates of decedents, or of any other probate proceedings directed to the sheriff or any constable of the county in which the proceedings were instituted instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, which have been duly served and returned in the manner provided by law by the sheriff or constable within the county in which the proceedings were instituted, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable within the State of Texas, as provided in said Rule 15.

Sec. 2. In all cases where personal service is required in lunacy, guardianship, or estates of decedents, or any other probate proceedings where any citation or notice therein has been directed to the sheriff or constable of the county in which the person named in the citation or notice was located instead of to any sheriff or constable within the State of Texas as provided in Rule 15 of the Rules of Civil Procedure, and such citations or notices have been duly served on the person named therein by the sheriff or constable of the county in which the person named in the citation or notice was located, together with all uncontested orders, decrees, sales, leases and judgments grounded on such citations or notices are hereby validated and made as effective to support proceedings in the respective county courts in lunacy, guardianship and probate as if directed to any sheriff or constable in the State of Texas, as provided in said Rule 15.

Sec. 3. The provisions of this Act shall not be applicable to the issues in any law suit or in any contested probate proceedings pending in any court of this State on the effective date of this Act.

[Acts 1949, 51st Leg., p. 1112, ch. 570.]

Art. 2287. Neglect by Officers

Any clerk, sheriff, or other officer who neglects or refuses to perform any duty required of him under any provision of this title shall be liable to damages at the suit of any person

injured, and may be punished for contempt of court.

[Acts 1925, S.B. 84.]

Arts. 2288, 2289. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2290. Deposits Pending Suit

The officer having custody of any money, debt, script, instrument of writing, or other article paid or deposited in court during the progress of any cause to abide the result of any legal proceeding, shall seal up in a secure package the identical money or other article so received and deposit it in some safe or bank vault, keeping it always accessible and subject to the control of the court; and he shall also keep in his office as a part of the records thereof a correct itemized statement of such deposit, on what account received, and the disposition made of the same. When his term of office expires, such officer shall turn over to his successor all of such trust funds and other property and the record book thereof, taking his receipt therefor. This article shall not exempt any officer or his surety from any liability on his official bond for any neglect or other default in regard to said property.

[Acts 1925, S.B. 84.]

Arts. 2291, 2292. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2292a. Appointment of Bailiff for 24th and 135th Judicial Districts

The District Judges of the 24th Judicial District and of the 135th Judicial District may appoint, with the approval of the Commissioners Court, an officer of the Court to act as bailiff, whose primary duty shall be to act as interpreter. Such bailiff shall be paid a reasonable salary not to exceed the highest salary paid to any deputy, clerk or assistant employed by the County.

[Acts 1963, 58th Leg., p. 786, ch. 303 § 1.]

Art. 2292b. Bailiffs in Certain Counties with Eight Districts and Four County Courts; Duties; Compensation

Sec. 1. In all counties having eight (8) District Courts, including two (2) Criminal District Courts, and four (4) County Courts, including two (2) County Courts at Law and one County Criminal Court, the District Judges of each such county shall appoint a bailiff to be in charge of the Central Jury Room and the general panel. Such bailiff is hereby authorized to summon jurors, whose names have been drawn from the jury wheel, and to serve notices upon absent jurors, as directed by the District Judges having supervision and control over the general jury panel. Such bailiff shall look after the said panel and perform such duties in connection with the general supervision of the Central Jury Room and the general panel as are required by the District Judges of

such county. He shall serve for a term of two (2) years, from January first of the odd years, and his salary shall be set by the Commissioners Court upon recommendation of the District Judges.

Sec. 2. It is hereby declared to be the legislative intent that if any sentence of this Act shall be held to be invalid or unconstitutional, such invalidity shall not be held to affect the validity or constitutionality of any other paragraph or sentence of this Act.

[Acts 1947, 50th Leg., p. 394, ch. 223.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292c. Bailiffs in Counties of 200,000 to 300,000; Compensation and Expenses

In all counties of this State having a population of more than two hundred thousand (200,000) and less than three hundred thousand (300,000) inhabitants, according to the last preceding Federal Census, Grand Jury Bailiffs shall receive compensation of Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto One Dollar (\$1) per day for the expenses of their automobile, or a total of Eight Dollars and Fifty Cents (\$8.50) per day, which shall be paid on the basis of a six (6) day week. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such counties may determine. Said compensation and expenses shall be paid monthly.

[Acts 1947, 50th Leg., p. 964, ch. 418, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292d. Bailiffs in Counties of 300,000 to 425,000; Monthly Car Allowance

Sec. 1. The Commissioners Court shall have the right and the authority to provide for and establish a monthly car allowance for the grand jury bailiff or bailiffs in their respective counties.

Sec. 1A. This Act shall apply to counties having a population of not less than three hundred thousand (300,000) nor more than four hundred twenty-five thousand (425,000).

[Acts 1949, 51st Leg., p. 211, ch. 116.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292e. Bailiffs in Counties with Nine District Courts; Duties; Terms; Compensation

Sec. 1. In all counties having nine (9) or more District Courts, a majority of the District Judges of each such county may appoint a bailiff to be in charge of the central jury room and the general panel. In such counties, if the

District Judges of such county do not appoint a bailiff to be in charge of the central jury room and the general panel, the sheriff of that county shall perform all the duties in connection with the central jury room and the general panel, as provided by law. In any or all of such counties in which the District Judges thereof appoint a bailiff in charge of the central jury room and the general panel, the sheriff of any such county shall not assign a deputy to the central jury room as is now provided by law. The bailiff appointed by the said District Judges is hereby authorized to summon jurors whose names have been drawn from the jury wheel, and to serve notices upon absent jurors as directed by the District Judge having supervision and control of the general panel.

Said bailiff so appointed shall look after the said panel and perform such duties in connection with the general supervision of the central jury room and the general panel as is required by the District Judges of such county. He shall serve for a term of two (2) years from January 1st of the odd year, and his salary shall be set by the Commissioners Court upon the recommendation of the District Judges.

Sec. 2. In counties having nine (9) or more District Courts, the jurors in each of such counties may be summoned by the bailiff in charge of the central jury room, and the general panel of such county or the sheriff of such county, as the District Judges thereof may direct. Such service on the jurors may be made verbally in person, by registered mail, by ordinary mail or in any other manner or by any other method as may be determined upon the District Judges of such county. Jurors so selected and summoned for service on the central jury panel shall serve in criminal as well as civil cases, and no additional service shall be required in criminal cases.

[Acts 1950, 51st Leg., 1st C.S., p. 4, ch. 7.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292f. Bailiffs in Counties with Population of 250,000 or More; Appointment; Compensation; Removal

Sec. 1. In all counties having a population of two hundred and fifty thousand (250,000) or more inhabitants, according to the last preceding or any future Federal Census, the judges of the district courts to whom the grand jury reports may, with the approval of the Commissioners Court, appoint grand jury bailiffs not exceeding seven (7), whose compensation shall be fixed by order of the Commissioners Court; such compensation to be paid out of the general fund or jury fund in twelve (12) equal monthly installments, plus an automobile allowance to be set by the Commissioners Court of said counties.

Sec. 2. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them.

[Acts 1951, 52nd Leg., p. 208, ch. 123.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292g. Bailiffs in Counties of 190,000 to 200,000; Appointment; Compensation

In all counties of this State having a population of not less than one hundred and ninety thousand (190,000) and not more than two hundred thousand (200,000) inhabitants, according to the last Federal Census, the Judge of a District Court impaneling a Grand Jury shall appoint grand jury bailiffs not to exceed six (6), each of whom shall receive Seven Dollars and Fifty Cents (\$7.50) per day compensation for his services; such payment to be made out of the general fund of such county.

[Acts 1955, 54th Leg., p. 516, ch. 152, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292h. Bailiffs in Counties Comprising Part of Two Judicial Districts of Four Counties of 136,000 or More Combined Population

In every county in this state which comprises a part of two judicial districts, each of which districts consists of four and the same four counties, which four counties have a combined population of not less than one hundred thirty-six thousand (136,000) according to the last preceding Federal Census, the District Judges of such two judicial districts shall appoint officers of the said courts to act as bailiffs for said courts. The bailiffs shall be paid a salary out of the general fund of the county of such court as set by the District Courts of such judicial districts with the approval of the Commissioners Court of the county of such court. The bailiffs shall perform any and all duties imposed upon bailiffs in this state under the General Laws. In addition thereto, bailiffs shall perform such duties as are required by the District Judges. Bailiffs thus appointed are subject to removal without cause at the will of the judge or judges appointing them. Bailiffs thus appointed shall be duly deputized by the Sheriff of such county in addition to all other deputies now authorized by law, upon the request of the District Judges.

[Acts 1957, 55th Leg., p. 437, ch. 211, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292i. Grand Jury Riding Bailiffs in Counties Below 250,000 Population; Compensation

Grand jury riding bailiffs in counties having a population below two hundred and fifty thousand (250,000) according to the last preceding Federal Census shall receive compensation of not to exceed Seven Dollars and Fifty Cents (\$7.50) per day, and in addition thereto Seven

Cents (7¢) per mile for the expenses of their automobile when used pursuant to official duties. Such compensation may be paid out of the General Fund or the Jury Fund of such counties, as the Commissioners Court of such counties may determine. Such compensation and expenses may be paid monthly.

[Acts 1959, 56th Leg., p. 859, ch. 385, § 1.]

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292j. Bailiffs in the 22nd, 70th and 161st District Courts

Bailiff Appointed by Judge

Sec. 1. The judges of the 22nd, 70th and 161st District Courts shall each appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the appointing judge entered upon the minutes of the court, shall be evidence of appointment of a bailiff.

Oath

Sec. 3. The following oath shall be administered each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all such duties as may be required of you by Law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of the county in which he serves the court and must be at least 21 years old.

Term of Office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties; May be Deputized

Sec. 6. (a) A person appointed bailiff is an officer of the court. He shall perform in the county of his appointment all duties imposed upon bailiffs under the general laws of Texas, and shall perform other duties required by the judge of the court which he serves.

(b) The sheriff of a county shall, upon request of the judge, deputize a person who is bailiff of any district court or criminal district court in the sheriff's county, in addition to other deputies authorized by law.

Compensation

Sec. 7. A bailiff shall be paid out of the General Fund of the county in which he serves the court a salary in an amount set by the judge, not more than that paid the chief deputy sheriff of the county.

[Acts 1969, 61st Leg., p. 2694, ch. 880, eff. Sept. 1, 1969.]

Art. 2292k. Bailiff in the 71st District Court

Bailiff Appointed by Judge

Sec. 1. The judge of the 71st District Court shall appoint a person to serve his court as bailiff.

Evidence of Appointment

Sec. 2. An order signed by the judge entered in the minutes of the court shall be evidence of appointment of the bailiff.

Qualifications

Sec. 3. To be eligible for appointment to the office of bailiff, a person must be a resident of Harrison County and at least 21 years old.

Term of Office

Sec. 4. The bailiff holds office at the will of the judge.

Duties; May be Deputized

Sec. 5. (a) A person appointed bailiff is an officer of the court. He shall perform in the 71st District Court all duties imposed on bailiffs under the general laws of Texas and shall perform other duties required by the judge of the court.

(b) The sheriff of Harrison County on the request of the judge, shall deputize the person who is bailiff of the district court, in addition to other deputies authorized by law.

Compensation

Sec. 6. The bailiff shall be paid out of the general fund of Harrison County a salary set by the judge and approved by the commissioners court.

[Acts 1971, 62nd Leg., p. 1325, ch. 351, eff. Aug. 30, 1971.]

Art. 2292L. Bailiff in the 34th District Court

Bailiff Appointed by Judge

Sec. 1. The judge of the 34th Judicial District may appoint a person to serve his court as bailiff.

Evidence of Appointment; Notification

Sec. 2. An order signed by the appointing judge entered upon the minutes of the court shall be evidence of appointment of a bailiff, and the judge shall notify in writing of the appointment, date of employment and compensation to be paid by each county in which the court sits.

Oath

Sec. 3. The following oath shall be administered by the appointing judge to each bailiff appointed under this Act: "You solemnly swear that you will faithfully and impartially perform all duties as may be required of you by law, so help you God."

Qualifications

Sec. 4. To be eligible for appointment to the office of bailiff, a person must be a resident of a county in which he serves the court and must be at least 21 years old.

Term of Office

Sec. 5. A bailiff holds office at the will of the judge of the court served by the bailiff.

Duties; May be Deputized

Sec. 6. (a) A bailiff is an officer of the court, and shall perform in each county in which the court sits all duties imposed upon bailiffs under the general laws of Texas, and shall perform other duties required by the judge of the court which he serves, and no other duties assigned by any other person.

(b) The sheriff of each county where the court sits shall, upon written notice from the judge, deputize the bailiff in addition to other deputies authorized by law.

Compensation

Sec. 7. Each county in which the court sits may compensate the bailiff out of the general fund in an amount set in writing by the judge, but not more than each county pays the chief deputy sheriff.

[Acts 1971, 62nd Leg., p. 2494, ch. 817, eff. Aug. 30, 1971.]

Art. 2292-1. Travis County; Adult Probation Officer; Secretary; Appointment, Compensation, etc.

Sec. 1. The Judge of the 53rd Judicial District Court of Travis County, Texas; the Judge of the 98th Judicial District Court of Travis County, Texas; and the Judge of the 126th Judicial District Court of Travis County, Texas, for the purpose of effectively carrying out the adult probation laws of this State, shall be and are hereby authorized to appoint one Adult Probation Officer for Travis County where a probation and parole officer has not been assigned to any court and/or district in said county, in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.¹

The Judges of the several Judicial District Courts of Travis County, Texas, shall be and are hereby further authorized to appoint one Secretary to serve in the Adult Probation Office.

The salaries of the above mentioned persons shall be set by the Commissioners Court in accordance with the laws governing the salaries permitted to be paid to deputies and assistants of elected county officers.

All such salaries are to be paid out of the General Fund of the county. All necessary and reasonable expenses, including an automobile allowance of Six Cents (6¢) per mile for use of personal automobile on official business, for the Adult Probation Officer shall be paid by the Commissioners Court out of the General Fund of the county whenever such expenses are incurred by the Adult Probation Officer in the performance of his duties and the conduct of his office.

The Adult Probation Officer should be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such Officer shall be the same as those prescribed for probation and parole

officers by the Adult Probation and Parole Law. Such Officer and Secretary shall be subject to removal at the will of the majority of the Judges of the several Judicial District Courts of Travis County, Texas.

Sec. 2. The Commissioners Court of Travis County is hereby authorized to amend the county budget for the fiscal year of 1955, from and at the effective date of this Act for the balance of the said fiscal year in order to provide for the salaries of the employees named in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947, except as to provide an alternate method of appointment of an Adult Probation Officer where such officer has not been assigned to any court and/or district in Travis County as provided in this Act.

[Acts 1955, 54th Leg., p. 531, ch. 164.]

¹ See, now, Code of Criminal Procedure, Art. 42.12.

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292-2. Tarrant County; Adult Probation and Parole Officer

Sec. 1. The Judges of the District Courts and Criminal District Courts in Tarrant County, for the purpose of effectively carrying out the adult probation and parole laws of this State, are hereby authorized to appoint an Adult Probation and Parole Officer for Tarrant County, where a probation and parole officer has not been assigned to a court and/or district in Tarrant County in accordance with the provisions of Chapter 452, Acts of the Fiftieth Legislature, 1947, known as the Adult Probation and Parole Law and codified as Article 781b in Vernon's Texas Code of Criminal Procedure.¹ The salary of such Probation and Parole Officer shall be set by the Commissioners Court of Tarrant County and shall be paid out of the general fund of the county.

Upon approval of such expenditures by the Commissioners Court, the aforesaid Judges may appoint assistant probation and parole officers and such other employees as they deem necessary to serve in the Adult Probation Office. The salaries of all such employees shall be paid from the general fund of the county. All necessary and reasonable expenses, including an automobile allowance for use of personal automobiles on official business, of the Adult Probation and Parole Officer or other employees incurred in the performance of their duties and the conduct of the Adult Probation Office, may be paid out of the general fund, upon approval of the Commissioners Court.

The Adult Probation and Parole Officer and all assistant probation and parole officers shall be of good moral character and acquainted with the Adult Probation and Parole Law. The authority and duties of such officer shall be

the same as those prescribed for probation and parole officers by the Adult Probation and Parole Law. Such officer and all other employees of the Adult Probation Office shall be subject to removal at the will of the majority of the Judges of the several District Courts and Criminal District Courts of Tarrant County.

The Commissioners Court is hereby authorized to provide office space and equipment for the Probation Office and to pay all other necessary office expenses out of the general fund of the county.

Sec. 2. The Commissioners Court of Tarrant County is hereby authorized to amend the county budget for the fiscal year 1955, from and at the effective date of this Act for the balance of the said fiscal year, in order to provide for the salaries of the employees authorized in this Act and for all reasonable and necessary expenses of such office as herein provided.

Sec. 3. Nothing in this Act shall be construed as repealing Chapter 452, Acts of the Fiftieth Legislature, 1947, except as to provide an alternate method of appointment of Chief and Assistant Probation and Parole Officers where such an Officer has not been assigned to any court and/or district in Tarrant County as provided in this Act.

[Acts 1955, 54th Leg., p. 1140, ch. 428.]

¹ See, now, Code of Criminal Procedure, Art. 42.12.

Saved from Repeal

Saved from repeal, see Code of Criminal Procedure of 1965, art. 54.02.

Art. 2292-3. Anderson County; Probation Officer

The county judge of Anderson County may employ a probation officer to serve the county court. The duties and responsibilities of the probation officer shall be prescribed by the county judge. The probation officer shall receive a salary set by the commissioners court. [Acts 1971, 62nd Leg., p. 2678, ch. 875; eff. June 9, 1971.]

Art. 2292-4. Montague County Probation Department

Establishment

Sec. 1. There is hereby established the Montague County Probation Department upon affirmative order of the Commissioners Court and so reflected in the minutes of the Court.

Composition and Authority of Board

Sec. 2. The Montague County Probation Board is composed of the district judge and county judge of Montague County, Texas. The board shall have authority to adopt such rules and regulations, not inconsistent with the law, necessary for the operation of the probation board.

Probation Officer; Appointment; Powers and Duties; Term

Sec. 3. The probation board shall appoint a probation officer, who shall have such authori-

ty, duties, and powers as now given to probation officers by general laws of the State of Texas, and such authority, duties, and powers as may be given him by the probation board. The probation officer shall be appointed, or reappointed, for two year terms, or unexpired portions thereof. The first term of the probation officer shall expire on December 31, 1974.

Service as Juvenile Officer

Sec. 4. The probation officer shall also serve as juvenile officer of Montague County, Texas, and shall have such authority, duties, and powers as now given juvenile officers by general laws of the State of Texas, and such authority, duties, and powers as may be given him by the probation board.

Salary and Office of Probation Officer

Sec. 5. The salary of the probation officer shall be set by the probation board with the approval of the Commissioners Court, and may be paid by the county treasurer, upon an order of the probation board, from fees collected by the probation department under authority of this Act. The Commissioners Court of Montague County may furnish the probation officer with a suitable office, including necessary office equipment and supplies, which shall be paid for by the county from its general fund.

Secretarial Help; Expenses

Sec. 6. The probation board may employ such secretarial help, and pay such additional expenses, including automobile expenses, as may be necessary, and as may be paid from the fees collected by the probation department under authority of this Act.

Bond of Officer

Sec. 7. The probation board shall have authority to require and approve a good and sufficient bond of the probation officer, in an amount not to exceed the sum of \$3,000, for the faithful performance of his duties.

Probation Fees; Payment, Collection and Deposit

Sec. 8. For the purpose of providing adequate funds for the proper supervision of the probationers of Montague County, the probation board shall have authority to set probation fees, to be paid to the district court or to the county court in an amount not to exceed the sum of \$10 per month, such fees to be paid to the courts by such probationers as a condition of their respective probations. All probation fees collected by the clerk of the court shall be paid over to the county treasurer on the last day of each calendar month. The county treasurer shall deposit all of such fees in an account to be styled "Probation Fund."

Child Support Division

Sec. 9. There is hereby established in the Montague County Probation Department a child support division. It shall be the duty of the division to assist the district clerk of Montague County in the collections of child support payments, alimony payments, separate

maintenance payments, and in the enforcement of child visitation privileges, ordered by the district court of Montague County. The child support division shall initiate contempt proceedings for the enforcement of such orders of the district court.

Service Fees; Payment, Collection and Deposit

Sec. 10. (a) Each month for which a person has been ordered by the district court of Montague County to pay child support, alimony, or separate maintenance into the district clerk's office, the recipient (payee) of such child support, alimony, or separate maintenance shall pay into said district clerk's office a service fee of \$1 per month. The \$1 fee shall be deducted from the payment by the district clerk. If such payments are ordered to be paid semi-monthly or weekly, then the sum of 50 cents shall be deducted from each semi-monthly or weekly payment.

(b) All service fees collected by the district clerk shall be paid over by the district clerk to the county treasurer on the last day of each calendar month. The county treasurer shall deposit all of such fees in an account to be styled "Probation Fund."

(c) The service fees authorized by Subsection (a), Section 10, shall be applicable to all child support, alimony, and separate maintenance payments ordered after the effective date of this Act, and to all other such payments (even though ordered prior to the effective date of this Act) when the person ordered to make such payments has defaulted and has been cited for contempt of court. The service fee shall become due and payable for each month following the hearing on the contempt citation.

County Attorney as Legal Officer; Attorney's Fees; Payment, Collection and Deposit

Sec. 11. For the purpose of providing legal services to the Montague County Probation Department, the county attorney of Montague County is hereby designated as the legal officer of the department. There shall be assessed, as attorney's fees, a fee of \$15 in all matters involving contempt of court for failure or refusal to pay child support, alimony, separate maintenance, or temporary alimony payments, when such contempt action is initiated by the probation department. The fees shall be taxed against the contemner as costs, and shall be collected as under contempt. The attorneys fees shall be paid to the district clerk, and by the district clerk paid over to the county treasurer on the last day of each month. The county treasurer shall deposit the fees in the probation fund. The attorneys fees shall be paid by the county treasurer to the county attorney on order of the probation board.

Appointment of Other Attorney as Legal Officer

Sec. 12. Should the county attorney of Montague County fail, refuse, or decline to perform the duties of legal officer for the probation department, the probation board shall ap-

point some other suitable attorney as legal officer of the probation department.

Adoption Investigation Fees; Payment, Collection
and Deposit

Sec. 13. For the purpose of maintaining adoption investigation services, there shall be taxed, collected, and paid as other costs, the sum of \$25 in each adoption case hereafter filed in district court of Montague County. Such adoption investigations shall be made by the probation officer and findings filed with the judge of the district court as provided by law, and as may be otherwise ordered by the judge of the court. The investigation fees shall be collected by the district clerk, and paid over to the county treasurer by the district clerk on the last day of each month. The county treasurer shall deposit the fees in the probation fund.

Juvenile Investigations

Sec. 14. The juvenile officer shall make such investigation in juvenile cases as is directed by the judge of the juvenile court of Montague County.

Judge; Requiring Probationer to Pay Supervision
Fee

Sec. 15. The district judge may in any probation pending in district court on the effective date of this Act, and the county judge may in any probation pending in the county court on the effective date of this Act, upon a motion to revoke such probation, and where such motion is denied, require such probationer to pay the set monthly supervision fee, applicable to such probationer's case, for the remainder of such probationer's period of probation.

[Acts 1973, 63rd Leg., p. 1371, ch. 525, eff. June 14, 1973.]

2. RECEIVERS

Art. 2293. Appointment

Receivers may be appointed by any judge of a court of competent jurisdiction of this State, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property; or by a creditor to subject any property or fund to his claim; or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff or any party whose right to or interest in the property or fund or the proceeds thereof is probable, and where it is shown that the property or fund is in danger of being lost, removed or materially injured.

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, when it appears that the mortgaged property is in danger of being lost, removed or materially injured; or that the condition of the mortgage has not been performed and the property is probably insufficient to discharge the mortgage debt.

3. In cases where a corporation is insolvent or in imminent danger of insolvency; or has been dissolved or has forfeited its corporate rights.

4. In all other cases where receivers have heretofore been appointed by the usages of the court of equity.

[Acts 1925, S.B. 84.]

Art. 2293a. Appointment for Church or Congregation

Sec. 1. That the judge of any district court, or other court having jurisdiction, is hereby authorized and required in term, time, or on vacation, to appoint a receiver or receivers for any defunct or disorganized church or congregation when the fact of such condition is brought to the attention of such court by an application for the appointment of a receiver or receivers for such defunct or disorganized church or congregation.

Sec. 5. The term "church or congregation" is meant to refer to a local congregation of believers in Christ, and not to a denomination or communion as a whole.

Sec. 6. The terms "defunct or disorganized" are meant to apply to an organization which formerly maintained regular forms of work and worship in a given community such as the Bible School, Communion Services, Preaching Services, etc., a regular interval,¹ and which has ceased to function in these and similar capacities as a church for a period of one or more years.

[Acts 1927, 40th Leg., p. 68, ch. 45.]

¹ So in enrolled bill. Should probably read "at regular intervals"

Art. 2294. Qualifications

A receiver for property within or partly within and partly without this State must, when appointed, be a bona fide citizen and qualified voter of this State, and if so qualified and appointed he shall keep and maintain actual residence in this State during the pendency of such receivership; if not so qualified, his appointment as such receiver shall be void in so far as the property within this State is concerned. No party, attorney, or any person interested in any way in an action for the appointment of a receiver shall be appointed receiver therein.

[Acts 1925, S.B. 84.]

Art. 2294a. Member of Church or Congregation

That the receiver or receivers appointed for any such defunct or disorganized church or congregation, shall be a member or members of an active church or congregation of like faith and order, or shall be a recognized missionary or ecclesiastical body of like faith and order, denomination or communion; and in case any such denomination or communion of like faith and order, shall have a State Missionary Society, or shall hereafter appoint, elect or organize, or cause to be appointed, elected or organized, such a State Missionary Society, and shall au-

thorize the same to act as a receiver or trustee for such denomination or communion, then such State Missionary Society, or other similar organization so formed and named, shall be appointed to serve as receiver or trustee by said court.

[Acts 1927, 40th Leg., p. 68, ch. 45, § 2.]

Art. 2295. Quo Warranto

Where a domestic corporation owning property in this State shall have a receiver of such property appointed who is not a bona fide citizen and qualified voter of this State, said corporation shall thereby forfeit its charter; and the Attorney General shall at once prosecute a suit by quo warranto against said corporation so offending to forfeit its charter. The court trying the cause shall forfeit the charter of said corporation upon proof that a person has been appointed receiver of its property situated in this State who is not so qualified.

[Acts 1925, S.B. 84.]

Art. 2296. Oath and Bond

When a receiver is appointed, he shall, before he enters upon his duties, be sworn to perform them faithfully, and shall execute a good and sufficient bond, to be approved by the court appointing him, in the sum fixed by the court, conditioned that he will faithfully discharge his duty as receiver in the action (naming it) and obey the orders of the court therein.

[Acts 1925, S.B. 84.]

Art. 2297. Receiver's Power

The receiver shall have power, under the control of the court, to bring and defend actions in his own name as receiver, to take charge and keep possession of the property, to receive rents, collect, compound for, compromise demands, make transfers, and generally to do such acts respecting the property as the court may authorize.

[Acts 1925, S.B. 84.]

Art. 2297a. Receiver of Church or Congregation

That it shall be the duty of such trustee or trustees when so appointed, to take charge of all property, real, personal or mixed, and choses in action, belonging to such defunct or disorganized church or congregation and administer the same under the direction of the court making the appointment, for the best interest of such defunct or disorganized church or congregation; and where necessary to preserve the property, to sell the same under the order of said court; and in case said court shall be of the opinion that said church or congregation may not be revived or reorganized within a reasonable time, it shall be the duty of said court to order all of said property sold at public or private sale, and the proceeds received from such sale or sales shall be turned over and delivered to said trustee or trustees to be used by them for a church or congregation, de-

nomination or communion or organization of like faith and order.

[Acts 1927, 40th Leg., p. 68, ch. 45, § 3.]

Art. 2298. Investing Funds

The funds in the hands of a receiver may be invested upon interest by order of the court, but no such order shall be made except upon consent of all the parties to the action.

[Acts 1925, S.B. 84.]

Art. 2299. Application of Funds

All moneys that come into the hands of a receiver as such receiver shall be applied as follows, to the payment:

1. Of all court costs of the suit.
2. Of all wages of employés due by the receiver.
3. Of all debts due by the receiver for materials and supplies purchased during receivership by the receiver for the improvement of the property in his hands as receiver.
4. Of all debts due for betterments and improvements done during receivership to the property in his hands as such receiver.
5. Of all claims and accounts against the receiver on contracts made by the receiver during the receivership, and of personal injury claims and claims for stock against said receiver accruing during said receivership, and all judgments rendered against said receiver for personal injuries and for stock killed.
6. Of all judgments recovered against persons or corporations in suits brought before the receiver in the action.

As to all money coming into the hands of a receiver which are the earnings of the property in his hands, said claims shall have a preference lien on the same, and the receiver shall pay the same on the claims against him in the order of preference named above, and the court shall see that he does so.

[Acts 1925, S.B. 84.]

Art. 2300. Discharge of Receiver

If a receiver is discharged pending suits against him for causes of action growing out of and arising during the receivership, the cause of action shall not abate, but may be prosecuted to final judgment against the receiver; and the plaintiff may make the party or corporation to whom the receiver has delivered the property a party to the suit. If judgment is finally rendered in favor of the plaintiff against the receiver, the court shall also enter judgment in favor of the plaintiff against the party to whom the property was delivered by the receiver.

[Acts 1925, S.B. 84.]

Art. 2301. When Property Subject to Execution

Where there is a judgment against a receiver and he shall have in possession moneys subject

to the payment of such judgment, and the plaintiff owning the judgment shall apply to the court appointing the receiver for an order to pay said judgment, and if said court should refuse to order said judgment paid, when there is money in the hands of said receiver subject to the payment of the judgment, then the court rendering the judgment shall order an execution to issue on said judgment against said receiver upon the filing by the plaintiff in the court where the judgment was rendered an affidavit reciting that the plaintiff had applied to the court appointing the receiver for an order for said receiver to pay said judgment, and that it was shown to the court that there was money in the hands of the receiver at that time which was subject to the payment of the judgment, and that said court refused to order him to pay the judgment. Said execution when so issued shall be levied upon any property in the hands of the receiver and the same shall be sold as under ordinary execution; and a sale of the property will convey the title of the same to the purchaser.

[Acts 1925, S.B. 84.]

Art. 2302. Judgments First Lien on Property

All judgments rendered against a receiver for causes of action arising during the receivership shall be a lien upon all property in the hands of the receiver superior to the mortgage lien. If the property should be turned back into the possession of the party or corporation owning same at the time of the appointment of a receiver, or any one for them, or to their assigns or purchasers, the party or corporation so receiving said property from said receiver shall take said property charged with all of the unpaid liabilities of the receiver occurring during the receivership, to the value of the property delivered by the receiver.

[Acts 1925, S.B. 84.]

Art. 2303. Persons Liable for Debts

If a receiver is discharged by the court before all of the liabilities of the receiver arising during the receivership are settled in full, then the person, persons, or corporation to whom the receiver delivers the property that was in his hands as receiver shall be liable to the persons having claims against said receiver for the full amount of the liabilities.

[Acts 1925, S.B. 84.]

Art. 2304. Effect of Discharge

The discharge of a receiver shall not work an abatement of the suit against a receiver nor in any way affect the right of the party to sue the receiver if he sees proper.

[Acts 1925, S.B. 84.]

Art. 2305. Property Liable for Debts

When property has been returned to the original owner without any sale of said property, such owner shall be liable for all of the unpaid liabilities of the receiver in causes of action arising out of and during the receivership,

and the plaintiff may make such owner to whom the property was delivered a party defendant along with the receiver; and, if judgment is rendered against the receiver upon a cause of action arising out of and during the receivership, then the court shall also, at the same time, render judgment against such defendants for the amount so found for plaintiff; and plaintiff shall have the right to foreclose his lien on the property so returned.

[Acts 1925, S.B. 84.]

Art. 2306. Outstanding Liabilities at Discharge

If at the date of the discharge of a receiver there exists against him any judgments or unpaid claims not sued on which arose during the receivership, then such claims and judgments shall be a preference lien on all of the property that was in the receiver's hands as such at said date superior to the mortgage lien; and the person or corporation to whom the receiver has delivered such property shall be liable for such claims and judgments to the value of such property.

[Acts 1925, S.B. 84.]

Art. 2307. Liability of Receiver and Person to Whom Property is Delivered

Any person having a claim against a receiver not sued on at the date of the discharge of the receiver, shall have the right to sue said receiver, either alone or jointly, with the person or corporation to whom the receiver delivered said property that was in his hands as such receiver; and, if any judgment is rendered against said receiver, a judgment shall also be rendered against the person or corporation for the same amount that is rendered against the receiver, not to exceed the value of the property so received by said person or corporation.

[Acts 1925, S.B. 84.]

Art. 2308. Receiver to Give Bond on Appeal

In a suit against a receiver, if the receiver desires to appeal or apply for a writ of error from judgment rendered against him, before such appeal or writ of error shall be perfected or allowed, such receiver shall enter into bond with two or more good and sufficient sureties, to be approved by the clerk of the court or justice of the peace, payable to the appellee or the defendant in error, in a sum at least double the amount of the judgment, interest and costs, conditioned that such receiver shall prosecute his appeal or writ of error with effect; and, in case the judgment of the court to which such appeal or writ of error be taken shall be against him, that he will perform its judgment, sentence, or decree, and pay all such damages and costs as said court may award against him. If the judgment of the appellate court shall be against such receiver, judgment shall, at the same time, be entered against the sureties on his said bond, and execution thereon may issue against such sureties within twenty days after such judgment is rendered.

[Acts 1925, S.B. 84.]

Art. 2309. Deposit of Railroad Funds

When a line of railroad operated by a receiver lies wholly within this State, all money which comes into the hands of the receiver, whether from operating the road or otherwise, shall be kept and deposited in such place within this State as the court may direct, until properly disbursed; but, if any portion of the road lies in another State, the receiver shall be required to deposit in this State at least such share of the funds in his hands as is proportioned to the value of the property of the company within this State.

[Acts 1925, S.B. 84.]

Art. 2310. Suit By or Against

When property within the limits of this State has been placed in the hands of a receiver who has taken charge of such property, such receiver may, in his official capacity, sue or be sued in any court of this State having jurisdiction of the cause of action, without leave of the court appointing him. If judgment is recovered against said receiver, the court shall order said judgment paid out of any funds in the hands of said receiver as such receiver.

[Acts 1925, S.B. 84.]

Art. 2311. Venue of Suit Against

Actions may be brought against the receiver of the property of any person where said person resides; and against receivers of a corporation in the county where the principal office of said corporation may be located, and against receivers of railroad companies in any county through or into which the road is constructed. Service of summons may be had upon the receiver, or upon the general or division superintendent of the road, or upon any agent of said receiver who resides in the county where the suit is brought.

[Acts 1925, S.B. 84.]

Art. 2312. Venue to Appoint

If the property sought to be placed in the hands of a receiver is a corporation whose property lies within this State, or partly within this State, then the action to have a receiver appointed shall be brought in this State in the county where the principal office of said corporation is located.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 20, ch. 13, § 1.]

Art. 2313. Jurisdiction to Appoint

When a person resides in this State and a receiver is applied for, or if the property sought to be placed in the hands of a receiver is situated within the limits of this State, no court other than one within the limits of this State, shall have power to appoint any receiver of said property.

[Acts 1925, S.B. 84.]

Art. 2314. Inventory by Receiver

The receiver as soon after his appointment as possible, shall return to the court appoint-

ing him a true and correct inventory of all property received by him as such receiver.

[Acts 1925, S.B. 84.]

Art. 2315. Where There are Betterments, etc.

When a receiver of a corporation has, under the order of the court appointing him, made improvements upon the property and purchased rolling stock, machinery, and made other improvements whereby the value of the property of said corporation has been increased, or has extended a road, or acquired any property in connection with said road, and has paid for same out of the current receipts of the corporation that came into his hands as receiver, then, if there be any floating debts against said corporation, said corporation shall be made to contribute to the floating indebtedness to the full value of the money so spent by said receiver as aforesaid. When there are liens of any kind upon the property of said corporation in the hands of such receiver, and said property is sold under the order of the court, and said liens foreclosed, then the court appointing such receiver, if there be any unpaid debts or judgments, or claims against the corporation itself, shall detain in the hands of the clerk of the court money to the full value of the improvements made by the receiver of the property sold, and pay the same over to whoever has or may have a claim, debt, or judgment against said corporation; and the court, in ordering the sale of the property, shall require sufficient cash to be paid in at date of sale to cover the full value of the improvements so made by said receiver out of the current funds received by him from the property while receiver.

[Acts 1925, S.B. 84.]

Art. 2316. Preference Claims

All judgments, claims, or causes of action when determined, existing against any corporation at the time of the appointment of a receiver, shall be paid out of the earnings of such corporation while in the hands of the receiver, to the exclusion of mortgage action; and the same shall be a lien on such earnings.

[Acts 1925, S.B. 84.]

Art. 2317. Receivership of Corporation Limited; Certain Corporations Excepted

No corporation shall be administered in any court more than three years from the date of such appointment except as hereinafter provided; and within three years such court shall wind up the affairs of such corporation, unless prevented by litigation, or unless, at said time, the Receiver shall be conducting and operating the affairs of such corporation as a going concern, in which event the court, upon application, by proper order entered upon the minutes, after hearing held after due notice to all attorneys of record, may extend, from time to time, such receivership for such term and upon such conditions as in its judgment the best interests of all parties concerned may require; provided, that no continuance of a receivership shall be for more than five years additional to

the original three years; and provided further, that corporations organized and existing under Section 68 of Article 1302, Chapter 1 of Title 32,¹ and under Title 112, of Revised Civil Statutes of Texas,² shall not be subject to the above provision limiting receiverships to five additional years, but as to such exempted corporations, the time in which to close any such receivership shall be determined by the court, and it may extend the same, from time to time, for such additional period or periods of time as it may determine.

[Acts 1925, S.B. 84; Acts 1933, 43rd Leg., p. 58, ch. 29; Acts 1935, 44th Leg., p. 297, ch. 111, § 1; Acts 1935, 44th Leg., p. 698, ch. 298, § 1; Acts 1937, 45th Leg., p. 222, ch. 119, § 1.]

¹ Repealed. See, now, article 1302-3.05.

² Article 6259 et seq.

Art. 2318. Application for Receiver

No receiver of a joint stock or incorporated company, co-partnership or private person shall ever be appointed on the petition of such joint stock or incorporated company, partnership or person. A stockholder or stockholders of such joint stock or incorporated company may have his or their action against such company, and may have a receiver appointed as in ordinary cases. Nothing herein shall prevent a member of any co-partnership from having a receiver appointed whenever a cause of action arises between the co-partners.

[Acts 1925, S.B. 84.]

Art. 2319. Rules of Equity Shall Govern

In all matters relating to the appointment of receivers, and to their powers, duties and liabilities, and to the powers of the court in relation thereto, the rules of equity shall govern whenever the same are not inconsistent with any provision of this chapter and the general laws of the State.

[Acts 1925, S.B. 84.]

Art. 2320. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2320a. Unconstitutional

Article 2320a, which provided for the reorganization and adjustment of the affairs of distressed debtors and was derived from Acts 1934, 43rd Leg., 3rd C.S., p. 43, ch. 24, § 2, was held unconstitutional on the ground of impairment of obligations of contract in violation of Const. art. 1, § 16, and U.S.C.A. Const. art. 1, § 10, in *Cattle Raisers Loan Co. v. Doan* (Civ.App.1935) 86 S.W.2d 252, error denied 127 T. 1, 86 S.W.2d 1082.

Art. 2320b. Receivers of Mineral Interests Owned by Nonresidents or Absentees

Claimants or Owners of Undivided Mineral and Leasehold Interests; Appointment of Receiver; Petition

Sec. 1. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided mineral interest in any tract of land in the State of Texas, or any person, firm or corporation having, claiming or owning an undivided leasehold interest granted under a mineral lease covering any tract of land in the State of Texas, in which it is made to appear that one or more of

the defendants in such action are nonresidents of the State of Texas, or persons whose place of residence is unknown and that such nonresidents of Texas or persons whose place of residence is unknown have absented themselves for at least five years successively next preceding the filing of the action, and who have, claim or own an undivided mineral interest in said land and have not paid taxes on said mineral interests or rendered same for taxes within said five-year period, the District Court shall have power to appoint the county judge of the particular county in which the land is located, and his successors in office or the county clerk of the particular county in which the land is located and his successors in office or any resident of said county, as the receiver of said undivided mineral interest owned by any one or more of such defendants, such receiver to serve without the necessity of his posting bond, provided a duly verified petition is filed and satisfactory proof is made to the Court that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damage or injury unless such receiver is appointed. Such receivership shall continue so long as any of such defendants, or his heirs, assigns or personal representatives, shall have failed to appear, either in person or by agent or attorney, in such court to claim his interest in the ownership of the minerals dealt with in the action.

Claimants or Owners of Undivided Leasehold Interest under Mineral Lease; Appointment of Receiver; Petition

Sec. 2. In an action filed in the District Court by any person, firm or corporation having, claiming or owning an undivided leasehold interest granted under a mineral lease covering any tract of land in the State of Texas in which it is made to appear that one or more of the defendants in such action are nonresidents of the State of Texas, or persons whose place of residence is unknown, and who have absented themselves for at least five years successively next preceding the filing of said action, and who have, claim or own an undivided leasehold interest granted under a mineral lease covering said land and have not paid taxes on said leasehold interest or rendered same for taxes within said five-year period, the District Court shall have power to appoint a receiver of said undivided leasehold interest owned by any one or more of such defendants, provided a duly verified petition is filed and satisfactory proof is made that the plaintiff or plaintiffs have made diligent but unsuccessful effort to locate such defendants, and that the plaintiff or plaintiffs will suffer substantial damages or injury unless such receiver is appointed.

Execution of Mineral Leases; Assignment of Outstanding Undivided Mineral Leasehold Interest; Unitization Agreements; Payment and Application of Consideration

Sec. 3. Such receiver, under the orders of the court, shall have power, authority and

duty, subsequent to his appointment and from time to time thereafter, to (1) execute and deliver to a lessee, or successive lessees, mineral leases on such outstanding mineral interests, (2) to execute and deliver to a lessee, or successive lessees, an assignment of any such outstanding undivided mineral leasehold interest, and (3) to enter into any unitization agreement which has been duly authorized by the Railroad Commission of Texas. Such receiver shall execute such leases or assignments, or enter into such unitization agreements forthwith upon the entry of any such decree by the District Court. The money consideration, if any, to be paid for the execution of the aforementioned leases, assignments and/or unitization agreements by such receiver, shall be paid over to the clerk of the District Court in which the cause is pending, prior to the execution of the instrument by the county judge, and thereafter, after applying such money consideration, if any, to costs that may have accrued in such cause, the district clerk shall retain the balance of such funds for the use and benefit of such nonresident or unknown owners of such mineral interests or leasehold interests, as the case may be, and any future payments paid under such mineral lease, assignment of leasehold interest or unitization agreement, shall be paid directly into the registry of the court and impounded for the use and benefit of such nonresident and unknown owners.

Definitions

Sec. 4. When used in this Act

(1) the term "mineral lease" shall be deemed to include oil and gas leases and oil, gas and mineral leases of every kind and nature containing any and all provisions necessary or incident to the orderly exploration, development and recovery of oil, gas and other minerals including provision authorizing lessee to pool and unitize the lands subject thereto with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance provided that should any governmental authority having jurisdiction prescribe or permit larger units, then such units may conform substantially in size with those prescribed by government regulations;

(2) the term "leasehold interest" shall be deemed to include any and all ownerships created under a mineral lease or carved out of a leasehold estate granted under a mineral lease and without limiting the foregoing shall include production payments, overriding royalty interests and working interests;

(3) the term "lessee" shall be deemed to include an assignee under an assignment or a mineral lease as that term is defined under Subsection 1 above.

Cumulative Effect of Law

Sec. 5. This Act shall not have the effect of altering or changing any laws now in effect relating to suits for the removal of cloud from title or the appointment of receivers under any other law, but is cumulative thereof.

[Acts 1945, 49th Leg., p. 449, ch. 281; Acts 1951, 52nd Leg., p. 460, ch. 287, § 1; Acts 1965, 59th Leg., p. 1413, ch. 626, § 1, eff. June 17, 1965; Acts 1973, 63rd Leg., p. 1670, ch. 603, § 1, eff. Aug. 27, 1973.]

Art. 2320c. Contingent Interests; Receiver to Make Mineral, Oil or Gas Lease; Pooling

Sec. 1. Where lands or any estate therein are subject to contingent future interests, legal or equitable, whether arising by way of remainder, reversion, possibility of reverter, executory devise, upon the happening of a condition subsequent, or otherwise, and it is made to appear that such lands or estate are liable to drainage of oil, gas and other minerals, or either of them, or that lease thereof for oil, gas and mineral development and the safe and proper investment of the proceeds will inure to the benefit and advantage of the persons entitled thereto, or that it is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, that such lands or estate be leased for the production of oil, gas and other minerals, or either of them, upon application of any person having a vested, contingent, or possible interest in said lands or estate, any District Court of the county in which the lands or a part thereof lie shall have power, pending the happening of the contingency and the vesting of such future interests, to appoint a receiver for such lands or estate and to authorize and direct the lease of such property for development of oil, gas and other minerals, or either of them, either at public sale or at private sale, and upon such terms and conditions as the Court may direct; and in such case to authorize a receiver to make such lease and to receive, hold and invest the proceeds thereof under the direction of the Court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2. Where lands or any estate therein, including any contingent future interests described in Section 1 of this Act, are subject to an existing oil, gas and mineral lease which fails to provide for pooling or contains pooling provisions which are ineffective as to the contingent future interests covered by the lease, and it is made to appear that pooling of the contingent future interests is necessary to protect correlative rights, or to prevent the physical or economic waste of oil, gas and other minerals, or any of them, or that pooling of the contingent future interests will inure to the benefit and advantage of the persons entitled thereto, or that pooling is otherwise necessary for the conservation, preservation or protection of the property or estate or of any present or contingent or future interest therein, upon application of any person having a vested, contingent or possible interest in the lands subject to the lease, including the lessee therein and any assignee of the lessee, any district court of the county in which the lands or part thereof lie shall have power, pending the happening of the

contingency and the vesting of the future interests, to appoint a receiver for the contingent interests covered by the lease and to authorize and direct the amendments of the lease to authorize pooling of the contingent future interests, upon the terms and conditions and for additional consideration, if any, as the court may direct; and in such case to authorize a receiver to make such an amendment to the lease and to receive, hold and invest the additional consideration therefor, if any, under the direction of the court for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and to that end may confer all necessary powers on the receiver.

Sec. 2A. Any lease given pursuant to Section 1 of this Act or any amendment of an existing lease made pursuant to Section 2 of this Act may authorize the lessee and his assigns to pool all or any part of the lands subject to the lease with adjacent lands into a unit not to exceed 160 acres for an oil well or 640 acres for a gas well plus 10% tolerance. Provided that should any governmental authority having jurisdiction prescribe or permit larger units, than¹ the units may conform substantially in size with those prescribed or permitted by government regulations.

¹ Probably should read "then".

Sec. 2B. In any cause commenced pursuant to Section 1 or Section 2 of this Act, all persons in being having a vested, contingent or possible interest in the lands shall be cited in the cause in the manner and for the time provided for in actions concerning title to lands. All persons not in being shall be cited in the manner and for the time provided in actions against unknown owners or claimants of interest in land. Provided in any cause commenced pursuant to Section 2 of this Act, a person shall not be a necessary party in the cause if at the commencement thereof the person's interest in the land is then effectively subject to pooling authority expressed in an existing oil, gas and mineral lease and if enlargement of the pooling authority as to the interest is not sought in the cause.

Sec. 2C. In any cause commenced pursuant to this Act, the court may authorize and direct that the moneys, if any, paid to the receiver, after payment of the court costs, shall be by him deposited in the registry of the court for the use and benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests, and thereupon the court may immediately discharge the receiver, and any future payments accruing under the lease to the contingent future interests leased or subjected to pooling in the cause shall be paid directly into the registry of the court and impounded for the benefit of the persons entitled or who may become entitled thereto according to their respective rights and interests.

Sec. 3. No mineral lease on which there has already been drilled any oil or gas well, or

both, and no mineral lease or leasing unit upon which drilling operations for oil and gas, or both, have already begun at the time of the effective date of this Act, shall come within the application of the provisions of this Act; it being the intention of the Legislature that the provisions of this Act shall apply only to mineral leases where there has been no development for oil and gas, or other minerals, upon the effective date of this Act. It is further provided, however, that no lease shall be authorized covering any mineral interest in lands, in which lands there are existing homestead rights, without the written consent of the owner or owners of such homestead rights given in the manner provided by law for the conveyance of homesteads.

Sec. 4. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the Courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act; and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity.

[Acts 1949, 51st Leg., p. 956, ch. 525; Acts 1969, 61st Leg., p. 2543, ch. 847, §§ 1, 2, eff. June 18, 1969.]

3. OFFICIAL COURT REPORTER

Art. 2321. Appointment and Examination

Each district and criminal district judge shall appoint an official court reporter who shall be a sworn officer of the court and shall hold his office during the pleasure of the court. Before any person is so appointed, the judge shall assign three attorneys practicing in said court to examine said applicant as to his competency as follows: The applicant shall, in the presence of such committee, write at the rate of at least one hundred and seventy-five words per minute for five consecutive minutes from questions and answers submitted to him, not counting the words "question" and "answer," and shall transcribe the same with accuracy. If the applicant passes this test satisfactorily a majority of the committee shall furnish him with a certificate of that fact, which shall be filed among the records of the court and be recorded by the clerk in the minutes thereof. As to subsequent appointments, the presentation of a certified copy from said clerk of said certificates shall be prima facie evidence of the applicant's competency. No examination by any committee shall be required of an applicant who has been official stenographer of any district court in this State for not less than two years prior to his application.

[Acts 1925, S.B. 84.]

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the ex-

tent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 2322. Oath

Said reporter in addition to taking the official oath shall subscribe to an oath to be administered to him by the district clerk to the effect that he will well and truly in an impartial manner keep a correct record of all evidence offered in each case reported by him, together with the objections and exceptions made by the parties to such suit, and the rulings and remarks of the court in passing upon the admissibility of testimony.

[Acts 1925, S.B. 84.]

Art. 2323. Deputy Reporter

In case of illness, press of official work, or unavoidable disability of the official shorthand reporter to perform his duties in reporting proceedings in court, the judge of the court may, in his discretion, authorize a deputy shorthand reporter to act during the absence of said official shorthand reporter, and said deputy shorthand reporter shall receive, during the time he acts for said official shorthand reporter, the same salary and fees as the official shorthand reporter of said court, to be paid in the manner provided for the official shorthand reporter; but the said official shorthand reporter shall also receive his salary in full during said temporary disability to act. The necessity for a deputy official shorthand reporter shall be left entirely within the discretion of the judge of the court.

[Acts 1925, S.B. 84.]

Saved from Repeal

Acts 1937, 45th Leg., p. 576, ch. 286, § 1, which amended Art. 2327A (repealed in 1947), relating to salary of certain court reporters, provided in the second paragraph that nothing in the Act should be construed as repealing this article.

Art. 2323a. Deputy Court Reporter for 70th Judicial District

Sec. 1. The official court reporter of the 70th Judicial District, composed of the counties of Midland and Ector, is hereby granted authority to appoint a deputy court reporter for the 70th Judicial District.

Sec. 2. The deputy court reporter provided for in this Act shall have the authority and perform such duties as are now required of the official court reporter of the 70th Judicial District under the direction and in the name of the official court reporter of the 70th Judicial District.

Sec. 3. No money shall ever be expended by the counties composing the 70th Judicial District and no money shall ever be expended by

the State of Texas for salary or other expense of such deputy court reporter.

[Acts 1951, 52nd Leg., p. 314, ch. 190.]

Art. 2324. Duty of Reporter

Each Official Court Reporter shall:

Attend all sessions of the court; take full shorthand notes of all oral testimony offered in cases tried in said court, together with all objections to the admissibility of the evidence, the rulings and remarks of the court thereon, and all exceptions thereto; take full shorthand notes of closing arguments when requested to do so by the attorney for any party to such case, together with all objections to such arguments, the rulings and remarks of the court thereon and all exceptions thereto;

Preserve all shorthand notes taken in said court for future use or reference for a full year, and furnish to any person a transcript of all such evidence or other proceedings, or any portion thereof as such person may order, upon the payment to him of the fees provided by law.

When any party to any suit reported by any such reporter shall desire a transcript of the evidence in said suit, said party may apply for same and the reporter shall make up such transcript and shall receive as compensation therefor the sum of not more than thirty cents per one hundred words for the original thereof, and in addition such reporter may make a reasonable charge, subject to the approval of the trial court if objection shall be made thereto, for postage and/or express charges paid; photostating, blue-printing or other reproduction of exhibits; indexing; and preparation for filing and special binding of original exhibits. Provided further, that in case any such reporter shall charge more than the fees herein allowed, whether by accident or design, and shall refuse to make proper refund or correction of such charges, he shall be liable to the person paying the same a sum equal to four times the excess so paid.

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 1033, ch. 390, § 1; Acts 1961, 57th Leg., p. 620, ch. 290, § 1.]

Art. 2324a. Powers as to Depositions, Commissions, Oaths and Affidavits

Sec. 1. All official District Court reporters are authorized to take depositions of witnesses, and to receive, execute and return commissions, administer oaths and affidavits, in connection with such depositions, and make a certificate of such fact, and do all other things necessary in the taking of such depositions in accordance with existing laws.

Sec. 2. Said reporters shall have authority to perform the above mentioned acts only within any county within the judicial district that such reporter was appointed and serving in connection with his official business, in the State of Texas.

Sec. 3. This Act shall be cumulative of all existing laws provided for the method and manner of taking depositions.

[Acts 1945, 49th Leg., p. 386, ch. 248.]

Art. 2325. Repealed by Acts 1955, 54th Leg., p. 1033, ch. 390, § 2

Art. 2326. Compensation

The official shorthand reporter of each Judicial District Court, civil or criminal, and the official shorthand reporter of each County Court-at-Law, civil or criminal, in any county in this State which constitutes in itself a judicial district, and having a population in excess of six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of not less than Forty-eight Hundred (\$4800.00) Dollars per annum, nor more than Sixty-six Hundred (\$6600.00) Dollars per annum, in addition to the compensation for transcript fees as provided by law. Said salaries shall be fixed and determined annually by the County Commissioners Court; provided, however, that the judges of the judicial districts and the County Courts-at-Law shall annually make recommendations to the Commissioners Court as to the fixing of such salaries. Such salary shall be in addition to the transcript fees and traveling and hotel expenses of official shorthand reporters now or hereafter provided by law. The salaries of such reporters shall be paid monthly by the Commissioners Court of the county in which the service is performed out of any funds available for the purpose, in the same manner as such salaries have heretofore been paid.

The official shorthand reporter of each Judicial District Court, civil or criminal, and the official shorthand reporter of each County Court-at-Law, civil or criminal, in any county in this State having a population in excess of three hundred sixty thousand (360,000) inhabitants, but less than six hundred thousand (600,000) inhabitants, according to the last preceding or any future Federal Census, shall receive a salary of Sixty-six Hundred (\$6600.00) Dollars per annum, in addition to compensation for transcript fees as provided by law. Said salary shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of any such county, and shall be in addition to traveling and hotel expenses of official shorthand reporters now or hereafter provided by law.

The official shorthand reporter in each of all other Judicial District Courts, civil or criminal, and the official shorthand reporter in each of all other County Courts-at-Law, civil or criminal, in this State shall receive a salary of not less than Twenty-seven Hundred and Fifty (\$2750.00) Dollars per annum, and not more than Sixty-six Hundred (\$6600.00) Dollars per annum; said salary shall be fixed and determined by the District Judges of such Judicial

District Courts, civil or criminal, and the Judges of such County Courts-at-Law, civil or criminal, who shall enter an order in the minutes of the court, in each county of the district, which shall be a public record and open for public inspection, stating specifically the amount of salary to be paid said reporter. The District Judge shall file a copy of said order with each Commissioners Court of the District. The salary shall be in addition to the transcript fees and traveling and hotel expenses of official shorthand reporters as provided by law; and the salary shall be paid monthly out of the General Fund, Officers Salary Fund, Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of the county or counties in which the court sits, and in which the service is performed.

It is further provided that before any increase in salary shall become effective, notice thereof shall be printed one time in at least one (1) newspaper in each county of the judicial district, the cost of publication of said notice to be paid by the Commissioners Court of each county out of any funds available.

[Acts 1925, S.B. 84; Acts 1945, 49th Leg., p. 460, ch. 291, § 1; Acts 1949, 51st Leg., p. 820, ch. 440, § 1; Acts 1953, 53rd Leg., p. 1017, ch. 418, § 1.]

Art. 2326a. Expenses and Manner of Payment

All official shorthand reporters and deputy official shorthand reporters of the District Courts of the State of Texas composed of more than one county, when engaged in the discharge of their official duties in any county in this state other than the county of their residence shall, in addition to the compensation now provided by law for their services, be allowed their actual and necessary expenses while actually engaged in the discharge of such duties, not to exceed the sum of Six Dollars (\$6.00) per day for hotel bills, and not to exceed Four Cents (4¢) a mile when traveling by railroad or bus lines, and not to exceed Ten Cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid after the completion of each term of court by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own regular or special term of court, and said expenses shall be paid to the official or deputy official shorthand reporter by the Commissioners Court of the county, out of the general fund of the county, upon the sworn statement of the reporter, approved by the Judge.

Provided there shall not be paid to any such official shorthand reporter, or his deputy, more than One Thousand Dollars (\$1,000.00) in any one year under the provisions of this Act; provided further, that in districts containing two counties only, the expenses herein allowed shall never exceed Two Hundred Dollars (\$200.00) per annum; in districts containing

three counties only, the expenses herein allowed shall never exceed Four Hundred Dollars (\$400.00) per annum; in districts containing four counties only, the expenses herein allowed shall never exceed Seven Hundred Dollars (\$700.00) per annum; in districts containing five or more counties the expenses herein allowed shall never exceed One Thousand Dollars (\$1,000.00) per annum.

The account for such services herein provided for shall be sworn to in duplicate by the reporter, and approved by the District Judge, and one copy of said account shall be filed by the reporter with the clerk of the District Court of the county where the Judge of the district resides.

Whenever a special term of any District Court in this state is convened and the services of an additional official or deputy official shorthand reporter is required, then this Act shall also apply to said shorthand reporter so employed by the Judge of said special term, and all expenses as herein provided shall be allowed and paid said shorthand reporter so employed for said special term by the county wherein said special term is convened and held, and shall be in addition to the expenses herein provided for the official or deputy official shorthand reporter of the district.

Provided, however, that whenever any official or deputy official shorthand reporter is called upon to report the proceedings of any special term of court, or on account of the sickness of any official shorthand reporter of any Judicial District, necessitating the employment of a shorthand reporter from some other county within the state, then the shorthand reporter so employed shall receive and be paid all actual and necessary expenses in going to and returning from the place where he or she may be called on to report the proceedings of any regular or special terms of court.

[Acts 1929, 41st Leg., p. 112, ch. 56, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 622, § 1; Acts 1957, 55th Leg., p. 486, ch. 234, § 1.]

Saved From Repeal

This article was not repealed by Acts 1937, 45th Leg., p. 73, ch. 44, § 1 (article 2326d); nor repealed by Acts 1937, 45th Leg., p. 576, ch. 286, § 1 (formerly article 2327a, repealed); nor repealed or amended by Acts 1945, 49th Leg., p. 460, ch. 291, § 2 or by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2; nor repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l); nor repealed by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall

be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326b. Reporters for Judicial Districts, Salary

The salary of the official shorthand reporter in each Judicial District in any county of this State which alone constitutes two or more Judicial Districts, in addition to the compensation for transcript fees as provided by law shall be \$3,000.00 per annum, to be paid as the salary of other court reporters are paid, out of the general fund of the county.

[Acts 1929, 41st Leg., p. 691, ch. 310, § 1.]

Art. 2326c. Salaries of Reporters for Judicial Districts; Exception of Certain Districts

The official shorthand reporter of each Judicial District in this State and the official shorthand reporter of any County Court, either civil or criminal, in this State, where the compensation of such reporter of such County Court or Judicial District is not otherwise provided by special law, shall receive a salary of not more than Two Thousand Seven Hundred Dollars (\$2,700.00) per annum, nor less than Two Thousand Four Hundred Dollars (\$2,400.00) per annum, such salary to be fixed and determined by the District or County Judge respectively of the Court wherein such shorthand reporter is employed, in addition to the compensation for transcript fees as provided for by law. Said salary shall be paid monthly by the Commissioners Court of the county out of the General Fund of the county, or in the discretion of the Commissioners Court, out of the jury fund of said county, upon the certificate of the Judge of such District or County Court. In districts of this State composed of two or more counties, said salary shall be paid monthly by the counties of the District in proportion to the number of weeks provided by law for holding Court in the respective counties in the District; provided, that in a District where in any county the term may continue until the business is disposed of, each county shall pay in proportion to the time Court is actually held in such county.

The salary of the official shorthand reporter in each Judicial District in any county of this State with a population in excess of one hundred and fifty thousand (150,000) according to the last preceding Federal census and which alone constitutes two or more Judicial Districts, in addition to the compensation of transcript fees as provided by law, shall be Three Thousand Dollars (\$3,000.00) per annum to be paid as the salaries of other court reporters are paid.

It is expressly provided, however, that the provisions of this Act shall not in any way ap-

ply to the official shorthand reporter in and for the 25th Judicial District, composed of the counties of Guadalupe, Gonzales, Colorado and Lavaca, nor shall this Act repeal Senate Bill 133, Regular Session, 43rd Legislature; nor shall the provisions of this Act apply in any way to the official shorthand reporters in and for any Judicial District Court of Bexar County, civil or criminal, nor shall this Act repeal Senate Bill No. 315, Regular Session, 43rd Legislature; nor shall the provisions of this Act apply to any official shorthand reporter in and for the 22nd Judicial District of Texas composed of the counties of Comal, Hays, Caldwell, Fayette and Austin.

[Acts 1933, 43rd Leg., p. 595, ch. 195.]

Saved From Repeal

Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l), and Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n), provided that "nothing contained herein shall be construed to repeal" certain enumerated articles, including this article, but such articles were to "remain in full force and effect."

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-6, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326d. Salaries of Official Shorthand Reporters for Districts Composed of Four Counties

The salary of the official shorthand reporter in each judicial district composed of four counties in this State, with the population of said four counties totalling in the aggregate, in excess of one hundred thousand (100,000) population according to the last preceding Federal Census, and which alone constitute one or more judicial districts, in addition to the compensation of transcript fees as provided by law, shall be Three Thousand Dollars (\$3,000.00) per annum to be paid as the salaries of other court reporters are paid.

It is further expressly provided that nothing herein shall be construed as repealing Article 2326-A of 1925 Revised Civil Statutes of Texas as amended by Acts 1929, 41st Legislature, Chapter 56, page 112.

[Acts 1937, 45th Leg., p. 73, ch. 44, § 1.]

Art. 2326d-1. Salaries in Districts of Four or More Counties with Valuations of \$230,000,000

Minimum Salaries; Increase

Sec. 1. The official Court Reporter in all Judicial Districts composed of four or more counties, where the aggregate total assessed valuations of all taxable property in the counties composing any of said Districts is not less than Two Hundred Thirty Million Dollars (\$230,000,000.00) as shown by the approved tax rolls of the several counties composing any of said Judicial Districts for any year commencing January 1, 1945, shall, from and after the effective date of this Act, receive a minimum salary of Thirty-six Hundred Dollars (\$3600.00) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to the said official Court Reporters; and providing that the said salary shall be increased up to, but not to exceed, Five Thousand Dollars (\$5,000.00) per annum in the following manner:

If the aggregate total assessed valuations of all taxable property in the several counties comprising any of said Judicial Districts shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as shown by the approved tax rolls of the several counties comprising any of said Judicial Districts for any year commencing January 1, 1945, such salary of the official Court Reporter in each said District shall be increased for the year immediately succeeding the year in which such aggregate total valuations shall exceed Two Hundred Thirty Million Dollars (\$230,000,000.00), as reflected by the approved tax rolls for said year; and such increase shall be at the rate of One Hundred Dollars (\$100.00) per year for each increase in said aggregate total valuation of One Million Dollars (\$1,000,000.00) or fractional part thereof.

Traveling Expenses

Sec. 2. All traveling expenses now provided by law to be paid to the said official Court Reporters shall be paid quarterly by the county for which the same are incurred.

Payment of Salary; Taxable Valuations as Basis

Sec. 3. The salary of the official Court Reporter as herein fixed shall be paid monthly by the respective counties composing any of said Judicial Districts, and in the proportion that the taxable values in each county bear to the aggregate total taxable values of all the counties in each of said Districts. For the purpose of the allowed increase in the salary of the official Court Reporters as herein fixed, the tax rolls of each of the counties as approved by the Commissioners Court of each such county shall conclusively establish and shall be conclusively presumed to be the correct total taxable valuation. In determining the salary of the official Court Reporter for the year 1946, in any of said Judicial Districts, the taxable values of each county for the year 1945 shall serve as

the basis for such determination. Thereafter the taxable valuations as shown by the approved tax rolls for each year shall serve as the basis for determining the salary of the said official Court Reporter for the ensuing year.

Salary for 1945

Sec. 4. The salary of the said official Court Reporters for the year 1945, commencing January 1, 1945, is hereby fixed by Thirty-six Hundred Dollars (\$3600.00) per annum, payable monthly, commencing on the effective date of this Act; provided that all payments of salary to the said official Court Reporters under laws existing in the year 1945, and at the effective date of this Act, shall be deducted; that is to say, all payments made by the respective counties composing said Judicial Districts under existing laws for all months of 1945, until the effective date of the Act, shall be applied against the total annual salary of Thirty-six Hundred Dollars (\$3600.00), as herein fixed, so that for the year 1945 the total salary of any such official Court Reporter shall amount to Thirty-six Hundred Dollars (\$3600.00), and no more.

Partial Invalidity

Sec. 5. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

[Acts 1945, 49th Leg., p. 430, ch. 272.]

Saved From Repeal

Act 1949, 51st Leg., p. 820, ch. 440, § 2 provides that nothing in that act, which amends art. 2326, shall affect or repeal this article, and that it remain in full force and effect.

Art. 2326e. Salaries of Reporters for Counties Over 290,000

Sec. 1. The official shorthand reporter of each District Court, Criminal District Court and County Court-at-Law in each county in the State of Texas having a population in excess of two hundred and ninety thousand (290,000) inhabitants, according to the last preceding, or any future, Federal Census, shall receive a salary of Thirty-six Hundred Dollars (\$3600) per annum in addition to the compensation for transcript fees as now provided by law. Said salary shall be paid monthly on approval of the Judge of such Court out of the General Fund, Officers Salary Fund, or the Jury Fund, of each such County as may be determined by the Commissioners Court of any such County.

Sec. 2. Repealed by Acts 1941, 47th Leg., p. 549, ch. 346, § 2.

Sec. 3. If any section, sentence, clause, phrase or part of this Act be held invalid for any reason, such invalidity shall not affect the remainder of the Act.

Sec. 4. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict only.

[Acts 1937, 45th Leg., p. 1177, ch. 469; Acts 1941, 47th Leg., p. 549, ch. 346, §§ 1, 2; Acts 1945, 48th Leg., p. 103, ch. 71, § 1.]

Art. 2326f. Salary of Court Reporter for Certain Districts

The salary and expenses of the official Court Reporter in each Judicial District in this State having four (4) or more counties, and having a population in excess of one hundred seven thousand five hundred (107,500) and/or any District having a population of eighty-six thousand nine hundred thirty-two (86,932), according to the latest United States Census may, within the discretion of the Commissioners' Court, be paid out of the Jury fund.

[Acts 1939, 46th Leg., Spec.Laws, p. 620, § 1.]

Art. 2326g. Salaries of Official Shorthand Reporters for District and County Courts at Law in Counties Over 225,000

The Official Shorthand Reporter of each District Court and County Court at Law in each county in the State of Texas having a population in excess of two hundred and twenty-five thousand (225,000) according to the last preceding or any future Federal Census, shall receive a salary of Three Thousand, Six Hundred Dollars (\$3,600) per annum, in addition to the compensation for transcription fees as provided by law. Said salary shall be paid monthly on approval of the Judge of such Court in the manner provided by law.

[Acts 1943, 48th Leg., p. 335, ch. 215, § 1.]

Art. 2326g-1. Salaries of Official Shorthand Reporters for District and County Courts at Law in Counties of 225,000 to 398,000

In all counties in this State having a population of not less than two hundred and twenty-five thousand (225,000) and not more than three hundred and ninety-eight thousand (398,000) inhabitants according to the last preceding or any future Federal Census, the salary of the Official Shorthand Reporter of each District Court and County Court at Law in any such county shall be Four Thousand, Two Hundred Dollars (\$4,200) per annum, in addition to transcript and other fees allowed by law. The salary shall be paid out of the County General Fund in twelve (12) equal monthly installments on approval of the Judge of the Court in which the service is rendered. The Commissioners Court of the county out of whose funds the salary is paid may, if it so elects, order such payments to be made out of the Officers Salary Fund, or the Jury Fund, if the balance in those funds is sufficient for the purpose.

[Acts 1947, 50th Leg., p. 256, ch. 151, § 1.]

Saved From Repeal

Acts 1949, 51st Leg., p. 820, ch. 440, § 2 provides that nothing in that act, which amends art. 2326, shall affect or repeal this article, and that it remains in full force and effect.

Art. 2326h. Apportionment of Expenses and Salaries of Reporters Among Several Counties

In each Judicial District in this State in which the terms of Court do not operate on a continuous term basis and in which there is more than one county, the salaries and expenses of the official Court reporter shall be paid by the respective counties as provided herein. Each of the counties within such District shall pay that portion of the expenses and salaries of the official Court reporter which the population of the county, according to the last preceding Federal Census, bears to the total population of the counties comprising the Judicial District.

[Acts 1943, 48th Leg., p. 482, ch. 322, § 1.]

Saved From Repeal

Section 2 of Acts 1945, 49th Leg., p. 460, ch. 291, and section 2 of Acts 1953, 53rd Leg., p. 1017, ch. 418, provided that the acts did not repeal or amend this article. Neither was this article repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l); or by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326i. Salaries of Official Shorthand Reporters for Counties Having Six to Nine District Courts

Sec. 1. In any county in this State which now or hereafter in itself constitutes a judicial district, and in which county a total of not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, have been or shall be hereafter created, the salaries of the official shorthand reporters shall be Forty-eight Hundred Dollars (\$4800) per annum, in addition to transcript and other fees allowed by law. Such salaries shall be paid out of the County General Fund, or the Jury Fund, or the Officers Salary Fund, in twelve (12) equal monthly installments on approval of the Judge of the Court in which the service is rendered.

Sec. 2. If any section, sentence, clause, phrase, or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. All laws or parts of laws fixing the salaries of official shorthand reporters in any county which in itself constitutes a judicial district having not less than six (6) and not more than nine (9) permanent District Courts, including Civil and Criminal District Courts, to the extent that they conflict with this Act are hereby repealed, but to the extent of the conflict only; it being intended that, and this Act shall control as to the amount of the salaries in such counties over any classification, by population or otherwise, of such counties heretofore made.

[Acts 1949, 51st Leg., p. 180, ch. 97.]

Art. 2326j. Shorthand Reporter for 16th Judicial District

Sec. 1. The Judge of the Sixteenth Judicial District of Texas, composed of the Counties of Cooke and Denton, or the Judge of the Judicial District of which the Counties of Cooke and Denton are a part thereof, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Forty-eight Hundred Dollars (\$4800) per annum, nor more than Eight Thousand Dollars (\$8,000) per annum, said salary to be fixed and determined by the District Judge of the Sixteenth Judicial District composed of the Counties of Cooke and Denton, or by the District Judge of which the Counties of Cooke and Denton are a part thereof, and said salary shall be in addition to transcript fees which shall not be more than Thirty Cents (30¢) per one hundred (100) words, and said reporter shall, in addition, receive allowances for traveling and hotel expenses as now provided by Chapter 56, House Bill No. 276, Acts, Regular Session of the Forty-first Legislature, 1929,¹ which allowances, as now provided by law, are fixed and established as a part of this Act. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1949, 51st Leg., p. 462, ch. 248; Acts 1957, 55th Leg., p. 837, ch. 366, § 1.]

¹ Article 2326a.

Art. 2326j-1. Appointment and Compensation of Reporters for 10th, 56th and 122nd Judicial Districts

The judges of the 10th, 56th, and 122nd Judicial Districts of Texas, composed entirely of the County of Galveston, shall each appoint an official shorthand reporter for his respective Judicial District in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Each of said official shorthand reporters shall receive an annual salary of not less than the amount paid such person annually on the effective date of this Act, nor more than Fourteen Thousand, Four Hundred Dollars (\$14,400.00) per annum, said salary shall be in addition to transcript fees which shall not be more than thirty cents (30¢) per one hundred (100) words. Said salary when so fixed and determined by the district judges of said respective Judicial Districts shall be paid monthly out of the general funds or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of said Judicial Districts and not otherwise; and the transcript fees shall be as provided for in this Act, and not otherwise.

[Acts 1957, 55th Leg., p. 820, ch. 350, § 1; Acts 1957, 55th Leg., 2nd C.S., p. 169, ch. 12, § 1; Acts 1963, 58th Leg., p. 499, ch. 184, § 1; Acts 1967, 60th Leg., p. 1012, ch. 442, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., 1st C.S., p. 30, ch. 8, § 1, eff. Sept. 3, 1971.]

Art. 2326j-2. Repealed by Acts 1971, 62nd Leg., p. 2394, ch. 748, § 5, eff. Aug. 30, 1971

See, now, article 2326j-53a.

Art. 2326j-3. Appointment and Compensation of Reporters for 53rd, 98th and 126th Judicial Districts and Criminal District Court of Travis County

The judges of the District Courts of the Fifty-third and One Hundred Twenty-sixth Judicial Districts of Texas and the judge of the Ninety-eighth District Court of Travis County and the judge of the Criminal District Court of Travis County, shall each appoint an official shorthand reporter for his respective judicial district or court in the manner now provided for district courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600.00) per annum, nor more than Eight Thousand Dollars (\$8,000.00) per

annum, said salary to be fixed and determined by the judges of the Fifty-third, Ninety-eighth and One Hundred Twenty-sixth District Courts of Travis County and the judge of the Criminal District Court of Travis County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the district judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the Fifty-third, Ninety-eighth and One Hundred Twenty-sixth District Courts of Travis County and the Criminal District Court of Travis County and not otherwise.

[Acts 1959, 56th Leg., p. 5, ch. 3, § 1.]

Art. 2326j-3a. Appointment and Compensation of Reporters for District Courts of Travis County

The judges of the District Courts of Travis County shall each appoint an official shorthand reporter for his respective judicial district court or district court in the manner now provided for district courts in this state, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law, and whose salary shall be fixed and determined by the judges of the District Courts of Travis County, and shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary, when so fixed and determined by the district judges of said respective courts, shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Court. From and after the effective date of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the judges of the District Courts, and not otherwise.

[Acts 1967, 60th Leg., p. 903, ch. 394, § 1, eff. June 8, 1967; Acts 1971, 62nd Leg., p. 1909, ch. 572, § 1, eff. June 1, 1971.]

Art. 2326j-3b. Appointment and Compensation of Reporters for Travis County

The judges of the District Courts of Travis County, Texas, shall each appoint an official shorthand reporter for his respective judicial district court or district court in the manner now provided for district courts in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law, and whose salary shall be fixed and determined by the judges of the

District Courts of Travis County, Texas, and approved by the Commissioners Court of Travis County, Texas, and shall be in addition to transcript fees, fees for statements of fact and all other fees, and shall not exceed Twenty Thousand Dollars per annum. Said salary, when so fixed and determined by the district judges of said respective courts, and approved by the Commissioners Court of Travis County, Texas, shall be paid monthly out of the General Fund or the Jury Fund, or any fund available for the purpose as may be determined by the Commissioners Court.

[Acts 1971, 62nd Leg., p. 1799, ch. 532, § 1, eff. June 1, 1971.]

Art. 2326j-4. Compensation of Reporter for 47th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 47th Judicial District of Texas, composed of the counties of Potter, Randall, and Armstrong, shall receive a salary of not less than Five Thousand, Seven Hundred Fifty (\$5,750.00) Dollars per annum, nor more than Eight Thousand, Five Hundred (\$8,500.00) Dollars per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 47th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1959, 56th Leg., p. 200, ch. 113.]

Art. 2326j-4a. Compensation of Reporters for 47th and 108th Judicial Districts

Sec. 1. From and after the passage of this Act, each of the official shorthand reporters of the 47th Judicial District of Texas, composed of the counties of Potter, Randall, and Armstrong, and of the 108th Judicial District of Texas, composed of the County of Potter, shall receive a salary of not less than \$6,600, nor more than \$10,500 per annum; the specific amount, within said limits, to be determined,

fixed and set by order of each of the respective judges of said two above named judicial districts. From and after the time that the judge shall have entered his respective order as aforesaid, in the minutes of the court in each county of his district, and shall have filed a copy of such order with the commissioners court of each county in his judicial district, the salaries so determined, fixed and set shall be paid monthly by and in proportion for each county of each of said judicial districts as provided by law, out of the general fund, or out of any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern; save and except that when the salaries of the official shorthand reporters for the 47th and 108th Judicial Districts shall have been determined, fixed and set by the judge of each said district, in the manner and within the amount limits as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 867, ch. 373, eff. June 8, 1967.]

Art. 2326j-5. Compensation of Reporter for 79th Judicial District

The official shorthand reporter of the 79th Judicial District of Texas, shall receive a salary of not more than Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 79th Judicial District Court, and shall be paid by the Commissioners Court of each of the counties comprising the 79th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose.

[Acts 1959, 56th Leg., p. 474, ch. 202, § 1; Acts 1967, 60th Leg., p. 819, ch. 345, § 1, eff. Aug. 28, 1967.]

Art. 2326j-6. Compensation of Reporters for Jefferson County

Sec. 1. The official shorthand reporters for the Judicial District Courts, Civil or Criminal, and the official shorthand reporter for the County Court of Jefferson County at Law and for the Court of Domestic Relations for Jefferson County, Texas, shall each receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to compensation for transcripts, statements of facts, and other fees; said salary shall be fixed, determined and allowed by the judges of such Judicial District Courts, Civil or Criminal, and the Judge of the County Court of Jefferson County at Law, and the Judge of the Court of Domestic Relations for Jefferson County, Texas, in which such court reporter serves and shall be evidenced by an order entered in the minutes of each such court, which salary so fixed, de-

terminated and allowed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order fixing the salary to be paid such reporter shall be transmitted to the Commissioners Court of said county who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twenty-four (24) equal bimonthly installments, and shall be in addition to transcript fees, fees for statements of facts, and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1965, 59th Leg., p. 790, ch. 377, §§ 1 to 3, eff. Aug. 30, 1965; Acts 1969, 61st Leg., p. 266, ch. 105, § 1, eff. April 28, 1969.]

Art. 2326j-7. Appointment and Compensation of Reporter for 100th Judicial District

Superseded

The provisions of this article, derived from Acts 1959, 56th Leg., p. 1019, ch. 471, and Acts 1963, 58th Leg., p. 782, ch. 300, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-8. Compensation of Reporter for 49th Judicial District

The official court reporter of the 49th Judicial District of Texas shall receive a salary not to exceed \$12,000 per annum, the amount to be determined by the judge of the 49th Judicial District Court, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the judge of the 49th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 49th Judicial District of Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1961, 57th Leg., p. 177, ch. 94, § 1; Acts 1971, 62nd Leg., p. 1447, ch. 403, eff. May 26, 1971.]

Art. 2326j-9. Appointment and Compensation of Reporters for 72nd, 140th and 99th Judicial Districts

The Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, Lubbock County, Texas, with the approval of the Commissioners Court, shall each appoint an official shorthand reporter for his respective Judicial District in the manner now provided for District Courts in this State, who shall have the same qualifications and whose

duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive an annual salary of not more than \$16,000, said salary to be fixed and determined by the Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, of Lubbock County, Texas, and shall be in addition to transcript fees, fees for statements of facts and all other fees. Said salary, when so fixed and determined by the District Judges of said respective courts, shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the District Judges of the District Courts of the 72nd, 140th and 99th Judicial Districts of Texas, of Lubbock County, Texas, and not otherwise.

[Acts 1961, 57th Leg., p. 328, ch. 175, § 1; Acts 1971, 62nd Leg., p. 2592, ch. 850, § 1, eff. June 9, 1971.]

Art. 2326j-10. Appointment and Compensation of Reporters for 70th and 161st Judicial Districts

The judges of the District Courts of the 70th and 161st Judicial Districts of Texas, and the Judge of the County Court At Law, Ector County, Texas, shall each appoint an Official Shorthand Reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts At Law in this State, who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said Official Shorthand Reporters shall each receive a salary of not more than eleven thousand five hundred dollars (\$11,500.00) per annum, said salary to be fixed, determined set, and allowed by the Judge of the Court for which said reporter serves, and said salary shall be in addition to transcript fees, fees for statements of fact and all other fees. Said salary when so fixed and determined by the judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court. From and after passage of this Act all provisions relating to Official Shorthand Reporters and their duties in District Courts and County Courts At Law shall in all respects govern, except that the salary of the Official Shorthand Reporters as provided for in this Act shall be fixed and determined by the District Judges of the 70th and 161st District Courts, and the Judge of the County Court At Law, of Ector County, Texas, and not otherwise.

[Acts 1961, 57th Leg., p. 683, ch. 319, § 1; Acts 1967, 60th Leg., p. 1219, ch. 551, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1608, ch. 441, § 1, eff. Aug. 30, 1971.]

Art. 2326j-11. Compensation of Reporter for 118th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 118th Judicial District of Texas, composed of the counties of Howard, Martin, and Glasscock, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 118th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1961, 57th Leg., p. 705, ch. 330.]

Art. 2326j-12. Appointment and Compensation of Reporter for 112th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 112th Judicial District of Texas, composed of the counties of Crockett, Pecos, Sutton, and Upton, shall receive a salary of not more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to

allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except when the salary of the official shorthand reporter for the 112th Judicial District shall have been determined, fixed, and set by the judge of the said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1961, 57th Leg., p. 729, ch. 342; Acts 1971, 62nd Leg., p. 1106, ch. 239, eff. May 17, 1971.]

Art. 2326j-13. Repealed by Acts 1973, 62nd Leg., p. 291, ch. 137, § 3, eff. May 18, 1973

See, now, article 2326j-13a.

Art. 2326j-13a. Compensation of Reporters for 23rd and 130th Judicial Districts

Sec. 1. The official shorthand reporters of the 23rd Judicial District and the 130th Judicial District may receive a salary not to exceed \$16,500 per annum, in addition to all travel expenses, transcript fees, and all other compensation provided by law to be paid to the official shorthand reporters. The specific amount of the salaries of the official shorthand reporters may be fixed by the district judges of such judicial districts and approved by the commissioners courts of Brazoria, Fort Bend, Matagorda, and Wharton Counties.

Sec. 2. The salaries of the official shorthand reporters as herein fixed shall be paid monthly by the respective counties composing any of said judicial districts in accordance with the proportion fixed, made, and determined by the district judges of said judicial districts as to the amount to be paid monthly by each county in the judicial districts. Such salaries shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

[Acts 1973, 63rd Leg., p. 290, ch. 137, §§ 1, 2, eff. May 18, 1973.]

Art. 2326j-14. Compensation of Reporter for 115th Judicial District

The official shorthand reporter of the 115th Judicial District of Texas shall receive a salary of not less than \$6,600 per annum nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the judge of the 115th District Court, and shall be paid by the commissioners court of each of the counties comprising the 115th Judicial District. Such salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1969, 61st Leg., p. 1663, ch. 526, § 1, eff. Sept. 1, 1969.]

Art. 2326j-15. Compensation of Reporters for 109th and 83rd Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 109th Judicial District of Texas, composed of

the counties of Andrews, Crane and Winkler, and the official shorthand reporter for the 83rd Judicial District of Texas, composed of the Counties of Reagan, Upton, Pecos, Jeff Davis, Brewster and Presidio, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eight Thousand Five Hundred Dollars (\$8,500) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 109th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1962, 57th Leg., 3rd C.S., p. 41, ch. 13, §§ 1, 2.]

Separate provisions for compensation of the reporter for the 83rd judicial district were enacted by Acts 1969, 61st Leg., p. 2137, ch. 741, and incorporated into art. 2326j-15a.

Art. 2326j-15a. Compensation of Reporter for 83rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 83rd Judicial District of Texas, composed of the counties of Brewster, Jeff Davis, Pecos, Presidio, Reagan, and Upton, shall receive a salary of not less than \$8,500 per annum, nor more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 83rd Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 2137, ch. 741, eff. Sept. 1, 1969.]

Art. 2326j-16. Compensation of Reporter for 142nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 142nd Judicial District of Texas, composed of Midland County, shall receive an annual salary of not more than \$9,600, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Midland County, the salary so determined, fixed and set shall be paid monthly, by Midland County as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters of this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 142nd Judicial District of Texas composed of Midland County, and the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as set in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1962, 57th Leg., 3rd C.S., p. 70, ch. 25, §§ 1, 2; Acts 1971, 62nd Leg., p. 1911, ch. 575, § 1, eff. Aug. 30, 1971.]

Separate provisions for compensation of the reporter for the 64th judicial district were enacted by Acts 1971, 62nd Leg., p. 1594, ch. 436, and were incorporated into art. 2326j-18a.

Art. 2326j-16a. Compensation of Reporter for 143rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 143rd Judicial District of Texas, composed of the Counties of Loving, Reeves and Ward, shall receive a salary of not less than \$8,500 per an-

num, nor more than \$11,500 per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowance to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 143rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 1874, ch. 628, eff. June 11, 1969.]

Art. 2326j-17. Compensation of Reporter for 18th Judicial District

Sec. 1. The official shorthand reporter for the 18th Judicial District of Texas, composed of the Counties of Johnson and Somervell, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each County of said District, which shall be a public record and open for inspection; and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 18th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said offi-

cial shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 38, ch. 25; Acts 1969, 61st Leg., p. 71, ch. 29, § 1, eff. March 26, 1969.]

Art. 2326j-18. Compensation of Reporters for 64th and 154th Judicial Districts

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 154th Judicial District of Texas, composed of the Counties of Lamb, Bailey and Parmer, and the Official Shorthand Reporter for the 64th Judicial District of Texas, composed of the Counties of Hale, Swisher and Castro, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set in each of said Districts by the respective Judges thereof; and from and after the time that said Judges, or either of them, shall have entered an Order in the Minutes of the Court, in each County of said District, which Order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said Order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Official Shorthand Reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the Official Shorthand Reporter for either the 154th Judicial District or the 64th Judicial District shall have been determined, fixed and set by the Judge of either said District, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 147, ch. 88.]

Art. 2326j-18a. Appointment and Compensation of Reporter for 64th Judicial District

Sec. 1. The judge of the 64th Judicial District of Texas, composed of the Counties of Hale, Swisher and Castro, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Thirteen Thousand Dollars (\$13,000.00) per annum, said salary to be fixed and determined by the District Judge of the 64th Judicial District, composed of the Counties of Hale, Swisher and Castro, with the approval of the Commissioners Courts, and said salary shall be in addition to the transcript

fees, fees for statement of facts, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Eight Dollars (\$8.00) per day for the hotel bills, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Seven Hundred Fifty Dollars (\$750.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1971, 62nd Leg., p. 1594, ch. 436, eff. May 26, 1971.]

Art. 2326j-19. Compensation of Reporter for 29th Judicial District

Sec. 1. The Court Reporter of the 29th Judicial District of Texas shall receive a salary of not less than \$4,800 per annum and not more than \$12,000 per annum as fixed and determined by the District Judge of the 29th Judicial District Court, and shall be paid monthly by the Commissioners Court of each of the counties comprising the 29th Judicial District of Texas in accordance with the proportion fixed, made and determined by the District

Judge of said Judicial District as to the amount to be paid monthly by each county in the 29th Judicial District, or in the proportion for each county of the 29th Judicial District as provided by law.

Said reporter shall, in addition, receive allowances for his actual and necessary traveling, meals and hotel expenses while actually engaged in the discharge of his duties; such expenses will be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county out of the General Fund.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern, except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge and not otherwise, and the allowances for traveling, meals and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1963, 58th Leg., p. 159, ch. 97; Acts 1967, 60th Leg., p. 1266, ch. 567, § 1, eff. June 15, 1967.]

Art. 2326j-20. Compensation of Reporter for 121st Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 121st Judicial District of Texas, composed of the counties of Hockley, Terry, Yoakum and Cochran, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 121st Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said offi-

cial shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 483, ch. 172.]

Art. 2326j-21. Compensation of Reporter for 106th Judicial District

Sec. 1. The official shorthand reporter for the 106th Judicial District of Texas, composed of the Counties of Gaines, Dawson, Lynn and Garza, shall receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum, nor more than Nine Thousand Dollars (\$9,000.00) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 106th Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 490, ch. 177.]

Art. 2326j-22. Compensation of Reporters for 34th, 41st, 65th, 120th and 171st Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 34th Judicial District of Texas composed of the counties of El Paso, Hudspeth, and Culberson, and the 41st Judicial District of Texas composed of the County of El Paso, and the 65th Judicial District of Texas composed of the County of El Paso, and the 120th Judicial District of Texas composed of the County of El Paso, and the 171st Judicial District of Texas, composed of the County of El Paso, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of that judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and

open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be assigned to the respective court reporters by the judge of the respective district court; and the judge of each said district herein named may assign the official court reporter of his said district to any other court herein named or into the County Courts at Law of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except as herein set forth and save and except that when the salary of the official shorthand reporter for the 34th Judicial District, the 41st Judicial District, the 65th Judicial District, the 120th Judicial District and the 171st Judicial District shall have been determined, fixed and set by the judge of said districts, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 605, ch. 219; Acts 1969, 61st Leg., p. 2299, ch. 776, § 3, eff. Sept. 1, 1969.]

Art. 2326j-23. Compensation of Reporters for El Paso County

Sec. 1. From and after the passage of this Act the official shorthand reporters for each of the county courts at law, civil and criminal, in El Paso County, Texas, shall receive a salary of not less than Eight Thousand, Five Hundred Dollars (\$8,500) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500) per annum, which shall be determined, fixed and set by the judge of each respective court and at the pleasure of such judge; and from and after the time that said judge shall have entered an order in the minutes of the court, in said county, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of the county, the salary so determined, fixed and set shall be paid monthly by and in the proportion for the county as provided by law out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. The official court reporters herein named shall, in addition to their other duties, perform such additional duties as may be as-

signed to the respective court reporter by the judge of the respective county at law; and the judge of each said county court at law herein named may assign the official court reporter of his said county court to any other court herein named or into the Judicial District Courts of El Paso County, Texas, whenever he deems it proper and expedient.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except as herein set forth, and save and except that when the salary of the official shorthand reporter for the county courts of El Paso County shall have been determined and fixed by the judge of said county in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 608, ch. 221; Acts 1969, 61st Leg., p. 2229, ch. 776, § 4, eff. Sept. 1, 1969.]

Art. 2326j-24. Compensation of Reporters for 51st, 119th, 33rd, 35th and 63rd Judicial Districts

Sec. 1. From and after the passage of this Act, the Official Shorthand Reporter for the 51st Judicial District of Texas, composed of the counties of Tom Green, Coke, Irion, Sterling and Schleicher, and the Official Shorthand Reporter for the 119th Judicial District of Texas, composed of the counties of Coleman, Concho, Runnels, and Tom Green, and the Official Shorthand Reporter for the 33rd Judicial District of Texas, composed of the counties of Mason, Blanco, Menard, San Saba, Llano and Burnet, and the Official Shorthand Reporter for the 35th Judicial District of Texas, composed of the counties of McCulloch, Brown and Coleman, and the Official Shorthand Reporter of the 63rd Judicial District of Texas, composed of the counties of Val Verde, Terrell, Maverick, Kinney and Edwards, shall receive a salary of not less than Six Thousand Six Hundred (\$6,600) Dollars per annum, nor more than Eight Thousand Five Hundred (\$8,500) Dollars per annum, which shall be determined, fixed and set by the judge of said judicial district; from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general funds, or out of the jury funds, or out of any funds available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of Offi-

cial Shorthand Reporters in this state, and as to allowances to them for transcript fees and hotel and traveling expenses, shall govern, save and except that when the salaries of the Official Shorthand Reporter of the 51st Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 119th Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 33rd Judicial District, and save and except that when the salaries of the Official Shorthand Reporter of the 35th Judicial District, and save and except when the salaries of the Official Shorthand Reporter of the 63rd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits provided in this Act, said salary shall be paid to said Official Shorthand Reporter as provided in this Act and not otherwise.

[Acts 1963, 58th Leg., p. 622, ch. 228.]

Art. 2326j-24a. Compensation of Reporters for 51st and 119th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 51st Judicial District of Texas, composed of the counties of Tom Green, Irion, Schleicher, Coke, and Sterling, and the 119th Judicial District of Texas, composed of the counties of Tom Green and Runnels, may each receive a salary of not more than \$12,500 per annum, which shall be determined, fixed, and set by the presiding judge of each judicial district, except that the salary paid to any person affected by this Act shall not be set at a figure lower than that actually paid to that person on the effective date of this Act; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 51st Judicial District and the official shorthand reporter for the 119th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1971, 62nd Leg., p. 943, ch. 155, eff. May 11, 1971.]

Separate provisions for compensation of the reporter for the 111th judicial district were enacted by Acts 1971, 62nd Leg., p. 998, ch. 185, and incorporated into art. 2326j-25b.

Art. 2326j-25. Appointment and Compensation of Reporters for 92nd, 93rd, 139th and 111th Judicial Districts

Sec. 1. The Judges of the District Courts of the Ninety-second, Ninety-third and One Hundred Thirty-ninth Judicial Districts of Texas, shall each appoint an official shorthand reporter for his respective judicial district in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum, said salary to be fixed and determined by the judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth District Courts of Hidalgo County, and shall be in addition to transcript fees, fees for statement of fact and all other fees. Said salary when so fixed and determined by the district judges of said respective courts shall be paid monthly out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the County Commissioners Court of Hidalgo County, Texas. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters as provided for in this Act shall be fixed and determined by the district judges of the Ninety-second, Ninety-third and One Hundred Thirty-ninth District Courts of Hidalgo County, Texas, and not otherwise.

Sec. 2. The official shorthand reporter of the One Hundred Eleventh Judicial District of Texas, composed of the County of Webb, shall receive a reasonable salary of not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum nor more than Eight Thousand Dollars (\$8,000.00) per annum, in addition to the compensation for transcription fees as provided by law. Such reasonable salary shall be determined, fixed and set by the Judge of said Judicial District; and from and after that time that said Judge shall have entered an order in the minutes of the court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Webb County, the salary so determined, fixed and set shall be paid monthly out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

[Acts 1963, 58th Leg., p. 639, ch. 235.]

Separate provisions for compensation of the reporters for the 92nd, 93rd and 139th

judicial districts were enacted by Acts 1969, 61st Leg., p. 1182, ch. 378, and incorporated into art. 2326j-25a.

Art. 2326j-25a. Compensation of Reporters for 92nd, 93rd and 139th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall each receive a salary not to exceed \$11,500 per annum, which salary shall be determined, fixed, and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 92nd, 93rd, and 139th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 1182, ch. 378, eff. Sept. 1, 1969.]

Art. 2326j-25b. Compensation of Reporter for 111th Judicial District

The Official Court Reporter of the 111th Judicial District of Texas shall receive a salary not to exceed \$12,000 per annum, the amount to be determined by the Judge of the 111th Judicial District Court, in addition to the compensation for transcription fees as provided by law. The salary shall be paid monthly upon approval of the Judge of the 111th Judicial District Court, and shall be paid by the Commissioners Court of Webb County, Texas. The salary shall be payable out of the general fund, officers salary fund, the jury fund, or any fund available for that purpose.

[Acts 1971, 62nd Leg., p. 998, ch. 185, § 1, eff. May 13, 1971.]

Art. 2326j-26. Compensation of Reporters for 135th and 24th Judicial Districts

Sec. 1. The official shorthand reporter for the 135th Judicial District and the official shorthand reporter for the 24th Judicial District shall each receive a salary of not less than Six Thousand Six Hundred Dollars (\$6,600) per annum, nor more than Eleven Thousand Five Hundred Dollars (\$11,500) per annum. Subject to the limitations prescribed herein, the salary of the official shorthand reporter for the 135th Judicial District shall be determined, fixed, and set by the judge of the 135th Judicial District Court, and the salary of the official shorthand reporter for the 24th Judicial District shall be determined, fixed, and set by the judge of the 24th Judicial District Court. From and after the time that each of such judges shall have entered an order in the minutes of his court, in each county of the district, stating specifically the amount of salary

to be paid to the official shorthand reporter of the district and shall have filed a copy of such order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose; provided, however, that the Commissioners Court of each county shall have the discretion to determine whether or not said county shall contribute its proportion of any salary increase authorized by this Act. Such order of each district judge shall be a public record and open for inspection.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, but when the salary of the official shorthand reporter for the 135th Judicial District and the salary of the official shorthand reporter for the 24th Judicial District shall have been determined, fixed, and set as provided herein, such salary shall be paid to such official shorthand reporters as provided in this Act, and not otherwise.

[Acts 1963, 58th Leg., p. 641, ch. 237; Acts 1969, 61st Leg., p. 2034, ch. 698, § 1, eff. June 12, 1969.]

Art. 2326j-27. Compensation of Reporter for 59th Judicial District

Sec. 1. The Judge of the 59th Judicial District of Texas, composed of Collin and Grayson Counties, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Sixty-six Hundred Dollars (\$6600) per annum, nor more than Nine Thousand Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 59th Judicial District composed of Collin and Grayson Counties, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of Collin and Grayson Counties.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise.

[Acts 1963, 58th Leg., p. 673, ch. 247.]

Art. 2326j-28. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts

Sec. 1. The official shorthand reporters of the 103rd, 107th, and 138th Judicial Districts of Texas are authorized to receive a salary of not more than Eight Thousand, Five Hundred Dollars (\$8,500) per annum and all other compensation now provided by law to be paid official shorthand reporters, the specific amount of such salary to be fixed by the district judges of the judicial districts.

Sec. 2. The salary of the official shorthand reporter shall be paid in equal monthly installments by the counties composing such judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose.

[Acts 1963, 58th Leg., p. 702, ch. 259; Acts 1971, 62nd Leg., p. 1845, ch. 542, § 109, eff. Sept. 1, 1971.]

See, also, article 2326j-72.

Art. 2326j-29. Appointment and Compensation of Reporter for 31st Judicial District

Sec. 1. The judge of the 31st Judicial District of Texas, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Seventy-five Hundred Dollars (\$7,500.00) per annum, nor more than Ten Thousand, Five Hundred Dollars (\$10,500.00) per annum, said salary to be fixed and determined by the District Judge of the 31st Judicial District, composed of the Counties of Gray, Wheeler, Hemphill, Lipscomb and Roberts, and said salary shall be in addition to the transcript fees, fees for statements of fact, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly, out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to ex-

ceed Eight Dollars (\$8.00) per day for hotel bills, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Twelve Hundred Fifty Dollars (\$1,250.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 571, ch. 190, eff. Sept. 1, 1969.]

Art. 2326j-30. Compensation of Reporter for 75th Judicial District

Sec. 1. The official shorthand reporter for the 75th Judicial District of Texas, composed of the Counties of Liberty and Chambers, shall receive a salary of not more than \$13,000 per annum, which shall be determined, fixed and set by the Judge of said District, with the approval of the Commissioners Court of each of the counties comprising the 75th Judicial District, and from and after the time that said Judge shall have entered an order in the minutes of the Court, in each county of said District, which shall be a public record and open for inspection; stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined and approved, fixed and set, shall be paid monthly, by and in the proportion for each County of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in the State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 75th Judicial District shall have been determined, fixed and set by the Judge of said District, in the manner and within the amount limits, as in this Act provided, said salary shall be paid to said offi-

cial shorthand reporter as in this Act provided, and not otherwise.

[Acts 1963, 58th Leg., p. 762, ch. 289; Acts 1971, 62nd Leg., p. 2435, ch. 783, § 1, eff. June 8, 1971.]

Art. 2326j-31. Compensation of Reporter for 15th Judicial District

Sec. 1. The Judge of the 15th Judicial District of Texas, composed of Grayson County, shall appoint an official shorthand reporter for such District in the manner now provided for district courts in this State; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand, Six Hundred Dollars (\$9,600) per annum, said salary to be fixed and determined by the District Judge of the 15th Judicial District composed of Grayson County, and said salary shall be in addition to transcript fees. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Court of Grayson County.

Sec. 2. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise.

[Acts 1963, 58th Leg., p. 783, ch. 301.]

Art. 2326j-32. Repealed by Acts 1967, 60th Leg., p. 985, ch. 428, § 4, eff. Aug. 28, 1967

See, now, article 2326j-32a.

Art. 2326j-32a. Appointment and Compensation of Reporters for 117th, 94th, 28th, 105th Judicial Districts, and for Court of Domestic Relations and County Courts at Law Nos. 1 and 2 of Nueces County

Sec. 1. The Judges of the District Courts of the 117th, 94th, 28th and 105th Judicial Districts of Texas, the Judge of the Court of Domestic Relations, and the Judges of County Court at Law No. 1 and County Court at Law No. 2, Nueces County, Texas, shall each appoint an official shorthand reporter for his respective Judicial District or Court in the manner now provided for District Courts and County Courts at Law in this State, who shall have the qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporters shall receive a salary of not more than Ten Thousand Two Hundred Dollars (\$10,200) per annum, said salary to be fixed and determined by the Judges of the District Courts of the 117th, 94th, 28th and 105th Judicial Districts of Texas, with any amount in excess of Nine Thou-

sand Two Hundred Dollars (\$9,200) to be subject to the consent and approval of the commissioners courts of the counties composing said Judicial Districts, and the respective Judges of the Court of Domestic Relations, County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, with any amount in excess of Nine Thousand Two Hundred Dollars (\$9,200) to be subject to the consent and approval of the commissioners court of Nueces County, Texas; and shall be in addition to transcript fees, fees for statements of facts and all other fees.

Sec. 2. Where any of said Judicial Districts include more than one county, the salary of the official shorthand reporter for such Judicial Districts shall be paid by the counties composing such Judicial Districts in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salaries shall be paid in equal monthly installments, and may be paid out of the general fund or any other fund available for such purpose as may be determined by the county commissioners court.

Sec. 3. From and after passage of this Act all provisions relating to official shorthand reporters and their duties in District Courts shall in all respects govern, except that the salary of the official shorthand reporters for the 117th, 94th, 28th and 105th Judicial Districts of Texas, and the Court of Domestic Relations, County Court at Law No. 1 and County Court at Law No. 2 of Nueces County, Texas, shall be fixed and determined as provided in this Act.

Sec. 4. Acts 1963, 58th Legislature, page 784, Chapter 302 (codified as Article 2326j-32, Vernon's Texas Civil Statutes of the State of Texas), is hereby repealed.

[Acts 1967, 60th Leg., p. 984, ch. 428, eff. Aug. 28, 1967.]

Art. 2326j-33. Compensation of Reporter for 9th Judicial District

Sec. 1. The official shorthand reporter of the 9th Judicial District of Texas, composed of the Counties of Polk, San Jacinto, Montgomery and Waller, shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the general fund or the jury fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the district judge of such judicial District as to the amount to be paid monthly by each County in the Judicial District.

[Acts 1963, 58th Leg., p. 790, ch. 305; Acts 1969, 61st Leg., p. 1786, ch. 596, eff. Sept. 1, 1969.]

Art. 2326j-34. Compensation of Reporter for Second 9th Judicial District

Sec. 1. The official shorthand reporter of the Second 9th Judicial District of Texas, composed of the Counties of Montgomery, Polk, San Jacinto and Trinity, shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, in addition to all other expenses and fees now or as hereafter may be provided by law to be paid to such reporter.

Sec. 2. The salary of such reporter shall be paid monthly out of the General Fund or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts of such Counties, by the respective Counties of the Judicial District in accordance with the proportion fixed, made and determined by the District Judge of such Judicial District as to the amount to be paid monthly by each County in the Judicial District.

[Acts 1963, 58th Leg., p. 790, ch. 306; Acts 1969, 61st Leg., p. 1787, ch. 597, eff. Sept. 1, 1969.]

Art. 2326j-35. Appointment and Compensation of Reporter for 50th Judicial District

Superseded

The provisions of this article, derived from Acts 1963, 58th Leg., p. 833, ch. 316, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-36. Compensation of Reporters for 124th and 188th Judicial Districts

Sec. 1. The official shorthand reporters for the 124th and 188th Judicial Districts of Texas shall receive a salary of not more than \$12,000 per annum, said salary to be fixed, determined, and set by the Judges of the 124th and 188th Judicial Districts respectively and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said respective District Judges shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporters, and shall have filed a copy of said order with the Commissioners Court of Gregg County, the salary so determined, fixed and set by majority vote of the Commissioners Court, shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporters for the District Courts of Gregg County shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporters as provided in this Act, and not otherwise.

[Acts 1967, 60th Leg., p. 586, ch. 264, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 927, ch. 141, eff. Aug. 30, 1971.]

Art. 2326j-37. Compensation of Reporter for 88th Judicial District

From and after the passage of this Act, the official shorthand reporter of the 88th Judicial District of Texas shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum as fixed by the Commissioners Court of Hardin and Tyler Counties, in addition to any compensation for transcription as may be provided by law. Such salary shall be paid monthly upon approval of the Judge of the 88th Judicial District Court and shall be paid by the Commissioners Court of each of the Counties pro rata under existing statutes comprising the 88th Judicial District of Texas. Such salary shall be payable out of the General Fund, Officers Salary Fund, the Jury Fund, or any fund available for that purpose.

[Acts 1963, 58th Leg., p. 974, ch. 396, § 1.]

Art. 2326j-38. Appointment and Compensation of Reporter for 39th Judicial District

Sec. 1. The Judge of the 39th Judicial District of Texas, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or the judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, shall appoint an official shorthand reporter for such district in the manner now provided for district courts in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not less than \$6,000 per annum, nor more than \$11,600 per annum, said salary to be fixed and determined by the District Judge of the 39th Judicial District, composed of the counties of Haskell, Throckmorton, Stonewall, and Kent, or by the district judge of the judicial district of which the counties of Haskell, Throckmorton, Stonewall, and Kent are a part, and said salary shall be in addition to transcript fees as now provided by law. Said salary when so fixed and determined by the district judge of said judicial district shall be paid monthly, out of the general fund, or the jury fund, or out of any fund available for the purpose as may be determined by the commissioners courts, by the respective counties of the judicial district in accordance with the proportion fixed, made and determined by the district judge of said judicial district as to the amount to be paid monthly by each county in the judicial district.

Sec. 2. Said reporter shall, in addition, receive allowances for his actual and necessary travel and hotel expenses while actually engaged in the discharge of his duties, not to exceed \$6 per day for hotel bills, and not to exceed four cents a mile when traveling by railway or bus lines, and not to exceed 10 cents a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be

paid after the completion of each term of court by the respective counties of the judicial district for which they are incurred, each county paying the expense incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the commissioners court of the county, out of the general fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than \$1,000 in any one year under the provisions of this Act.

Sec. 3. From and after the passage of this Act all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the district judge of said judicial district and not otherwise; and the transcript fees and allowances for travel and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 167, ch. 65, eff. April 3, 1969.]

Art. 2326j-39. Appointment and Compensation of Reporters for 146th and 169th Judicial Districts

Sec. 1. The judge of the 146th and the judge of the 169th Judicial Districts of Texas, composed of Bell County, shall appoint an official shorthand reporter for his respective district in the manner now provided for district courts. The reporter shall have the qualifications and duties as provided by general law.

Sec. 2. (a) In addition to transcript fees, the official shorthand reporter shall receive an annual salary of not more than \$14,000 as authorized by the district judge and with the approval of the Commissioners Court of Bell County.

(b) The salary shall be paid monthly out of the general fund, the jury fund, or any other fund available for the purpose as determined by the Commissioners Court of Bell County.

[Acts 1965, 59th Leg., p. 224, ch. 95, eff. April 27, 1965; Acts 1971, 62nd Leg., p. 1814, ch. 539, § 2, eff. June 1, 1971.]

Art. 2326j-40. Compensation of Reporter for 97th Judicial District**Superseded**

The provisions of this article, derived from Acts 1965, 59th Leg., p. 293, ch. 126, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-41. Repealed by Acts 1971, 62nd Leg., p. 1296, ch. 337, § 3, eff. May 24, 1971**Art. 2326j-41a. Compensation of Reporters for 2nd and 145th Judicial Districts**

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall each receive an annual salary of not more than

\$12,500, which salary shall be determined and fixed by the presiding judge of each such judicial district. The salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that the judge enters an order in the minutes of the court, in each county of the district, stating specifically the amount of salary to be paid to the reporter and files a copy of the order with the commissioners court of each county within the district, the salary determined and fixed shall be paid monthly out of the general fund, jury fund, or any other fund available for that purpose, by the counties composing the judicial district, in accordance with the proportion that the population of each county bears to the total population of the judicial district, according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law existing prior to the passage of this Act and relating to the appointment of the official shorthand reporters, their qualifications, and their duties in district courts shall in all respects govern, except that the salaries of the official shorthand reporters for the 2nd and 145th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1971, 62nd Leg., p. 1295, ch. 337, §§ 1, 2, eff. May 24, 1971.]

Art. 2326j-42. Compensation of Reporters for 42nd and 104th Judicial Districts

(a) The judge of the 42nd Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 42nd Judicial District at not more than \$11,500. The allowance for actual and necessary expenses received by the official shorthand court reporter of the 42nd Judicial District may not exceed \$400 a year.

(b) The judge of the 104th Judicial District Court shall fix the total annual salary of the official shorthand reporter of the 104th Judicial District at not more than \$11,500. The allowance for actual and necessary expenses received by the official shorthand court reporter of the 104th Judicial District may not exceed \$400 a year.

(c) In all other respects the compensation and expense allowance of the official shorthand reporter is governed by general law.

[Acts 1965, 59th Leg., p. 477, ch. 241, § 1, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 2444, ch. 786, § 1, eff. Aug. 30, 1971.]

Art. 2326j-43. Compensation of Reporters for 7th and 114th Judicial Districts

From and after the passage of this Act the official shorthand reporters for the 7th and 114th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, in addition to the compensation for transcription fees as provided by law. Such salaries shall be paid monthly upon approval of the Judges of

the 7th and 114th Judicial District Courts, and shall be paid by the Commissioner Court of each of the counties comprising the 7th and 114th Judicial District Courts of Texas. Such salaries shall be payable out of the General Fund, Officers' Salary Fund, the Jury Fund or any fund available for that purpose.

[Acts 1965, 59th Leg., p. 634, ch. 311, § 1, eff. Aug. 30, 1965.]

Art. 2326j-44. Compensation of Reporter for 81st Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 81st Judicial District of Texas, composed of the Counties of Atascosa, Frio, Karnes, La Salle and Wilson, shall receive a salary of not more than Ten Thousand, Six Hundred Dollars (\$10,600) per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly by the counties composing such judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district as shown by the last preceding Federal Census, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 81st Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 700, ch. 333, eff. Aug. 30, 1965; Acts 1971, 62nd Leg., p. 703, ch. 68, § 1, eff. Aug. 30, 1971.]

Art. 2326j-45. Compensation of Reporters for 128th and 163rd Judicial Districts

Sec. 1. The official shorthand reporters for the 128th Judicial District of Texas and for the 163rd Judicial District of Texas, composed of Orange County shall receive a salary of not less than Six Thousand, Four Hundred Dollars (\$6,400) per annum, nor more than Nine Thousand Dollars (\$9,000) per annum, which shall be determined, fixed and set by the judges of the districts; and from and after the time that the judge shall have entered an order in the minutes of the court, which shall be a public

record and open for inspection, stating specifically the amount of salary to be paid to the reporter, and shall have filed a copy of the order with the commissioners court of the district, the salary so determined, fixed and set, shall be paid monthly, out of the General Fund of Orange County, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporters for the 128th and 163rd Judicial Districts shall have been determined, fixed and set by the judges of said districts in the manner and within the amount limits, as in this Act provided, said salaries shall be paid to said official shorthand reporters as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 771, ch. 362, eff. Aug. 30, 1965.]

Art. 2326j-46. Compensation of Reporter for 69th Judicial District

The Commissioners Courts of Dallam, Deaf Smith, Hartley, Moore, Oldham and Sherman Counties may pay to the District Court Reporter of the 69th Judicial District, for services rendered in performing the reporting duties therein, not to exceed Eight Thousand, Five Hundred Dollars (\$8,500) annually. The sum provided for herein shall be paid by the counties composing such Judicial District in accordance with the proportion that the population of each county bears to the total population of the Judicial District as shown by the last preceding Federal Census. Such salary shall be paid in equal monthly installments, or semimonthly installments, in accordance with the present method of payment, and may be paid out of the general fund or any other fund available for such purpose, as may be determined by the Commissioners Court of each such county.

[Acts 1965, 59th Leg., p. 789, ch. 376, § 1, eff. June 9, 1965.]

Art. 2326j-47. Compensation of Reporter for 21st Judicial District

The official shorthand reporter of the 21st Judicial District Court is entitled to receive an annual salary of not less than \$4,800 nor more than \$8,500, the salary to be fixed by the Judge of the 21st District Court. The salary when so fixed shall be paid by the county commissioners of each county comprising the 21st Judicial District in the same manner as the salary has heretofore been paid.

[Acts 1965, 59th Leg., p. 799, ch. 383, § 1, eff. June 9, 1965.]

Art. 2326j-48. Repealed by Acts 1971, 62nd Leg., p. 1697, ch. 489, § 3, eff. May 27, 1971

Art. 2326j-48a. Compensation of Reporters for 16th and 158th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 16th and 158th Judicial Districts of Texas shall receive an annual salary not to exceed \$11,700. The salary shall be determined, fixed, and set by the judges of the respective districts. From and after the time that the judges enter an order in the minutes of the court in each county of the district, which order shall be a public record open for inspection, and stating specifically the amount of salary to be paid to the reporters, and enter a copy of the order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the respective district as provided by law. The salary shall be paid out of the general fund, jury fund, or any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state and as to allowances to them for transcript fees and hotel and traveling expense shall govern, except that when the salary of the official shorthand reporters for the 16th and 158th Judicial Districts has been determined, fixed, and set by the judges of the districts, in the manner and within the limit provided by this Act, the salary shall be paid to the reporters as provided in this Act.

[Acts 1971, 62nd Leg., p. 1696, ch. 489, §§ 1, 2, eff. May 27, 1971.]

Art. 2326j-49. Compensation of Reporters for 30th, 78th and 89th Judicial Districts

Superseded

The provisions of this article, derived from Acts 1965, 59th Leg., p. 846, ch. 408, were superseded by art. 2326j-76 as enacted by Acts 1969, 61st Leg., p. 1949, ch. 651.

Art. 2326j-50. Compensation of Reporter for 22nd Judicial District

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 22nd Judicial District of Texas, composed of Comal, Hays, Caldwell, Fayette and Austin Counties, shall receive a salary of not less than Six Thousand, Six Hundred Dollars (\$6,600) and not more than Eight Thousand Dollars (\$8,000) per annum, which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each

county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 22nd Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

[Acts 1965, 59th Leg., p. 868, ch. 423, eff. Aug. 30, 1965.]

Art. 2326j-51. Compensation of Reporter for 38th Judicial District

Sec. 1. This Act applies to the official shorthand reporter for the 38th Judicial District of Texas, composed of the counties of Real, Medina, Uvalde, and Zavala, or a judicial district which includes these counties.

Sec. 2. (a) The shorthand reporter shall receive a salary of not less than \$7,200 and not more than \$9,600 each year, as determined by the Judge of the District. This salary is in addition to any transcript fees which are provided by law.

(b) The salary, when determined, is payable in equal monthly installments from the General Fund, the Jury Fund, or any other fund available for the purpose as determined by the Commissioners Court of each county. Each county in the Judicial District shall pay a proportionate amount of the salary, as determined by the Judge of the District.

Sec. 3. (a) The reporter shall also receive as reimbursement for his actual and necessary hotel and travel expenses incurred while in the discharge of his official duties an amount not to exceed \$6 per day for hotel expense, four cents per mile when traveling by railway or bus, and 10 cents per mile when traveling by private conveyance.

(b) Mileage shall be computed by the shortest practical route to and from the place where his duties are discharged. Expenses are payable at the end of each term of court.

(c) Each Commissioners Court shall pay the expense incurred by the reporter in the performance of his duties in its respective county during the regular and all special terms of court. The expenses are payable out of the General Fund of the county upon the sworn statement of the reporter, approved by the Judge of the District.

(d) The total amount which the reporter is entitled to receive as expense allowance is limited to \$1,000 in any one year.

Sec. 4. This Act does not affect any law relating to shorthand reporters, except those

which set a maximum for salaries or expense allowances.

[Acts 1965, 59th Leg., p. 879, ch. 437, eff. June 14, 1965.]

Art. 2326j-51a. Compensation of Reporter for 2nd 38th Judicial District

The official shorthand reporter of the 2nd 38th Judicial District of Texas shall receive a salary of not to exceed \$8,500 per annum, in addition to the compensation for transcription fees as provided by law. Such salary shall be paid monthly upon approval of the Judge of the 2nd 38th Judicial District Court, and shall be paid by the commissioners court of each of the counties comprising the 2nd 38th Judicial District of Texas. Such salary shall be payable out of the general fund, officers salary fund, the jury fund or any fund available for that purpose.

[Acts 1967, 60th Leg., p. 1091, ch. 480, § 1, eff. Aug. 28, 1967.]

Art. 2326j-52. Appointment and Compensation of Reporters for 17th, 48th, 67th, 96th, 141st and 153rd Judicial District Courts, for Criminal District Courts Nos. 1 to 4, for County Court at Law, for County Criminal Courts Nos. 1 to 3, and for Courts of Domestic Relations Nos. 1 to 4, in Tarrant County

Sec. 1. The respective judges of the 17th, 48th, 67th, 96th, 141st and the 153rd Judicial District Courts; the respective judges of Criminal District Courts No. 1, No. 2, No. 3 and No. 4; the judge of the County Court at Law; and the respective judges of the County Criminal Courts No. 1, No. 2 and No. 3, in Tarrant County, Texas, shall each appoint an official shorthand reporter for each of such courts. The judges of the Courts of Domestic Relations No. 1, No. 2, No. 3 and No. 4, in Tarrant County, Texas, shall appoint a total of three official shorthand reporters for such courts; if the said judges of the Courts of Domestic Relations fail to agree upon any appointment within 30 days after a vacancy occurs, the juvenile board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the sheriff of Tarrant County to serve the court as in other courts of the county. Such appointments shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the judge(s) of such court(s). The salary compensation of such reporter serving in each of said court(s) shall be not more than Sixteen Thousand, Five Hundred Dollars (\$16,500.00) per annum, and the amount of such salary compensation shall be determined, fixed and the payment thereof authorized by the judge(s) of each respective court(s) within the maximum amount herein provided, and such salary compensation shall be paid semimonthly out of the General Fund, Officers Salary Fund, or out of any appropriate fund available for such pur-

pose, as shall be determined by the Commissioners Court of Tarrant County, Texas.

Sec. 2. From and after the passage of this Act, all provisions relating to official shorthand reporters as provided in Article 2324, Revised Civil Statutes of Texas, 1925, as amended by Chapter 290, Acts of the 57th Legislature, Regular Session, 1961, shall in all respects govern; except the salary compensation to the official shorthand reporters as provided in this Act shall be determined, fixed and the payment thereof authorized by the Judge of each such court, and not otherwise.

Sec. 3. In any Act or statute passed by any previous session of the Legislature of this State wherein the salary compensation of any reporter in any other court than those named in this Act has been fixed by reference to salary compensation of any official shorthand reporter or reporters of courts named in this Act, such reference shall be deemed to apply to and be governed by the statutes in existence at the time of the passage of the Act named in such reference, and the provisions of this Act shall in no way serve to affect, increase, or decrease the salary of any reporter or reporters so fixed by reference in any previous legislative sessions. The purpose and intent of this Act is to fix and delineate the salary compensation of the official shorthand reporters of the courts herein specifically named and none other.

[Acts 1965, 59th Leg., p. 978, ch. 472, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 2042, ch. 751, § 1, eff. June 18, 1967; Acts 1971, 62nd Leg., p. 879, ch. 112, § 1, eff. May 7, 1971.]

Art. 2326j-53. Repealed by Acts 1971, 62nd Leg., p. 2394, ch. 748, § 5, eff. Aug. 30, 1971.

See, now, article 2326j-53a.

Art. 2326j-53a. Appointment and Compensation of Reporter for 84th Judicial District

Sec. 1. The Judge of the 84th Judicial District of Texas, composed of the Counties of Hansford, Hutchinson and Ochiltree, shall appoint an official shorthand reporter for such District in the manner now provided for District Courts in this state who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than Twelve Thousand Dollars (\$12,000.00) per annum, said salary to be fixed and determined by the District Judge of the 84th Judicial District, composed of the Counties of Hansford, Hutchinson and Ochiltree, and said salary shall be in addition to the transcript fees, fees for statements of fact, and all other fees as now provided by law. Said salary when so fixed and determined by the District Judge of said Judicial District shall be paid monthly out of the General Fund, or the Jury Fund, or out of any fund available for the purpose as may be determined by the Commissioners Courts, by the respective counties of the Judicial District in accordance with the proportion fixed, made and determined by

the District Judge of said Judicial District as to the amount to be paid monthly by each county in the Judicial District.

Sec. 2. If any section, sentence, clause, phrase or part of this Act be held for any reason to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. Said reporter shall, in addition, receive allowances for his actual and necessary traveling and hotel expenses while actually engaged in the discharge of his duties, not to exceed Eight Dollars (\$8.00) per day for hotel bills, and not to exceed ten cents (10¢) a mile when traveling by private conveyance in going to and returning from the place where such duties are discharged, traveling the nearest practical route. Such expenses shall be paid by the respective counties of the Judicial District for which they are incurred, each county paying the expenses incidental to its own regular or special term of court, and said expenses shall be paid to the official shorthand reporter by the Commissioners Court of the county, out of the General Fund of the county upon the sworn statement of the reporter approved by the judge, provided there shall not be paid to any such official shorthand reporter more than Fifteen Hundred Dollars (\$1,500.00) in any one year under the provisions of this Act.

Sec. 4. From and after the passage of this Act, all provisions relating to official shorthand reporters and their duties in district courts shall in all respects govern except that the salary of the official shorthand reporter as provided for in this Act shall be fixed and determined by the District Judge of said Judicial District and not otherwise; and the transcript fees and allowances for traveling and hotel expenses shall be as provided for in this Act, and not otherwise.

[Acts 1971, 62nd Leg., p. 2393, ch. 748, §§ 1 to 4, eff. Aug. 30, 1971.]

Art. 2326j-54. Appointment and Compensation of Reporter for 27th Judicial District

Sec. 1. The judge of the 27th Judicial District of Texas composed of Bell, Lampasas and Mills counties, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive a salary of not more than \$14,000 per annum; said salary to be fixed, determined and set by the judge of the 27th Judicial District and to be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that such judge shall have entered an order in the minutes of said court in each county of said district, which order shall be a public record, and open for inspection, stating specifically the amount of salary to be paid to said reporter and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined and fixed and set shall be paid monthly by and

in the proportion for each county of the district as provided by law, out of the general fund or out of the jury fund, or out of any fund available for the purpose.

Sec. 4. The commissioners court of each county in the district shall determine whether to pay that county's part of the reporter's salary from the general fund, the jury fund, or other fund available for the purpose.

[Acts 1967, 60th Leg., p. 29, ch. 10, eff. Jan. 1, 1968; Acts 1971, 62nd Leg., p. 1814, ch. 539, § 1, eff. June 1, 1971.]

Art. 2326j-55. Compensation of Reporter for 43rd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 43rd Judicial District shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 43rd Judicial District of Texas shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 44, ch. 22, eff. March 21, 1967; Acts 1971, 62nd Leg., p. 1385, ch. 371, eff. Aug. 30, 1971.]

Art. 2326j-56. Compensation of Reporters for 8th, 40th and 123rd Judicial Districts

Sec. 1. Each of the official shorthand reporters for the 8th Judicial District, the 40th Judicial District, and the 123rd Judicial District shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of each District Court and shall be in addition to transcript fees, fees for statements of facts and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed

a copy of said order with the Commissioners Court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding Federal Census.

Sec. 2. In addition to the duties required in the District Court, the reporter for the 40th Judicial District shall also, when available and required, report cases tried in the County Court of Ellis County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of any one of the official shorthand reporters for the 8th, 40th, or the 123rd Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

[Acts 1967, 60th Leg., p. 555, ch. 242, eff. May 22, 1967.]

Art. 2326j-57. Compensation of Reporters for 19th, 54th, 74th and 170th Judicial Districts

Sec. 1. The official shorthand reporters for the 19th, 54th, 74th, and 170th Judicial Districts shall each be hired by the judge of the respective court and shall receive a salary of not more than \$9,600 a year, the amount of the salary to be fixed by the judge of the respective judicial district. When the salary is fixed by the district judge, the commissioners court of McLennan County shall enter an order in its minutes reflecting the amount of the salary to be paid and shall pay the salary in the manner provided by law.

Sec. 2. This Act does not change the salary of any official shorthand reporter who is not specified in this Act.

[Acts 1967, 60th Leg., p. 801, ch. 335, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1896, ch. 563, § 1, eff. June 1, 1971.]

Art. 2326j-58. Compensation of Reporter for 85th Judicial District

The official shorthand reporter for the 85th Judicial District of Texas shall receive a salary of not more than \$8,400 a year. The salary of the shorthand reporter shall be determined by the judge of the district court the reporter serves. The judge shall enter an order in the minutes of the court stating specifically the amount of the salary to be paid to the reporter and file a copy of the order with the Commissioners Court of the county. The Commissioners Court shall pay the salary of the shorthand reporter as provided by law.

[Acts 1967, 60th Leg., p. 806, ch. 341, § 1, eff. Aug. 28, 1967.]

Art. 2326j-59. Compensation of Reporter for 156th Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 156th Judicial District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen and San Patricio, shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 156th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1075, ch. 470, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1324, ch. 350, § 1, eff. May 24, 1971.]

Art. 2326j-60. Compensation of Reporter for 52nd Judicial District

Sec. 1. The official shorthand reporter for the 52nd Judicial District of Texas shall receive a salary of not more than \$9,000 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official

shorthand reporter for the 52nd Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1170, ch. 522, eff. Aug. 28, 1967.]

Art. 2326j-61. Compensation of Reporter for 32nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 32nd Judicial District of Texas shall receive a salary of not more than Twelve Thousand Dollars (\$12,000) per annum, which shall be determined, fixed and set by the judge of said district with the consent of the commissioners court; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 32nd Judicial District shall have been determined, fixed and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1209, ch. 544, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1971, ch. 609, § 1, Aug. 30, 1971.]

Art. 2326j-62. Compensation of Reporter for 46th Judicial District

Sec. 1. From and after the passage of this Act the Official Shorthand Reporter for the 46th Judicial District of Texas, composed of Wilbarger, Hardeman and Foard Counties, shall receive a salary of not less than Nine Thousand, Six Hundred Dollars (\$9,600) and not more than Eleven Thousand Dollars (\$11,000) per annum which shall be determined, fixed and set by the Judge of said District; and from and after the time that said Judge shall have entered an order in the minutes of the court, in each county of said District, which order shall be made a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and

shall have filed a copy of said order with each Commissioners Court of the District, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the District as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the Official Shorthand Reporter for the 46th Judicial District of Texas shall have been determined, fixed and set by the Judge of said District, said salary shall be paid to said Official Shorthand Reporter as in this Act provided, and not otherwise.

[Acts 1967, 60th Leg., p. 1210, ch. 545, eff. Aug. 28, 1967.]

Art. 2326j-62a. Expenses of Reporter for 46th Judicial District

In addition to a salary, the official shorthand reporter for the 46th Judicial District may receive, in lieu of the expenses provided for shorthand reporters in Chapter 56, Acts of the 41st Legislature, 1929, as amended (Article 2326a, Vernon's Texas Civil Statutes), an allowance of \$1,200 per year as per diem for actual and necessary expenses, including travel and hotel expenses, while engaged in the discharge of his duties, which amount shall be paid in 12 monthly installments of \$100 each by the counties comprising the district in proportion to the population which each county bears to the population of the whole district, according to the last preceding federal census.

[Acts 1973, 63rd Leg., p. 1082, ch. 417, § 1, eff. June 14, 1973.]

Art. 2326j-63. Compensation of Reporters for 3rd and 87th Judicial Districts

Sec. 1. From and after the passage of this Act, the official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall each receive a salary of not less than \$4,800 per annum, nor more than \$9,600 per annum, which salary shall be determined, fixed and set by the presiding judge of each such judicial district; and such salary compensation shall be in addition to transcript fees or fees of any character now authorized by law to be paid to the official shorthand reporters. From and after the time that said Judge shall have entered an order in the minutes of said court, in each county of the district, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each

county bears to the total population of the judicial district according to the last preceding federal census.

Sec. 2. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such official shorthand reporters for the 3rd and 87th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 73, ch. 31, eff. March 26, 1969.]

Art. 2326j-64. Compensation of Reporter for 155th Judicial District

Sec. 1. The official shorthand reporter for the 155th Judicial District of Texas, composed of Waller, Fayette, and Austin counties, shall receive a salary of not more than \$11,500 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that the judge shall have entered an order in the minutes of the court, in each county of the district, which shall be a public record and open for inspection, stating specifically the amount of salary to be paid said reporter, and shall have filed a copy of the order with each commissioners court in the district, the salary so determined, fixed, and set, shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, save and except that when the salary of the official shorthand reporter for the 155th Judicial District shall have been determined, fixed, and set by the judge of the district, in the manner and within the amount limits, as in this Act provided, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 75, ch. 33, eff. March 26, 1969; Acts 1971, 62nd Leg., p. 1642, ch. 458, § 1, eff. May 26, 1971.]

Art. 2326j-65. Compensation of Reporter for 6th Judicial District

The official shorthand reporter of the 6th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined, and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners court of each county within said

district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census. [Acts 1969, 61st Leg., p. 76, ch. 34, § 1, eff. Sept. 1, 1969.]

Art. 2326j-66. Compensation of Reporter for 62nd Judicial District

The official shorthand reporter of the 62nd Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of such district court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of each county within said district, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund available for that purpose, by the counties composing the judicial district in accordance with the proportion that the population of each county bears to the total population of the judicial district according to the last preceding federal census. [Acts 1969, 61st Leg., p. 77, ch. 35, § 1, eff. Sept. 1, 1969.]

Art. 2326j-67. Compensation of Reporter for 132nd Judicial District

Sec. 1. From and after the passage of this Act the official shorthand reporter for the 132nd Judicial District of Texas shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed and set by the judge of said district, and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 132nd Judicial District shall have been determined, fixed and set

by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 132, ch. 44, eff. April 1, 1969.]

Art. 2326j-68. Compensation of Reporter for 36th Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the 36th Judicial District of Texas, composed of the counties of Aransas, Bee, Live Oak, McMullen, and San Patricio, shall receive a salary of not more than \$9,600 per annum, which shall be determined, fixed, and set by the judge of said district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the General Fund, or out of the Jury Fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, save and except that when the salary of the official shorthand reporter for the 36th Judicial District shall have been determined, fixed, and set by the judge of said district, in the manner and within the amount limits as in this Act provided, said salary shall be paid to said official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 149, ch. 52, eff. April 3, 1969; Acts 1971, 62nd Leg., p. 1324, ch. 350, § 2, eff. May 24, 1971.]

Art. 2326j-69. Compensation of Reporter for 66th Judicial District

Sec. 1. The official shorthand reporter for the 66th Judicial District of Texas shall receive a salary of not less than \$6,600 nor more than \$9,000 per annum, said salary to be fixed, determined and set by the judge of the 66th Judicial District Court and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the Commissioners Court of Hill County, Texas, the salary so determined, fixed, and set shall be paid monthly out of the general fund or the jury fund or any fund

available for the purpose, by the county composing the 66th Judicial District.

Sec. 2. In addition to the duties required in the district court, the reporter shall also, when available and required, report cases tried in the County Court of Hill County, Texas.

Sec. 3. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses, shall govern, except that when the salary of the official shorthand reporter for the 66th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary shall be paid to said official shorthand reporter as provided in this Act, and not otherwise. [Acts 1969, 61st Leg., p. 160, ch. 59, eff. April 3, 1969.]

Art. 2326j-70. Compensation of Reporter for 1st Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the First Judicial District of Texas, composed of the counties of Jasper, Newton, Sabine, and San Augustine, shall receive a salary of not less than \$6,000, nor more than \$9,000 per annum, which salary shall be determined, fixed, and set by the judge of the district court of said district; and from and after the time said judge shall have entered an order in the minutes of the court, in each county of said district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each commissioners court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in proportion for each county of the district as provided by law, out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. All provisions of the law relating to the appointment, qualifications, and duties of the official shorthand reporters in this state, and the allowances to them of transcript fees and hotel and traveling expenses, shall govern.

[Acts 1969, 61st Leg., p. 264, ch. 103, eff. Sept. 1, 1969.]

Art. 2326j-71. Compensation of Reporters for 25th and Second 25th Judicial Districts

The official shorthand reporters for the 25th and the Second 25th Judicial Districts of Texas shall each receive a salary determined, fixed, and set by the presiding judge of each judicial district, but not to exceed \$7,800 per annum. The portion to be paid by each county shall be determined on a population basis by the judge appointing the shorthand reporter. The salary shall be in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters.

[Acts 1969, 61st Leg., p. 710, ch. 250, § 1, eff. May 21, 1969.]

Art. 2326j-72. Compensation of Reporters for 103rd, 107th and 138th Judicial Districts

Sec. 1. From and after the passage of this Act, the Official Shorthand Reporters of the 103rd, 107th, and 138th Judicial Districts of Texas are authorized to receive a salary of not more than \$11,500 per annum, such salary compensation being in addition to transcript fees or fees of any character now authorized by law to be paid to official shorthand reporters, the specific amount of such salary to be fixed by each of the district judges of the respective judicial districts.

Sec. 2. The salaries of said official shorthand reporters shall be paid in equal monthly installments by the counties composing such judicial districts in accordance with the proportion that the population of each county bears to the total population of the judicial districts as shown by the last preceding federal census. Such salaries may be paid out of the general fund, the jury fund or any other fund lawfully available for such purpose in the respective counties in said judicial districts.

Sec. 3. From and after the passage of this Act, all provisions of law now existing, relating to the appointment of such official shorthand reporters, their qualifications and their duties in district courts shall in all respects govern, except that the salaries of such Official Shorthand Reporters for the 103rd, 107th, and 138th Judicial Districts of Texas shall be fixed and determined as provided in this Act.

[Acts 1969, 61st Leg., p. 1183, ch. 379, eff. Sept. 1, 1969.]

Art. 2326j-73. Compensation of Reporter for 4th Judicial District

Sec. 1. The official shorthand reporter for the 4th Judicial District shall receive a salary of not less than \$4,800 nor more than \$10,200 per annum, said salary to be fixed, determined, and set by the judge of the 4th District Court, and shall be in addition to transcript fees, fees for statements of facts, and all other fees. From and after the time that said judge shall have entered an order in the minutes of said court, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with the commissioners court of Rusk County, the salary so determined, fixed and set shall be paid monthly out of the general fund or the jury fund or any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expense, shall govern, except that when the salary of the official shorthand reporter for the 4th Judicial District shall have been determined in the manner and within the limits prescribed by this Act, said salary

shall be paid to said official shorthand reporter as provided in this Act, and not otherwise.

[Acts 1969, 61st Leg., p. 1748, ch. 581, eff. June 10, 1969; Acts 1971, 62nd Leg., p. 52, ch. 28, § 1, eff. March 18, 1971.]

Art. 2326j-74. Compensation of Reporters for 5th, 71st, 76th and 102nd Judicial Districts

From and after the passage of this Act, the official shorthand reporters for the 5th, 71st, 76th, and 102nd Judicial Districts of Texas shall each receive a salary of not less than \$6,600 nor more than \$9,600 a year, in addition to the compensation for transcription fees as provided by law. The salaries shall be paid monthly upon approval of the Judges of the 5th, 71st, 76th, and 102nd Judicial District Courts, and shall be paid by the commissioners court of each of the counties comprising the 5th, 71st, 76th, and 102nd District Courts of Texas. Such salaries shall be payable out of the general fund, officers' salary fund, the jury fund, or any fund available for that purpose.

[Acts 1969, 61st Leg., p. 1861, ch. 622, § 1, eff. June 11, 1969.]

Art. 2326j-75. Compensation of Reporter for 26th Judicial District

Sec. 1. The Judge of the 26th Judicial District of Texas, composed of Williamson County, shall appoint an official shorthand reporter for the district in the manner provided for district courts.

Sec. 2. The reporter shall have the qualifications and duties provided by general law.

Sec. 3. The reporter is entitled to receive as compensation all transcript fees and an annual salary of not more than \$9,000.00, payable monthly, as authorized by the District Judge with the approval of the Commissioners Court.

Sec. 4. The Commissioners Court in the district shall determine whether to pay the reporter's salary from the general fund, the jury fund, or other fund available for the purpose.

[Acts 1969, 61st Leg., p. 1932, ch. 644, eff. Sept. 1, 1969.]

Art. 2326j-76. Compensation of Reporters for 30th, 50th, 78th, 89th, 100th and 110th Judicial Districts

Sec. 1. From and after the passage of this Act the official shorthand reporters for the 30th, 50th, 78th, 89th, 100th, and 110th Judicial Districts of Texas shall each receive a salary of not more than \$12,000 per annum, which shall be determined, fixed, and set by the judge of the district; and from and after the time that said judge shall have entered an order in the minutes of the court, in each county of the district, which order shall be a public record and open for inspection, stating specifically the amount of salary to be paid to said reporter, and shall have filed a copy of said order with each Commissioners Court of the district, the salary so determined, fixed, and set shall be paid monthly, by and in the proportion for each county of the district as provided by law,

out of the general fund, or out of the jury fund, or out of any fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and travel expenses, shall govern, save and except that when the salary of the official shorthand reporter for a district named in Section 1 shall have been determined, fixed, and set by the judge of the district, the salary shall be paid to the official shorthand reporter as in this Act provided, and not otherwise.

[Acts 1969, 61st Leg., p. 1949, ch. 651, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 898, ch. 124, § 4, eff. May 10, 1971.]

Art. 2326j-77. Compensation of Reporter for 97th Judicial District

Sec. 1. From and after the passage of this Act, the official shorthand reporter for the 97th Judicial District of Texas shall receive an annual salary of not more than \$16,000, which salary shall be determined and fixed by the judge of the district. From and after the time that the judge enters an order in the minutes of the court in each county of the district, which order shall be a public record and open for inspection, and shall state specifically the amount of salary to be paid to the reporter, and files a copy of the order with each Commissioners Court of the district, the salary determined and fixed shall be paid monthly, by and in the proportion for each county of the district as provided by law, out of the general fund, the jury fund, or any other fund available for the purpose.

Sec. 2. From and after the passage of this Act, all provisions of law relating to the appointment, qualifications, and duties of official shorthand reporters in this State, and as to allowances to them of transcript fees, shall govern, save and except that when the salary of the official shorthand reporter for the district is fixed and determined by the judge of the district, the salary shall be paid to the official shorthand reporter as provided by this Act, and not otherwise.

Sec. 3. The reporter shall receive, in lieu of the expenses provided for shorthand reporters in Chapter 56, Acts of the 41st Legislature, Regular Session, 1929, as amended (Article 2326a, Vernon's Texas Civil Statutes), in addition to the salary provided by this Act, an annual allowance to be determined and fixed by order of the district judge, not to exceed \$1200, as per diem for actual and necessary expenses, including travel and hotel expenses, while engaged in the discharge of his duties. The allowance shall be paid in 12 equal monthly installments by the counties comprising the district in proportion to the population which each county bears to the population of the

whole district, according to the last preceding Federal Census.

[Acts 1971, 62nd Leg., p. 897, ch. 124, eff. May 10, 1971.]

Art. 2326j-78. Appointment and Compensation of Reporters for County and District Courts of Bexar County

The judges of the 37th, 45th, 57th, 73rd, 131st, 144th, 150th, 166th, 175th, 186th, and 187th Judicial Districts, and of County Courts at Law Nos. 1, 2, and 3 of Bexar County and County Civil Court at Law of Bexar County, shall each appoint an official shorthand reporter for such court or judicial district in the manner now provided for appointment of official shorthand reporters in this State. The appointment shall be evidenced by an order entered on the minutes of each court. The appointment when once made shall continue in effect from year to year unless otherwise ordered by the judge of the court in which such reporter serves. The compensation of the reporters shall be not more than \$16,500 per annum; the compensation shall be determined, set, and allowed by the judge of the court or courts with the approval of the Commissioners Court within such maximum compensation authorized hereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid semimonthly out of the general fund, officers salary fund, or out of any other fund as may be available for the purpose, as may be determined by the Commissioners Court of Bexar County, in addition to compensation for transcript fees, fees for statements of facts, and other fees as provided by law.

[Acts 1971, 62nd Leg., p. 1402, ch. 382, § 1, eff. Aug. 30, 1971.]

Art. 2326j-79. Appointment and Compensation of Reporter for 196th Judicial District

Sec. 1. The Judge of the 196th Judicial District of Texas, composed of the county of Hunt, shall appoint an official shorthand reporter for said judicial district in the manner now provided for appointment of official shorthand reporters in this state; who shall have the same qualifications and whose duties shall in every respect be the same as now provided by law. Said official shorthand reporter shall receive a salary of not more than \$10,600 per annum, and the amount of such salary shall be determined, fixed, and the payment thereof authorized by the Judge of the 196th Judicial District, composed of the county of Hunt, and said salary shall be in addition to transcript fees, and allowance for hotel and traveling expenses as now provided by general law. Said salary when so fixed and determined by the judge of said judicial district shall be paid monthly, out of the general fund, officers' salary fund, or out of any fund available for the purpose as may be determined by the commissioners court of Hunt County.

Sec. 2. If any section, sentence, clause, phrase, or part of this Act be held for any rea-

son to be invalid, such invalidity shall not affect the remainder of this Act.

Sec. 3. From and after the passage of this Act all provisions of the law relating to the appointment, qualifications, and duties of official shorthand reporters in this state, and as to allowances to them of transcript fees and hotel and traveling expenses shall in all respects govern, save and except that the salary of the official shorthand reporter for the 196th Judicial District of Texas, as provided in this Act, shall be determined, fixed, and the payment thereof authorized by the judge of said judicial district, and not otherwise.

[Acts 1971, 62nd Leg., p. 1575, ch. 425, eff. May 26, 1971.]

Art. 2326j-80. Compensation of Reporter for 235th Judicial District

The annual salary of the official shorthand reporter for the 235th District Court shall be determined and fixed by the judge of the 235th District Court at a sum of not less than \$6,000 nor more than \$12,000.

[Acts 1971, 62nd Leg., p. 1807, ch. 535, § 3, eff. Sept. 1, 1971.]

Art. 2326j-81. Compensation of Reporter for 149th Judicial District

Sec. 1. That the Official Shorthand Reporter of the 149th Judicial District of Texas, composed of the County of Brazoria, may receive a maximum salary of Sixteen Thousand Five Hundred Dollars (\$16,500.00) per annum, in addition to all traveling expenses, transcript fees and all other compensation now provided by law to be paid to said Official Shorthand Reporter, the specific amount of said salary to be fixed by the District Judge of such Judicial District, and approved by the Commissioners Court of Brazoria County.

Sec. 2. The salary of the Official Shorthand Reporter as herein fixed shall be paid monthly by Brazoria County, Texas. Such salary shall be paid out of the general fund or out of the jury fund, or out of any fund available for the purpose.

[Acts 1971, 62nd Leg., p. 2415, ch. 763, eff. Aug. 30, 1971.]

Art. 2326j-81a. Compensation of Reporter for 149th Judicial District

Sec. 1. The official shorthand reporter of the 149th Judicial District may receive a maximum salary of \$16,500 per annum, in addition to all travel expenses, transcript fees, and all other compensation provided by law to be paid to the official shorthand reporters. The specific amount of the salary of the official shorthand reporter shall be fixed by the district judge of the 149th Judicial District and approved by the commissioners court of Brazoria County.

Sec. 2. The salary of the official shorthand reporter as herein fixed shall be paid monthly by Brazoria County in accordance with the amount set by the district judge of the 149th Judicial District. Such salary shall be paid

out of the general fund or out of the jury fund, or out of any fund available for the purpose. [Acts 1973, 63rd Leg., p. 1390, ch. 538, eff. June 14, 1973.]

Art. 2326k. Combined with Article 2326

Art. 2326l. Shorthand Reporters for District Courts and County Courts at Law in Counties of 613,000 or More Population

Sec. 1. In all counties in the State of Texas having a population of six hundred and thirteen thousand (613,000) or more, according to the 1950 census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be fixed by the Commissioners Court after the recommendation of the Judge of the court in which such reporter serves at not less than Forty-eight Hundred Dollars (\$4,800) per annum and not more than Eight Thousand Dollars (\$8,000) per annum, in addition to compensation for transcripts, statements of fact and other fees.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect. [Acts 1957, 55th Leg., p. 204, ch. 92.]

Art. 2326l-1. Shorthand Reporters for District Courts and County Courts at Law in Counties of 900,000 or More Population

Sec. 1. In all counties in the State of Texas having a population of 900,000 or more, according to the last preceding or any future Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Eleven

Thousand, Five Hundred Dollars (\$11,500) per annum, in addition to compensation for transcripts, statements of facts and other fees. The appointment of each such court reporter and the annual salary of such court reporter as fixed by the judge of the court in which such court reporter serves shall be evidenced by an order entered in the Minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing the salary to be paid such reporter shall be transmitted to the commissioners court of such counties, who shall annually make provision for the payment of any such salary out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Texas Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1965, 59th Leg., p. 781, ch. 371, eff. Aug. 30, 1965.]

Saved From Repeal

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3, provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2326l-2. Shorthand Reporters for District Courts and County Courts at Law in Counties of 650,000 to 900,000

In all counties in the State of Texas having a population of not less than six hundred and fifty thousand (650,000) nor more than nine hundred thousand (900,000) inhabitants, according to the last preceding Federal Census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be not less than Seventy-five Hundred Dollars (\$7,500) nor more than Ten Thousand Dollars (\$10,000) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized hereby, in addition to

compensation for transcript fees as provided by law; such compensation shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose, as may be determined by the commissioners court of any such county, and shall be in addition to compensation for transcript fees as provided by law.

[Acts 1965, 59th Leg., p. 1005, ch. 492, § 1, eff. Aug. 30, 1965.]

Art. 2326m. Shorthand Reporters for County Courts at Law in Counties of 360,000 to 612,000

In all counties in the State of Texas having a population of not less than three hundred sixty thousand (360,000) nor more than six hundred twelve thousand (612,000), according to the 1950 Federal Census, the Judge of each District Court, civil or criminal, and the Judge of each County Court at Law, civil or criminal, shall appoint an official shorthand reporter for such court. Such appointment shall be evidenced by an order entered on the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the Judge of the Court in which such reporter serves. The compensation of such reporters shall be not less than Seventy-five Hundred Dollars (\$7500.00) nor more than Eighty-five Hundred Dollars (\$8500.00) per annum; such compensation shall be determined, set, and allowed by the judge of such court or courts within such minimum and maximum compensation authorized hereby, in addition to compensation for transcript fees as provided by law; such compensation shall be paid in twelve (12) equal monthly installments out of the General Fund, Officers Salary Fund, the Jury Fund, or out of any fund available for the purpose, as may be determined by the Commissioners Court of any such county, and shall be in addition to compensation for transcript fees as provided by law.

[Acts 1959, 56th Leg., p. 52, ch. 27, § 1.]

Art. 2326n. Reporters for Counties of 1,000,000, or More Population

Sec. 1. In all counties in the State of Texas having a population of one million (1,000,000) or more, according to the last preceding Federal Census, the judge of each district court, civil or criminal, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. Said appointment shall be evidenced by an order entered in the minutes of each such court. Such appointment, when once made, shall continue in effect from year to year, unless otherwise ordered by the judge of the court in which such reporter serves. The compensation of such reporters shall be fixed by the commissioners court after the recommendation of the judge of the court in which such reporter serves at not less than Six Thousand Dollars (\$6,000) per annum and not more than Ten

Thousand Six Hundred Dollars (\$10,600) per annum, in addition to compensation for transcripts, statements of facts and other fees.

Sec. 2. A certified copy of the order appointing such reporter and the recommendation of the Judge as to the salary to be paid such reporter shall be transmitted to the Commissioners Court of such counties, who shall annually make provision for the payment of any such salary set by the Commissioners Court out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict; but nothing contained herein shall be construed to repeal Articles 2326a, 2326h, 2327a-1 and 2326c, Vernon's Annotated Civil Statutes. The last four mentioned Articles shall remain in full force and effect.

[Acts 1959, 56th Leg., p. 485, ch. 215; Acts 1963, 58th Leg., p. 658, ch. 242, § 1.]

Art 2326o. Shorthand Reporters for Counties of 1,500,000 or More; Appointment and Compensation

Sec. 1. In all counties in the State of Texas having a population of 1,500,000 or more, according to the last preceding federal census, the judge of each district court, and the judge of each county court at law, civil or criminal, shall appoint an official shorthand reporter for such court. The compensation of such reporters shall be fixed by the judge of the court in which such reporter serves at not less than Eight Thousand Five Hundred Dollars (\$8,500.00) per annum and not more than Sixteen Thousand Five Hundred Dollars (\$16,500.00) per annum, in addition to compensation for transcripts, statement of facts and other fees. The appointment of each such court reporter and his annual salary as fixed by the judge of the court in which such court reporter serves, shall be evidenced by an order entered in the minutes of each such court, which appointment and the salary so fixed shall continue in effect from year to year unless and until changed by order of the judge of the court in which such court reporter serves.

Sec. 2. A certified copy of the order appointing such reporter and fixing his salary shall be transmitted to the commissioners courts of such counties, who shall annually make provision for the payment thereof, out of the general fund, the officers' salary fund, or out of such other fund as may be available for the purpose. The salaries of such reporters shall be paid in twelve (12) equal monthly installments and shall be in addition to transcript fees, fees for statement of facts and other fees.

Sec. 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent

of such conflict; but nothing contained herein shall be construed to repeal articles 2326a, 2326h, 2327a-1, 2326c and 2326l-1, Vernon's Texas Civil Statutes. The last five mentioned articles shall remain in full force and effect.

[Acts 1969, 61st Leg., p. 2119, ch. 723, eff. June 12, 1969; Acts 1971, 62nd Leg., p. 1851, ch. 542, § 134, eff. Sept. 1, 1971.]

Art. 2327. In County Court

When either party to a civil case pending in the county court or county court at law applies therefor, the judge thereof shall appoint a competent stenographer, if one be present, to report the oral testimony given in such case. Such stenographer shall take the oath required of official court reporters, and shall receive not less than five dollars per day, to be taxed and collected as costs. In such cases the provisions of this title with respect to the preparation of the statement of facts, the time to be allowed therefor, and for the presentation to the opposite party, and the approving and filing thereof by the court, shall apply to all statements of facts in civil cases tried in said courts, and all provisions of law governing statement of facts and bills of exception to be filed in district courts and the use of same on appeal, shall apply to civil cases tried in said courts.

[Acts 1925, S.B. 84.]

Art. 2327a. Repealed by Acts 1947, 50th Leg., p. 565, ch. 329, § 1

Art. 2327a-1. Apportionment of Reporter's Salary Among Counties

Where any Judicial District in this State is composed of more than one county, and the District Court thereof has successive terms in either of such counties throughout the year, without more than two (2) days intervening between any of such terms, the salary of the official shorthand reporter of such District shall be paid by the several counties of the District, the same to be apportioned among such counties in proportion to their population according to the latest United States decennial census; provided that where such county is in two (2) different Judicial Districts, either one of which is composed of more than one county, in calculating such county's proportion of liability for the salary of the official shorthand reporter in any such District containing more than one county, such county's population shall be counted at one-half of its actual population as shown by the last preceding United States decennial census.

[Acts 1943, 48th Leg., p. 283, ch. 179, § 1.]

Saved From Repeal

This article was not repealed, affected or amended by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2, or repealed by Acts 1957, 55th Leg., p. 204, ch. 92, § 3 (article 2326l), or by Acts 1959, 56th Leg., p. 485, ch. 215, § 3 (article 2326n).

Acts 1965, 59th Leg., p. 781, ch. 371, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326l-1, § 3.

Acts 1965, 59th Leg., p. 790, ch. 377, § 3 provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326j-6, § 3.

Acts 1969, 61st Leg., p. 2119, ch. 723, § 3, provided that nothing contained herein shall be construed to repeal this article and that this article shall remain in full force and effect. See article 2326o, § 3.

Art. 2327b. County Court Reporter for Counties of 40,905 to 41,000 Population

Sec. 1. In counties having a population of not less than forty thousand nine hundred and five (40,905) and not more than forty-one thousand (41,000) according to the last preceding Federal Census, there shall be and there is hereby created and established the office of court reporter of the County Court; such office to be called and known as the official Court Reporter of the County Court.

Sec. 2. In said counties the Judge of the County Court shall have the power to appoint an official court reporter for the County Court who shall possess the same qualifications, perform the same duties, as is now required of court reporters of the District Court and who shall hold the office of Court Reporter of the County Court for a term of two years from the date of such appointment or until his successor shall be appointed and qualified.

Sec. 3. Said official Court Reporter of said County Court shall be paid a salary of not to exceed Fifteen Hundred (\$1500.00) Dollars per year payable in twelve equal monthly payments on the first of each month during the year, out of the General Fund of the County.

Sec. 4. The Clerk of the County Court shall tax as costs the sum of Three (\$3.00) Dollars in each and every civil case filed in said court, on and after the passage and approval of this Act, in which an answer is filed.

[Acts 1937, 45th Leg., 2nd C.S., p. 1873, ch. 8.]

Art. 2327b-1. County Court Reporter for Counties of 22,100 to 22,500 Population

Sec. 1. In counties having a population of not less than twenty-two thousand, one hundred (22,100) and not more than twenty-two thousand, five hundred (22,500), according to the last preceding Federal Census, there shall be and there is hereby created and established the office of Court Reporter of the County Court; such office to be called and known as the Official Court Reporter of the County Court.

Sec. 2. In said counties the Judge of the County Court shall have the power to appoint an Official Court Reporter for the County Court, who shall possess the same qualifica-

tions, perform the same duties as are now required of Court Reporters of the District Court, and who shall hold the office of Court Reporter of the County Court for a term of two (2) years from the date of such appointment, or until his successor shall be appointed and qualified.

Sec. 3. Provided, however, that the Commissioners Court of the county wherein such appointment is made shall approve the person appointed by the Judge of the County Court of said county.

Sec. 4. Said Official Court Reporter of such county shall be paid a salary of not to exceed Twelve Hundred Dollars (\$1200) per year, payable in twelve (12) equal monthly installments, on the first of each month during the year, out of the Jury Fund of the county. The amount of salary to be paid said Official Court Reporter shall be fixed by the Commissioners Court of such county.

[Acts 1939, 46th Leg., Spec.Laws, p. 616.]

Art. 2327c. Shorthand Reporters for County Courts at Law and County Criminal Courts in Certain Counties

Sec. 1. This Act shall apply to counties of this State which now have, or which may hereafter have, two (2) or more County Courts at Law and one (1) or more County Criminal Courts.

Sec. 2. The Judge of each County Court at Law and of each County Criminal Court shall appoint an official shorthand reporter for the respective Court over which he presides, who shall be skilled in such profession and shall be a sworn officer of the Court and shall hold such office at the pleasure of the Court, and all of the provisions of Chapter 13, Title 42, Revised Civil Statutes of Texas, 1925, as amended, and as the same may hereafter be amended, and all other provisions in law relating to "Official Court Reporters" shall and are hereby made to apply in all the provisions in so far as they are applicable to the official shorthand reporters herein authorized to be appointed and in so far as they are not inconsistent with the provisions of this Act, and such official shorthand reporter shall be entitled to the same compensation as applicable to official shorthand reporters in the District Courts of said county or counties, paid in the same manner that compensation of official shorthand reporters of the District Courts of said county or counties are paid.

The official shorthand reporter of said Courts shall not be required to take testimony in cases where neither party litigant nor the Judge demands it; but, where the testimony is taken by the said reporter a fee of Three Dollars (\$3) shall be taxed by the Clerk as costs in the case; the said Three Dollars (\$3) when collected, to be paid into the Treasury of the county in which said Court is located.

Sec. 3. All laws and parts of laws in conflict herewith are repealed to the extent of such conflict only.

Sec. 4. Should any portion of this Act be declared invalid, the same shall not invalidate the remaining portions of said Act.

Sec. 5. The County Judge, the County Auditor, the Commissioners Court, and any other officials charged with the preparation and approval of the county budget, are authorized to amend and shall amend the budget of such counties, as come within this Act, to provide for the payment of the compensation and salaries provided for official court reporters authorized by this Act.

[Acts 1949, 51st Leg., p. 460, ch. 247.]

Saved From Repeal

This article was not repealed, affected or amended by Acts 1953, 53rd Leg., p. 1017, ch. 418, § 2.

Art. 2327d. Shorthand Reporters for County Judges and for Certain Judges of Probate Court

Sec. 1. For the purpose of preserving a record of all hearings had before the County Judge of the counties of Texas, for the information of the Court and parties that may be interested therein, the Judge of the County Courts of Texas may appoint an official shorthand reporter for such Court who shall be well skilled in his profession, shall be a sworn officer of the Court, and shall hold office at the pleasure of the County Judge, and all provisions of the Civil Statutes of the State of Texas relating to the appointment of stenographers for District Courts shall apply, in so far as applicable to the official shorthand reporter herein authorized to be appointed by the County Judge of the County Courts of Texas, and such shorthand reporter shall receive a salary not to exceed Twelve Hundred Dollars (\$1,200) annually to be paid in equal monthly installments out of the County Treasury of the various counties upon order of the Commissioners Court. Provided, that in counties having a population of not less than five hundred thousand (500,000) inhabitants, according to the last preceding Federal Census, or any future Federal Census, there may be paid to the official shorthand reporter for the County Court of such county a salary to be fixed by the County Judge and approved by the Commissioners Court not to exceed Five Thousand, Five Hundred Dollars (\$5,500) per annum, payable in equal monthly installments, in addition to compensation for transcript fees as provided by law, such salary to be paid out of the Officer's Salary Fund of such county.

Sec. 1A. For the purpose of preserving a record of all hearings had before the County Judge or any Judge of a Probate Court in counties having a population of not less than one million five hundred thousand (1,500,000) according to the last preceding federal census, or any future federal census, the County Judge or any Judge of a Probate Court in such counties may elect to appoint an official shorthand

reporter in any case pending before any of such courts. The official shorthand reporter so appointed shall be well skilled in his profession, shall be a sworn officer of the Court and shall hold office for the duration of the case in which he was appointed to serve. The County Judge or the Judge of the Probate Courts of such counties shall set the compensation to be paid to the official shorthand reporter appointed in such courts, and such compensation shall be in addition to compensation for transcript fees as provided by law, and shall be paid out of the General Fund of such counties.

[Acts 1951, 52nd Leg., p. 462, ch. 290, § 1; Acts 1955, 54th Leg., p. 804, ch. 295, § 1; Acts 1967, 60th Leg., p. 1204, ch. 539, § 1, eff. June 14, 1967; Acts 1971, 62nd Leg., p. 1842, ch. 542, § 102, eff. Sept. 1, 1971.]

4. MANDAMUS

Art. 2328. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

5. CIVIL JUDICIAL COUNCIL

Art. 2328a. Civil Judicial Council

Creation; Purposes

Sec. 1. There is hereby created the Texas Civil Judicial Council for the continuous study of and report upon the organization, rules, procedure and practice of the civil judicial system of the State of Texas, the work accomplished and the results produced by that system and its various parts, and methods for its improvement; provided that the Council also may make such statistical and other investigations concerning the criminal judicial system of the State as hereinafter stipulated.

Classes of Members

Sec. 2. The Council shall be composed of two classes of members, one designated as ex officio, and the other as appointive.

Ex Officio Members

Sec. 3. The ex officio members of the Council shall consist of the following:

(1) the Chief Justice of the Supreme Court of Texas, who shall remain a member as long as he holds the position of Chief Justice;

(2) two Justices of the Courts of Civil Appeals, to be designated by the Governor for overlapping four-year terms, one to be designated in January, 1971, for a four-year term and one to be designated in January, 1973, for a four-year term with the replacement in each case to be designated by the Governor in January of odd-numbered years;

(3) two presiding judges of the administrative judicial districts, to be designated by the Governor for four-year terms, one to be designated in January, 1971, for a four-year term and one to be designated in January, 1973, for a four-year term, with the replacement in each case to be designated by the Governor in January of odd-numbered years;

(4) the Chairman and the immediate past Chairman of the Senate Jurisprudence Committee; and

(5) the Chairman and the immediate past Chairman of the House Judiciary Committee.

The Chief Justice of the Supreme Court may from time to time designate some other Justice of that Court to act in his stead, and at his pleasure, as member of the Council. The foregoing references to justices and judges, other than the Chief Justice of the Supreme Court, include respectively such retired justices and judges of the same grade as are legally eligible for assignment to part-time judicial duties. In the event of the Chairman of the Senate Jurisprudence Committee or the Chairman of the House Judiciary Committee is reappointed to such position, his immediate predecessor shall continue to serve on the Council as immediate past Chairman, it being the intent of the Legislature that two members of the Senate and two members of the House be at all times members of the Council; provided, however, that in the case of legislative members, cessation of membership in the Legislature shall not terminate their membership on the Council, but they shall continue to serve for their full term notwithstanding their cessation of membership in the Legislature. In the event of a vacancy in a legislative membership, such vacancy shall be filled for the unexpired term only by the presiding officer of the appropriate house of the Legislature, and vacancies in other official memberships shall be filled in the same manner as the original appointment and for the unexpired term only. Ex officio members of the Council shall be entitled to all the privileges of full membership thereon and shall be regarded and treated in every respect as full members thereon.

Appointive Members; Tenure; Quorum

Sec. 4. The appointive members of the Council shall consist of nine resident citizens of the State of Texas, seven of whom shall be members of the State Bar of Texas and two of whom shall be persons not licensed to practice law, including at least one who is by profession a journalist. The Governor of Texas shall select the appointive members of the Council for six-year overlapping terms, three to be appointed to serve until July 1, 1975, three to serve until July 1, 1977, and three to serve until July 1, 1979, and thereafter their successors shall be appointed for terms of six years; provided that appointive members of the Council holding office on the effective date of this Act shall continue in office for the balance of the term to which they were appointed, and their successors shall be selected in the manner and for the term herein provided. Vacancies in the appointive membership of the Council shall be filled by appointment of the Governor for the unexpired term only.

All members of the Council shall continue to serve until their successors have been appointed and qualified.

Five members of the Council shall constitute a quorum for the transaction of any business of the Council.

Duties of Council

Sec. 5. It shall be the duty of the Council:

1. To make a continuous study of the organization of the civil courts; the rules and methods of procedure and the practice of the civil judicial system of the State; of the work accomplished, the results attained and the uniformity of the discretionary powers of the civil courts, to the end that procedure may be simplified, business expedited, and justice better administered.

2. To receive and consider suggestions from judges, public officers, members of the bar, and citizens, touching remedies for faults in the administration of civil justice.

3. To formulate methods for simplifying civil judicial procedure, expediting the transaction of civil judicial business, and correcting faults in the administration of civil justice.

4. To gather civil judicial statistics and other pertinent data from the several judges and other court officials of the State.

5. To make a complete detailed report, on or before December 1st of each year, to the Governor and to the Supreme Court, of all its proceedings, suggestions and recommendations, and such supplemental reports from time to time as the Council may deem advisable. All such reports shall be considered public reports and may be given to the press as soon as filed.

6. To make investigations and reports upon such matters, touching the administration of civil justice as may be referred to the Council by the Supreme Court or the Legislature.

7. To hold one meeting in each calendar year, and such other meetings as may be ordered by the Council or under its authority, and at such time and place as may be designated by it or under its authority; provided, that the first meeting of said Council shall be held prior to October 6, 1929, upon call of its president.

Powers of Council

Sec. 6. The Council shall have power:

1. To hold public meetings or hearings, by and through committees of three or more of its members, require the production of books and documents, require reports from the several courts of this State, including courts not of record, as may be deemed necessary, to administer oaths and take testimony.

For the purposes of any hearing, any Council officer, in advance of such hearing, or any Council member or officer sit-

ting at such hearing, may issue under his official signature and cause to be served by registered or certified mail or by any adult person upon any prospective witness, a subpoena or like appropriate order. Upon the failure of a witness to testify, or upon his failure to appear or to produce books and documents as so ordered, any district judge of the county of residence of such witness shall, on written motion by, or on behalf of, the Council or Committee conducting said hearing, compel said witness to testify or, as the case may be, to appear and testify, by the same means, including attachment and penalties, whereby said judge may compel the testimony and appearance of witnesses in the trial of a cause pending in his own court.

2. To elect from its membership a president and such other officers as it may deem advisable; provided the secretary need not be a member of the Council; and provided further that the president of the Council may appoint, for and during his term as president, such committees as he may deem necessary for the proper organization of the Council.

3. To make such rules and regulations as it may deem expedient for its government and that of its officers and committees; and to prescribe the duties of its officers and committees.

4. To appoint committees from its membership, and charge such committees with such of its duties and delegate to such committees such of its powers as it may deem proper.

5. To require the supplying of statistical data and other information pertaining to the amount and character of the civil and criminal business transacted by the courts of this State and other information pertaining to their conduct and operation; and to prescribe procedures and forms for the supplying of such statistical data and other information.

It shall be an official duty of every justice, judge, clerk or other officer of every court of this State to comply with the reasonable requirements of the Council for the supplying of statistical data appertaining to the amount and character of the business transacted by his court and of such other information concerning said court or the office of the clerk thereof as may be within the scope of the functions of the Council. Failure to supply such data or information within a reasonable time after request therefor shall be presumptively deemed a willful refusal to supply the same.

Due performance of the duty to supply data and information as aforesaid shall be enforceable by writ of mandamus, the corresponding actions for which shall be brought, and the corresponding courts shall have jurisdiction of the same, as follows: if against a district clerk or a clerk, judge or other officer of a trial court other than a district court, in a district

court of the county of residence of the respondent; if against a district judge or clerk of a court of civil appeals, in the Court of Civil Appeals for the Supreme Judicial District in which the respondent resides; in all other cases, in the Supreme Court of Texas. The Attorney General of Texas shall file and prosecute the foregoing actions on behalf of the Council upon its written request, which shall be presumptively taken as the action of the Council if signed by its president or by as many as five of its members; but no such action shall be filed if the attorney general shall in writing certify his opinion that the same is without merit.

Compensation Limited to Traveling and Necessary Expenses

Sec. 7. No member of the Council shall receive any compensation for his services as such member, but shall be paid for actual traveling and other necessary expenses incurred in the discharge of his duties as such member, to be paid upon verified, itemized account approved by the President of the Council or by a Vice President thereof when so authorized in writing by the President. The necessary clerical expenses of the Council and its officers and committees shall be paid in like manner.

Partial Invalidity

Sec. 8. If any section or portion of any section of this Act shall for any reason be de-

clared invalid, such invalidity shall not affect any other section or portion of section of this Act.

[Acts 1929, 41st Leg., 1st C.S., p. 51, ch. 19; Acts 1953, 53rd Leg., p. 12, ch. 6, § 1; Acts 1969, 61st Leg., p. 2425, ch. 812, §§ 1 to 5, eff. Sept. 1, 1969.]

6. ENFORCEMENT OF SUPPORT

Arts. 2328b-1 to 2328b-3. Repealed by Acts 1965, 59th Leg., p. 1579, ch. 679, § 39, eff. Aug. 30, 1965

Art. 2328b-4. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 21.01 et seq.

Acts 1973, 63rd Leg., p. 659, ch. 276, also amended § 25 of this article to read:

"In addition to the foregoing powers, the court of this State when acting as the responding state has the power to subject the defendant to such terms and conditions as the court may deem proper to assure compliance with its orders and in particular: (a) To require the defendant to furnish a cash deposit or bond of such character and in such amount as the court may deem proper to assure payment of any amount required to be paid by the defendant.

"(b) To require the defendant to make payments at specified intervals to the district clerk or probation department of the court.

"(c) To punish the defendant who shall violate any order of the court to the same extent as is provided by law for contempt of the court in any other suit or proceeding cognizable by the court.

"(d) To order the defendant (obligor) to pay as court costs a reasonable fee to any attorney or to the prosecuting attorney's office who represents the petitioner in any enforcement proceeding."

TITLE 43

COURTS—JUVENILE

Article

- 2329 to 2338-1. Repealed.
- 2338-1a. Contributing to Delinquency of Child.
- 2338-1b. Contributing to Delinquency of Child or Acting in Conjunction with Child.
- 2338-2. Designation of District Court as Juvenile Court in Certain Counties.
- 2338-2a. Repealed.
- 2338-2b. Referee for Juvenile and District Courts of Wichita County.
- 2338-2c. Juvenile Court for Hopkins County; Judge.
- 2338-3. Court of Domestic Relations for Potter County.
- 2338-3a. Compensation of Judge and Clerk of Court of Domestic Relations for Potter County.
- 2338-4. Court of Domestic Relations for Lubbock County.
- 2338-5. Court of Domestic Relations for Harris County.
- 2338-6. Court of Domestic Relations for Starr County.
- 2338-7. Court of Domestic Relations for Hutchinson County.
- 2338-7a. Domestic Relations Court for Hutchinson County; Compensation of Judge.
- 2338-8. Court of Domestic Relations for Smith County.
- 2338-9. Juvenile Court and Court of Domestic Relations for Dallas County.
- 2338-9a. Court of Domestic Relations No. 2 of Dallas County.
- 2338-9b. Court of Domestic Relations No. 3 of Dallas County.
- 2338-9b.1. Court of Domestic Relations No. 4 of Dallas County.
- 2338-9c. Juvenile Court No. 2 of Dallas County.
- 2338-10. Court of Domestic Relations for Nueces County.
- 2338-11. Courts of Domestic Relations Nos. 2 and 3 for Harris County.
- 2338-11a. Court of Domestic Relations No. 4 for Harris County.
- 2338-11b. Court of Domestic Relations No. 5 for Harris County.
- 2338-12. Juvenile Court for Ector County; Compensation of Judge.
- 2338-13. Court of Domestic Relations for Gregg County.
- 2338-14. Court of Domestic Relations for Jefferson County.
- 2338-15. Court of Domestic Relations No. 1 for Tarrant County.
- 2338-15a. Court of Domestic Relations No. 2 for Tarrant County.
- 2338-15b. Court of Domestic Relations No. 3 for Tarrant County.
- 2338-15c. Court of Domestic Relations No. 4 of Tarrant County.
- 2338-16. Court of Domestic Relations for Galveston County.
- 2338-17. Court of Domestic Relations for Taylor County.
- 2338-18. Juvenile Court of Harris County.
- 2338-18a. Juvenile Courts No. 2 and No. 3 of Harris County.
- 2338-19. Court of Domestic Relations for Brazoria County.
- 2338-20. Court of Domestic Relations for Midland County.
- 2338-21. Court of Domestic Relations for El Paso County.
- 2338-22. Court of Domestic Relations of Fort Bend County.
- 2338-23. Court of Domestic Relations of Wharton County.

Art. 2329. Repealed by Acts 1943, 48th Leg., p. 313, ch. 204, § 24

This article, Acts 1907, p. 137; Acts 1913, p. 214; Acts 4th C.S.1918, p. 43, related to the jurisdiction of proceedings to adjudge a child a delinquent child, and the designation of the court when disposing of such cases. These matters are now covered by art. 2338-1.

Arts. 2330 to 2337. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338. Repealed by Acts 1943, 48th Leg., p. 313, ch. 204, § 24

This article, Acts 1913, p. 218; Acts 1941, 47th Leg., p. 355, ch. 193, § 1, related to commitment of the child, and change of orders. These matters are now covered by art. 2338-1.

Art. 2338-1. Repealed by Acts 1973, 63rd Leg., p. 1485, ch. 544, § 3, eff. Sept. 1, 1973

Acts 1973, 63rd Leg., p. 1485, ch. 544, repealing this article, enacts Title 3 of the Texas Family Code. See, now, Family Code, § 51.01 et seq.

Art. 2338-1a. Contributing to Delinquency of Child

When any person is an habitual drunkard or an addict to cocaine, morphine or other narcotics, and in all cases where a child is caused to become a delinquent child or a dependent and neglected child under the age of seventeen years, whether previously convicted or not, the parent, guardian or person having the custody of, or the person responsible for such child, habitual drunkard or narcotic addict, or any person who by any act encourages, causes, acts in conjunction with, or contributes to the delinquency, dependency or the neglect of such child, habitual drunkard or narcotic addict, or who shall in any manner cause, encourage, act in conjunction with or contribute to the delinquency, dependency or the neglect of any such child under the age of seventeen years, or habitual drunkard or narcotic addict, shall be fined not exceeding Five Hundred (\$500.00) Dollars or be imprisoned in jail not to exceed one year, or both. By the term "delinquency" as used herein is also meant any act which tends to debase or injure the morals, health or welfare of such child, habitual drunkard or narcotic addict, and includes drinking intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house, or road house, hotel, public dance hall where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used or

sold, or associating with thieves and immoral persons, or cause them to leave home or to leave the custody of their parents or guardian or persons standing in lieu thereof without first receiving their consent or against their will, or who by undue influence, cause such habitual drunkard or narcotic addict to unlawfully cohabit with any person known to them to be an habitual drunkard or narcotic addict, and any other act which would constitute such a child a delinquent or cause it to become a delinquent by committing such act. The fact that a child has not been declared a delinquent child or a neglected or dependent child, as defined by the Statutes of this State, shall not be a defense under this Act.

[1925 P.C.; Acts 1929, 41st Leg., p. 238, ch. 103, § 1; Acts 1949, 51st Leg., p. 910, ch. 488, § 1.]

Repeal

Acts 1949, 51st Leg., p. 924, ch. 500, also defined the offense of contributing to delinquency of child and prescribed the punishment therefor. Section 3 of such Act expressly repealed this article to the extent of conflict. See article 2338-1b.

Art. 2338-1b. Contributing to Delinquency of Child or Acting in Conjunction with Child

Sec. 1. In all cases where any child shall be a delinquent, dependent or neglected child, as defined in the statutes of this State, irrespective of whether any former proceedings have been had to determine the status of such child, the parent or parents, legal guardian, or any person having such custody of such child, or any other person or persons who shall by any act encourage, cause or contribute to the dependency of delinquency of such child, or who acts in conjunction with such child in the acts which cause such child to be dependent or delinquent, shall be guilty of a misdemeanor, and upon conviction shall be punished by fine not exceeding Five Hundred (\$500.00) Dollars, or by imprisonment in the county jail for not more than six (6) months, or by both fine and imprisonment; provided, however, that the court in which the case is heard may suspend the sentence for violation of the provisions of this Act, and imposed conditions upon the defendant as to his future conduct, and may make such suspensions dependent upon the fulfillment by the defendant of such conditions; and in case of the breach of such conditions or any part of them, the court may impose sentence as though there had been no such suspension. The court may also as a condition of such suspension, require a bond in such sum as the Court may designate, to be approved by the Judge requiring it, to secure the performance by such person of the conditions placed by the court on such suspension; the bond by its terms shall be made payable to the County Judge of the county in which the prosecution is pending, and any money received from a breach of any of the provisions of the bond shall be paid into the County Treasury. The

provisions of law regulating forfeiture of appearance bonds shall govern so far as they are applicable. Exclusive jurisdiction of the offense defined in this Act is hereby conferred on Juvenile Courts, in accordance with the provisions of law establishing such courts.

Sec. 2. By the term "delinquency," as used in this Act, is meant any act which tends to debase or injure morals, health or welfare of a child, drinking intoxicating liquor, the use of narcotics, going into or remaining in any bawdy house, assignation house, disorderly house or roadhouse, hotel, public dance hall, or other gathering place where prostitutes, gamblers or thieves are permitted to enter and ply their trade, going into a place where intoxicating liquors or narcotics are kept, drunk, used, sold or given away, or associating with thieves and immoral persons, or enticing a minor to leave home or to leave the custody of its parents, guardians or persons standing in lieu thereof, without first receiving the consent of the parent, guardian or other person, in addition to all of the other acts which any other laws now in effect define to be delinquency or which create any child a delinquent.

Sec. 3. Nothing contained in this Act shall be construed to repeal or affect any other statutes regulating the powers and duties of Juvenile Courts; but Article 534 of the Penal Code, as amended,¹ is expressly repealed insofar as it conflicts herewith.

[Acts 1949, 51st Leg., p. 924, ch. 500; 1953, 53rd Leg., p. 733, ch. 288, § 1, eff. June 5, 1953.]

¹ Transferred to article 2338-1a.

Art. 2338-2. Designation of District Court as Juvenile Court in Certain Counties

Sec. 1. In counties having ten (10) or more District Courts, either temporary or permanent, and having a Juvenile Board composed of District Judges and the County Judge of said county, such Juvenile Board shall designate one (1) of the District Courts to be the Juvenile Court of such county and may change the designation of such Juvenile Court from time to time when in the opinion of the Juvenile Board the best interest of the people require it.

Provided, however, the Juvenile Board of any county having a population of eight hundred and six thousand (806,000) or more according to the last preceding Federal Census, may designate one or more District Courts, or one or more Courts of Domestic Relations, or the County Court, or one or more of both of such District Courts and Courts of Domestic Relations, or one or more of such District Courts, Courts of Domestic Relations and County Court or any combination thereof, as Juvenile Courts of such county, with all the rights and authority and subject to the same terms and restrictions as provided in this Act; provided, however, that the Juvenile Board of any county having a population of eight hundred and six thousand (806,000) or more according to the last preceding Federal Census, may make such new designation or designations as to it shall seem proper without reference to the

provision of Section 4, requiring a new designation within any particular period of time, it being the legislative intent that the matter of designation of one or more Juvenile Courts in any such county be within the discretion of the Juvenile Board of such county.

Sec. 2. Such Juvenile Courts shall give preference to child delinquency, dependency, neglect, support, change of custody and adoption, and to contempt proceedings growing out of or ancillary to such cases, and all other District Courts in such counties may from time to time transfer to such District Court as has been designated as the Juvenile Court of such county all such cases on their dockets.

Sec. 3. Immediately after the designation of a Juvenile Court for each county, as herein provided for, the Clerks of the Courts of such counties shall transfer all cases of juvenile delinquency on their dockets to the docket of the Juvenile Court so designated, under the direction of the Judges of said courts, and thereafter all cases of juvenile delinquency shall be filed in such Juvenile Courts.

In all counties having ten (10) or more district courts, in addition to cases of juvenile delinquency, all new cases of dependency, neglect, support, change of custody and adoption may be transferred to the docket of the Juvenile Court so designated under the direction of the Judges of said courts.

The jurisdiction, powers, and duties thus conferred upon the established courts hereunder are superadded jurisdiction, powers, and duties; it being the intention of the Legislature not to create hereby any additional offices.

Sec. 4. Pending the designation of Juvenile Courts under the provisions of this Act, all Juvenile Courts heretofore designated under the previous Law shall continue to function with all powers and jurisdiction heretofore vested in them; it being the intention of the Legislature, however, that the new designation shall be made in each county of the State within ninety (90) days after the effective date of this Act. [Acts 1949, 51st Leg., p. 518, ch. 283; Acts 1959, 56th Leg., 2nd C.S., p. 86, ch. 4, § 1.]

Art. 2338-2a. Repealed by Acts 1965, 59th Leg., p. 569, ch. 289, § 19, eff. Aug. 30, 1965

Art. 2338-2b. Referee for Juvenile and District Courts of Wichita County

Authority to Appoint Referee; Qualifications;
Costs

Sec. 1. (a) The Judges of the Juvenile and District Courts of Wichita County are hereby authorized to appoint referees in civil cases as hereinafter provided.

(b) A referee shall be an attorney licensed to practice law in the State of Texas and shall be a citizen of this State. The compensation, if any, of the referee shall be found and taxed in the same manner as now provided by law for taxing costs in civil cases. The Judge of said

Court shall determine if the parties litigant are able to defray the costs of the referee's compensation and where so found and determined, such costs shall be taxed as costs against the parties litigant. However, if such costs are not taxed against the parties litigant, then such compensation, if any, shall be fixed by the Commissioners Court and shall be paid out of the jury fund of Wichita County. No costs shall be taxed against said county where both or either of said parties litigant own real property in the State of Texas or are otherwise financially able to defray said costs.

Cases in which Referee may be Appointed by
District Court

Sec. 2. Whenever the Judge of a District Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case involving motions of contempt for failure or refusal to pay child support, temporary alimony, or separate maintenance; motions for failure or refusal to comply with court orders concerning visitation with children growing out of separate maintenance and divorce actions; motions for changes of child custody; motions for revision of child support payments; and motions for revision of visitation privileges.

Cases in which Referee may be Appointed by
Juvenile Court

Sec. 3. Whenever the Judge sitting as a Juvenile Court shall deem it advisable, he may appoint a referee and refer to said referee any civil case or cases before him involving children alleged to be dependent, neglected, or delinquent or any other matters over which the Juvenile Court is given exclusive jurisdiction.

Powers of Referee

Sec. 4. (a) In all such cases designated in Sections 2 and 3 of this Act, the Judge of the Juvenile or District Court may authorize the referee to hear evidence, to make findings of fact thereon, to formulate conclusions of law, and to recommend judgment to be entered in such cases. In all such cases referred to the referee, the order of reference may specify or limit the powers of the referee and may direct him to report only upon particular issues, or to do or perform particular acts; or to receive and report on evidence only, and may fix the time and place for beginning and closing hearings, and for filing reports.

(b) Subject to the limitations and specifications stated in the order, the referee shall have the power to regulate all proceedings in every hearing before him and to do all acts and take all measures necessary and proper for the efficient performance of his duties under the order. He may require the production of evidence before him, upon all matters embraced in the reference, and he may rule upon the admissibility of evidence, unless otherwise directed by the order of reference. He shall have the authority to issue summons for the appearance of witnesses, and swear said witnesses for said hearing, and he may, himself, examine them. And said witness appearing before him and

being duly sworn shall be subject to the penalties of perjury. If the witnesses, after being duly summoned, shall fail to appear, or having appeared, shall refuse to answer questions, then upon certification of such refusal to the referring Court, said Court shall have the power to issue attachment against such witnesses, and to fine and imprison them.

Transmittal of Papers; Notice of Findings

Sec. 5. Upon the conclusion of the hearing in each case, the referee shall transmit to the referring Judge all papers relating to the case, together with his findings and a statement that notice of his findings and of the right to a hearing before the Judge has been given to all adult principals, minors, or parents, guardians, or custodians of any minor whose case has been heard by the referee. This notice may be given at the hearing, or otherwise as the referring Court directs.

Adoption or Rejection of Referee's Report

Sec. 6. After it is filed, the referring court may adopt, modify, correct, reject, or reverse the referee's report, or recommit it for further information, as the Court may deem proper and necessary in the particular circumstances of the case. Where judgment has been recommended, the Court in its discretion may approve the recommendation and hear further evidence before rendition of judgment.

Hearing Before Referring Court; Request

Sec. 7. Adult principals, a minor child, his parents, guardians, or custodians are entitled to a hearing by the Judge of the referring Court if, within three days after receiving notice of the findings of the referee, they file a request with such Court for a hearing. The referring Court may allow such a hearing at any time.

Adoption of Findings and Recommendations

Sec. 8. In case no hearing before the Judge of the referring Court is requested, or when the right to such hearing is waived, the findings and recommendations of the referee become the decree of the Court when adopted by an order of the Judge.

Notice of Hearing

Sec. 9. Prior to the hearing by the referee the parties litigant shall be given due notice as provided by law of the time and place of such hearing.

Demand for Jury Trial

Sec. 10. In any proceeding where a jury trial has been demanded, the referee shall refer the case back to the referring Court for a full hearing before the Court and jury, subject to the usual rules of the Court in such cases. [Acts 1965, 59th Leg., p. 1350, ch. 612.]

Art. 2338-2c. Juvenile Court for Hopkins County; Judge

Sec. 1. The judges of the district courts of Hopkins County and the county judge of such

county shall designate one of such district courts having a resident judge as the Juvenile Court for Hopkins County and the court so designated shall exercise such jurisdiction in addition to the duties now imposed upon such court by law; provided, however, that in the event neither of the judges of the district courts of such county is a resident of Hopkins County, the County Court of Hopkins County may be designated as the Juvenile Court of such county.

Sec. 2. The judge of the court so designated shall exercise the duties of Judge of the Juvenile Court of Hopkins County in addition to the duties now imposed upon him by law as District Judge or County Judge of Hopkins County.

Sec. 3. The judge designated as Judge of the Juvenile Court of Hopkins County, in addition to the compensation received as district judge or county judge, shall be paid a salary of not less than \$2,400 nor more than \$3,600 for his services as Judge of the Juvenile Court of Hopkins County, said additional salary to be set by the Commissioners Court of Hopkins County, and the salary so set shall be paid out of the General Fund of Hopkins County, the Salary Fund, or any fund available for the purpose, by the county in equal monthly installments.

[Acts 1969, 61st Leg., p. 1592, ch. 486, eff. June 10, 1969.]

Art. 2338-3. Court of Domestic Relations for Potter County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Potter County, Texas.

Qualifications of Judge; Salary; Jurisdiction of Court

Sec. 2. (a) The Judge of the Court of Domestic Relations hereby established shall have such qualifications as are fixed by the Juvenile Board herein provided for.

(b) The Court of Domestic Relations for Potter County shall have the jurisdiction concurrent with the District Courts in Potter County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their mi-

nor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases

Sec. 3. The County Court of Potter County and the District Courts in Potter County may transfer to said Court of Domestic Relations any and all cases, in their respective courts in Potter County, Texas, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Duties of Clerk; Docket and Records

Sec. 4. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of Potter County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Potter County shall also act as clerk for the Court of Domestic Relations and shall assume and perform all duties required by law of clerks of county and district courts as well as any other duties as may be assigned to him by the Judge of the Court of Domestic Relations. The District Clerk shall immediately prepare a civil and criminal docket for such Court and shall docket thereon all cases and proceedings transferred to or filed in such Court. The clerk of the Court of Domestic Relations of Potter County shall transfer all his records for said Court to the District Clerk of Potter County upon the effective date of this Act.

Juvenile Board

Sec. 5. There shall be a Juvenile Board of Potter County composed of the several District Judges of the District Courts of Potter County and the County Judge of Potter County, Texas. The members composing such Juvenile Board shall be paid additional compensation not to

exceed One Thousand, Five Hundred Dollars (\$1,500) per annum, to be determined by the Commissioners Court and to be paid in twelve (12) equal monthly installments out of the General Fund of such County by the Commissioners Court. The compensation shall be in addition to all other compensation provided or allowed by law for County and District Judges.

Election of Judge; Duties of Board; Special Judge

Sec. 6. (a) A Judge for the Court of Domestic Relations for Potter County shall be elected for a four (4) year term at the general election in November 1968 and every four (4) years thereafter.

(b) Said Judge shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of county officers.

(c) Said Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and cooperate with him in the administration of the affairs of said Court.

(d) In the event of the disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, said Juvenile Board shall select a special Judge who shall hold the court and proceed with the business thereof.

Boards and Officers to Furnish Services

Sec. 7. It shall be the duty of all officers, agents and employees of the Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Potter County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from district courts.

Juvenile Officers and Investigators; Reporter

Sec. 8. The Judge of the Court of Domestic Relations shall have authority to appoint such juvenile officers, juvenile probation officers and investigators as might be deemed necessary to the proper administration of its jurisdiction in Potter County, provided such appointments are approved by the Commissioners Court of such county and shall also have authority to appoint a court reporter in such cases as he shall deem it necessary to record and preserve the testimony, utilizing the services of the regular district court reporters and their assistants when possible, the salaries and compensation of such juvenile officers and court reporters to be determined and paid by the Commissioners Court of Potter County.

In all suits for divorce where it appears from the petition or otherwise that the parties

to such suit have a child or children under the age of sixteen (16) years, and in any other case involving the custody of any such child, the said Court or Judge thereof, in its or his discretion, may require any such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the Court and, if desired by the Court, to produce such evidence on any hearing in such case as may have been developed in connection with such examination.

Injunctions and Writs; Contempt

Sec. 9. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by district courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Sessions of Court

Sec. 10. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 11. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Seventh Supreme Judicial District as now or hereafter provided for appeals from district and county courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice; Number of Jurors

Sec. 12. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to district courts; provided that juries shall be composed of twelve (12) members.

Prosecution and Defense of Cases

Sec. 13. The County Attorney of Potter County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Institution or Transfer of Cases

Sec. 14. All cases, complaints and other matters over which the Court of Domestic Re-

lations is herein given jurisdiction may be transferred to or instituted in said Court, but said Court, and the Judge thereof, may transfer any such cases or matters to the county or district court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such court to which such transfer is made.

Partial Invalidity

Sec. 15. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby.

[Acts 1949, 51st Leg. p. 792, ch. 426; Acts 1951, 52nd Leg., p. 410, ch. 258, § 1; Acts 1967, 60th Leg., p. 1243, ch. 565, § 1, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 1288, ch. 330, § 1, eff. Aug. 30, 1971.]

Art. 2338-3a. Compensation of Judge and Clerk of Court of Domestic Relations for Potter County

Sec. 1. (a) After the effective date of this Act, the Judge of the Court of Domestic Relations of Potter County may receive from the General Fund or Officers' Salary Fund of Potter County an annual salary equal to the salary allowed District Judges of Potter County under the General Laws of the State of Texas, whether paid from State or County funds.

(b) The Commissioners Court of Potter County shall determine the exact salary to be paid the Judge.

(c) The Commissioners Court shall pay the salary in equal monthly installments, drawn on the county treasurer on order of the Commissioners Court.

Sec. 1a. From and after the effective date of this Act the Clerk of the Court of Domestic Relations of Potter County, Texas, shall receive the same salary as fixed by law for the District Clerk of Potter County, the same to be paid in twelve (12) equal monthly installments.

[Acts 1957, 55th Leg., 1st C.S., p. 50, ch. 23; Acts 1965, 59th Leg., p. 857, ch. 417, § 1, eff. June 14, 1965.]

Art. 2338-4. Court of Domestic Relations for Lubbock County

Creation of Court; Adoption of Act

Sec. 1. There is hereby created a Court of Domestic Relations in and for Lubbock County, Texas. It is expressly provided that the provisions of this Act shall not become effective until the Commissioners Court of Lubbock County enters an order adopting same.

Jurisdiction

Sec. 2. Said Court of Domestic Relations shall have jurisdiction of all cases involving adoptions, removal of disability of minority, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this

State; and all of divorce and marriage annulment cases, including the adjustment of property rights involved therein, as well as cases of child support, alimony pending final hearing and adjustment of property rights, as well as any and all other matter incident to divorce or annulment proceedings; and all other cases of domestic relations involving justiciable controversies and differences between parents or between them and their minor children which are now, or may hereafter be, within the jurisdiction of the district or county courts in the manner provided by Articles 2337, 2338-1, Revised Civil Statutes of Texas, 1925, Acts of the Regular Session of the Forty-eighth Legislature, 1943, Chapter 240, Page 313, and Acts of the Regular Session of the Forty-ninth Legislature, 1945, Chapter 35, Page 52, and any other Article of the Civil Statutes of this State.

Eligibility of Judge; Term of Office

Sec. 3. The Judge of the Court of Domestic Relations hereby established shall be a legally licensed attorney at law in the State. No person shall be elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected such judge shall hold the office for two (2) years, and until a successor shall have been duly elected and qualified.

Appointment of Judge; Quarters for Court

Sec. 4. As soon as this Act becomes effective, the Commissioners Court of Lubbock County shall appoint a Judge of the Domestic Relations Court in and for Lubbock County, who shall hold the office until the next General Election and until his successor shall have been duly elected and qualified, and the Commissioners Court of Lubbock County shall provide suitable quarters for the holding of said court.

Salary of Judge

Sec. 5. The Judge of the Domestic Relations Court of Lubbock County shall be paid by the Commissioners Court of Lubbock County out of the general fund of Lubbock County, an annual salary which shall be fixed by the Commissioners Court of Lubbock County at not less than Seven Thousand Dollars (\$7,000) nor more than Twelve Thousand Dollars (\$12,000), to be paid in twelve (12) monthly installments.

Bond and Oath of Office

Sec. 6. The Judge of the Court of Domestic Relations of Lubbock County shall execute a bond and take an oath of office as required by law relating to county judges.

Transfer of Cases from Other Courts

Sec. 7. When the Court of Domestic Relations is organized and the judge thereof shall qualify, the County Judge of Lubbock County, the Judge of the County Court at Law, and Judges of the 99th Judicial District and of the 72nd Judicial District may transfer to said

Court of Domestic Relations all cases which may then be pending in their respective courts in Lubbock County, of which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them.

Transfers to Other Court

Sec. 8. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said court, but the judge of said court may transfer any such cases or matters to the County or District Court having jurisdiction thereof under the law of the State, to be tried in such court in which such transfer is made, with the permission and consent of the judge thereof.

Place of Sitting; Dockets and Minutes

Sec. 9. The said Court of Domestic Relations shall sit and hold court in Lubbock County, and shall maintain all necessary dockets and minutes therein.

Officers and Boards to Furnish Suggestions

Sec. 10. It shall be the duty of all officers, agents and employees of the Child Welfare Board, County Welfare Office, County Health Officer, Sheriff and Constables within Lubbock County, to furnish to said court such suggestions in the line of their respective duties as shall be required by said court.

Officers and Investigators; Clerk; Reporter

Sec. 11. The Judge of the Court of Domestic Relations shall have authority to appoint such officers and investigators as might be necessary to the proper administration of its jurisdiction in Lubbock County, and shall also have authority to appoint a clerk of said court, and when he deems it necessary to the proper administration of such court, he may appoint a court reporter, provided such appointments are approved by the Commissioners Court of said county; the salary and compensation of such officers, clerk and court reporter to be determined and paid by the Commissioners Court of Lubbock County for the services rendered therein.

Injunctions and Writs

Sec. 12. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by county and district courts when necessary in cases or matters in which said court has jurisdiction, and also power to punish for contempt.

Terms of Court

Sec. 13. The first term of such Court of Domestic Relations shall begin when the judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall hereafter begin on the first day of September of each

year and remain in session continuously to and including the thirty-first day of August of the next year.

Special Judge

Sec. 14. A Special Judge of the Court of Domestic Relations of Lubbock County may be appointed or elected as provided by law relating to county courts and to the judge thereof, who shall receive the sum of Twenty Dollars (\$20) per day for each day he shall actually serve, to be paid out of the general fund of the county by the Commissioners Court.

Special Judge in Case of Disqualification

Sec. 15. In the case of disqualification of the Judge of the Court of Domestic Relations of Lubbock County to try any case pending in his court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the Court of Domestic Relations of Lubbock County is disqualified. In case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw the same compensation as that provided in Section 13 of this Act.

Vacancies

Sec. 16. Any vacancy in the office of the Judge of the Court of Domestic Relations of Lubbock County shall be filled by the Commissioners Court of Lubbock County and when so filled, the judge shall hold office until the next General Election and until his successor is elected and qualified.

Appeals

Sec. 17. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Seventh Supreme Judicial District as now as hereafter provided for appeals from district and county courts.

Practice and Procedure

Sec. 18. The practice and procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by the laws and rules pertaining to district and county courts; provided that juries shall be composed of twelve (12) members.

Partial Invalidity

Sec. 19. If any section, clause, or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect and the validity of the remainder of this Act shall not be affected thereby.

[Acts 1951, 52nd Leg., p. 678, ch. 393.]

Art. 2338-5. Court of Domestic Relations for Harris County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Harris County, Texas.

Judge; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations, hereby established, shall be an attorney licensed to practice law in this State. He shall be paid a salary which shall be equal to the total salary paid to District Judges of Harris County. His salary shall be paid out of the General Fund of Harris County in twelve equal monthly installments. He shall be a member of the Juvenile Board of Harris County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Harris County, the County Judge of Harris County, and the Judge of the Court of Domestic Relations for Harris County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of Harris County. Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and otherwise from county funds as they are entitled to receive under general or special law.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The County Court of Harris County, the County Courts-at-Law of Harris County, and the District Courts of Harris County may transfer to said Court of Domestic Relations any and all cases, in their respective courts in Harris County, Texas, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

Sec. 6. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat in Harris County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Harris County, Texas" engraved thereon.

Term of Office of Judge; Appointment and Election; Removal; Vacancies; Cooperation by Juvenile Board; Disqualification, Etc.; Special Judge

Sec. 7. The term of office of the Judge of said Court of Domestic Relations shall be for a period of two years, the first full term to commence on January 1, 1955. Immediately upon passage of this Act, the Governor shall appoint a suitable person as Judge of said Court, who shall hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, said Judge shall be elected as provided by the Constitution and laws of the State for the election of County Judges. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for removal of county officers. Vacancies in the office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall cooperate with him in

the administration of the affairs of said Court. In the event of disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board shall select a special Judge who shall hold the court and proceed with the business thereof.

Boards and Officers, Duties Of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Harris County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 9. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve the Court as in other courts of the county.

Custody of Children; Investigations

Sec. 10. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 11. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 12. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 13. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Su-

preme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District Attorney to Prosecute or Defend

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Transfer of Cases Between Courts

Sec. 16. All cases, complaints and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; but said Court, and the Judge thereof, may transfer any such cases or matters to the County or District Court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such court to which such transfer is made.

[Acts 1953, 53rd Leg., p. 799, ch. 325; Acts 1967, 60th Leg., p. 1244, ch. 565, § 2, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 10 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-6. Court of Domestic Relations for Starr County

Creation of Court

(1) There is hereby created a Court of Domestic Relations in and for Starr County, Texas, to be known as the Starr County Court of Domestic Relations.

Qualification of Judge; Salary

(2) The Judge of the Starr County Court of Domestic Relations shall have the qualifications provided by the Constitution and laws of this State for District Judges. He shall be paid an annual salary out of the general fund of the County in twelve (12) equal monthly installments, in such amount as may be fixed by law for District Judges.

Jurisdiction

(3) Said Court of Domestic Relations shall have jurisdiction concurrent with the District Court in said County of all cases involving adoptions, removal of disability of minority and coverture, change of name of persons, delinquent, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District or

County Courts under the juvenile and child-welfare laws of this State; and of all divorce and marriage annulment cases; including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law. Said Court shall also have and exercise jurisdiction over all civil and criminal matters over which, by general law, the County Court of Starr County would have original jurisdiction, except probate matters. Such jurisdiction shall be concurrent with that of the County Court in such county. All cases and proceedings enumerated or included above may be instituted in or transferred to the Starr County Court of Domestic Relations.

Transfer of Cases

(4) The County Court of Starr County and the District Court of such County may transfer to said Court of Domestic Relations any and all cases, in their respective courts, of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

(5) All writs and process issued by or out of a District or County Court prior to the time any case is transferred by either of said Courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

(6) The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat in Starr County, shall have a seal and maintain all necessary dockets, records and minutes therein. The sheriff of Starr County shall perform all duties in the Court of Domestic Relations provided by law for such officer to perform in the District and County Courts. The District Clerk of Starr County shall be the Clerk of the Court of Domestic Relations and shall keep a fair record of all acts done, and proceedings had, in said Court, and perform generally all such duties as are now or as may be hereafter imposed upon

District and County Clerks relative to District or County Courts in so far as applicable to the Court of Domestic Relations. The seal of said Court shall have a star of five (5) points with the words "Starr County Court of Domestic Relations," engraved thereon.

Appointment of Judge; Term of Office; Vacancies

(7) The Commissioners Court of Starr County, Texas, shall appoint the Judge of the Starr County Court of Domestic Relations whose term of office shall be for a period of two (2) years from December 1st preceding the date of his appointment and qualification or from the date of his appointment and qualification if same be made and effected on December 1st, who shall serve in such capacity until the expiration of his term of office and until his successor is appointed and has qualified. Upon the expiration of the term of office of such Judge, or upon the vacation of such office from whatever cause, the Commissioners Court shall appoint a successor whose term of office shall be for a term of two (2) years except that in cases of vacancy the successor shall be appointed to fill the unexpired term only. The Judge of said Court shall be subject to removal from office as provided by law for the removal of County officers.

Injunctions and Writs; Contempts

(8) The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

(9) There shall be two (2) terms of the Starr County Court of Domestic Relations each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the convening of the next regular term. The first term of such Court shall begin on the first Monday following the appointment and qualification of the Judge thereof and shall continue until the convening of the next regular term thereof as above provided for.

Appeals

(10) Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Fourth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

(11) The practice and procedure, rules of evidence, selection of juries, issuance of process

and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Representation of State by County Attorney

(12) The County Attorney of Starr County shall represent the State in all proceedings in the Starr County Court of Domestic Relations.

Transfers to Other Court

(13) All cases, complaints and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; but said Court, and the Judge thereof, may transfer any such cases or matters to the County or District Court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such Court to which such transfer is made.

Court Reporter; Salary; Appointment of Interpreters

(14) The Judge of the Starr County Court of Domestic Relations shall have authority to appoint a Court Reporter in such cases as may be required by law and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter shall be paid such salary out of the general fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a Court Interpreter in such cases as may be necessary who shall be paid such fees and compensation out of the general fund of the County, for such service as may be fixed by the Judge, and approved by the Commissioners Court.

[Acts 1953, 53rd Leg., p. 1047, ch. 434, § 1.]

Art. 2338-7. Court of Domestic Relations for Hutchinson County

Creation of Court; Adoption of Act; Referendum

Sec. 1. There is hereby created the Court of Domestic Relations in and for Hutchinson County which shall be a court of record; provided, however, that the provisions of this Act shall not become operative until the Commissioners Court of Hutchinson County enters an order adopting same. The Commissioners Court may adopt the provisions of this Act only if the qualified voters who are property taxpayers and whose names appear on the rendered rolls of Hutchinson County express their will that such court be established in Hutchinson County in an election called for that purpose as provided for in Section 2 of this Act.

Referendum; Ballot Form

Sec. 2. The Commissioners Court may upon its own motion at any time after the effective date of this Act call an election to determine whether there shall be created and established in Hutchinson County a Court of Domestic Relations. The issue submitted to the qualified

voters who are property taxpayers and whose names appear on the rendered rolls at the election shall be by ballot upon which shall be printed:

"FOR the creation of a Court of Domestic Relations in and for Hutchinson County."

"AGAINST the creation of a Court of Domestic Relations in and for Hutchinson County."

The Commissioners Court must call such an election when petitioned by five per cent (5%) of the qualified voters who are property taxpayers and whose names appear on the rendered rolls in Hutchinson County as determined by the number of votes cast in the last General Election for Governor.

If a majority of the qualified voters who are property taxpayers and whose names appear on the rendered rolls voting at the election, votes for the creation of the Court of Domestic Relations in and for Hutchinson County, the Commissioners Court shall immediately enter an order adopting the provisions of this Act.

If a majority of the qualified voters who are property taxpayers and whose names appear on the rendered rolls voting at the election, vote against the creation of the Court of Domestic Relations in and for Hutchinson County, the provisions of this Act shall expire and have no force and effect thereafter.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Hutchinson County shall have the jurisdiction concurrent with the District Courts in Hutchinson County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved herein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus,

mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Terms of Court

Sec. 4. The terms of the Court of Domestic Relations shall be as follows:

On the first Monday in January and July of each year and may continue in session until the Saturday immediately preceding the Monday for the convening of the next regular term of such court. Any term of court may be divided into as many sessions as the judge thereof may deem expedient for the disposition of business.

Qualifications of Judge; Term of Office; Vacancies; Compensation; Special Judge; Disqualification; Oath of Office; Exchange of Benches

Sec. 5. The Judge of the Court of Domestic Relations shall have the same qualifications as District Judges of this State and shall be elected for a term of four (4) years as provided by the Constitution and laws of this State. In the event of a vacancy, created by death or resignation, of the office, the Governor shall appoint as Judge of the Court of Domestic Relations a suitable person having the qualifications provided by the Constitution and laws of this State of District Judges, who shall hold office for the unexpired term or until the next general election after said appointment. The Judge of the Court of Domestic Relations shall receive such total compensation as allowed other District Judges by the laws of this State from the State and counties, which shall be paid by the Commissioners Court of Hutchinson County out of the general fund, the officers' salary fund, jury fund, or any other available fund of the county, which said annual salary shall be paid to the Judge of the Court of Domestic Relations in equal monthly installments. If the Judge be absent, a Special Judge, possessing the qualifications herein set out, may be elected by the Bar as provided by law for election of a Special Judge in District Courts. If the Judge be disqualified in a cause and the parties fail to agree upon a Special Judge to try the cause, the Judge shall certify his disqualification to the Commissioners Court of Hutchinson County, Texas, and the Commissioners Court shall appoint a Special Judge in such cause; a Special Judge shall be paid the sum of Fifty Dollars (\$50.00) for each and every day he actually serves as such. The Judge of the Court of Domestic Relations shall qualify by subscribing to and filing with the Commissioners Court of Hutchinson County the official oath of office. The Judge of the Court of Domestic Relations may hold Court for or with any other District Judge; and the Judges of such Courts may exchange benches whenever they deem it expedient.

Shorthand Reporter

Sec. 6. The Judge of the Court of Domestic Relations shall appoint an Official Shorthand Reporter who shall have the qualifications required by law of Official Shorthand Reporters. Such reporters shall perform such duties as

are required by law. The compensation of such reporters shall be fixed by the Judge of the Court of Domestic Relations at not less than Six Thousand Six Hundred Dollars (\$6,600.00) per annum nor more than Eleven Thousand Five Hundred Dollars (\$11,500.00) per annum, in addition to the compensation for transcripts, statements of fact, and other fees. Said reporters shall receive such travel and expense allowances as set by the Judge of the Court of Domestic Relations. The appointment of such court reporter, the annual salary and expenses, including travel, of such reporter as fixed by the Judge of the Court of Domestic Relations shall be evidenced by an Order entered in the Minutes of such Court, which appointment, salary, and expenses so fixed shall continue in effect from year to year unless and until changed by Order of the Judge of the Court of Domestic Relations. A certified copy of Order appointing such court reporter and fixing the salary and expenses to be paid such reporter shall be transmitted to the Commissioners Court of Hutchinson County, who shall annually make provision for the payment of any such salary and expenses out of the general fund, the officers' salary fund, the jury fund, or out of such other fund as may be available. The salary and expenses of such reporter shall be paid in twelve (12) equal monthly installments, and shall be in addition to transcript fees, fees for statements of fact, and other fees.

District Clerk for Court; Dockets; Transfer of Cases

Sec. 7. The District Clerk of Hutchinson County shall also act as District Clerk for the Court of Domestic Relations and shall assume and perform all duties required by law of Clerks of County and District Courts, as well as any other duties as may be assigned to him by the Judge of the Court of Domestic Relations. The compensation of such District Clerk shall be fixed as provided by law at not less than Ten Thousand Dollars (\$10,000.00) per annum and not more than that provided by law for District Clerks. The District Clerk shall provide and prepare a civil and criminal docket for such Court and shall docket thereon all cases or proceedings transferred to or filed in such Court. The County Judge of Hutchinson County and the Judge of the 84th Judicial District, in their discretion, may transfer to the Court of Domestic Relations all cases of which the Court of Domestic Relations is given jurisdiction by this Act.

Prosecuting Attorneys

Sec. 8. The District Attorney for the 84th Judicial District of Texas shall prosecute all cases of a felony nature over which the Court of Domestic Relations has jurisdiction and the County Attorney of Hutchinson County shall prosecute all misdemeanor cases, juvenile cases and dependent and neglected child actions over which the Court of Domestic Relations has jurisdiction.

Practice and Procedure; Appeals

Sec. 9. The practice and procedure, rules of evidence, drawing and selection of juries, issuing process, and all other matters pertaining to the conduct of trials and hearings in said Court of Domestic Relations shall be governed by the laws and rules pertaining to practice and procedure in district and county courts; provided that petit juries shall be composed of twelve (12) members and no grand jury shall be selected or summoned to appear or be empaneled by said court. All appeals from the Court of Domestic Relations shall be governed by the laws and rules pertaining to appeals from district courts.

Writs and Process in Transferred Cases

Sec. 10. All writs and process issued by or out of the district or county courts prior to the time any case is transferred by either of said courts to the Court of Domestic Relations shall be returned to and filed in the said Court of Domestic Relations, and shall be as valid and binding upon the parties to such transferred cases as though such writs or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer; and when a cause may be transferred from the Court of Domestic Relations to the district or county court, all such matters transpiring while such cause was pending in the said Court of Domestic Relations shall be as valid and binding in the county or district court to which transferred as though such matter transpired after such transfer.

Boards and Officers, Duties

Sec. 11. It shall be the duty of all officers, agents and employees of the Child Welfare Board, County Welfare Office, County Health Officer, County Juvenile Officer, Sheriff and Constables of Hutchinson County, Texas, to furnish to said court such services in the line of their respective duties as shall be required by said court or by the judge thereof; and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to the process and writs from said Court of Domestic Relations of Hutchinson County, as is required of them by law with reference to process and writs from district and county courts of Texas.

[Acts 1955, 54th Leg., p. 75, ch. 49; Acts 1967, 60th Leg., p. 1244, ch. 565, § 3, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1844, ch. 717, § 1, eff. June 17, 1967.]

Art. 2338-7a. Domestic Relations Court for Hutchinson County; Compensation of Judge

From and after the effective date of this Act the Judge of the Court of Domestic Relations of Hutchinson County, Texas, shall receive such compensation as allowed other District Judges by the laws of this State which shall be paid by the Commissioners Court of Hutchin-

son County out of the General Fund or the Officers' Salary Fund of the County, said annual salary to be paid to the Judge of the Court of Domestic Relations in equal monthly installments, drawn upon the County Treasurer upon order of the Commissioners Court of Hutchinson County.

[Acts 1957, 55th Leg., p. 343, ch. 157, § 1.]

Art. 2338-8. Court of Domestic Relations for Smith County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Smith County, Texas.

Jurisdiction

Sec. 2. (a) The Court of Domestic Relations for Smith County shall have the jurisdiction concurrent with the District Courts in Smith County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

(b) The Juvenile Board of Smith County may designate the Court of Domestic Relations as the Juvenile Court of said County.

Qualifications of Judge; Term of Office

Sec. 3. The Judge of the Court of Domestic Relations hereby established shall be a legally licensed attorney at law in the State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least four (4) years immediately prior to his appointment or election. The person elected such judge shall hold the office for four (4) years and until a

successor shall have been duly elected and qualified.

Appointment of Judge; Term of Office; Subsequent Elections; Quarters for Court

Sec. 4. Upon the effective date of this Act, the Juvenile Board of Smith County, Texas, by a majority vote of said members, shall appoint a Judge of the Court of Domestic Relations in and for Smith County who shall hold office until the next General Election after said appointment and until his successor shall be duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations for Smith County shall be elected as provided by the Constitution and laws of this State for the election of Judges for County Domestic Relations Courts.

The Commissioners Court of Smith County shall provide suitable quarters for the holding of said Court.

Salary of Judge; Oath of Office

Sec. 5. The Judge of the Court of Domestic Relations hereby established shall be paid by the Commissioners Court of Smith County, the same salary paid to the District Judge by the State of Texas, same to be paid out of the General Fund of the County in twelve (12) equal monthly installments. The Judge of the Court of Domestic Relations of Smith County shall take an oath of office as required by law relating to County Judges.

Transfer of Cases from Other Courts

Sec. 6. When the Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Smith County and the Judges of the Seventh Judicial District and the One Hundred Fourteenth Judicial District may transfer, at their discretion, to said Court of Domestic Relations all cases which may then be pending in their respective Courts in Smith County, or all cases which have been adjudicated by their respective Courts and whose judgment they still have jurisdiction over, of which by this Act said Court of Domestic Relations is hereby given jurisdiction of, including all filed papers and certified copies of all orders entered by them.

Transfers to Other Court

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court but the Judge of said Court may transfer any such cases or matters to the County or District Courts having jurisdiction thereof under the laws of the State to be tried in such court in which such transfer is made with the permission and consent of the Judge thereof.

Place of Holding Court; Dockets and Minutes

Sec. 8. The said Court of Domestic Relations shall sit and hold court in Smith County and shall maintain all necessary dockets and minutes therein.

Officers and Boards to Furnish Suggestions

Sec. 9. It shall be the duty of all officers, agents, and employees of the Child Welfare Department, County Welfare Office, County Health Officer, Sheriff and Constables within Smith County to furnish to said Court such services in the line of their respective duties as shall be required by said Court.

Appointment of Officers, Investigators and Court Reporter; Salaries

Sec. 10. The Judge of the Court of Domestic Relations shall have authority to appoint such officers and investigators that might be necessary to the proper administration of its jurisdiction in Smith County; when he deems it necessary to the proper administration of such Court, he may appoint a Court Reporter provided such appointments are approved by the Juvenile Board of Smith County, by a majority vote of said members, the salaries and compensation of such officers and Court Reporter to be determined by the Juvenile Board by a majority vote of said members and to be paid by the Commissioners Court out of the General Fund of Smith County for the services rendered therein.

Injunctions and Writs; Contempts

Sec. 11. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

Terms of Court; Number of Sessions

Sec. 12. Terms of the Court of Domestic Relations in and for Smith County shall be as follows: on the first Mondays in January and July of each year and may continue until the date herein fixed for the beginning of the next succeeding term therein. As soon as this Act becomes effective and the Judge of the Court of Domestic Relations is appointed and qualified, he shall begin a term of Court which shall continue until the day fixed for the beginning of the next succeeding term of Court and thereafter the terms of Court of the Court of Domestic Relations in and for Smith County, shall begin and end on the above-mentioned date. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court as is deemed by him proper and expedient for the dispatch of business.

Disqualification of Judge; Special Judge; Compensation

Sec. 13. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case because of illness, inability, failure or refusal of said Judge to hold Court at any time, a Special Judge of the Court of Domestic Relations of Smith County may be appointed or elected as provided by law relating to county courts and to the Judge

thereof, who shall receive the same compensation as that provided in Section 5 of this Act; such compensation shall not be deducted from the salary of the Regular Judge, but shall be in addition thereto.

Vacancies in Office

Sec. 14. Any vacancy in the office of the Judge of the Court of Domestic Relations in and for Smith County shall be filled by the Juvenile Board of Smith County by a majority vote of its members, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Sixth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts, and in all criminal cases, appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by the laws and rules pertaining to district and county courts providing the juries shall be composed of twelve (12) members.

Writs and Process in Transferred Cases

Sec. 17. All writs and processes issued by or out of the Districts or County Court prior to the time any case is transferred by either of said courts to the Court of Domestic Relations in and for Smith County shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed under such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

Sec. 18. The said Court of Domestic Relations shall be a Court of Record, shall sit and hold court at the county seat in Smith County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Smith County shall serve as Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required generally of District Clerks in so far as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Smith County, Texas" engraved thereon.

Sheriffs and Constables; Performance of Duties

Sec. 19. All sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs for said Court of Domestic Relations as is required of them by law with reference to process and writs for District Courts.

Suits Involving Custody of Children; Investigations

Sec. 20. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Dependent, Neglected or Delinquent Children; Prosecution and Defense of Cases by Criminal District Attorney

Sec. 21. The Criminal District Attorney of Smith County or his duly and legally qualified assistant, or assistants, shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer or any other welfare agency is interested and shall represent the State in all proceedings in said Court of Domestic Relations.

Juvenile Board; Counsel and Advice; Cooperation with Judge

Sec. 22. The Juvenile Board and its members shall give counsel and advice to the Judge of said Court of Domestic Relations when deemed necessary or when sought by him and shall cooperate with him in the administration of the affairs of said Court.

Removal of Judge

Sec. 23. The Judge of said Court of Domestic Relations shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of County Officers.

Partial Invalidity

Sec. 24. If any Section, clause, or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect and the validity of the remainder of this Act shall not be affected thereby.

[Acts 1957, 55th Leg., p. 20, ch. 16; Acts 1957, 55th Leg., p. 865, ch. 381, § 1; Acts 1957, 55th Leg., 2nd C.S., p. 185, ch. 23, § 1; Acts 1967, 60th Leg., p. 1184, ch. 529, § 1, eff. June 14, 1967; Acts 1967, 60th Leg., p. 1245, ch. 565, § 4, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 20 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-9. Juvenile Court and Court of Domestic Relations for Dallas County

Creation of Courts

Sec. 1. There is hereby created a Juvenile Court in and for Dallas County, Texas, and a Court of Domestic Relations in and for Dallas County, Texas.

Qualifications of Judges; Salaries

Sec. 2. The Judge of the Juvenile Court of Dallas County, and the Judge of the Court of Domestic Relations, hereby established, shall each be an attorney licensed to practice law in this State. Each Judge shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Jurisdiction of Juvenile Court

Sec. 3. The Juvenile Court for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the district or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may thereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases

Sec. 4. Immediately after this Act takes effect all cases now pending in the District Court of Dallas County, designated as the Juvenile Court of said County, shall be transferred to the Juvenile Court created by this Act. Thereafter, the Judges of the District Courts or of the Court of Domestic Relations of Dallas County may transfer any case, within the jurisdiction of the Juvenile Court created by this Act, to said Juvenile Court, and the Judge of the Juvenile Court may transfer any case pending in said court, with the consent of the Judge, to any other District Court or the Court of Domestic Relations of Dallas County. Said Juvenile Court may also sit for any of the District Courts of Dallas County or the Court of Domestic Relations and hear and decide for

such courts any case coming within the jurisdiction of the Juvenile Court created by this Act. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in the said Juvenile Court, as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County.

Filing Cases Involving Custody of Children

Sec. 5. Immediately after this Act takes effect the District Clerk of Dallas County shall file in the Juvenile Court created by this Act all cases involving adoption, delinquency, dependency, and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act and all applications to change the name of persons.

Appointment of Judges; Terms of Office; Subsequent Elections; Vacancies in Office; Disqualification of Judge; Special Judge

Sec. 6. Immediately upon the passage of this Act, the Governor, by and with the advice and consent of the Senate, shall appoint a suitable person as Judge of the Juvenile Court and a suitable person as Judge of the Court of Domestic Relations, who shall hold office until the next General Election and until his successor shall be duly elected and qualified. The first elective term of said courts shall be for two (2) years. Thereafter, the term of office of the Judge of the Juvenile Court and of the Judge of the Court of Domestic Relations shall be for four (4) years and each of said Judges shall be appointed and elected as provided by the Constitution and laws of the State for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor, by and with the advice and consent of the Senate. In the event of disqualification of the Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a Special Judge who shall hold the court and proceed with the business thereof.

Dependent, Neglected or Delinquent Children; Prosecution and Defense of Cases by District Attorney

Sec. 7. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Jurisdiction of Domestic Relations Court

Sec. 8. The court of Domestic Relations for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce

and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Divorce Cases

Sec. 9. Immediately after this Act takes effect, all divorce cases now pending in the District Courts of Dallas County shall be transferred to the Court of Domestic Relations court created by this Act. Thereafter, the Judges of the District Courts or of the Juvenile Court of Dallas County may transfer any case, within the jurisdiction of the Court of Domestic Relations created by this Act, to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said court, with the consent of the Judge, to any other District Court or the Juvenile Court of Dallas County. Said Court of Domestic Relations may also sit for any of the District Courts of Dallas County or the Juvenile Court and hear and decide for such courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Court of Domestic Relations, as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County.

Filing of Divorce Cases

Sec. 10. Immediately after this Act takes effect, the District Clerk of Dallas County shall file in the Court of Domestic Relations created by this Act all divorce cases.

Courts of Record; Place of Sitting; Seal; Dockets and Records

Sec. 11. The said Juvenile Court and Court of Domestic Relations shall be courts of record, shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Services of Probation Department, Sheriff and Constables

Sec. 12. It shall be the duty of the Probation Department, the Sheriff and Constables of Dallas County to furnish said Juvenile Court and Court of Domestic Relations such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Juvenile Court and Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Injunctions and Writs; Contempts

Sec. 13. The said Juvenile Court and Court of Domestic Relations and the Judges thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Juvenile Court or Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms

Sec. 14. The terms of the Juvenile Court and the Court of Domestic Relations shall begin on the first Monday in January and July of each year, respectively, and each term of said courts shall continue until the convening of the next successive term.

Membership on Juvenile Board; Authority of Board

Sec. 15. The Judges of the Juvenile Court and of the Court of Domestic Relations shall be members of the Juvenile Board of Dallas County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Dallas County, the County Judge of Dallas County, the Judge of the Juvenile Court of Dallas County and the Judge of the Court of Domestic Relations of Dallas County. The Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under general or special law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Juvenile Court to handle the duties of the Domestic Relations Court, and in like manner, assign the Judge of the Court of Domestic Relations to handle the duties of the Juvenile Court.

Court Reporter; Compensation; Designation of Bailiff

Sec. 16. The Judge of the Court of Domestic Relations and the Judge of the Juvenile Court shall each have authority to appoint a

court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County and whose salary shall be paid by the Commissioners Court of Dallas County. A bailiff shall be designated by the Sheriff of Dallas County to serve each of the Courts as in other courts of the county.

District Clerk

Sec. 17. The District Clerk of Dallas County shall also act as District Clerk for the Juvenile Court and the Court of Domestic Relations of Dallas County.

Attendance of Sheriff; Fees of Sheriffs or Constables

Sec. 18. The Sheriff of Dallas County shall attend either in person or by deputy the Juvenile Court and the Court of Domestic Relations as required by law in Dallas County or when required by the Judges thereof, and the Sheriffs and Constables of the several counties of this State, when executing process out of said courts, shall receive fees provided by General Law for executing process out of District Courts.

Appeals

Sec. 19. Appeals in all civil cases from judgments and orders of the Juvenile Court and the Court of Domestic Relations shall be to the Court of Civil Appeals of the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 20. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Juvenile Court and the Court of Domestic Relations shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Authority of District Court Judges to Hear Pending Cases; Assignment and Compensation of District Judges

Sec. 21. Judges of all District Courts of this State may sit for, hear and decide cases pending in the Juvenile Court and the Court of Domestic Relations as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County. Judges of other district courts under the jurisdiction of the Administrative Judicial District may be assigned to the Court of Domestic Relations and the Juvenile Court of Dallas County pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), and a Judge so assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the

payment of District Judges assigned to sit for other District Judges.

Filing of Cases in Either Court

Sec. 22. Notwithstanding the provisions of Sections 5 and 10 of this Act, the District Judges of Dallas County may provide for the filing of any cases within the jurisdiction of the Juvenile Court and the Domestic Relations Court in either the Juvenile Court or the Domestic Relations Court or in any one or more of the District Courts of Dallas County.

[Acts 1957, 55th Leg., p. 1490, ch. 511, §§ 1 to 20; Acts 1959, 56th Leg., p. 248, ch. 143, § 1; Acts 1967, 60th Leg., p. 723, ch. 303, § 1, eff. May 26, 1967; Acts 1967, 60th Leg., p. 1245, ch. 565, § 5, eff. Aug. 28, 1967].

Art. 2338-9a. Court of Domestic Relations No. 2 of Dallas County

Creation of Court

Sec. 1. There is hereby created a Domestic Relations Court in and for Dallas County to be known as Court of Domestic Relations No. 2 of Dallas County.

Qualifications of Judge; Salary

Sec. 2. The Judge of the Court of Domestic Relations No. 2 of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Appointment of Judge; Term of Office; Vacancies; Disqualification; Special Judge

Sec. 3. The judge of the Court of Domestic Relations No. 2 of Dallas County hereby established, shall be appointed by the Governor by and with the advice and consent of the Senate immediately upon the taking of effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next General Election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the judge of the Court of Domestic Relations No. 2 of Dallas County shall be for four (4) years and said judge shall be appointed and elected as provided by the Constitution and laws of the state for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor by and with the consent and advice of the Senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

Authority of District Court Judges to Hear Pending Cases; Assignment and Compensation of District Judges

Sec. 3a. Judges of all District Courts of this State may sit for, hear and decide cases

pending in the Court of Domestic Relations No. 2 as the sitting for, hearing and deciding of cases is now or may hereafter be authorized by law for all District Courts of Dallas County. Judges of other district courts under the jurisdiction of the Administrative Judicial District may be assigned to the Court of Domestic Relations No. 2 pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), and a Judge so assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges.

Dependent, Neglected, or Delinquent Children; Prosecution or Defense of Cases by District Attorney

Sec. 4. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Jurisdiction

Sec. 5. The Court of Domestic Relations No. 2 for Dallas County shall have the jurisdiction concurrent with the District Courts in Dallas County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Division and Transfer of Cases

Sec. 6. Immediately after this Act takes effect the divorce cases now pending in Domestic Relations Court of Dallas County shall be equally divided and one-half of such divorce cases shall be transferred to this court. There-

after the cases shall be filed in numerical order dividing the cases in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the District Judges of Dallas County. By and with the consent of the Judge of the Court of Domestic Relations No. 2 and the Juvenile Court, cases within the jurisdiction of these respective courts may be transferred from one court to the other and the judges of the Court of Domestic Relations, Court of Domestic Relations No. 2, and the Juvenile Court of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Court of Domestic Relations No. 2 as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all District Courts of Dallas County.

**Court of Record; Place of Sitting; Seal;
Dockets and Records**

Sec. 7. The Court of Domestic Relations No. 2 of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

**Probation Department, Sheriff and Constables;
Performance of Duties**

Sec. 8. It shall be the duty of the Probation Department, the sheriff and constables of Dallas County to furnish said Court of Domestic Relations No. 2 of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Court of Domestic Relations No. 2 of Dallas County as is required of them by law with reference to process and writs from District Courts.

Writs and Orders; Contempt

Sec. 9. The said Court of Domestic Relations No. 2 of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 2 of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for District Courts of Dallas County.

Terms of Court

Sec. 10. The terms of the Court of Domestic Relations No. 2 of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

**Membership of Judge on Juvenile Board;
Compensation**

Sec. 11. The judge of the Court of Domestic Relations No. 2 of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several district courts and Criminal District Court of Dallas County, the judges of the Courts of Domestic Relations of Dallas County, the Juvenile Court of Dallas County, and the County Judge of Dallas County.

The judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under General or Special Law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Court of Domestic Relations No. 2 of Dallas County to handle the duties of the Juvenile Court and in like manner assign the judges of the Juvenile Court to handle the duties of Domestic Relations Courts of Dallas County.

Court Reporter; Bailiff

Sec. 12. The judge of the Court of Domestic Relations No. 2 of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County. A bailiff shall be designated by the Sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The district clerk of Dallas County shall also act as District Clerk for the Court of Domestic Relations No. 2 of Dallas County.

Attendance of Sheriff; Execution of Process; Fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Court of Domestic Relations No. 2 of Dallas County as required by law in Dallas County or when required by the judge thereof, and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by General Law for executing process out of District Courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court of Domestic Relations No. 2 of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Court

of Domestic Relations No. 2 of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Partial Invalidity

Sec. 17. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

[Acts 1959, 56th Leg., 3rd C.S., p. 389, ch. 13; Acts 1967, 60th Leg., p. 724, ch. 303, § 2, eff. May 26, 1967; Acts 1967, 60th Leg., p. 1246, ch. 565, § 6, eff. Aug. 28, 1967.]

Art. 2338-9b. Court of Domestic Relations No. 3 of Dallas County

Creation of Court

Sec. 1. There is hereby created a Domestic Relations Court in and for Dallas County to be known as Court of Domestic Relations No. 3 of Dallas County.

Qualifications of Judge; Salary

Sec. 2. The Judge of the Court of Domestic Relations No. 3 of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Appointment of Judge; Term of Office; Vacancies; Disqualification; Special Judge

Sec. 3. The Judge of the Court of Domestic Relations No. 3 of Dallas County hereby established, shall be appointed by the Governor by and with the advice and consent of the Senate immediately upon the taking effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next General Election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the Judge of the Court of Domestic Relations No. 3 of Dallas County shall be for four (4) years and said judge shall be appointed and elected as provided by the Constitution and Laws of the state for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor by and with the consent and advice of the Senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

Dependent, Neglected, or Delinquent Children; Prosecution or Defense of Cases by District Attorney

Sec. 4. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Concurrent Jurisdiction of Court

Sec. 5. Jurisdiction. Said Court of Domestic Relations No. 3 shall have jurisdiction concurrent with the District Courts and Courts of Domestic Relations situated in said county of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction. All cases enumerated or included above may be instituted in or transferred to said court.

Division and Transfer of Cases

Sec. 6. Immediately after this Act takes effect the divorce cases now pending in the Court of Domestic Relations of Dallas County and the Court of Domestic Relations No. 2 of Dallas County shall be equally divided and one-third of such divorce cases shall be transferred to this court. Thereafter the cases shall be filed in numerical order dividing the cases in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the District Judges of Dallas County. By and with the consent of the Judge of the Court of Domestic Relations No. 3 and the Juvenile Court, cases within the jurisdiction of these respective courts may be transferred from one court to the other and the Judges of the Court of Domestic Relations, the Court of Domestic Relations No. 2, the Court of Domestic Rela-

tions No. 3, and the Juvenile Court of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Court of Domestic Relations No. 3 as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all District Courts of Dallas County.

Court of Record; Place of Sitting; Seal; Dockets and Records

Sec. 7. The Court of Domestic Relations No. 3 of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Probation Department, Sheriff and Constables; Performance of Duties

Sec. 8. It shall be the duty of the Probation Department, the sheriff and constables of Dallas County to furnish said Court of Domestic Relations No. 3 of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Court of Domestic Relations No. 2 of Dallas County as is required of them by law with reference to process and writs from District Courts.

Writs and Orders; Contempt

Sec. 9. The said Court of Domestic Relations No. 3 of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 3 of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for District Courts of Dallas County.

Terms of Court

Sec. 10. The terms of the Court of Domestic Relations No. 3 of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

Membership of Judge on Juvenile Board; Compensation

Sec. 11. The Judge of the Court of Domestic Relations No. 3 of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several district courts and Criminal District Court of Dallas County, the Judges of the Courts of Domestic Relations of Dallas County, the Juvenile Court of Dallas County, and the County Judge of Dallas County.

The Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under General or Special Law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Court of Domestic Relations No. 3 of Dallas County to handle the duties of the Juvenile Court and in like manner assign the Judges of the Juvenile Court to handle the duties of Domestic Relations Courts of Dallas County.

Court Reporter; Bailiff

Sec. 12. The Judge of the Court of Domestic Relations No. 3 of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County. A bailiff shall be designated by the Sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The district clerk of Dallas County shall also act as District Clerk for the Court of Domestic Relations No. 3 of Dallas County.

Attendance of Sheriff; Execution of Process; Fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Court of Domestic Relations No. 3 of Dallas County as required by law in Dallas County or when required by the judge thereof, and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by General Law for executing process out of District Courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court of Domestic Relations No. 3 of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Court of Domestic Relations No. 3 of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Partial Invalidity

Sec. 17. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the

remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

[Acts 1967, 60th Leg., p. 2085, ch. 780, eff. Aug. 28, 1967.]

Art. 2338-9b.1 Court of Domestic Relations No. 4 of Dallas County

Creation of Court

Sec. 1. There is hereby created a domestic relations court in and for Dallas County to be known as the Court of Domestic Relations Number Four of Dallas County.

Qualifications and Salary of Judge

Sec. 2. The judge of the Court of Domestic Relations Number Four of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a district judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in 12 equal monthly installments.

Appointment and Election of Judge; Term; Vacancies; Disqualification; Special Judge

Sec. 3. The judge of the Court of Domestic Relations Number Four of Dallas County hereby established, shall be appointed by the governor by and with the advice and consent of the senate immediately upon the taking effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the judge of the Court of Domestic Relations Number Four of Dallas County shall be for four years and said judge shall be appointed and elected as provided by the constitution and laws of the state for the election or appointment of district judges. Vacancies in the office shall be filled by appointment by the governor by and with the consent and advice of the senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the juvenile board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

Dependent, Neglected or Delinquent Children and Support Cases; District Attorney

Sec. 4. The district attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Uniform Reciprocal Enforcement of Support Act.

Jurisdiction

Sec. 5. Said court of domestic relations number four shall have jurisdiction concurrent with the district courts and courts of domestic relations situated in said county of all cases

involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Uniform Reciprocal Enforcement of Support Act and all jurisdiction, powers and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors; change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law; of all suits for trial of title to land and for the enforcement of liens thereon; of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction. All cases enumerated or included above may be instituted in or transferred to said court.

Division and Transfer of Cases

Sec. 6. Immediately after this Act takes effect the divorce cases now pending in the Court of Domestic Relations of Dallas County and the Court of Domestic Relations Number Two of Dallas County and the Court of Domestic Relations Number Three of Dallas County shall be equally divided and one-fourth of such divorce cases shall be transferred to this court. Thereafter the cases shall be filed in numerical order dividing the cases in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the district judges of Dallas County. By and with the consent of the judge of the Court of Domestic Relations Number Four of Dallas County and the juvenile court, cases within the jurisdiction of these respective courts may be transferred from one court to the other and the judges of the Court of Domestic Relations, the Court of Domestic Relations Number Two, the Court of Domestic Relations Number Three, the Court of Domestic Relations Number Four, and the Juvenile Court of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All district courts of Dallas County may likewise sit for, hear and decide cases pending in said court of domestic relations number four as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all district courts of Dallas County.

Court of Record; Seal; Dockets, Records and Minutes

Sec. 7. The Court of Domestic Relations Number Four of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Duties of Probation Department, Sheriff and Constables

Sec. 8. It shall be the duty of the probation department, the sheriff and constables of Dallas County to furnish said Court of Domestic Relations Number Four of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same service with reference to process and writs from said Court of Domestic Relations Number Four of Dallas County as is required of them by law with reference to process and writs from district courts.

Writs and Orders; Contempt

Sec. 9. The said Court of Domestic Relations Number Four of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by district courts when necessary or proper in cases or matters in which said Court of Domestic Relations Number Four of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for district courts of Dallas County.

Terms of Court

Sec. 10. The terms of the Court of Domestic Relations Number Four of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

Membership of Judge on Juvenile Board; Compensation

Sec. 11. The judge of the Court of Domestic Relations Number Four of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several district courts and criminal district courts of Dallas County, the judges of the courts of domestic relations of Dallas County, the juvenile courts of Dallas County, and the county judge of Dallas County.

The judges serving on said juvenile board shall continue to receive such compensation for their services as members of the juvenile board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under general or special law. The members of the juvenile board shall continue to have the same authority as is now provided by law, and such juvenile board may assign the judge of the Court of Domestic Relations Number Four of

Dallas County to handle the duties of the juvenile court and in like manner assign the judges of the juvenile court to handle the duties of domestic relations courts of Dallas County.

Court Reporter; Bailiff

Sec. 12. The judge of the Court of Domestic Relations Number Four of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of district courts in Dallas County. A bailiff shall be designated by the sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The district clerk of Dallas County shall also act as district clerk for the Court of Domestic Relations Number Four of Dallas County.

Attendance of Sheriff; Execution of Process; Fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Court of Domestic Relations Number Four of Dallas County as required by law in Dallas County or when required by the judge thereof, and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by general law for executing process out of district courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court of Domestic Relations Number Four of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from district and county courts and in all criminal cases appeals shall be to the court of criminal appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Court of Domestic Relations Number Four of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to district courts; provided that juries shall be composed of 12 members.

Partial Invalidity

Sec. 17. If any section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

[Acts 1973, 63rd Leg., p. 478, ch. 207, eff. May 26, 1973.]

Art. 2338-9c. Juvenile Court No. 2 of Dallas County

Creation of Court

Sec. 1. There is hereby created a Juvenile Court in and for Dallas County, to be known as Juvenile Court No. 2 of Dallas County.

Qualifications of Judge; Salary

Sec. 2. The Judge of the Juvenile Court No. 2 of Dallas County hereby established, shall be an attorney licensed to practice law in this state. The judge of said court shall be paid a salary which shall be equal to the total salary paid to a District Judge of Dallas County. Said salary shall be paid out of the General Fund of Dallas County in twelve (12) equal monthly installments.

Appointment of Judge; Term of Office; Vacancies; Disqualification; Special Judge

Sec. 3. The Judge of the Juvenile Court No. 2 of Dallas County hereby established, shall be appointed by the Governor by and with the advice and consent of the Senate immediately upon the taking effect of this Act; said judge so appointed shall be a suitable person to be judge of said court and shall hold office until the next General Election and until his successor shall be duly elected and qualified. Thereafter, the term of office of the Judge of the Juvenile Court No. 2 of Dallas County shall be for four (4) years and said judge shall be appointed and elected as provided by the Constitution and laws of the state for the election or appointment of District Judges. Vacancies in the office shall be filled by appointment by the Governor by and with the consent and advice of the Senate. In the event of disqualification of the judge of said court to try a particular case or because of the illness, inability, failure or refusal of said judge to hold court at any time, the Juvenile Board of said county shall select a special judge who shall hold the court and proceed with the business thereof.

Dependent, Neglected, or Delinquent Children; Prosecution or Defense of Cases by District Attorney

Sec. 4. The District Attorney of Dallas County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent or in support cases coming under the Reciprocal Support Act.

Concurrent Jurisdiction of Court

Sec. 5. Said Juvenile Court No. 2 shall have jurisdiction concurrent with the District Courts, Juvenile Courts and Courts of Domestic Relations situated in said county of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pend-

ing final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction. All cases enumerated or included above may be instituted in or transferred to said court.

Division and Transfer of Cases

Sec. 6. Immediately after this Act takes effect, the cases now pending in the Juvenile Court of Dallas County shall be equally divided and one-half of such cases shall be transferred to this court. Thereafter the cases shall be filed in numerical order dividing the cases in such way that each court shall have the same number of cases, or said cases shall be assigned according to the rules promulgated by the District Judges of Dallas County. By and with the consent of the Judge of the Juvenile Court No. 2 and the Juvenile Court, cases within the jurisdiction of these respective courts may be transferred from one court to the other, and the Judges of the Court of Domestic Relations, Court of Domestic Relations No. 2, Court of Domestic Relations No. 3, the Juvenile Court and the Juvenile Court No. 2 of Dallas County may sit for each other in cases coming within the jurisdiction of such courts. All District Courts of Dallas County may likewise sit for, hear and decide cases pending in said Juvenile Court No. 2 as the sitting for, hearing and deciding of cases is now and may hereafter be authorized by law for all District Courts of Dallas County.

Court of Record; Place of Sitting; Seal; Dockets and Records

Sec. 7. The Juvenile Court No. 2 of Dallas County shall be a court of record and shall sit and hold court at the county seat of Dallas County, shall have a seal and maintain all necessary dockets, records and minutes therein.

Probation Department, Sheriff and Constables; Performance of Duties

Sec. 8. It shall be the duty of the Probation department, the sheriff and constables of Dallas County to furnish said Juvenile Court No. 2 of Dallas County such service in the line of their respective duties as shall be required by said court, and all sheriffs and constables

within the State of Texas shall render the same service with reference to process and writs from said Juvenile Court No. 2 of Dallas County as is required of them by law with reference to process and writs from District Courts.

Writs and Orders; Contempt

Sec. 9. The said Juvenile Court No. 2 of Dallas County and the judge thereof, shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Juvenile Court No. 2 of Dallas County has jurisdiction, and also shall have power to punish for contempt as provided for District Courts of Dallas County.

Terms of Court

Sec. 10. The terms of the Juvenile Court No. 2 of Dallas County shall begin on the first Monday in January and July of each year, respectively, and each term of said court shall continue until the convening of the next successive term.

Membership of Judge on Juvenile Board; Compensation

Sec. 11. The Judge of the Juvenile Court No. 2 of Dallas County shall be a member of the Juvenile Board of Dallas County, which shall hereafter be composed of the judges of the several District Courts and Criminal District Courts of Dallas County, the Judges of the Courts of Domestic Relations of Dallas County, the Juvenile Courts of Dallas County, and the County Judge of Dallas County.

The Judges of the District Courts and Criminal District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from county funds, as they are entitled to receive under General or Special law. The members of the Juvenile Board shall continue to have the same authority as is now provided by law, and such Juvenile Board may assign the Judge of the Juvenile Court No. 2 of Dallas County to handle the duties of the Juvenile Court and in like manner assign the Judges of the Juvenile Courts to handle the duties of Domestic Relations Courts of Dallas County.

Court Reporter; Bailiff

Sec. 12. The Judge of the Juvenile Court No. 2 of Dallas County shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Dallas County. A bailiff shall be designated by the sheriff of Dallas County to serve said court as in other courts of the county.

Clerk

Sec. 13. The District Clerk of Dallas County shall also act as District Clerk for the Juvenile Court No. 2 of Dallas County.

Attendance of Sheriff; Execution of Process; Fees

Sec. 14. The sheriff of Dallas County shall attend either in person or by deputy the Juvenile Court No. 2 of Dallas County as required by law in Dallas County or when required by the judge thereof; and the sheriffs and constables of the several counties of this state, when executing process out of said court, shall receive fees provided by General law for executing process out of District Courts.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Juvenile Court No. 2 of Dallas County shall be to the Court of Civil Appeals for the Fifth Supreme Judicial District as now or hereafter provided for appeals from District and County courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in the Juvenile Court No. 2 of Dallas County, shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Partial Invalidation

Sec. 17. If any section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect, and the validity of the remainder of this Act shall not be affected thereby. Laws relating to the handling of juvenile cases not in conflict with this Act shall govern the investigation of juvenile cases, hearings and disposition of cases.

[Acts 1969, 61st Leg., p. 2326, ch. 786, eff. Sept. 1, 1969.]

Art. 2338-10. Court of Domestic Relations for Nueces County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Nueces County, Texas.

Judge; Election; Qualifications and Term; Salary

Sec. 2. There shall be elected in Nueces County by the qualified voters thereof a Judge of the Court of Domestic Relations of Nueces County, who shall be a qualified voter in said county, a resident of said county, and a regularly licensed attorney at law in this State, and who shall have been actively engaged in the practice of law for a period of not less than five (5) years next preceding the election to select such Judge. The Judge of the Court

of Domestic Relations of Nueces County shall hold office for a term of four years, and until his successor shall have been elected and qualified. The Judge of the Court of Domestic Relations shall receive a salary of Twenty Thousand Dollars per annum, to be paid out of the County Treasury by order of the commissioners' court, and said salary shall be paid monthly in equal installments. The Judge of the Court of Domestic Relations shall be a member of the Juvenile Board of Nueces County, and for this additional work as member of the Juvenile Board he shall be allowed compensation in like manner as other members of said Juvenile Board, such compensation to be in addition to the salary herein provided.

Jurisdiction

Sec. 3. The Court of Domestic Relations shall have jurisdiction concurrent with the District Courts of Nueces County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the Juvenile and Child Welfare Laws of this State; and all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings and the adjudication of title to land when such adjudication is incident to a divorce or other proceeding within the jurisdiction of the Court of Domestic Relations, as well as dependent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them and their minor children, which are now or may be hereafter within the jurisdiction of the District or County Courts; and all cases in which children are alleged or charged to be dependent and neglected children, or delinquent children, as provided by law. All cases enumerated or included above shall be instituted in or transferred to the Court of Domestic Relations.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1242, ch. 565, § 7, see section 3, post.

Jurisdiction

Sec. 3. The court of Domestic Relations for Nueces County shall have the jurisdiction concurrent with the District Courts in Nueces County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the

adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 435, ch. 200, § 10, see section 3, ante.

Transfer of Cases Between Courts

Sec. 4. Immediately after this Act takes effect all cases enumerated or included above now pending in the District Courts of Nueces County, with the exception of the cases involving delinquent children and children charged to be dependent and neglected, shall be transferred to the Court of Domestic Relations created by this Act. The cases involving delinquent children and children charged to be dependent and neglected shall be tried by the Court designated as the Juvenile Court of Nueces County, Texas. Thereafter the Judges of the District Courts of Nueces County may transfer any case within the jurisdiction of the Court of Domestic Relations created by this Act to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said Court to any District Court of Nueces County, the particular District Court to which the transfer is to be made to be designated by the Presiding Judge of the District Courts of Nueces County. Said Court of Domestic Relations may also sit for any of the District Courts of Nueces County and hear and decide for such Courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Nueces County may likewise sit for, hear and decide cases pending in the Court of Domestic Relations, as, the sitting for, hearing and deciding cases is now or hereafter may be authorized by law for all District Courts of Nueces County.

Filing of Cases

Sec. 5. Immediately after this Act takes effect, the District Clerk of Nueces County, who shall be Clerk of the Court of Domestic Relations shall file in the Court of Domestic Rela-

tions created by this Act all cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the name of persons, and all divorce cases.

Disqualification of Judge and Congested Docket; Assignment of Cases; Selection of Special Judge

Sec. 6. Should the Judge of the Court of Domestic Relations be disqualified to try a particular case or should he be unable to do so by reason of illness or other cause, or should the docket of his court become so congested as to make it improbable that he can dispose of all matters pending thereon, such fact shall be brought to the attention of the presiding judge of the District Courts of Nueces County by any practicing lawyer of Nueces County, whereupon such matters as require attention shall be promptly assigned by the presiding judge to one of the District Courts of Nueces County for action and disposition in the same manner as other matters are assigned to the several District Courts of said County. All cases within the jurisdiction of the Court of Domestic Relations which are set for trial as contested matters in accordance with the local rules of the District Courts of Nueces County, shall be treated and assigned to courts for trial in the same manner as other civil cases of a contested nature, with no distinction being made between domestic relations matters and other civil cases insofar as contested trials are concerned; and it shall be the duty of the several District Courts of Nueces County to accept assignment of contested cases within the jurisdiction of the Court of Domestic Relations when such cases are assigned to them by the presiding judge, in the same manner and to the same extent that their responsibility extends to other contested civil cases. In the event that it should ever become necessary to select a special judge for the Court of Domestic Relations, such special judge shall be selected in the manner provided by law for the selection of a special judge of the district court.

County Attorney; Duty to Prosecute or Defend

Sec. 7. The County Attorney of Nueces County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, and the District Attorney of Nueces County shall prosecute all support cases coming under the Reciprocal Support Act.

Writ and Orders; Contempt

Sec. 8. The Court of Domestic Relations of Nueces County shall be a Court of Record, shall sit and hold court at the County Seat of Nueces County, shall have a seal, and shall maintain all necessary dockets, records and minutes pertaining to the activities of such court.

Probation Department, Sheriffs and Constables, Etc.; Duties

Sec. 9. It shall be the duty of the Probation Department, the Sheriff and Constables of Nueces County, Texas, and all Welfare Agencies of Nueces County having as their objective the protection of children, to furnish said Court of Domestic Relations such service in the line of their respective duties as shall be required by said Court, and all Sheriffs and Constables within the State of Texas shall render the same service with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Writs and Orders; Contempt

Sec. 10. The said Court of Domestic Relations and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 11. The terms of the Court of Domestic Relations shall begin on the first Monday in January and July of each year, respectively, and each term of said Court shall continue until the convening of the next successive term.

Juvenile Board; Composition; Compensation of Members

Sec. 12. The Judge of the Court of Domestic Relations shall be a member of the Juvenile Board of Nueces County, which shall hereafter be composed of the Judges of the several District Courts of Nueces County, the County Judge of Nueces County, and the Judge of the Court of Domestic Relations. The Judges of the District Courts shall continue to receive such compensation for their services as members of the Juvenile Board and for such other administrative duties as are now or may hereafter be required, from County funds, as they are entitled to receive under the General or Special Laws. The members of the Juvenile Board shall continue to have the same authority as is now provided by law.

Shorthand Reporter

Sec. 13. The Judge of the Court of Domestic Relations is authorized to appoint an official shorthand reporter for such court. Such official shorthand reporter shall receive the same compensation provided for in Article 2326, Revised Civil Statutes of Texas. The Judge of the Court of Domestic Relations shall have the authority to terminate the employment of such official shorthand reporter at any time.

Removal

Sec. 14. The Judge of the Court of Domestic Relations of Nueces County may be removed from office in the same manner and for the same causes as a County Judge may be removed under the laws of this State.

Duties of Sheriff

Sec. 15. The Sheriff of Nueces County shall attend either in person or by deputy the Court of Domestic Relations as required by law in Nueces County, or when required by the Judge thereof, and the Sheriffs and Constables of the several Courts of this State when executing process out of said Court, shall receive fees provided by the General Laws for executing process out of District Courts.

Appeals

Sec. 16. Appeals in all civil cases from judgments and orders of the Court of Domestic Relations shall be to the Court of Civil Appeals for the Fourth Supreme Judicial District as is now or hereafter provided for appeals from District and County Courts, and all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure; Number of Jurors

Sec. 17. The practice and procedures, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the Court of Domestic Relations shall be governed by the provisions of this Act and laws pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Effect of Act on Other Laws

Sec. 18. Nothing in this Act shall repeal, modify, amend or impair in any way the provisions of Acts 1954, 53rd Legislature, 1st Called Session, Page 42, Chapter 14, as amended by Acts 1955, 54th Legislature, Page 5, Chapter 5.¹

¹ Articles 1970-339, 1970-339A.

Jurisdiction of District Courts of Nueces County

Sec. 19. Nothing in this Act shall diminish the jurisdiction of the several District Courts of Nueces County, but such Courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law. Such District Courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the Court of Domestic Relations, and none of the District Courts of Nueces County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the Court of Domestic Relations, as time and the condition of the dockets of such District Courts will permit.

[Acts 1959, 56th Leg., p. 56, ch. 31; Acts 1963, 58th Leg., p. 735, ch. 274, § 1; Acts 1967, 60th Leg., p. 435, ch. 200, §§ 9 to 15, eff. May 15, 1967; Acts 1967, 60th Leg., p. 1242, ch. 565, § 7, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 3054, ch. 1014, § 4, eff. June 15, 1971; Acts 1973, 63rd Leg., p. 1337, ch. 503, § 12, eff. Aug. 27, 1973.]

Art. 2338-11. Courts of Domestic Relations Nos. 2 and 3 for Harris County

Creation of Courts

Sec. 1. There are hereby created two Courts of Domestic Relations to be known as Court of Domestic Relations No. 2 in and for Harris County, Texas, and Court of Domestic Relations No. 3 in and for Harris County, Texas.

Judges; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations No. 2 and the Judge of the Court of Domestic Relations No. 3 shall each be a legally licensed attorney at law in the state. No person shall be elected or appointed judge of said courts who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. They shall be paid a salary which shall be equal to the total salary paid to a District Judge of Harris County. Their salaries shall be paid out of the General Fund of Harris County in twelve (12) equal monthly installments. They shall each be a member of the Juvenile Board of Harris County, which shall hereafter be composed of the judges of the several District Courts and Criminal District Courts of Harris County, the County Judge of Harris County, and the judges of the several Courts of Domestic Relations for Harris County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations No. 2 and the Court of Domestic Relations No. 3 as Juvenile Courts of Harris County. Judges of the District Courts and Criminal District Courts and Court of Domestic Relations shall continue to receive such compensation for their services as members of the Juvenile Board and otherwise from county funds as they are entitled to receive under general or special law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 2 for Harris County, and the Court of Domestic Relations No. 3 for Harris County, shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or be-

tween any of these and third persons, corporations, trustees or other legal entities, which are or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The County Court of Harris County, the County Courts at Law of Harris County, and the District Courts of Harris County may transfer to the Court of Domestic Relations or Court of Domestic Relations No. 2 or Court of Domestic Relations No. 3 any and all cases, in their respective courts in Harris County, Texas, which said Courts of Domestic Relations are hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District, Domestic Relation, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations No. 2 and Court of Domestic Relations No. 3 shall be returned and filed in said Domestic Relations Courts and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Courts of Domestic Relations No. 2 and No. 3, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks

Sec. 6. The said Court of Domestic Relations No. 2 and Court of Domestic Relations No. 3 shall be courts of record; shall sit and hold court at the county seat in Harris County; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the clerk of said courts. He shall keep a fair record of all acts done and proceedings had in said courts and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in these courts. The seal of the Court of Domestic Relations No. 2 shall have a star of five points with the words "Court of Domestic Relations No. 2, Harris County, Texas," engraved thereon. The seal of the Court of Domestic Relations No. 3 shall have a star of five points with the words "Court of Domestic Relations No. 3, Harris County, Texas," engraved thereon.

Term of Office of the Judges; Appointment and Election; Removal; Vacancies; Cooperation by Juvenile Board; Disqualification, Etc.; Special Judges

Sec. 7. The term of office of the Judge of the Court of Domestic Relations No. 2 and the Judge of the Court of Domestic Relations No. 3 shall be for a period of four (4) years, the first full term of the Court of Domestic Relations No. 2 and the Court of Domestic Relations No. 3 to commence on January 1, 1961. Immediately upon passage of this Act, the Governor shall appoint a suitable person as judge to each of said courts, such judges to hold office until the next general election and until their successors shall be duly elected and qualified. Thereafter, each of such judges shall be elected as provided by the Constitution and laws of the state for the election of District Judges. He shall be subject to removal of office for the same reasons and in the same manner as is provided by the Constitution and laws of the state for the removal of county officers. Vacancies in each office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said Judges of the Courts of Domestic Relations Nos. 2 and 3, when deemed necessary or when sought by them; and shall cooperate with them in the administration of the affairs of said courts. In the event of disqualification of either of the judges to try a particular case, or because of the illness, inability, failure or refusal of said judges to hold court at any time the Juvenile Board shall select a special judge who shall hold the court and proceed with the business thereof.

Boards and Officers, Duties Of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer, Sheriff, and Constable of Harris County to furnish to said courts such services in the line of their respective duties as shall be required by said courts, and all sheriffs, and constables within the State of Texas, shall render the same service and perform the same duties with reference to process and writs from said courts as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 9. The judges of each of the courts created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve in each court created herein as in other courts of the county.

Custody of Children; Investigations

Sec. 10. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 11. The said courts and the judges thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Courts of Domestic Relations have jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Terms of Court

Sec. 12. The first term of such courts created herein shall begin when the judge of such court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 13. Appeals in all civil cases from judgments and orders of said courts shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said courts shall be governed by provision of this Act and the laws and rules pertaining to District Courts; provided, that juries shall be composed of twelve (12) members.

District Attorney to Prosecute or Defend

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Transfer of Cases Between Courts

Sec. 16. All cases, complaints and other matters over which the said Courts of Domestic Relations No. 2 and No. 3 are herein given jurisdiction, may be transferred to, or instituted in either of said courts; but either of said courts, and the judges therein, may transfer any such cases or matters to the county, Domestic Relations or District Court having jurisdiction thereof under the laws of the state, with the consent of the judge of said court, to be tried in such court to which such transfer is made.

Exchange and Transfer of Cases

Sec. 16-A. The judge of said Court of Domestic Relations of Harris County, and the

judges of the said courts of Domestic Relations Nos. 2 and 3 of Harris County may, in their discretion, exchange benches or courts from time to time, and may transfer cases and other proceedings from one court to another, and any or either of said judges of said courts of Domestic Relations of Harris County may, in his own court room, try and determine any case or proceeding pending in either of such other courts of Domestic Relations without having the case transferred, or may sit in any other of such courts and hear and determine any case there pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending and at the time the judgment or order is rendered, and two or more of such judges of such court of Domestic Relations may try different cases in the same court at the same time, and each may occupy his own court room or the court room of any other such court. The judge of any or either of such court may issue restraining orders and injunctions, or other orders and processes returnable to any other such judge of such court and any such judge may transfer any case or proceeding pending in his court to any other of said courts, and the judge of any such court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power, in his discretion, to transfer any such case to any other of said courts, and any other such judge may in his court room try any case pending in any other of such courts.

[Acts 1959, 56th Leg., p. 540, ch. 242; Acts 1959, 56th Leg., 1st C.S., p. 35, ch. 12, § 1; Acts 1967, 60th Leg., p. 1247, ch. 565, § 8, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Art. 2338-11a. Court of Domestic Relations No. 4 for Harris County**Creation of Courts**

Sec. 1. There is hereby created an additional Court of Domestic Relations to be known as Court of Domestic Relations No. 4 in and for Harris County, Texas.

Judges; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations No. 4 shall be a legally licensed attorney at law in the State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Harris County. His salary shall be paid out of the General Fund of Harris County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Harris County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Harris County, the County Judge of Harris County, and the Judges of the several Courts of Domestic Relations for Harris County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations No. 4 as a Juvenile Court of Harris County. Judges of the District

Courts and Criminal District Courts and Courts of Domestic Relations shall continue to receive such compensation for their services as members of the Juvenile Board and otherwise from County funds as they are entitled to receive under General or Special Law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 4 for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The Court of Harris County, the County Courts at Law of Harris County, and the District Courts of Harris County may transfer to the Court of Domestic Relations No. 4 any and all cases, in their respective courts in Harris County, Texas, which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District, Domestic Relations, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations No. 4 shall be returned and filed in said Domestic Relations Court and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations No. 4, and all

waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks

Sec. 6. The said Court of Domestic Relations No. 4 shall be a court of record, shall sit and hold court at the county seat in Harris County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of the Court of Domestic Relations No. 4 shall have a star of five points with the words "Court of Domestic Relations No. 4, Harris County, Texas" engraved thereon.

Term of Office of the Judges; Appointment and Elections; Removal; Vacancies; Cooperation by Juvenile Board; Disqualification, Etc.; Special Judges

Sec. 7. The term of office of the Judge of the Court of Domestic Relations No. 4 shall be for a period of four (4) years, the first full term of the Court of Domestic Relations No. 4 to commence on January 1, 1964. Immediately upon passage of this Act, the Governor shall appoint a suitable person as Judge of said Court, such Judge to hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, such Judge shall be elected as provided by the Constitution and laws of the State for the election of District Judges. He shall be subject to removal of office for the same reasons and in the same manner as is provided by the Constitution and laws of the State for the removal of County Officers. Vacancies in such office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said Judge of the Court of Domestic Relations No. 4 when deemed necessary or when sought by him; and shall cooperate with him in the administration of the affairs of said Court. In the event of disqualification of such Judge to try a particular case, or because of the illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board shall select a special judge who shall hold the court and proceed with the business thereof.

Boards and Officers, Duties Of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constable of Harris County to furnish to said Court such services in the line of their respective duties as shall be required by said Court; and all sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to

process and writs from said Court as is required of them by law with reference to process and writs from District Courts.

Court Reporter, Bailiff

Sec. 9. The Judge of the Court created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporter of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve in the Court created herein as in other courts of the County.

Custody of Children; Investigation

Sec. 10. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 11. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Terms of Court

Sec. 12. The first term of such Court created herein shall begin when the Judge of such Court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 13. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provision of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District Attorney to Prosecute or Defend

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Wel-

fare Office, County Health Officer or any other welfare agency is interested.

Transfer of Cases Between Courts

Sec. 16. All cases, complaints and other matters over which the said Court of Domestic Relations No. 4 is herein given jurisdiction may be transferred to or instituted in said Court; but said Court, and the Judge therein, may transfer any such cases or matters to the County, Domestic Relations or District Court having jurisdiction thereof under the laws of the State, with the consent of the Judge of said Court, to be tried in such Court to which such transfer is made.

Exchange and Transfer of Cases

Sec. 16A. The Judge of said Court of Domestic Relations of Harris County, and the judges of the other courts of Domestic Relations of Harris County may, in their discretion, exchange benches or courts from time to time, and may transfer cases and other proceedings from one court to another, and any or either of said judges of said courts of Domestic Relations of Harris County may, in his own courtroom, try and determine any case or proceeding pending in either of such other Courts of Domestic Relations without having the case transferred, or may sit in any other of such Courts and hear and determine any case there pending, and every judgment and order shall be entered in the minutes of the Court in which the case is pending and at the time the judgment or order is rendered, and two or more of such Judges of such Court of Domestic Relations may try different cases in the same Court at the same time, and each may occupy his own courtroom or the courtroom of any other such Court. The Judge of any or either of such Courts may issue restraining orders and injunctions, or other orders and processes returnable to any other such Judge of such Court and any such Judge may transfer any case or proceeding pending in his Court to any other of said Courts, and the Judge of any such Court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power, in his discretion, to transfer any such case to any other of said Courts, and any other such Judge may in his courtroom try any case pending in any other of such Courts.

[Acts 1963, 58th Leg., p. 778, ch. 299; Acts 1967, 60th Leg., p. 1242, ch. 565, § 9, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 10 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-11b. Court of Domestic Relations No. 5 for Harris County

Sec. 1. There is hereby created a Court of Domestic Relations to be known as Court of Domestic Relations No. 5 in and for Harris County, Texas.

Sec. 2. The Judge of the Court of Domestic Relations No. 5 shall be a legally licensed attorney at law in the state. No person shall be

elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Harris County. His salary shall be paid out of the General Fund of Harris County in twelve (12) equal monthly installments. The Juvenile Board shall be authorized to designate the Court of Domestic Relations No. 5 as a Juvenile Court of Harris County.

Sec. 3. The Court of Domestic Relations No. 5 for Harris County shall have the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judge thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce its jurisdiction.

Sec. 4. The County Court of Harris County, the County Courts at Law of Harris County, and the District Courts of Harris County may transfer to the Court of Domestic Relations or Court of Domestic Relations No. 2 or Court of Domestic Relations No. 3 or Court of Domestic Relations No. 4, or Court of Domestic Relations No. 5, any and all cases, in their respective courts in Harris County, Texas, which said Courts of Domestic Relations are hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Sec. 5. All writs and process issued by or out of a District, Domestic Relations, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations No. 5 shall be returned and filed in said Domestic Relations Court and shall be as

valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations No. 5 and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Sec. 6. The said Court of Domestic Relations No. 5 shall be a court of record; shall sit and hold court at the county seat in Harris County; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Harris County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in these courts. The seal of the Court of Domestic Relations No. 5 shall have a star of five points with the words "Court of Domestic Relations No. 5, Harris County, Texas," engraved thereon.

Sec. 7. The term of office of the Judge of the Court of Domestic Relations No. 5 shall be for a period of four (4) years, the first full term of the Court of Domestic Relations No. 5 to commence on January 1, 1971. Immediately upon passage of this Act, the Governor shall appoint a suitable person as judge of said court, such judge to hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, the judge shall be elected as provided by the Constitution and laws of the State for the election of District Judges. He shall be subject to removal of office for the same reasons and in the same manner as is provided by the Constitution and laws of the State for the removal of county officers. Vacancies in each office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said Judge of the Court of Domestic Relations No. 5 when deemed necessary or when sought by them; and shall cooperate with them in the administration of the affairs of said courts. In the event of disqualification of the judge to try a particular case, or because of the illness, inability, failure or refusal of said judge to hold court at any time the Juvenile Board shall select a special judge who shall hold the court and proceed with the business thereof.

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer, Sheriff, and Constable of Harris County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs, and constables within the State of Texas, shall render the same service and perform the same duties with reference to process and writs from said court as is required of them by law with reference to process and writs from District Courts.

Sec. 9. The judge of the court created herein shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Harris County and whose salary shall be paid by the Commissioners Court of Harris County. A bailiff shall be designated by the Sheriff of Harris County to serve in the court created herein as in other courts of the county.

Sec. 10. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Sec. 11. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Sec. 12. The first term of such court created herein shall begin when the judge of such court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Sec. 13. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the First or Fourteenth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provision of this Act and the laws and rules pertaining to District Courts; provided, that juries shall be composed of twelve members.

Sec. 15. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Sec. 16. All cases, complaints and other matters over which the said Court of Domestic Relations No. 5 is herein given jurisdiction, may be transferred, and the judge therein may transfer any such cases or matters, to the county, Domestic Relations or District Court having jurisdiction thereof under the laws of the state, with the consent of the judge of said court, to be tried in such court to which such transfer is made.

Sec. 17. The judge of said Court of Domestic Relations of Harris County, and the judges of the said courts of Domestic Relations Nos. 2, 3, 4, and 5, of Harris County may, in their discretion, exchange benches or courts from time to time, and may transfer cases and other proceedings from one court to another, and any or either of said judges of said courts of Domestic Relations of Harris County may, in his own courtroom, try and determine any case or proceeding pending in either of such other courts of Domestic Relations without having the case transferred, or may sit in any other of such courts and hear and determine any case there pending, and every judgment and order shall be entered in the minutes of the court in which the case is pending and at the time the judgment or order is rendered, and two or more of such judges of such court of Domestic Relations may try different cases in the same court at the same time, and each may occupy his own courtroom or the courtroom of any other such court. The judge of any or either of such court may issue restraining orders and injunctions, or other orders and processes returnable to any other such judge of such court and any such judge may transfer any case or proceeding pending in his court to any other of said courts, and the judge of any such court to which a case or proceeding is transferred shall receive and try the same, and in turn shall have power, in his discretion, to transfer any such case to any other of said courts, and any other such judge may in his courtroom try any case pending in any other of such courts.

[Acts 1969, 61st Leg., p. 1531, ch. 465, eff. Sept. 1, 1969; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 10 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-12. Juvenile Court for Ector County; Compensation of Judge

Sec. 1. The County Court at Law of Ector County shall be the Juvenile Court for Ector County and exercise such jurisdiction in addition to the duties now imposed upon such court by law.

Sec. 2. The Judge of the County Court at Law of Ector County shall exercise the duties of Judge of the Juvenile Court of Ector County in addition to the duties now imposed upon him by law as Judge of the County Court at Law of Ector County.

Sec. 3. The Judge of the County Court at Law of Ector County in addition to the compensation received as Judge of the County Court at Law of Ector County may be paid a salary, not to exceed Three Thousand Dollars (\$3,000.00), for his services as Judge of the Juvenile Court of Ector County, said additional salary to be paid out of the General Fund of Ector County on the order of the Commissioners Court of said county in equal monthly installments.

[Acts 1959, 56th Leg., p. 727, ch. 331.]

Art. 2338-13. Court of Domestic Relations for Gregg County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Gregg County, Texas.

Jurisdiction

Sec. 2. The Court of Domestic Relations for Gregg County shall have the jurisdiction concurrent with the District Courts in Gregg County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law; of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property; all criminal cases involving crimes against children, including wife and child desertion, contributing to the delinquency of a minor, enticing a minor from legal custody as provided in Articles 602, 534, and 535, Penal Code of Texas, 1925, as amended, and Chapter 500, Acts of the 51st Legislature, Regular Session, 1949 (Article 534a, Vernon's Texas Penal Code), and all cases enumerated above may be instituted in or transferred to said court; and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Qualifications of Judge; Term of Office

Sec. 3. The Judge of the Court of Domestic Relations hereby established shall be a legally licensed attorney-at-law in the State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least four (4) years immediately prior to his appointment or election. The person elected such Judge shall hold the office for four (4) years and until a successor shall have been duly elected and qualified.

Appointment of Judge; Term of Office; Subsequent Elections; Quarters for Court

Sec. 4. Upon the effective date of this Act, the Commissioners Court of Gregg County shall appoint a Judge of the Court of Domestic Relations in and for Gregg County who shall hold office until the next General Election after said appointment and until his successor shall have been elected and qualified. Thereafter, the Judge of the Court of Domestic Relations of Gregg County shall be elected as provided by the Constitution and Laws of this State for the election of Judges of the County Domestic Relations Courts.

The Commissioners Court of Gregg County shall provide suitable quarters for the holding of said Court.

Salary of Judge; Oath

Sec. 5. The Judge of the Court of Domestic Relations of Gregg County shall be paid at a salary rate no greater than that set by a majority vote of the Commissioners Court of Gregg County. The Judge of the Court of Domestic Relations of Gregg County shall take the oath of office as required by law relating to County Judges.

Transfer of Cases from Other Courts

Sec. 6. When the Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Gregg County and the Judges of the Seventy-first Judicial District and the One Hundred Twenty-fourth Judicial District may transfer to said Court of Domestic Relations all cases which may then be pending in their respective Courts in Gregg County of which said Court of Domestic Relations is hereby given jurisdiction including all filed papers and certified copies of all orders entered by them.

Transfers to Other Court

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court but the Judge of said Court may transfer any such cases or matters to the County or District Courts having jurisdiction thereof under the laws of the State to be tried in such Court in which such transfer is made with the permission and consent of the Judge thereof.

Place of Holding Court; Dockets and Minutes

Sec. 8. The said Court of Domestic Relations shall sit and hold court in Gregg County and shall maintain all necessary dockets and minutes therein.

Officers and Boards to Furnish Suggestions

Sec. 9. It shall be the duty of all officers, agents, and employees of the Child Welfare Department, County Welfare Office, County Health Officer, Sheriff and Constables within Gregg County to furnish to said Court such suggestions in the line of their respective duties as shall be required by said Court.

Appointment of Officers, Investigators and Court Reporters; Salaries

Sec. 10. The Judge of the Court of Domestic Relations shall have authority to appoint such officers and investigators that might be necessary to the proper administration of its jurisdiction in Gregg County; when he deems it necessary to the proper administration of such Court, he may appoint a Court Reporter provided such appointments are approved by the Commissioners Court of Gregg County, by a majority vote of said members, the salaries and compensation of such officers and Court Reporter to be determined by the Commissioners Court of Gregg County by a majority vote of said members and to be paid by the Commissioners Court out of the General Fund of Gregg County for the services rendered therein.

Injunctions and Writs; Contempts

Sec. 11. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

Terms of Court; Number of Sessions

Sec. 12. Terms of the Court of Domestic Relations in and for Gregg County shall be as follows: on the first Mondays in January and July of each year and may continue until the date herein fixed for the beginning of the next succeeding term. As soon as this Act becomes effective and the Judge of the Court of Domestic Relations is appointed and qualified, he shall begin a term of Court which shall continue until the day fixed for the beginning of the next succeeding term of Court and thereafter the terms of Court of the Court of Domestic Relations in and for Gregg County, shall begin and end on the above-mentioned date. The Judge of said Court in his discretion may hold as many sessions of Court in any term of the Court as is deemed by him proper and expedient for the dispatch of business.

Disqualification of Judge; Special Judge; Compensation

Sec. 13. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case because of illness, inability, failure or refusal of said Judge to hold Court at any time, a Special Judge of the Court of Domestic Relations of Gregg County may be appointed or elected as provided by law relating to County Courts and to the Judge thereof, who shall receive the same compensation as that provided in Section 5 of this Act; such compensation shall not be deducted from the salary of the Regular Judge, but shall be in addition thereto.

Vacancies in Office

Sec. 14. Any vacancy in the office of the Judge of the Court of Domestic Relations in

and for Gregg County shall be filled by the Commissioners Court of Gregg County by a majority vote of its members, and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Appeals

Sec. 15. Appeals in all Civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Sixth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts, and in all criminal cases, appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by the laws and rules pertaining to District and County Courts providing the juries shall be composed of twelve (12) members.

Writs and Process in Transferred Cases

Sec. 17. All writs and processes issued by or out of the Districts or County Court prior to the time any case is transferred by either of said Courts to the Court of Domestic Relations in and for Gregg County shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed under such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

Sec. 18. The said Court of Domestic Relations shall be a Court of Record, shall sit and hold Court at the County seat in Gregg County, shall have a seal and maintain all necessary dockets, records, and minutes therein. The District Clerk of Gregg County shall serve as a Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform generally all such duties as are required generally of District Clerks in so far as the same may be applicable in this Court. The seal of said Court shall have a star of five (5) points with the words "Court of Domestic Relations, Gregg County, Texas" engraved thereon.

Sheriffs and Constables; Performance of Duties

Sec. 19. All sheriffs and constables within the State of Texas shall render the same service and perform the same duties with reference to process and writs for said Court of Domestic Relations as is required of them by law with reference to process and writs for District Courts.

Suits Involving Custody of Children; Investigations

Sec. 20. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Dependent, Neglected or Delinquent Children; Prosecution and Defense of Cases by Criminal District Attorney

Sec. 21. The Criminal District Attorney of Gregg County or his duly and legally qualified assistant, or assistants, shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer or any other welfare agency is interested and shall represent the State in all proceedings in said Court of Domestic Relations.

Juvenile Board; Counsel and Advice; Cooperation with Judge

Sec. 22. The Juvenile Board and its members shall give counsel and advice to the Judge of said Court of Domestic Relations when deemed necessary or when sought by him and shall cooperate with him in the administration of the affairs of said Court.

Removal of Judge

Sec. 23. The Judge of said Court of Domestic Relations shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of County Officers.

Partial Invalidity

Sec. 24. If any Section, clause or part of this Act shall be held invalid, it is hereby declared to be the intention of the Legislature that the remainder thereof not held invalid shall remain in effect and the validity of the remainder of this Act shall not be affected thereby.

[Acts 1959, 56th Leg., p. 952, ch. 443; Acts 1967, 60th Leg., p. 1242, ch. 565, § 10, eff. Aug. 28, 1967; Acts 1971, 62nd Leg., p. 936, ch. 147, § 1, eff. May 10, 1971; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 20 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-14. Court of Domestic Relations for Jefferson County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations to be known as Court of Domestic Relations for Jefferson County, Texas.

Judge: Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations shall be a legally licensed attorney at law in the state. No person shall be elected or appointed judge of said court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. He shall be paid a salary which shall be equal to the total salary paid to a District Judge of Jefferson County.

The salary shall be paid out of the General Fund or Officers Salary Fund of Jefferson County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Jefferson County and shall be paid for his services as a member of the Juvenile Board in the same manner as other District Judges of Jefferson County, but in no event shall his total salary exceed the total salary paid to a District Judge of Jefferson County.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Jefferson County shall have the jurisdiction concurrent with the District Courts in Jefferson County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions, involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The County Court of Jefferson County, the County Court of Jefferson County at Law, and the District Courts of Jefferson County may transfer to the Court of Domestic Relations any and all cases, in their respective courts in Jefferson County, Texas, over which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District, Domestic Relations, or County Court prior to the time any case is transferred by any of said courts to the Court of Domestic Relations shall be returned and filed in said Domestic Relations Court and shall be

as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the said Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks

Sec. 6. (a) The Court of Domestic Relations shall be a court of record; shall sit and hold court at the county seat in Jefferson County and at Port Arthur, Texas, as hereinafter provided; shall have a seal, and maintain all necessary dockets, records and minutes therein. The District Clerk of Jefferson County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform generally all such duties as are required generally of district clerks insofar as the same may be applicable in this court. The seal of the Court of Domestic Relations shall have a star of five points with the words "Court of Domestic Relations, Jefferson County, Texas," engraved thereon.

(b) During each term of the Court of Domestic Relations for Jefferson County, Texas, said court may sit at any time in Port Arthur, Texas, to try, hear and determine any civil non-jury case over which it has jurisdiction, and may hear and determine motions, arguments and such other non-jury matters which said court may have jurisdiction over, provided further, that nothing herein shall be construed to deprive the court of jurisdiction to try non-jury cases and hear and determine motions, arguments and such other non-jury civil matters at the county seat at Beaumont, Texas.

(c) The District Clerk of Jefferson County or his deputy shall wait upon the said court when sitting at Port Arthur, Texas, and shall be permitted to transfer all necessary books, minutes, records, and papers to Port Arthur, Texas, while the court is in session there, and likewise to transfer all necessary books, minutes, records and papers from Port Arthur, Texas, to Beaumont, Texas, at the end of each session in Port Arthur, Texas.

(d) The Sheriff of Jefferson County or his deputy shall be in attendance upon the court while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

(e) The official court reporter of said court shall be in attendance upon the court while sitting at Port Arthur, Texas, and perform such duties as he may be directed to perform, either as required by law or under the order of the court.

(f) The Commissioners Court of Jefferson County, Texas, is hereby authorized to provide suitable quarters for said court while sitting at Port Arthur, Texas, which said quarters shall

be located within the sub-courthouse in Port Arthur, Jefferson County, Texas.

(g) Any Judge of any District Court of Jefferson County, Texas, may hear and determine cases, motions and arguments that are filed in the Court of Domestic Relations for Jefferson County, Texas, without the necessity of a formal transfer of the Judge to the said Court of Domestic Relations for Jefferson County, Texas.

Term of Office of the Judge; Appointment and Election; Removal; Vacancies; Cooperation by Juvenile Board; Disqualification, Etc.; Special Judges

Sec. 7. The term of office of the judge of the Court of Domestic Relations shall be for a period of four (4) years, the first full term of the Court of Domestic Relations to commence on January 1, 1963. Immediately upon passage of this Act, the Governor shall appoint a suitable person as judge of said court, such judge to hold office until the next general election and until his successor shall be duly elected and qualified. Thereafter, such judge shall be elected as provided by the Constitution and Laws of the state for the election of District Judges. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and Laws of the state for the removal of District Judges. A vacancy in the office shall be filled by appointment by the Governor. The Juvenile Board and its members shall give counsel and advice to said judge of the Court of Domestic Relations when deemed necessary or when sought by him; and shall cooperate with him in the administration of the affairs of said court. In the event of disqualification of the judge to try a particular case, or because of the illness, inability, failure or refusal of said judge to hold court at any time, the practicing lawyers of the court may elect a special judge of said court in the same manner as provided in Chapter 1 of Title 40 of the Revised Civil Statutes of 1925, and such special judge when so elected shall have and exercise all the powers and duties which the regular judge of said court could have and exercise.

Boards and Officers, Duties Of

Sec. 8. It shall be the duty of all officers, agents and employees of the Probation Department, Child Welfare Unit, County Welfare Office, County Health Officer, Sheriff, and Constable of Jefferson County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas, shall render the same service and perform the same duties with reference to process and writs from said court as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 9. The judge of the court created herein shall have authority to appoint a court reporter, who shall receive the same compensa-

tion as provided by law for court reporters of District Courts in Jefferson County and whose salary shall be paid by the Commissioners Court of Jefferson County. A bailiff shall be designated by the Sheriff of Jefferson County to serve in the court created herein as in other courts of the county.

Custody of Children; Investigations

Sec. 10. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 11. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have the power, as in District Courts, to punish for contempt.

Terms of Court

Sec. 12. The first term of the court created herein shall begin when the judge of such court is duly selected and qualified, and remain in session until the first day of the following September; and its terms shall thereafter begin on the first day of September of each year and remain in session continuously to and including the 31st day of August of the next year.

Appeals

Sec. 13. Appeals from judgments and orders of the said court shall be the Court of Civil Appeals for the Ninth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts.

Procedure

Sec. 14. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by the provisions of this Act and the laws and rules pertaining to District Courts; provided, that juries shall be composed of twelve (12) members.

District Attorney to Prosecute or Defend

Sec. 15. The District Attorney of Jefferson County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer or any other welfare agency is interested.

Transfer of Cases

Sec. 16. This Court of Domestic Relations may transfer any case or matter to the County Court, County Court of Jefferson County at Law, or any other District Court of Jefferson County, having jurisdictional qualifications for such case or subject matter.

[Acts 1961, 57th Leg., p. 305, ch. 159; Acts 1962, 57th Leg., 3rd C.S., p. 42, ch. 14, § 1; Acts 1967, 60th Leg., p. 1242, ch. 565, § 11, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 10 of this article, enacts Title 2 of the Texas Family Code.

See, now Family Code, § 11.01 et seq.

Art. 2338-15. Court of Domestic Relations No. 1 for Tarrant County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations Number 1 in and for Tarrant County, Texas.

Qualifications of Judge; Salary; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations Number 1 shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations, Number 1 of Tarrant County and the Judge of the Court of Domestic Relations Number 2 of Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Courts of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations Number 1 shall have jurisdiction within the limits of Tarrant County, concurrent with the District Courts and Courts of Domestic Relations sitting in said county of all cases involving adoptions, birth records, removal of disability of minority and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this state; and all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final

hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and difference between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District Courts or Courts of Domestic Relations of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said court.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1242, ch. 565, § 12, see section 3, post.

Jurisdiction

Sec. 3. The Court of Domestic Relations [Number 1] for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1150, ch. 510, § 1, see section 3, ante.

Transfer of Cases and Papers

Sec. 4. The District Courts of Tarrant County may transfer to said Court of Domestic Relations any and all cases, in their respective courts of which cases said Court of Domestic Relations is hereby given jurisdiction, includ-

ing all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said court to the Court of Domestic Relations Number 1 shall be returned and filed in the Court of Domestic Relations Number 1 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations Number 1, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerks

Sec. 6. The said Court of Domestic Relations Number 1 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations Number 1, Tarrant County, Texas" engraved thereon.

Election of Judge; Removal; Vacancies

Sec. 7. The Judge of the Court of Domestic Relations Number 1 of Tarrant County is elected in accordance with the terms of Section 65, Article XVI, Constitution of the State of Texas. He is subject to removal for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of District Judges. Vacancies in the office shall be filled by appointment by the governor.

Cooperation of Juvenile Board; Filing of Cases

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations Number 1 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations in either the Court of Domestic Relations Number 1 or the Court of Domestic Relations No. 2, or in any one or more of the District Courts of Tarrant County.

Transfer of Cases to District Court, Criminal District Court or Court of Domestic Relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations Number 1 is herein given jurisdiction may be transferred to or instituted

in said court; said court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations Number 1 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations Number 1 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the county, or the Court of Domestic Relations Number 1 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations Number 1. In the event of disqualification of the Judge of the Court of Domestic Relations Number 1 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this state for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations Number 1 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations Number 1 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations Number 1 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and Officers; Duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 11. The Judge of the Court of Domestic Relations Number 1 and Court of Domestic Relations No. 2 shall have authority to appoint a court reporter necessary for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. If the said Judges of the Courts of Domestic Relations fail to agree upon the appointment within thirty (30) days after a vacancy occurs, the Juvenile Board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the court as in other courts of the county.

Divorce; Custody of Children; Investigations

Sec. 12. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 13. The said court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 14. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to

the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

[Acts 1962, 57th Leg., 3rd C.S., p. 16, ch. 6; Acts 1963, 58th Leg., p. 152, ch. 92, § 1; Acts 1965, 59th Leg., p. 1623, ch. 694, §§ 1 to 3, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1150, ch. 510, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1242, ch. 565, § 12, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 12 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-15a. Court of Domestic Relations No. 2 of Tarrant County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations No. 2 of Tarrant County, Texas.

Qualifications of Judge; Salary; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations No. 2 shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judge of the Court of Domestic Relations No. 1 of Tarrant County and the Judge of the Court of Domestic Relations No. 2 of Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Courts of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. Said Court of Domestic Relations No. 2 shall have jurisdiction within the limits of Tarrant County concurrent with the District Courts and Courts of Domestic Relations sitting in said county of all cases involving adoptions, birth records, removal of disability of minority, and coverture, change of name of persons, delinquent child proceedings, neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child-welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and difference between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District Courts or Domestic Relations Courts of Tarrant County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said court.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1250, ch. 565, § 13, see section 3, post.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 2 for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are al-

leged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

For amendment of section 3 of this article by Acts 1967, 60th Leg., p. 1146, ch. 509, § 1, see section 3, ante.

Transfer of Cases and Papers

Sec. 4. The District Courts and Courts of Domestic Relations of Tarrant County may transfer to said Court of Domestic Relations No. 2 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 2 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District Court or Court of Domestic Relations prior to the time any case is transferred by said court to the Court of Domestic Relations No. 2 shall be returned and filed in the Court of Domestic Relations No. 2 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 2 and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Dockets and Records; Clerks

Sec. 6. The said Court of Domestic Relations No. 2 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations No. 2 of Tarrant County, Texas" engraved thereon.

Election of Judge; Removal; Vacancies

Sec. 7. The Judge of the Court of Domestic Relations Number 2 of Tarrant County is elected in accordance with the terms of Section 65, Article XVI, Constitution of the State of Texas. He is subject to removal for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of District Judges. Vacancies in the office shall be filled by appointment by the Governor.

Cooperation of Juvenile Board; Filing of Cases

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations No. 2 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations in either the Court of Domestic Relations No. 1 or the Court of Domestic Relations No. 2, or in any one or more of the District Courts of Tarrant County.

Transfer of Cases to District Court, Criminal District Court or Court of Domestic Relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 2 is herein given jurisdiction may be transferred to or instituted in said court; said court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations No. 2 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations No. 2 and such Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the county, or the Court of Domestic Relations No. 2 and hear and determine any cases, complaints, or matter pending in the Court of Domestic Relations No. 2. In the event of disqualification of the Judge of the Court of Domestic Relations No. 2 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the Presiding Judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for

his services in the same manner as provided by the Constitution and laws of this state for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations No. 2 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 2 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 2 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and Officers; Duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 2 as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 11. The Judge of the Court of Domestic Relations No. 1 and Court of Domestic Relations No. 2 shall have authority to appoint a court reporter necessary for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporter's salary shall be paid by the Commissioners Court of Tarrant County from appropriate county funds. If the said Judges of the Courts of Domestic Relations fail to agree upon the appointment within thirty (30) days after a vacancy occurs, the Juvenile Board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the court as in other courts of the County.

Divorce; Custody of Children; Investigations

Sec. 12. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 13. The said court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now

or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 2 has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 14. The first term of such Court of Domestic Relations No. 2 shall begin when the Judge thereof is appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of 12 members.

[Acts 1965, 59th Leg., p. 548, ch. 278, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1146, ch. 509, § 1, eff. Aug. 28, 1967; Acts 1967, 60th Leg., p. 1250, ch. 565, § 13, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 12 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-15b. Court of Domestic Relations No. 3 for Tarrant County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations No. 3 in and for Tarrant County, Texas.

Qualifications of Judge; Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations No. 3 hereby established shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney or a judge of a court for four (4) years and a resident of Tarrant County for two (2) years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a District Court of Tarrant County, Texas. His salary shall be paid out of the General Fund of Tarrant County in twelve (12) equal monthly installments. He shall be a member of the Ju-

venile Board of Tarrant County, which shall hereafter be composed of the Judges of the several District Courts and Criminal District Courts of Tarrant County, the County Judge of Tarrant County, and the Judges of the Courts of Domestic Relations for Tarrant County, which Juvenile Board shall be authorized to designate the Courts of Domestic Relations as the Juvenile Court of Tarrant County; Judges of the District Courts and Criminal District Courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them including the services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under General or Special Law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 3 for Tarrant County shall have the jurisdiction concurrent with the District Courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The District Courts of Tarrant County may transfer to said Court of Domestic Relations No. 3 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 3 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of Domestic Relations No. 3 shall be returned and filed in the Court of Domestic Relations No. 3 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 3, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Dockets and Records; Clerks; Seal

Sec. 6. The said Court of Domestic Relations No. 3 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Tarrant County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations No. 3, Tarrant County, Texas" engraved thereon.

Election of Judge; Term of Office; Removal; Vacancies

Sec. 7. (a) At the next general election following the effective date of this Act there shall be elected the Judge of the Court of Domestic Relations No. 3 of Tarrant County. The term of office shall be for a period of four (4) years. The first term shall commence on the first day of January after a general election. The Judge is subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this state for the removal of District Judges.

(b) When this Act becomes effective, the Governor shall appoint a Judge to the Court of Domestic Relations No. 3 of Tarrant County. The Judge appointed serves until the next general election and until his successor is duly elected and qualified. Any vacancy in the office is filled in like manner and the appointee holds office until the next general election and until his successor is duly elected and qualified.

Cooperation by Juvenile Board; Priority to Cases; Juvenile Court

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations No. 3 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court, and shall provide for the filing of any or all cases within the jurisdiction of the Courts of Domestic Relations

in either the Court of Domestic Relations No. 1, the Court of Domestic Relations No. 2 or the Court of Domestic Relations No. 3, or in any one or more of the District Courts of Tarrant County. The Juvenile Board shall designate one of the Courts of Domestic Relations as the Juvenile Court of Tarrant County. The judge of said Juvenile Court must give priority to all cases and controversies involving juveniles. Said court so designated as the Juvenile Court may also be officially styled as the Juvenile Court of Tarrant County, Texas, and said Court may have a seal which shall be a star of five points with the words "Juvenile Court of Tarrant County, Texas," engraved thereon.

Transfer of Cases to District or Criminal District Court or to Court of Domestic Relations

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 3 is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court, Criminal District Court or Court of Domestic Relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such Court, and the Judge of such District Court, Criminal District Court or Court of Domestic Relations may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court, Criminal District Court or Court of Domestic Relations of Tarrant County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations No. 3 and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts, Criminal District Courts or Court of Domestic Relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations No. 3 and such Judge of a District Court, Criminal District Court, or Court of Domestic Relations of Tarrant County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the County, or the Court of Domestic Relations No. 3 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations No. 3. In the event of disqualification of the Judge of the Court of Domestic Relations No. 3 to try a particular case or because of illness, inability, failure or refusal of said Judge to hold Court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Stat-

utes of Texas, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations No. 3 may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 3 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 3 or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Boards and Officers; Duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of Tarrant County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 3 as is required of them by law with reference to process and writs from District Courts.

Court Reporters; Bailiff

Sec. 11. The Judges of the Court of Domestic Relations No. 1 and Court of Domestic Relations No. 2 and Court of Domestic Relations No. 3 shall have authority to appoint a total of two court reporters necessary for the operations of the Courts of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in Tarrant County and the court reporters' salaries shall be paid by the Commissioners Court of Tarrant County from appropriate County funds. If the said judges of the Courts of Domestic Relations fail to agree upon any appointment within thirty days after a vacancy occurs, the Juvenile Board shall have authority to appoint a court reporter for said Courts of Domestic Relations. A bailiff shall be designated by the Sheriff of Tarrant County to serve the Court as in other courts of the County.

Custody of Children; Investigations

Sec. 12. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 13. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions,

temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 3 has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 14. The first term of such Court of Domestic Relations No. 3 shall begin when the Judge thereof is duly appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

[Acts 1967, 60th Leg., p. 2089, ch. 781, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 12 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-15c. Court of Domestic Relations No. 4 of Tarrant County

Creation

Sec. 1. There is hereby created a Court of Domestic Relations No. 4 of Tarrant County, Texas.

Judge

Sec. 2. The judge of the Court of Domestic Relations No. 4 hereby established shall be at least 25 years of age and licensed to practice law in this state, and shall have been a practicing attorney or a judge of a court for four years and a resident of Tarrant County for two years next before his election or appointment. He shall reside in Tarrant County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of Tarrant and State of Texas to any one judge of a district court of Tarrant County. His salary shall be paid out of the general fund of Tarrant County in 12 equal monthly installments. He shall be a member

of the Juvenile Board of Tarrant County, which shall hereafter be composed of the judges of the several district courts and criminal district courts of Tarrant County, the county judge of Tarrant County, and the judges of the courts of domestic relations for Tarrant County, which juvenile board shall be authorized to designate the courts of domestic relations as the Juvenile Court of Tarrant County; judges of the district courts and criminal district courts of Tarrant County shall continue to receive such compensation for all judicial and administrative services required of them, including the services as members of the juvenile board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under general or special law.

Jurisdiction

Sec. 3. The Court of Domestic Relations No. 4 for Tarrant County shall have the jurisdiction concurrent with the district courts in Tarrant County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers, and authority now or hereafter placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities, which are now, or may hereafter be, within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases

Sec. 4. The district courts of Tarrant County may transfer to said Court of Domestic Relations No. 4 any and all cases, in their respective courts of which cases said Court of Domestic Relations No. 4 is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Return of Writs and Process

Sec. 5. All writs and process issued by or out of a district court prior to the time any

case is transferred by said court to the Court of Domestic Relations No. 4 shall be returned and filed in the Court of Domestic Relations No. 4 and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations No. 4, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

Sec. 6. The said Court of Domestic Relations No. 4 shall be a court of record, shall sit and hold court at the county seat of Tarrant County, shall have a seal and maintain all necessary dockets, records, and minutes. The district clerk of Tarrant County shall serve as the clerk of said court. He shall keep a fair record of all acts done and proceedings had in said court and shall perform all such duties as are required generally of district clerks insofar as the same may be applicable in this court. The seal of said court shall have a star of five points with the words "Court of Domestic Relations No. 4, Tarrant County, Texas" engraved thereon.

Judge; Election and Term; Removal

Sec. 7. (a) At the next general election following the effective date of this Act there shall be elected the judge of the Court of Domestic Relations No. 4 of Tarrant County. The term of office shall be for a period of four years. The first term shall commence on the first day of January after a general election. The judge is subject to removal from office for the same reasons and in the same manner as is provided by the constitution and laws of this state for the removal of district judges.

(b) When this Act becomes effective, the governor shall appoint a judge to the Court of Domestic Relations No. 4 of Tarrant County, and his appointment shall be effective on January 1, 1970. The judge appointed serves until the next general election and until his successor is duly elected and qualified. Any vacancy in the office is filled in like manner and the appointee holds office until the next general election and until his successor is duly elected and has qualified.

Cooperation of Juvenile Board; Filing of Cases

Sec. 8. The juvenile board and its members shall give counsel and advice to the judge of the Court of Domestic Relations No. 4 when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said court, and shall provide for the filing of any or all cases within the jurisdiction of the courts of domestic relations in either the Court of Domestic Relations No. 1, the Court of Domestic Relations No. 2, the Court of Domestic Relations No. 3, or the Court of Domestic Relations No. 4, or in any one or more of the district courts of Tarrant County.

The juvenile board shall designate one of the courts of domestic relations as the juvenile court of Tarrant County. The judge of said juvenile court must give priority to all cases and controversies involving juveniles. Said court so designated as the juvenile court may also be officially styled as the Juvenile Court of Tarrant County, Texas, and said court may have a seal which shall be a star of five points with the words "Juvenile Court of Tarrant County, Texas," engraved thereon.

Transfer of Cases; Substitution of Judges; Special Judge

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations No. 4 is herein given jurisdiction may be transferred to or instituted in said court; said court and the judge thereof may transfer any such cases, complaints, or other matters to any district court, criminal district court, or court of domestic relations of Tarrant County having jurisdiction thereof under the laws of the State of Texas, with the consent of the judge of such court, and the judge of such district court, criminal district court, or court of domestic relations may try all such cases, complaints, or other matters which may be so transferred. Any judge of a district court, criminal district court, or court of domestic relations of Tarrant County may preside as judge of the juvenile court and of the Court of Domestic Relations No. 4 and hear and determine all such cases, complaints, or other matters over which the judge of such district courts, criminal district courts, or court of domestic relations has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the judge of the Court of Domestic Relations No. 4, and such judge of a district court, criminal district court, or court of domestic relations of Tarrant County, Texas, may sit in his own courtroom, the juvenile courtroom, the courtroom of any other district court or court of domestic relations within the county, or the Court of Domestic Relations No. 4 and hear and determine any cases, complaint, or matter pending in the Court of Domestic Relations No. 4. In the event of disqualification of the judge of the Court of Domestic Relations No. 4 to try a particular case or because of illness, inability, failure, or refusal of said judge to hold court at any time, the juvenile board may select a special judge who shall hold the court and proceed with the business thereof, or said juvenile board may request the presiding judge of the Eighth Administrative Judicial District of Texas to assign a judge to handle the business of said court pursuant to the provisions of Article 200a of the Revised Civil Statutes of Texas, 1925, and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the constitution and laws of this state for the payment of district judges assigned to sit for other district judges. The

judge of such Court of Domestic Relations No. 4 may, in any case, matter or proceeding pending in any district court or court of domestic relations of Tarrant County, or which case, matter or proceeding said Court of Domestic Relations No. 4 would have potential jurisdiction, in the courtroom of such Court of Domestic Relations No. 4 or in the juvenile courtroom, or in the courtroom of any district court or court of domestic relations of Tarrant County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the judge of such district court or court of domestic relations would have authority under law to do.

Cooperation of Boards and Officers

Sec. 10. It shall be the duty of all officers, agents, and employees of the probation department, child welfare board, county welfare office, county health officer, and sheriff and constables of Tarrant County to furnish to said court such services in the line of their respective duties as shall be required by said court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations No. 4 as is required of them by law with reference to process and writs from district courts.

Court Reporters

Sec. 11. Repealed by Acts 1971, 62nd Leg., p. 880, ch. 112, § 2, eff. May 7, 1971.

Child Custody Matters; Investigation and Report

Sec. 12. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Power to Issue Writs

Sec. 13. The said court and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by district courts, when necessary or proper in cases or matters in which said Court of Domestic Relations No. 4 has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 14. The first term of such Court of Domestic Relations No. 4 shall begin when the judge thereof is duly appointed and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September each year and remain in session continuously to and including the 31st day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said court shall be to

the Court of Civil Appeals of the Second Supreme Judicial District as now or hereafter provided for appeals from district and county courts and in all criminal cases appeals shall be to the court of criminal appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in said court shall be governed by provisions of this Act and the laws and rules pertaining to district courts; provided that juries shall be composed of 12 members.

[Acts 1969, 61st Leg., p. 2251, ch. 761, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 880, ch. 112, § 2, eff. May 7, 1971; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

For subject matter of repealed section 11 of this article, see, now, art. 2326j-52, § 1.

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 12 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-16. Court of Domestic Relations for Galveston County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Galveston County, Texas.

Judge; Qualifications; Salary

Sec. 2. The judge of the Court of Domestic Relations shall be at least twenty-five (25) years of age and licensed to practice law in this state, who has been a practicing attorney for four (4) years and a resident of Galveston County for two (2) years next before his election or appointment. He shall reside in Galveston County during his term of office. He shall be paid a salary of not less than the amount paid District Judges from the general revenue fund of the State of Texas, but in no event more than the total salary, including supplements, paid any District Judge in and for Galveston County. His salary shall be paid out of the General Fund of Galveston County in twelve (12) equal Monthly installments.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Galveston County shall have the jurisdiction concurrent with the District Courts in Galveston County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons;

and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases and Papers

Sec. 4. The District Courts of Galveston County and the Court of Domestic Relations of Galveston County may transfer any and all cases, in their respective courts, which the Court of Domestic Relations may have jurisdiction of herein, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases, to any of the courts in Galveston County, Texas, having jurisdiction thereof.

Writs and Process in Transferred Cases

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Place of Sitting; Seal; Dockets and Records; Clerk

Sec. 6. The said Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of Galveston County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of Galveston County shall serve as the Clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, Galveston County, Texas," engraved thereon.

Term of Office of Judge; Election; Removal; Vacancies

Sec. 7. The term of office of the judge of said Court of Domestic Relations shall be for a period of four (4) years. Said judge shall be elected as provided by the Constitution and

laws of the state for the election of judges of Courts of Domestic Relations. He shall be subject to removal from office for the same reasons and in the same manner as is provided by the Constitution and laws of this state for removal of district judges. Vacancies in the office shall be filled by appointment by the Governor.

Juvenile Board; Establishment; Composition; Jurisdiction; Citizens Juvenile Advisory Board; Juvenile Officers

Sec. 8. (a) There is hereby established a County Juvenile Board in and for the County of Galveston, to be known as the Galveston County Juvenile Board, which Board shall be composed of the County Judge, the Judge of the County Court No. 1, the Judge of the County Court No. 2, and the Judge of the Court of Domestic Relations for Galveston County. The said Juvenile Board shall meet at least once monthly to review the work of the Chief Juvenile Officer and the Juvenile Officers and to consider any other matters concerning juveniles and the disposition of cases concerning juveniles pending before the respective courts. The Judge of the County Court No. 1 and the Judge of the County Court No. 2 in and for Galveston County shall have concurrent jurisdiction with the Court of Domestic Relations for Galveston County in all cases involving delinquent child proceedings, neglected and dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the Court of Domestic Relations for Galveston County under the juvenile and child welfare laws of this State; provided, however, that such cases shall be originally filed and docketed with the District Clerk of Galveston County, who shall act as clerk in all the above proceedings and who shall maintain all records and assign rotatively and equally each of the cases to the courts having jurisdiction over such matters.

The Commissioners Court of Galveston County shall appoint a Citizens Juvenile Advisory Board composed of at least fifteen (15) interested citizens who shall consult with and advise the Galveston County Juvenile Board and the Commissioners Court in regard to matters concerning juveniles and may meet at their own discretion as well. The Citizens Juvenile Advisory Board and the Galveston County Juvenile Board shall each elect its own chairman and other officers at the first meeting of each such board following the effective date of this Act, and annually thereafter. The chairman of the Juvenile Board and the Advisory Board shall be ex officio members of the other board.

(b) [Deleted by Acts 1973, 63rd Leg., p. 754, ch. 329, § 1]

Co-operation by Juvenile Board

Sec. 9. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall co-

operate with him in the administration of the affairs of said Court.

**Transfer of Cases to District Court or County Courts
No. 1 and No. 2; Special Judges**

Sec. 10. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations is herein given jurisdiction may be instituted in said Court, or assigned or transferred to said Court with the consent of the Judge of said Court; said Court and the Judge thereof may assign or transfer any such cases, complaints, or other matters to any District Court in and for Galveston County, Texas, having jurisdiction, or the County Court No. 1, or the County Court No. 2, where they have jurisdiction; and the Judge of such District Court or the Judge of the County Court No. 1 or the Judge of the County Court No. 2 shall try all cases, complaints, or other matters which may be so assigned or transferred, unless the Judge of such Court assigns or transfers said case or cases, complaints or other matters, by written order to another Court of competent jurisdiction. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case or because of illness, inability, failure, or refusal of said Judge to hold court at any time, the Juvenile Board may select a Special Judge who shall hold the court and proceed with the business thereof, or said Juvenile Board may request the Presiding Judge of their Administrative Judicial District of Texas to assign a Judge to handle the business of said court pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), and said Judge so selected by the Board or assigned by the Presiding Judge shall be paid for his services in the same manner as provided by the Constitution and Laws of this state for the payment of District Judges assigned to sit for other District Judges.

Boards and Officers; Duties

Sec. 11. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and sheriff and constables of Galveston County to furnish to said Court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Bailiff

Sec. 12. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter, who shall receive the same compensation as provided by law for court reporters of District Courts in Galveston County and whose salary shall be paid by the Commissioners Court of Galveston County. A bailiff shall

be designated by the sheriff of Galveston County to serve the Court as in other courts of the county.

Custody of Children; Investigations

Sec. 13. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Writs and Orders; Contempt

Sec. 14. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 15. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 16. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the First Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 17. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

District Attorney to Prosecute or Defend

Sec. 18. The District Attorney of Galveston County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, Child Welfare Board, County Welfare Board, County Welfare Office, County Health Officer or any other welfare agency is interested.

Repealer

Sec. 19. All laws and parts of laws in conflict herewith pertaining to the Juvenile Board of Galveston County, including Senate Bill No. 135, Acts of the 57th Legislature, Regular Session, 1961, be, and the same are hereby repealed.¹

¹ Former article 5139LL.

Effective Date

Sec. 20. The effective date of this Act shall be September 1, 1962.

[Acts 1962, 57th Leg., 3rd C.S., p. 171, ch. 64, §§ 1 to 20; Acts 1963, 58th Leg., p. 1168, ch. 454, §§ 1 to 3; Acts 1967, 60th Leg., p. 1250, ch. 565, § 14, eff. Aug. 28, 1967; Acts 1969, 61st Leg., 2nd C.S., p. 140, ch. 37, §§ 1 to 3, eff. Sept. 19, 1969; Acts 1973, 63rd Leg., p. 754, ch. 329, § 1, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1975.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 13 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-17. Court of Domestic Relations for Taylor County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Taylor County, Texas.

Jurisdiction

Sec. 2. The Court of Domestic Relations for Taylor County shall have the jurisdiction concurrent with the District Courts in Taylor County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Qualifications of Judge; Term of Office

Sec. 3. The Judge of the said Court of Domestic Relations shall be a legally licensed attorney at law in this State. No person shall be elected or appointed Judge of said Court who has not been a practicing attorney of the State of Texas for at least five (5) years immediately prior to his appointment or election. The person elected such Judge shall hold the office for four (4) years, and until a successor shall have been duly elected and qualified.

Appointment of Judge; Term of Office; Subsequent Elections

Sec. 4. The Commissioners Court of Taylor County shall appoint the Judge of the Taylor County Court of Domestic Relations who shall hold the office until the next General Election and until his successor shall have been duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations for Taylor County shall be elected as provided by the Constitution and laws of this State for the election of Judges for County Domestic Relations Courts.

The Commissioners Court of Taylor County shall provide suitable quarters for the holding of said Court.

Salary of Judge; Bonds; Oath

Sec. 5. The Judge of the said Court of Domestic Relations shall be paid by the Commissioners Court of Taylor County out of the General Fund of Taylor County an annual salary which shall be equal to the total salary paid to a District Judge of Taylor County. Said salary shall be paid in twelve (12) equal monthly installments. Said Judge of said Court shall not engage in the private practice of the law during his term of office. The Judge of the Court of Domestic Relations of Taylor County shall execute a bond and take an oath of office as required by law relating to County Judges.

Juvenile Board

Sec. 5a. The Judge of the Court of Domestic Relations in and for Taylor County shall be a member of the Taylor County Juvenile Board and shall receive as additional compensation for his services on the board the same salary as paid by Taylor County to the district judges of Taylor County for acting as members of the Juvenile Board. The Juvenile Board shall consist of the Judge of the 42nd Judicial District Court, the Judge of the 104th Judicial District Court, the County Judge of Taylor County, and the Judge of the Court of Domestic Relations in and for Taylor County, Texas. The Juvenile Board shall continue with the same authority now provided by law, and the existing members shall continue to receive the compensation provided by law for serving on the Juvenile Board. The Juvenile Board of Taylor County may designate the Court of Domestic Relations as the Juvenile Court of Taylor County. The Judge of the Juvenile Court of Taylor County shall appoint the juvenile officer, subject to the approval of the Juvenile Board, for a period not to exceed two (2) years from date of appointment.

Judge; Additional Compensation

Sec. 5b. The Judge of the 42nd District Court and the Judge of the 104th District Court shall each receive as additional compensation for acting as a member of the Juvenile Board the sum of One Thousand, Five Hundred Dollars (\$1,500) per year. The additional salary shall be paid monthly out of the General Fund of Taylor County on the order of the Commissioners Court.

Transfer of Cases, Writs and Process

Sec. 6. (a) When said Court of Domestic Relations is organized and the Judge thereof shall qualify, the County Judge of Taylor County, the Judge of the County Court at Law of Taylor County, and the Judges of the 42nd Judicial District and of the 104th Judicial District may transfer to said Court of Domestic Relations all cases which then may be pending in their respective Courts in Taylor County, of which said Court of Domestic Relations is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them and all cases pending in the County Court at Law of Taylor County concerning juvenile delinquents, on the effective date of this Act, along with all the books and records thereof, shall be transferred to the said Court of Domestic Relations.

(b) All writs and process issued by or out of a District or County Court or County Court at Law prior to the time any case is transferred by any one of said Courts to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process, and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Transfer of Cases to and from District Court; Jurisdiction

Sec. 7. All cases and other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court. The Judges of the District Courts of Taylor County may transfer any case within the jurisdiction of the Court of Domestic Relations created by this Act to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said Court to any District Court of Taylor County. Said Court of Domestic Relations may also sit for any of the District Courts of Taylor County and hear and decide for such Courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Taylor County may likewise sit for, hear and decide cases pending in the Court of Domestic Relations, as the sitting for, hearing and deciding cases as now or hereafter may be authorized by law for all District Courts of Taylor County.

Place of Holding Court; Dockets and Minutes; Clerks

Sec. 8. The said Court of Domestic Relations shall sit and hold court in Taylor County, and shall maintain all necessary dockets and minutes therein.

The Sheriff of Taylor County shall perform all duties in the Court of Domestic Relations provided by law for such officer to perform in the District and County Courts, including bail-

iffs to attend the Court. The District Clerk of Taylor County shall be the Clerk of the Court of Domestic Relations and shall keep a fair record of all acts done, all necessary dockets and minutes thereof, and proceedings had, in said Court, and perform generally all such duties as are now or as may be hereafter imposed upon District or County Clerks relative to District or County Courts insofar as applicable to the Court of Domestic Relations. The seal of said Court shall have a star of five points with the words "Taylor County Court of Domestic Relations," engraved thereon.

Boards and Officers, Duties

Sec. 9. It shall be the duty of all officers, agents and employees of the Child Welfare Department, County Welfare Office, County Health Officer, County Juvenile Officer, Sheriff and Constables within Taylor County to furnish to said Court such services in the line of their respective duties as shall be required by said Court.

Injunctions and Writs; Contempts

Sec. 10. The Judge of the Court of Domestic Relations herein created shall have power to issue injunctions, temporary injunctions and restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters in which said Court has jurisdiction, and also power to punish for contempt.

Terms of Court

Sec. 11. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified and remain in session until the first day of the following September and its terms shall hereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Disqualification of Judge; Special Judge; Compensation

Sec. 12. In the case of disqualification of the Judge of the Court of Domestic Relations of Taylor County to try any case pending in his Court, the parties or their attorneys may agree on the selection of a special judge to try such case or cases where the Judge of the Court of Domestic Relations of Taylor County is disqualified. In the case of the selection of such special judge by agreement of the parties or their attorneys, such special judge shall draw Twenty-five Dollars (\$25) per day compensation for each day he shall actually serve, to be paid out of the General Fund of the County by the Commissioners Court.

Vacancies in Office

Sec. 13. Any vacancy in the office of the Judge of the Court of Domestic Relations of Taylor County shall be filled by the Commissioners Court of Taylor County and when so filled, the Judge shall hold office until the next General Election and until his successor is elected and qualified.

Appeals

Sec. 14. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the 11th Supreme Judicial District as now or hereafter provided for appeals from District and County Courts, and in all criminal cases, appeals shall be to the Court of Criminal Appeals sitting in Austin, Travis County, Texas.

Practice and Procedure

Sec. 15. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts; provided that juries shall be composed of twelve (12) members.

Criminal District Attorney; Representation of State

Sec. 16. The Criminal District Attorney of Taylor County or his duly and legally qualified assistant, or assistants, shall represent the State in all proceedings in the Taylor County Court of Domestic Relations.

Suits Involving Custody of Children; Investigations

Sec. 17. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

Court Reporter; Interpreter; Investigator

Sec. 18. The Judge of the Taylor County Court of Domestic Relations shall have authority to appoint a court reporter in such cases as may be required by law and in such other cases as he shall deem it necessary to record and preserve the testimony. Such court reporter shall be paid such salary out of the General Fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a court interpreter in such cases as may be necessary who shall be paid such fees and compensation out of the General Fund of the County, for such service as may be fixed by the Judge, and approved by the Commissioners Court. The Judge of said Court shall employ an investigator for the Taylor County Court of Domestic Relations, who shall also serve as secretary to the Judge of said Court and which said investigator shall have and is hereby invested with all of the general authority of any peace officer of Taylor County, Texas, with full power and authority to make arrests, serve any process, the same as any peace officer, and said investigator shall be furnished all necessary transportation in the discharge of the duties as such investigator. Said investigator shall be paid a salary fixed by the Commissioners Court, and said salary and such transportation costs shall be paid by the Commissioners Court of Taylor County, Texas, out of the General Fund of Taylor County, Texas.

Removal of Judge

Sec. 19. The Judge of said Court of Domestic Relations shall be subject to removal from the office for the same reasons and in the

same manner as is provided by the Constitution and laws of this State for the removal of County Officers.

Repealer

Sec. 20. All laws or parts of laws in conflict herewith are hereby repealed to the extent of the conflict, but otherwise this Act shall be cumulative of existing laws.

Activation and Operation of Court

Sec. 21. The Commissioners Court of Taylor County, Texas, may immediately after the effective date of this Act, make said Taylor County Court of Domestic Relations activated and operational or as soon thereafter as is practical.

[Acts 1963, 58th Leg., p. 64, ch. 44; Acts 1967, 60th Leg., p. 1251, ch. 565, § 15, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 165, ch. 64, §§ 1, 2, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1854, ch. 542, § 142, eff. Sept. 1, 1971; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 17 of this article, enacts Title 2 of the Texas Family Code.

See, now, Family Code, § 11.01 et seq.

Art. 2338-18. Juvenile Court of Harris County

Creation of Court

Sec. 1. The Juvenile Court of Harris County is established. The court shall sit at the county seat of Harris County.

Records and Seal

Sec. 2. (a) The court is a court of record. The court shall maintain all necessary dockets, records, and minutes of its proceedings.

(b) The seal of the court has a star of five points in the center and the words "The Juvenile Court of Harris County" engraved around the star.

Creation of Office of Judge

Sec. 3. The office of judge of the court is established.

Qualifications, Election, Term of Office, Disqualification, and Removal of Judge

Sec. 4. The laws and constitutional provisions relating to qualifications, election, term of office, disqualification, and removal of district judges apply to the judge. If the office of judge becomes vacant before the end of a term, the governor, with the advice and consent of the Senate, shall appoint a judge to fill the unexpired term.

Salary of Judge

Sec. 5. The Commissioners Court of Harris County shall pay the judge an annual salary equal to the total annual salary paid by Harris County and the state to a judge of a district court of Harris County.

Initial Term of Office

Sec. 6. The governor, with the advice and consent of the Senate, shall appoint the first judge of the juvenile court. The appointee takes office on January 1, 1966. The appointee

serves until the next general election and until a successor is duly elected and qualified.

Jurisdiction

Sec. 7. (a) The Juvenile Court of Harris County has the jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases with District Courts, the County Court and County Courts at Law

Sec. 8. (a) The district courts, the county court, and the county courts at law of Harris County may transfer to the court any case, complaint, or other matter of which the court has jurisdiction.

(b) The court may transfer any case, complaint, or other matter to a district court, the county court, or a county court at law having jurisdiction if the judge of the court receiving the matter consents to the transfer.

Transfer of Cases with Domestic Relations Courts

Sec. 9. (a) The courts of domestic relations of Harris County may transfer to the court any case, complaint, or other matter of which the court has jurisdiction.

(b) The court may transfer any case, complaint, or other matter to a court of domestic relations of Harris County if the judge of the court receiving the matter consents to the transfer.

Exchange with Domestic Relations Courts

Sec. 10. A judge of a court of domestic relations of Harris County may preside as judge of the court. In this event, the judge of the

court of domestic relations may sit in his own courtroom, the courtroom of the Juvenile Court, or the courtroom of any court of domestic relations of Harris County.

Absence of Judge

Sec. 11. (a) If the judge is disqualified in any case or proceeding, the judge may transfer the case or proceeding to a court of domestic relations of Harris County.

(b) If the judge is absent from court for any reason other than disqualification, the juvenile board of Harris County shall select a judge of a court of domestic relations of Harris County to preside over the court during the absence.

Terms of the Court

Sec. 12. The terms of the court begin on September 1st of each year and continue until August 31st of the next year. The first term of the court begins January 1, 1966, and continues until August 31, 1966.

Clerk, Court Reporter and Bailiff

Sec. 13. (a) The district clerk shall act as clerk of the juvenile court. The clerk shall keep a fair record of all proceedings in the court. The Commissioners Court of Harris County shall pay the clerk an annual salary equal to the annual salary paid to a clerk of a district court of Harris County.

(b) The judge shall appoint a court reporter to serve the court. The Commissioners Court of Harris County shall pay the court reporter an annual salary equal to the annual salary of a court reporter of a district court of Harris County.

(c) Upon request of the judge, the sheriff of Harris County shall appoint a bailiff to serve the court.

Sheriff

Sec. 14. (a) The sheriff of Harris County shall perform all the duties and services for the court as he normally performs for the district courts of Harris County.

(b) When executing process out of the court, the sheriffs and constables of the counties of Texas are entitled to fees by General Law for executing process out of the district courts.

Probation Department, County Welfare Department, and County Health Officer

Sec. 15. The Probation Department, the County Welfare Officer, and the County Health Officer of Harris County shall perform services required by the court which are within the scope of their respective duties.

District Attorney

Sec. 16. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, County Welfare Department, County Health Officer, or any other welfare agency is interested.

Writs and Orders; Contempt

Sec. 17. (a) The judge may issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, or writs of possession and restitution, and any other writs which the district courts may issue.

(b) The judge may punish for contempt.

Practice and Procedure

Sec. 18. (a) When not in conflict with this Act, the provisions of Chapter 204, Acts of the 48th Legislature, 1943, (Article 2338-1, Vernon's Texas Civil Statutes), as amended, and Articles 2330-2337, Revised Civil Statutes of Texas, 1925, as amended, govern the practice and procedure of the court.

(b) When the provisions of this Act and the laws cited in Subsection (a) do not apply, the laws and rules pertaining to district courts govern the practice and procedure of the court.

Repealer

Sec. 19. Chapter 186, Acts of the 55th Legislature, Regular Session, 1957 (Article 2338-2a, Vernon's Texas Civil Statutes), is repealed. [Acts 1965, 59th Leg., p. 569, ch. 289, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1251, ch. 565, § 16, eff. Aug. 28, 1967.]

Art. 2338-18a. Juvenile Courts No. 2 and No. 3 of Harris County**Creation**

Sec. 1. The Juvenile Courts No. 2 and No. 3 of Harris County are established. The courts shall sit at the county seat of Harris County.

Courts of Record; Dockets and Records; Seals

Sec. 2. (a) The courts are courts of record. The courts shall maintain all necessary dockets, records, and minutes of their proceedings.

(b) The seals of the courts each have a star of five points in the center and the words "The Juvenile Court of Harris County No. 2" engraved around the star for Court No. 2 and the words "The Juvenile Court of Harris County No. 3" engraved around the star for Court No. 3.

Judges

Sec. 3. The offices of judge of the Juvenile Court of Harris County No. 2 and judge of the Juvenile Court of Harris County No. 3 are established.

Judges; Qualifications; Election; Term; Vacancy

Sec. 4. The laws and constitutional provisions relating to qualifications, election, term of office, disqualification, and removal of district judges apply to the judges. If either office of judge becomes vacant before the end of a term, the governor, with the advice and consent of the Senate, shall appoint a judge to fill the unexpired term.

Compensation of Judges

Sec. 5. The Commissioners Court of Harris County shall pay each of the judges an annual

salary equal to the total annual salary paid by Harris County and the state to a judge of a district court of Harris County.

Appointment of First Judges

Sec. 6. The governor, with the advice and consent of the Senate, shall appoint the first judges of the Juvenile Courts No. 2 and No. 3. The appointee to the Juvenile Court No. 2 shall take office on September 1, 1969, and the appointee to the Juvenile Court No. 3 shall take office on January 1, 1971. The appointees serve until the next general election and until a successor is duly elected and qualified.

Jurisdiction

Sec. 7. The Juvenile Courts of Harris County created herein have jurisdiction concurrent with the District Courts in Harris County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said courts and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases; District Courts; County Courts and County Courts at Law

Sec. 8. (a) The district courts, the county court, and the county courts at law of Harris County may transfer to the juvenile courts any case, complaint, or other matter of which the juvenile courts have jurisdiction.

(b) The juvenile court may transfer any case, complaint, or other matter to a district court, the county court, or a county court at law having jurisdiction if the judge of the court receiving the matter consents to the transfer.

(c) Any juvenile court judge in Harris County may hear and decide any case filed on

the docket of any other juvenile court as if it were filed on the docket of his own court.

(d) Cases may be transferred between the several juvenile courts of Harris County with the consent of the receiving judge.

Transfer of Cases; Domestic Relations Courts

Sec. 9. (a) The courts of domestic relations of Harris County may transfer to the juvenile court any case, complaint, or other matter of which the juvenile courts have jurisdiction.

(b) The juvenile courts may transfer any case, complaint, or other matter to a court of domestic relations of Harris County if the judge of the court receiving the matter consents to the transfer.

Domestic Relations Judge Sitting in Juvenile Court

Sec. 10. A judge of a court of domestic relations of Harris County may preside as judge of the juvenile court. In this event, the judge of the court of domestic relations may sit in his own courtroom, the courtroom of the juvenile court, or the courtroom of any court of domestic relations of Harris County.

Disqualified or Absent Judge

Sec. 11. (a) If a juvenile court judge is disqualified in any case or proceeding, he may transfer the case or proceeding to a court of domestic relations of Harris County.

(b) If a juvenile court judge is absent from court for any reason other than disqualification, the juvenile board of Harris County shall select a judge of a court of domestic relations of Harris County to preside over the court during the absence.

Terms of Court

Sec. 12. The terms of the court begin on September 1st of each year and continue until August 31st of the next year. The first term of the Juvenile Court No. 3 begins January 1, 1971, and continues until August 31, 1971.

Clerk; Reporter; Bailiff

Sec. 13. (a) The district clerk shall act as clerk of the juvenile court. The clerk shall keep a fair record of all proceedings in the court. The Commissioners Court of Harris County shall pay the clerk an annual salary equal to the annual salary paid to a clerk of a district court of Harris County.

(b) Each judge shall appoint a court reporter to serve the court. The Commissioners Court of Harris County shall pay the court reporter an annual salary equal to the annual salary of a court reporter of a district court of Harris County.

(c) Upon request of either judge, the sheriff of Harris County shall appoint a bailiff to serve the court.

Sheriff's Duties

Sec. 14. (a) The sheriff of Harris County shall perform all the duties and services for the juvenile courts as he normally performs for the district courts of Harris County.

(b) When executing process out of the court, the sheriffs and constables of the counties of Texas are entitled to fees by General Law for executing process out of the district courts.

Probation, Welfare and Health Officers

Sec. 15. The Probation Department, the County Welfare Officer, and the County Health Officer of Harris County shall perform services required by either court which are within the scope of their respective duties.

District Attorney

Sec. 16. The District Attorney of Harris County shall prosecute or defend all cases involving children alleged to be dependent, neglected or delinquent, or in which the Probation Officer, County Welfare Department, County Health Officer, or any other welfare agency is interested.

Filing Cases

Sec. 17. The district clerk shall file all cases placed on the juvenile docket in Harris County in rotation among the juvenile courts.

Power to Issue Writs

Sec. 18. (a) Either judge may issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, or writs of possession and restitution, and any other writs which the district courts may issue.

(b) The judges may punish for contempt.

(c) Writs, processes, and orders issued by the transferring court on cases subsequently transferred are returnable to the court to which the case is transferred as if that court had issued the writ, process, or order.

Practice and Procedure

Sec. 19. (a) When not in conflict with this Act, the provisions of Chapter 204, Acts of the 48th Legislature, 1943 (Article 2338-1, Vernon's Texas Civil Statutes), as amended, and Articles 2330-2337, Revised Civil Statutes of Texas, 1925, as amended, govern the practice and procedure of the court.

(b) When the provisions of this Act and the laws cited in Subsection (a) do not apply, the laws and rules pertaining to district courts govern the practice and procedure of the court. [Acts 1969, 61st Leg., p. 1981, ch. 673, eff. Sept. 1, 1969.]

Art. 2338-19. Court of Domestic Relations for Brazoria County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Brazoria County, Texas, to be known as the Brazoria County Court of Domestic Relations.

Qualifications of Judge; Salary

Sec. 2. The Judge of the Brazoria County Court of Domestic Relations shall have the qualifications provided by the Constitution and laws of this State for District Judges. He may

be paid by the Commissioners Court of Brazoria County no more than the salary paid to the District Judge by the State of Texas, same to be paid out of the General Fund of the County in twelve (12) equal monthly installments.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Brazoria County shall have the jurisdiction concurrent with the District Courts in Brazoria County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Transfer of Cases

Sec. 4. All cases enumerated or included above may be instituted or transferred to the Court of Domestic Relations. Immediately after this Act takes effect all cases enumerated or included above now pending in the District Courts of Brazoria County may be transferred to the Court of Domestic Relations created by this Act. Thereafter the Judges of the District Courts of Brazoria County may transfer any case within the jurisdiction of the Court of Domestic Relations created by this Act to said Court of Domestic Relations, and the Judge of the Court of Domestic Relations may transfer any case pending in said Court to any District Court of Brazoria County as designated by the presiding District Judge of said County. Said Court of Domestic Relations may also sit for any of the District Courts of Brazoria County and hear and decide for such Courts any case coming within the jurisdiction of the Court of Domestic Relations created by this Act. All District Courts of Brazoria County may likewise sit for, hear and decide cases pending in

the Court of Domestic Relations, as the sitting for, hearing and deciding cases as now or hereafter may be authorized by law for all District Courts of Brazoria County.

Disqualification of Judge; Special Judge

Sec. 5. Should the Judge be disqualified to try a particular case, or should the Judge by reason of illness or other inability fail or refuse to hold court as needed, on matters pending in the Court of Domestic Relations only, such fact shall be brought to the attention of the presiding Judge of the District Courts of Brazoria County by any practicing lawyer of Brazoria County, whereupon such matters as require attention shall be promptly assigned by the presiding Judge to one of the District Courts of Brazoria County for action and disposition in the same manner as other matters or trials in the several District Courts. In the event it should ever become necessary to select a special Judge for the Court of Domestic Relations, such special Judge shall be selected in the manner provided by law for the selection of a special Judge of the District Court.

Concurrent Jurisdiction with District Courts

Sec. 6. Nothing in the Act shall diminish the jurisdiction of the District Courts of Brazoria County, but such Courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law. Such District Courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the Court of Domestic Relations and none of the District Courts of Brazoria County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the Court of Domestic Relations as time and the condition of the dockets of such District Courts will permit.

Concurrent Jurisdiction with County Courts

Sec. 7. As additional concurrent jurisdiction, the Brazoria County Court of Domestic Relations shall have original and concurrent jurisdiction with the County Court of Brazoria County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the Constitution of this State, County Courts have jurisdiction, except the executive functions of the County Judge as a member of the Commissioners Court, Board of Equalization, Budget Officer and other executive and administrative functions.

Eminent Domain Proceedings

Sec. 8. The jurisdiction of the Brazoria County Court of Domestic Relations shall extend to all matters of eminent domain of which jurisdiction has heretofore been vested in the County Court of Brazoria County, but this provision shall not affect the jurisdiction of the Commissioners Court or of the County Judge of Brazoria County as the presiding officer of

said Commissioners Court as to roads, bridges, public highways and matters of eminent domain which are now within the jurisdiction of the Commissioners Court or the presiding Judge thereof, including the right of the County Judge of Brazoria County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this Section to vest in the Brazoria County Court of Domestic Relations jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the Brazoria County Court of Domestic Relations or to the County Court only.

Probate Matters and Proceedings

Sec. 9. The Brazoria County Court of Domestic Relations shall also have the general jurisdiction of a Probate Court within the limits of Brazoria County, concurrent with jurisdiction of the County Court of Brazoria County in such matters and proceedings. Said Brazoria County Court of Domestic Relations shall have authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis and common drunkards, including the settlement, partition and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The Brazoria County Court of Domestic Relations shall have jurisdiction concurrent with the County Court of Brazoria County conferred upon County Courts or upon Probate Courts specially created by the Legislature in Article 1970a-1, Revised Civil Statutes of Texas, as the same now stands or may hereafter be amended, and all other provisions of the law relating to Probate Courts whether specially created by the Legislature or otherwise, shall be and they are hereby made to apply concurrently in all their provisions insofar as they are applicable to the Brazoria County Court of Domestic Relations and insofar as they are not inconsistent with this Act. It is the intention of the Legislature in this Act that the County Judge of Brazoria County shall be the Judge of the County Court of Brazoria County. All ex officio duties of the County Judge shall be exercised by the Judge of the County Court of Brazoria County and all duties and jurisdiction vested in the Brazoria County Court of Domestic Relations by this Act now being performed by the County Judge of Brazoria County, Texas, is and shall be concurrent.

Dockets; Citations and Other Process

Sec. 10. With reference to all matters civil, criminal and probate, over which the Brazoria County Court of Domestic Relations is given concurrent jurisdiction with the County Court of Brazoria County, the Judge of the Court of Domestic Relations shall use the same dockets as now provided by said County Clerk in ac-

cordance with law for the use of the Judge of the County Court and Probate Court of Brazoria County and the Judge of the Brazoria County Court of Domestic Relations and the County Judge shall have concurrent jurisdiction over all matters therein insofar as provided in this Act. All suits and other proceedings instituted in the County over which the County Court or Probate Court has jurisdiction shall be addressed to the County Court of the County. The Judge of either the Brazoria County Court of Domestic Relations or the County Judge may hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Brazoria County, without the necessity of transferring the suit or other proceeding, either civil, criminal or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the County Court or Probate Court and the Clerk of the County Court in said County shall keep one set of minutes in which shall be recorded all the judgments and orders of the Brazoria County Court of Domestic Relations and the County Court of Brazoria County. All citations and other process issued by the County Clerk and all notices, restraining orders and other process authorized to be issued by the Clerk of the County Court shall be returnable to the County Court of Brazoria County, and on the return of such process the hearing or trial may be presided over by the Judge of the Brazoria County Court of Domestic Relations insofar as provided by this Act or the Judge of the County Court, and any and all such Acts thus performed by the Brazoria County Court of Domestic Relations or the County Court of Brazoria County shall be valid and binding upon all parties to such cases, matters and proceedings.

Suits Involving Adoptions, Custody of Children and Support of Minors

Sec. 11. Immediately after this Act takes effect, the District Clerk of Brazoria County, who shall be the Clerk of the Court of Domestic Relations in all matters wherein the Court of Domestic Relations has concurrent jurisdiction with the District Courts of Brazoria County, shall file in the Court of Domestic Relations created by this Act all cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the names of persons and all divorce cases. The County Clerk of Brazoria County shall be the Clerk of the Court of Domestic Relations in all matters wherein the Court of Domestic Relations has concurrent jurisdiction with the County Court.

Court of Record; Seal; Records and Minutes

Sec. 12. The said Court of Domestic Relations shall be a Court of record, shall sit and hold court in the county seat of Brazoria County, shall have a seal and maintain all necessary dockets, records and minutes therein as herein provided. These dockets, records and minutes

shall be separate from the dockets, records and minutes of the District Courts of Brazoria County and as provided hereinbefore with the County Judge of Brazoria County.

Boards and Officers, Duties

Sec. 13. It shall be the duty of the Probation Department, the Sheriff, Constables and other law enforcement agencies of the State of Texas and Brazoria County and the cities thereof, as well as Welfare Agencies, to furnish said Court of Domestic Relations such services in the line of their respective duties as shall be required by said Court and all Sheriffs and Constables within the State of Texas shall render the same services with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from the District Courts, County Courts and Probate Courts.

Writs and Orders; Contempt

Sec. 14. The said Court of Domestic Relations and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts and County Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 15. There shall be two terms of the Brazoria County Court of Domestic Relations each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the next regular term beginning the following January. The first term of said Court shall begin on the first Monday following the appointment of the Judge thereof and shall continue until the convening of the next term thereof as above provided.

Membership of Judge on Juvenile Board; Compensation

Sec. 16. The Judge of the Brazoria County Court of Domestic Relations shall be a member of the Juvenile Board of Brazoria County and receive as additional compensation thereof the same salary as paid by Brazoria County to the District Judges of Brazoria County for acting as members of the Juvenile Board. The Juvenile Board shall continue as now constituted with the same salary and authority as now provided by law.

Election of Judge; Term; Vacancies

Sec. 17. At the next general election after the effective date of this Act there shall be elected a Judge of the Brazoria County Court of Domestic Relations, who shall hold his office for four (4) years and until his successor shall have been duly elected and qualified.

When this Act becomes effective, the Commissioners Court of Brazoria County, Texas, shall appoint a Judge of said Brazoria County Court of Domestic Relations, who shall have the qualifications herein prescribed and who shall serve until the next general election and until his successor shall have been duly elected and qualified. Any vacancy thereafter occurring in the office of the Judge of said Brazoria County Court of Domestic Relations shall, in like manner as hereinabove provided, be filled by said Commissioners Court of Brazoria County, the appointee thereof to hold office until the next succeeding general election and until his successor shall be duly elected and qualified.

District Attorney; Representation of State

Sec. 18. The Criminal District Attorney of Brazoria County shall represent the State of Texas in all prosecutions and in all matters in the Brazoria County Court of Domestic Relations as provided by law for such prosecutions and matters in County Courts and in District Courts over which the Brazoria County Court of Domestic Relations is by this Act given jurisdiction and shall be entitled to the same fees as now prescribed by law in such matters.

Removal of Judge

Sec. 19. The Judge of the Brazoria County Court of Domestic Relations may be removed from office in the same manner and for the same causes as any District Judge may be removed under the laws of this State.

Oath and Bond of Judge

Sec. 20. The Judge of the Brazoria County Court of Domestic Relations shall take the oath and execute the bond in the manner and form as required by law relating to District Judges and the said bond shall be approved in the same manner as that of District Judges.

Appeals

Sec. 21. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals as is now or may be hereafter provided for appeals from District and County Courts and in all criminal cases shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 22. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearing in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Courts, general or special, as well as County Courts; provided that juries in all matters civil or criminal shall always be composed of twelve (12) members except that in misdemeanor criminal cases the juries shall be composed of six (6) members, as well as six (6) member juries in cases where this Court has concurrent jurisdiction with the County Court as herein provided.

Effect on Jurisdiction of District, County and Probate Courts

Sec. 23. Nothing in this Act shall diminish the jurisdiction of the several District Courts of Brazoria County, the County Court and the Probate Court of Brazoria County and such courts shall retain and continue to exercise such jurisdiction as is now or may be hereafter conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said Courts.

Court Reporter

Sec. 24. The Judge of the Brazoria County Court of Domestic Relations shall have authority to appoint a Court Reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. Such Court Reporter shall be paid such salary out of the general fund of the County as may be fixed by the Commissioners Court. The Judge shall also have the power and authority to appoint a court interpreter, in such cases as may be necessary, who shall be paid such fees and compensation out of the general fund of the County for such service as may be fixed by the Judge and approved by the Commissioners Court.

Judge as Attorney at Law

Sec. 25. The Judge of the Brazoria County Court of Domestic Relations shall not appear as an attorney at law in any court of record in this State nor shall he appear and practice as an attorney at law in any county or Justice Court over which he has original or appellate jurisdiction.

Inconsistent Laws

Sec. 26. Any law or laws of this State which are inconsistent with this Act are hereby expressly repealed; however, this Act is meant to be cumulative with existing laws and is meant to be reconciled with existing laws where possible.

[Acts 1965, 59th Leg., p. 618, ch. 307, eff. June 1, 1965; Acts 1967, 60th Leg., p. 1252, ch. 565, § 17, eff. Aug. 28, 1967; Acts 1969, 61st Leg., p. 2656, ch. 875, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1001, ch. 188, § 1, eff. May 13, 1971.]

Art. 2338-20. Court of Domestic Relations for Midland County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for Midland County, Texas.

Qualifications of Judge

Sec. 2. The Judge of the Court of Domestic Relations in and for Midland County, Texas, hereby established, shall have such qualifications as are fixed by the Constitution and Laws of this State for Judges of District Courts.

Jurisdiction

Sec. 3. The Court of Domestic Relations for Midland County shall have the jurisdiction

concurrent with the District Courts in Midland County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Reciprocal Support Act and all jurisdiction, powers and authority now or hereafter placed in the District or County Courts under the juvenile and child welfare laws of this State; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them, or one of them, and their minor children, or between any of these and third persons, corporations, trustees or other legal entities, which are now, or may hereafter be, within the jurisdiction of the District or County Courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said Court and the Judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Contempt Proceedings

Sec. 4. The Court of Domestic Relations in and for Midland County, Texas, shall have jurisdiction to hear contempt proceedings on, or any motion to alter, amend, or modify any judgment of a domestic relations case (such cases that are described in Section 3 of this Act) heretofore determined by the County Court of Midland County or the 142nd Judicial District Court for Midland County.

Juvenile Board

Sec. 5. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be a member of the Midland County Juvenile Board, which shall hereafter be composed of the Judge of the 142nd Judicial District Court, the County Judge of Midland County, and the Judge of the Court of Domestic Relations in and for Midland County, Texas, which Juvenile Board is authorized to designate the Court of Domestic Relations in and for Midland County, Texas, as the Juvenile Court of Midland County. The members of the Juvenile Board shall receive such compensation for their services as members of the Juvenile Board as is provided by the laws of this State governing compensation for members of Juvenile Boards. The compensation shall be paid by Midland County.

Appointment of Judge; Term of Office; Salary;
Special Judge

Sec. 6. Upon the effective date of this Act, the Governor shall appoint as Judge of the Court of Domestic Relations in and for Midland County, Texas, a suitable person having the qualifications provided by the Constitution and Laws of this State for District Judges, who shall hold office until the next general election after his appointment and until his successor shall be duly elected and qualified. Thereafter, the Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be elected for a term of four years as provided by the Constitution and Laws of this State. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be paid a salary which shall be equal to the total salary paid to the District Judge of the 142nd Judicial District Court of Midland County, which shall be paid by the Commissioners Court of Midland County out of the General Fund or the Officers' Salary Fund of the County. If the Judge be absent, a special judge, possessing the qualifications herein set out, may be elected by the Bar as provided by the law for election of a special judge in County Courts. If the Judge be disqualified in a cause and the parties fail to agree upon a special judge to try the cause, the Judge shall certify his disqualification to the Commissioners Court of Midland County, Texas, and the Commissioners Court shall appoint a special judge in such cause. A special judge shall be paid the sum of \$25 for each day he actually serves as such and his compensation shall not be deducted from the salary of the regular Judge, but shall be in addition thereto.

Transfer of Cases to Court of Domestic Relations

Sec. 7. When the Court of Domestic Relations in and for Midland County, Texas, is organized and the Judge thereof shall qualify, the County Judge of Midland County, Texas, and the Judge of the 142nd Judicial District Court of Midland County, Texas, may transfer, at their discretion, to the Court of Domestic Relations in and for Midland County, Texas, all cases which may then be pending in their respective Courts in Midland County, or all cases which have been adjudicated by their respective Courts and whose judgment they still have jurisdiction over, of which by this Act said Court of Domestic Relations in and for Midland County, Texas, is hereby given jurisdiction, including all filed papers and certified copies of all orders entered by them.

Transfer of Cases to County or District Courts

Sec. 8. All cases and other matters over which the Court of Domestic Relations in and for Midland County, Texas, is hereby given jurisdiction may be transferred to or instituted in that Court but the Judge of said Court may transfer any such cases or matters to the County or District Courts having jurisdiction thereof under the laws of the State to be tried in the court to which such transfer is made,

with the permission and consent of the Judge thereof.

Place of Sitting; Dockets and Minutes

Sec. 9. The Court of Domestic Relations in and for Midland County, Texas, shall sit and hold court in Midland County and shall maintain all necessary dockets and minutes therein.

Boards and Officers; Duties

Sec. 10. It shall be the duty of all officers, agents, and employees of the Child Welfare Department, County Welfare Office, County Health Officer, County Juvenile Officer, sheriff, and constables within Midland County to furnish to the Court such services in the line of their respective duties as shall be required by the Court.

Officers and Investigators; Court Reporter;
Compensation

Sec. 11. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall have authority to appoint such officers and investigators that might be necessary to the proper administration of its jurisdiction in Midland County. When he deems it necessary to the proper administration of the Court, he may appoint a court reporter. Provided, however, that all such appointments must be approved by the Juvenile Board of Midland County, by a majority vote of its members, and the salaries and compensation of the officers, investigators, and court reporter shall in like manner be determined by the members and paid by the Commissioners Court out of the General Fund of Midland County.

Injunctions and Writs; Contempts

Sec. 12. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall have power to issue injunctions, temporary injunctions, restraining orders and such other writs as are now or hereafter may be issued under the laws of this State by the County and District Courts when necessary in cases or matters over which the court has jurisdiction. The Court shall also have power to punish for contempt.

Terms of Court

Sec. 13. The terms of the Court of Domestic Relations in and for Midland County, Texas, shall begin on the first Monday in March and September of each year and may continue until the date fixed for the beginning of the next term. As soon as this Act becomes effective and the Judge of the Court of Domestic Relations in and for Midland County, Texas, is appointed and qualified, he shall begin a term of court which shall continue until the day fixed for the beginning of the next succeeding term and thereafter the terms shall begin on the above-mentioned dates. The Judge in his discretion may hold as many sessions of court in any term as he considers proper and expedient for the dispatch of business.

Vacancies

Sec. 14. Any vacancy in the office of the Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be filled by appointment by the Governor, and when so filled, the Judge shall hold office until the next general election and until his successor is elected and qualified.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of the Court shall be to the Court of Civil Appeals for the Eighth Supreme Judicial District of Texas as provided by law for appeals from District and County Courts.

Practice and Procedure

Sec. 16. The practice, procedure, rules of evidence, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearings in the Court shall be governed by the laws and rules pertaining to District and County Courts; provided, however, that juries shall be composed of 12 members.

Court of Record; Seal; Clerk of Court

Sec. 17. The Court of Domestic Relations in and for Midland County, Texas, shall be a court of record, shall sit and hold court at the county seat in Midland County, shall have a seal and maintain all necessary dockets, records, and minutes therein. The District Clerk of Midland County shall serve as Clerk of the court and perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of the court shall have a star of five points with the words "Court of Domestic Relations, Midland County, Texas" engraved thereon.

Sheriffs and Constables; Process and Writs

Sec. 18. All sheriffs and constables within the State shall render the same service and perform the same duties with reference to process and writs for said Court of Domestic Relations in and for Midland County, Texas, as is required of them by law with reference to process and writs for District Courts.

Custody of Children; Investigations

Sec 19. Repealed by Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.

County Attorney; Representation of State

Sec. 20. The County Attorney of Midland County or his duly and legally qualified assistant, or assistants, shall represent the State in all cases involving children alleged to be dependent, neglected, or delinquent, or in which the Probation Officer, Child Welfare Unit, County Welfare Office, County Health Officer, or any other welfare agency is interested, and shall represent the State in all proceedings in the Court of Domestic Relations in and for Midland County, Texas.

Juvenile Board; Counsel and Advice to Judge

Sec. 21. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations in and for Midland County, Texas, when deemed necessary or when sought by him and shall cooperate with him in the administration of the affairs of the Court.

Removal of Judge

Sec. 22. The Judge of the Court of Domestic Relations in and for Midland County, Texas, shall be subject to removal from the office for the same reasons and in the same manner as is provided by the Constitution and laws of this State for the removal of county officers.

[Acts 1965, 59th Leg., p. 1142, ch. 537, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 1252, ch. 565, § 18, eff. Aug. 28, 1967; Acts 1973, 63rd Leg., p. 1458, ch. 543, § 3, eff. Jan. 1, 1974.]

Acts 1973, 63rd Leg., p. 1458, ch. 543, repealing § 19 of this article, enacts Title 2 of the Texas Family Code. See, now, Family Code, § 11.01 et seq.

Art. 2338-21. Court of Domestic Relations for El Paso County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations in and for El Paso County, Texas.

Qualifications of Judge; Salary; Member of Juvenile Board

Sec. 2. The Judge of the Court of Domestic Relations shall be at least twenty-five (25) years of age and licensed to practice law in this State and shall have been a practicing attorney or a judge of a court for four (4) years and a resident of El Paso County for two (2) years next before his election or appointment. He shall reside in El Paso County during his term of office. He shall be paid a salary which shall be equal to the total salary paid by the County of El Paso and the State of Texas to any one judge of a District Court of El Paso County, Texas. His salary shall be paid out of the General Fund of El Paso County in twelve (12) equal monthly installments. He shall be a member of the Juvenile Board of El Paso County, which Juvenile Board shall be authorized to designate the Court of Domestic Relations as the Juvenile Court of El Paso County; Judges of the District Courts of El Paso County shall continue to receive such compensation for all judicial and administrative services required of them including services as members of the Juvenile Board and otherwise from county funds as they are now entitled to receive or may hereafter be authorized to receive under general or special law.

Jurisdiction

Sec. 3. The Court of Domestic Relations shall have jurisdiction within the limits of El Paso County, concurrent with the District Courts sitting in said county, of all cases involving adoptions, birth records, removal of disability of minority and coverture, change of name of persons, delinquent child proceedings,

neglected or dependent child proceedings, and all jurisdiction, powers and authority now or hereafter placed in the District Courts or Courts of Domestic Relations under the juvenile and child welfare laws of this State; and all divorce and marriage annulment cases, including the adjustment of property rights and custody, visitation and support of minor children involved therein, alimony pending final hearing and any and every other matter incident to divorce or annulment proceedings as well as independent actions involving child custody, visitation, support, or reciprocal support cases, contempt actions arising out of failure to pay child support and all other cases involving justiciable controversies and difference between spouses, or between parents, or between them or one of them, and their minor children, which are now, or may hereafter be, within the jurisdiction of the District Courts of El Paso County; and all cases in which children are alleged or charged to be dependent, neglected or delinquent children as provided by law. All cases enumerated or included above may be instituted in or transferred to said Court.

Transfer of Cases from District Courts

Sec. 4. The District Courts of El Paso County may transfer to said Court of Domestic Relations any and all cases in their respective courts of which cases said Court of Domestic Relations is hereby given jurisdiction, including all filed papers, reports, records, and certified copies of all orders theretofore entered in said cases.

Return of Writs and Process; Valid and Binding Effect

Sec. 5. All writs and process issued by or out of a District Court prior to the time any case is transferred by said Court to the Court of Domestic Relations shall be returned and filed in the Court of Domestic Relations and shall be as valid and binding upon the parties to such transferred cases as though such writ or process had been issued out of the Court of Domestic Relations, and all waivers of process and other instruments executed prior to the transfer of any case shall also be as valid and binding as though executed after such transfer.

Court of Record; Seal; Clerk of Court

Sec. 6. The Court of Domestic Relations shall be a court of record, shall sit and hold court at the county seat of El Paso County, shall have a seal and maintain all necessary dockets, records and minutes therein. The District Clerk of El Paso County shall serve as the clerk of said Court. He shall keep a fair record of all acts done and proceedings had in said Court and shall perform all such duties as are required generally of District Clerks insofar as the same may be applicable in this Court. The seal of said Court shall have a star of five points with the words "Court of Domestic Relations, El Paso County, Texas" engraved thereon.

Appointment of Judge; Removal; Vacancies

Sec. 7. The Governor shall nominate the first Judge of the Court of Domestic Relations of El Paso County who shall be appointed by and with the advice and consent of the Senate to serve until the next general election or until his successor is qualified. Thereafter, the Judge of the Court of Domestic Relations of El Paso County shall be elected in accordance with the terms of Section 65, Article XVI, Constitution of the State of Texas. He shall be subject to removal for the same reasons and in the same manner as is provided by the Constitution and laws of this State for removal of District Judges. Vacancies in the office shall be filled by appointment by the Governor.

Juvenile Board; Counsel and Advice to Judge

Sec. 8. The Juvenile Board and its members shall give counsel and advice to the Judge of the Court of Domestic Relations when deemed necessary or when sought by him, and shall cooperate with him in the administration of the affairs of said Court, and shall provide for the filing of any or all cases within the jurisdiction of the Court of Domestic Relations in the Court of Domestic Relations, or in any one or more of the District Courts of El Paso County.

Transfer of Cases to District Courts; Presiding Judge; Disqualification of Judge; Special Judge

Sec. 9. All cases, applications, complaints, and all other matters over which the Court of Domestic Relations is herein given jurisdiction may be transferred to or instituted in said Court; said Court and the Judge thereof may transfer any such cases, complaints, or other matters to any District Court of El Paso County having jurisdiction thereof under the laws of the State of Texas, with the consent of the Judge of such Court, and the Judge of such District Court may try all such cases, complaints, or other matters which may be so transferred. Any Judge of a District Court of El Paso County may preside as Judge of the Juvenile Court and of the Court of Domestic Relations and hear and determine all such cases, complaints, or other matters over which the Judge of such District Courts has jurisdiction under the laws of the State of Texas, with the same authority to act as presiding Judge over all such cases, complaints, or other matters for all purposes, and to the same extent as the Judge of the Court of Domestic Relations; and such Judge of a District Court of El Paso County, Texas, may sit in his own courtroom, the Juvenile Courtroom, the courtroom of any other District Court or Court of Domestic Relations within the county, or the Court of Domestic Relations and hear and determine any case, complaint, or matter pending in the Court of Domestic Relations. In the event of disqualification of the Judge of the Court of Domestic Relations to try a particular case or because of illness, inability, failure or refusal of said Judge to hold court at any time, the Juvenile Board may select a special judge who shall hold the court and proceed with the business

thereof, or said Juvenile Board may request the presiding judge of the Sixth Administrative Judicial District of Texas to assign a judge to handle the business of said Court pursuant to the provisions of Chapter 156, Acts of the 40th Legislature, 1927 (Article 200a, Vernon's Texas Civil Statutes), and said judge so selected by the board or assigned by the presiding judge shall be paid for his services in the same manner as provided by the Constitution and laws of this State for the payment of District Judges assigned to sit for other District Judges. The Judge of such Court of Domestic Relations may, in any case, matter or proceeding pending in any District Court or Court of Domestic Relations of El Paso County, of which case, matter or proceeding said Court of Domestic Relations would have potential jurisdiction, in the courtroom of such Court of Domestic Relations or in the Juvenile Courtroom, or in the courtroom of any District Court or Court of Domestic Relations of El Paso County, sit and hear and determine any such case, matter or proceeding pending therein, and enter any order or judgment, or do any other thing, which the Judge of such District Court or Court of Domestic Relations would have authority under law to do.

Probation Officers, Sheriffs, Etc.; Duty to Furnish Services; Process and Writs

Sec. 10. It shall be the duty of all officers, agents, and employees of the Probation Department, Child Welfare Board, County Welfare Office, County Health Officer and Sheriff and Constables of El Paso County to furnish to said court such services in the line of their respective duties as shall be required by said Court, and all sheriffs and constables within the State of Texas shall render the same services and perform the same duties with reference to process and writs from said Court of Domestic Relations as is required of them by law with reference to process and writs from District Courts.

Court Reporter; Compensation, Payment; Bailiff

Sec. 11. The Judge of the Court of Domestic Relations shall have authority to appoint a court reporter necessary for the operations of the Court of Domestic Relations, who shall receive the same compensation as provided by law for court reporters of District Courts in El Paso County and the court reporter's salary shall be paid by the Commissioners Court of El Paso County from appropriate county funds. A bailiff shall be designated by the Sheriff of El Paso County to serve the court as in other courts of the county.

Child Custody Cases; Investigation

Sec. 12. In all suits for divorce where it appears from the petition or otherwise that the parties to such suit have a child or children under the age of eighteen (18) years, and in any other cases involving the custody of any child or children, the said Court or Judge thereof, in its or his discretion, may require

such juvenile officer or investigator to make a thorough and complete investigation as to the necessities, environment and surroundings of the child or children and of the disposition that should be made of such child or children, and to make report thereof to the court, and if desired by the court, to produce such evidence on any hearing in such case as may have been developed in connection with such investigation.

Writs and Orders; Contempt

Sec. 13. The said Court and the Judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, temporary injunctions, restraining orders, orders of sale, execution, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this State by District Courts, when necessary or proper in cases or matters in which said Court of Domestic Relations has jurisdiction, and also shall have power to punish for contempt.

Term of Court

Sec. 14. The first term of such Court of Domestic Relations shall begin when the Judge thereof is duly selected and qualified, and remain in session until the first day of the following September; and its term shall thereafter begin on the first day of September of each year and remain in session continuously to and including the thirty-first day of August of the next year.

Appeals

Sec. 15. Appeals in all civil cases from judgments and orders of said Court shall be to the Court of Civil Appeals of the Eighth Supreme Judicial District as now or hereafter provided for appeals from District and County Courts and in all criminal cases appeals shall be to the Court of Criminal Appeals.

Practice and Procedure

Sec. 16. The practice and procedure, rules of evidence, selection of juries, issuance of process and all other matters pertaining to the conduct of trials and hearings in said Court shall be governed by provisions of this Act and the laws and rules pertaining to District Court; provided that juries shall be composed of twelve (12) members.

[Acts 1971, 62nd Leg., p. 2576, ch. 844, eff. June 9, 1971.]

Art. 2338-22. Court of Domestic Relations of Fort Bend County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations of Fort Bend County, Texas.

Qualifications and Salary of Judge

Sec. 2. The Judge of the Court of Domestic Relations of Fort Bend County shall have the qualifications provided by the constitution and laws of this state for district judges. He shall

be paid an annual salary out of the general fund of the county in 12 equal monthly installments in an amount not less than \$16,000 to be set by the Commissioners Court of Fort Bend County.

Jurisdiction

Sec. 3. The Court of Domestic Relations of Fort Bend County shall have the jurisdiction concurrent with the district courts in Fort Bend County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected, or dependent child proceedings, Reciprocal Support Act, and all jurisdiction, powers, and authority placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities, which are within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the enforcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Institution and Transfer of Cases

Sec. 4. All cases enumerated or included in Section 3 of this Act may be instituted or transferred to the court of domestic relations. All cases enumerated or included in Section 3 of this Act which are pending in the district courts of Fort Bend County on the effective date of this Act may be transferred to the court of domestic relations. Thereafter the judges of the district courts of Fort Bend County may transfer any case within the jurisdiction of the court of domestic relations created by this Act to said court of domestic relations, and the judge of the court of domestic relations may transfer any case pending in said court to any district court of Fort Bend County as designated by the presiding district judge of said county. The court of domestic relations may also sit for any of the district courts of Fort Bend County and hear and decide for such courts any case coming within the jurisdiction of the court of domestic relations created by this Act. All district courts of Fort Bend County may likewise sit for, hear and decide cases pending in the court of domestic relations, as the sitting for, hearing and

deciding of cases may be authorized by law for all district courts of Fort Bend County.

Disqualification of Judge; Special Judge

Sec. 5. Should the judge be disqualified to try a particular case, or should the judge by reason of illness or other inability fail or refuse to hold court as needed, on matters pending in the court of domestic relations only, such fact shall be brought to the attention of the presiding judge of the district courts of Fort Bend County by any practicing lawyer of Fort Bend County, whereupon such matters as require attention shall be promptly assigned by the presiding judge to one of the district courts of Fort Bend County for action and disposition in the same manner as other matters or trials in the several district courts. In the event it should ever become necessary to select a special judge for the court of domestic relations, such special judge shall be selected in the manner provided by law for the selection of a special judge of the district court.

Concurrent Jurisdiction with District Courts

Sec. 6. Nothing in the Act diminishes the jurisdiction of the district courts of Fort Bend County, but such courts shall retain and continue to exercise the jurisdiction of district courts as conferred by law. The district courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the court of domestic relations and none of the district courts of Fort Bend County shall be relieved by the provisions of this Act of their several responsibilities for the handling and disposition of all matters which are by this Act brought within the concurrent jurisdiction of the court of domestic relations as time and the condition of the dockets of such district courts will permit.

Concurrent Jurisdiction with County Courts

Sec. 7. As additional concurrent jurisdiction, the Court of Domestic Relations of Fort Bend County has original and concurrent jurisdiction with the County Court of Fort Bend County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the constitution of this state, county courts have jurisdiction, except the executive functions of the county judge as a member of the commissioners court, board of equalization, budget officer, and other executive and administrative functions.

Eminent Domain Proceedings

Sec. 8. The jurisdiction of the Court of Domestic Relations of Fort Bend County extends to all matters of eminent domain of which jurisdiction has been vested in the district court of Fort Bend County, but this provision does not affect the jurisdiction of the Commissioners Court or of the County Judge of Fort Bend County as the presiding officer of the commissioners court as to roads, bridges, public highways, and matters of eminent domain which are now within the jurisdiction of the commis-

sioners court or the presiding judge thereof, including the right of the County Judge of Fort Bend County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this section to vest in the court of domestic relations jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the court of domestic relations or to the district court only.

Probate Matters and Proceedings

Sec. 9. The Court of Domestic Relations of Fort Bend County also has the general jurisdiction of a probate court within the limits of Fort Bend County, concurrent with jurisdiction of the County Court of Fort Bend County in such matters and proceedings. The court of domestic relations has authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The Court of Domestic Relations of Fort Bend County has jurisdiction concurrent with the County Court of Fort Bend County conferred upon county courts or upon probate courts specially created by the legislature in Chapter 334, Acts of the 55th Legislature, Regular Session, 1957 (Article 1970a-1, Vernon's Texas Civil Statutes), and all other provisions of the law relating to probate courts, whether specially created by the legislature or otherwise, apply concurrently in all their provisions insofar as they are applicable to the Court of Domestic Relations of Fort Bend County and insofar as they are not inconsistent with this Act. It is the intention of the legislature in this Act that the County Judge of Fort Bend County shall be the judge of the County Court of Fort Bend County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Fort Bend County and all duties and jurisdiction vested in the court of domestic relations by this Act now being performed by the County Judge of Fort Bend County, Texas, is and shall be concurrent.

Dockets; Citations and Other Process

Sec. 10. With reference to all matters civil, criminal and probate, over which the Court of Domestic Relations of Fort Bend County is given concurrent jurisdiction with the County Court of Fort Bend County, the judge of the court of domestic relations shall use the same dockets as now provided by the county clerk in accordance with law for the use of the judge of the county court and probate court of Fort Bend County and the judge of the court of domestic relations and the county judge shall have concurrent jurisdiction over all matters

therein insofar as provided in this Act. All suits and other proceedings instituted in the county over which the county court or probate court has jurisdiction shall be addressed to the county court of the county. The judge of either the court of domestic relations or the county judge may hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Fort Bend County, without the necessity of transferring the suit or other proceeding, either civil, criminal, or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the county court or probate court and the clerk of the county court in said county shall keep one set of minutes in which shall be recorded all the judgments and orders of the Court of Domestic Relations of Fort Bend County and the County Court of Fort Bend County. All citations and other process issued by the county clerk and all notices, restraining orders and other process authorized to be issued by the clerk of the county court shall be returnable to the County Court of Fort Bend County, and on the return of such process the hearing or trial may be presided over by the Judge of the Court of Domestic Relations of Fort Bend County insofar as provided by this Act or the judge of the county court, and any and all such Acts thus performed by the Court of Domestic Relations of Fort Bend County or the County Court of Fort Bend County shall be valid and binding upon all parties to such cases, matters and proceedings.

Suits Involving Adoptions, Custody of Children and Support of Minors

Sec. 11. The District Clerk of Fort Bend County, who shall be the clerk of the court of domestic relations in all matters wherein the court of domestic relations has concurrent jurisdiction with the district courts of Fort Bend County, shall file in the court of domestic relations created by this Act all cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Reciprocal Support Act, all applications to change the names of persons, and all divorce cases. The County Clerk of Fort Bend County shall be the clerk of the court of domestic relations in all matters wherein the court of domestic relations has concurrent jurisdiction with the county court.

Court of Record; Seal; Records and Minutes

Sec. 12. The said court of domestic relations shall be a court of record, shall sit and hold court in the county seat of Fort Bend County, shall have a seal and maintain all necessary dockets, records and minutes therein as herein provided. These dockets, records and minutes shall be separate from the dockets, records and minutes of the district courts of Fort Bend County and as provided hereinbefore with the County Judge of Fort Bend County.

Duties of Officers and Agencies

Sec. 13. It shall be the duty of the probation department, the sheriff, constables and

other law enforcement agencies of the State of Texas and Fort Bend County and the cities thereof, as well as welfare agencies, to furnish said court of domestic relations such services in the line of their respective duties as shall be required by said court and all sheriffs and constables within the State of Texas shall render the same services with reference to process and writs from said court of domestic relations as is required of them by law with reference to process and writs from the district courts, county courts, and probate courts.

Writs and Orders; Contempt

Sec. 14. The court of domestic relations and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by district courts and county courts, when necessary or proper in cases or matters in which said court of domestic relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 15. There shall be two terms of the Court of Domestic Relations of Fort Bend County each year, one beginning on the first Monday in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the next regular term beginning the following January. The first term shall begin on the first Monday following the appointment of the judge thereof and shall continue until the convening of the next term as provided in this section.

Membership of Judge on Juvenile Board; Compensation

Sec. 16. The Judge of the Court of Domestic Relations of Fort Bend County shall be a member of the Juvenile Board of Fort Bend County and receive as additional compensation the same salary as paid by Fort Bend County to the district judges of Fort Bend County for acting as members of the juvenile board. The juvenile board shall continue as now constituted with the same salary and authority as now provided by law.

Appointment and Election of Judge; Term; Vacancies

Sec. 17. When this Act becomes effective, the Commissioners Court of Fort Bend County shall appoint a judge of the court of domestic relations, to serve until the next general election. At the general election in 1974 and every four years thereafter, the judge shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, Constitution of Texas. Any vacancy occurring in the office of the Judge of the Court of Domestic Relations of Fort Bend County shall be filled by the Commissioners Court of Fort Bend County, and the appointee shall hold office until the next general election and until his successor is duly elected and qualified.

District or County Attorney; Representation of State; Fees

Sec. 18. The Criminal District Attorney or County Attorney of Fort Bend County shall represent the State of Texas in all prosecutions and in all matters in the Court of Domestic Relations of Fort Bend County as provided by law for such prosecutions and matters in county courts and in district courts over which the court of domestic relations is by this Act given jurisdiction and shall be entitled to the same fees as now prescribed by law in such matters.

Removal of Judge

Sec. 19. The Judge of the Court of Domestic Relations of Fort Bend County may be removed from office in the same manner and for the same causes as any district judge may be removed under the laws of this state.

Appeals

Sec. 20. Except where a direct appeal is allowed to the supreme court, appeals in all civil cases from judgments and orders of this court, including appeals from judgments and orders in probate matters, shall be to the court of civil appeals as is provided for appeals from district and county courts and in all criminal cases shall be to the court of criminal appeals.

Practice and Procedure

Sec. 21. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearing in this court shall be governed by provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts; provided that juries in all matters civil or criminal shall always be composed of 12 members except that in misdemeanor criminal cases the juries shall be composed of six members, as well as six-member juries in cases where this court has concurrent jurisdiction with the county court as herein provided.

Effect on Jurisdiction of District and County Courts

Sec. 22. Nothing in this Act shall diminish the jurisdiction of the several district courts and the County Court of Fort Bend County, and such courts shall retain and continue to exercise such jurisdiction as is conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said courts.

Court Reporter

Sec. 23. The Judge of the Court of Domestic Relations of Fort Bend County may appoint a court reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. The court reporter shall be paid a salary out of the general fund of the county to be fixed by the commissioners court. The judge may appoint a court interpreter, in such cases as may be necessary, who shall be paid such fees and compensation out of the general fund of the county for such service as

may be fixed by the judge and approved by the commissioners court. The judge may appoint a stenographer, who shall be paid such compensation as may be fixed by the judge and approved by the commissioners court out of the general fund of the county.

Judge as Attorney at Law

Sec. 24. The Judge of the Court of Domestic Relations of Fort Bend County shall not appear as an attorney at law in any court of record in this state nor shall he appear and practice as an attorney at law in any county or justice court over which he has original or appellate jurisdiction.

[Acts 1973, 63rd Leg., p. 221, ch. 100, eff. May 18, 1973.]

Art. 2338-23. Court of Domestic Relations of Wharton County

Creation of Court

Sec. 1. There is hereby created a Court of Domestic Relations of Wharton County, Texas.

Qualifications and Salary of Judge

Sec. 2. The Judge of the Court of Domestic Relations of Wharton County shall have the qualifications provided by the constitution and laws of this state for district judges. He shall be paid an annual salary out of the general fund of the county in 12 equal monthly installments in an amount not less than \$12,000 to be set by the Commissioners Court of Wharton County.

Jurisdiction

Sec. 3. The Court of Domestic Relations of Wharton County shall have the jurisdiction concurrent with the district courts in Wharton County of all cases involving adoptions, removal of disability of minority and coverture, wife and child desertion, delinquent, neglected or dependent child proceedings, Uniform Reciprocal Enforcement of Support Act, as amended (Article 2328b, Vernon's Texas Civil Statutes), and all jurisdiction, powers, and authority placed in the district or county courts under the juvenile and child welfare laws of this state; and of all divorce and marriage annulment cases, including the adjustment of property rights and custody and support of minor children involved therein, alimony pending final hearing, and any matter incident to divorce or annulment proceedings as well as independent actions involving child custody or support of minors, change of name of persons; and all other cases involving justiciable controversies and differences between spouses, or between parents, or between them or one of them, and their minor children, or between any of these and third persons, corporations, trustees, or other legal entities, which are within the jurisdiction of the district or county courts; all cases in which children are alleged or charged to be dependent and neglected children or delinquent children as provided by law, of all suits for trial of title to land and for the en-

forcement of liens thereon, of all suits for trial of the right of property, and said court and the judges thereof shall have power to issue writs of habeas corpus, mandamus, injunction, and all writs necessary to enforce their jurisdiction.

Institution and Transfer of Cases

Sec. 4. All cases enumerated or included in Section 3 may be instituted or transferred to the court of domestic relations. All cases enumerated or included in Section 3 which are pending in the district courts of Wharton County on the effective date of this Act may be transferred to the court of domestic relations. Thereafter the judges of the district courts of Wharton County may transfer any case within the jurisdiction of the court of domestic relations created by this Act to said court of domestic relations, and the judge of the court of domestic relations may transfer any case pending in said court to any district court of Wharton County as designated by the presiding district judge of said county. The court of domestic relations may also sit for any of the district courts of Wharton County and hear and decide for such courts any case coming within the jurisdiction of the court of domestic relations created by this Act. All district courts of Wharton County may likewise sit for, hear and decide cases pending in the court of domestic relations, as the sitting for, hearing and deciding of cases may be authorized by law for all district courts of Wharton County.

Disqualification of Judge; Special Judge

Sec. 5. Should the judge be disqualified to try a particular case, or should the judge by reason of illness or other inability fail or refuse to hold court as needed, on matters pending in the court of domestic relations only, such fact shall be brought to the attention of the presiding judge of the district courts of Wharton County by any practicing lawyer of Wharton County, whereupon such matters as require attention shall be promptly assigned by the presiding judge to one of the district courts of Wharton County for action and disposition in the same manner as other matters or trials in the several district courts. In the event it should ever become necessary to select a special judge for the court of domestic relations, such special judge shall be selected in the manner provided by law for the selection of a special judge of the district court.

Concurrent Jurisdiction with District Courts

Sec. 6. Nothing in the Act diminishes the jurisdiction of the district courts of Wharton County, but such courts shall retain and continue to exercise the jurisdiction of district courts as conferred by law. The district courts shall continue to exercise concurrent jurisdiction on all matters which by this Act are brought within the concurrent jurisdiction of the court of domestic relations and none of the district courts of Wharton County shall be relieved by the provisions of this Act of their several responsibilities for the handling and

disposition of all matters which are by this Act brought within the concurrent jurisdiction of the court of domestic relations as time and the condition of the dockets of such district courts will permit.

Concurrent Jurisdiction with County Courts

Sec. 7. As additional concurrent jurisdiction, the Court of Domestic Relations of Wharton County has original and concurrent jurisdiction with the County Court of Wharton County in all matters and causes, civil and criminal, original and appellate, over which, by the general laws and the constitution of this state, county courts have jurisdiction, except the executive functions of the county judge as a member of the commissioners court, board of equalization, budget officer, and other executive and administrative functions.

Eminent Domain Proceedings

Sec. 8. The jurisdiction of the Court of Domestic Relations of Wharton County extends to all matters of eminent domain of which jurisdiction has been vested in the district court of Wharton County, but this provision does not affect the jurisdiction of the Commissioners Court or of the County Judge of Wharton County as the presiding officer of the commissioners court as to roads, bridges, public highways, and matters of eminent domain which are now within the jurisdiction of the commissioners court or the presiding judge thereof, including the right of the County Judge of Wharton County to appoint commissioners in condemnation, receive the reports and enter judgments. It is the intention of this section to vest in the court of domestic relations jurisdiction to hear any and all matters in condemnation, whether by commission or jury of view, appealed to the court of domestic relations or to the district court only.

Probate Matters and Proceedings

Sec. 9. The Court of Domestic Relations of Wharton County also has the general jurisdiction of a probate court within the limits of Wharton County, concurrent with jurisdiction of the County Court of Wharton County in such matters and proceedings. The court of domestic relations has authority to probate wills, appoint guardians of minors, idiots, lunatics, persons non compos mentis, and common drunkards, grant letters testamentary and of administration, settle accounts of executors, transact all business appertaining to deceased persons, minors, idiots, lunatics, persons non compos mentis, and common drunkards, including the settlement, partition, and distribution of estates of deceased persons, the apprenticing of minors as provided by law and conduct lunacy proceedings.

The Court of Domestic Relations of Wharton County has jurisdiction concurrent with the County Court of Wharton County conferred upon county courts or upon probate courts specially created by the legislature in Chapter 334,

Acts of the 55th Legislature, Regular Session, 1957 (Article 1970a-1, Vernon's Texas Civil Statutes), and all other provisions of the law relating to probate courts, whether specially created by the legislature or otherwise, apply concurrently in all their provisions insofar as they are applicable to the Court of Domestic Relations of Wharton County and insofar as they are not inconsistent with this Act. It is the intention of the legislature in this Act that the county judge of Wharton County shall be the judge of the County Court of Wharton County. All ex officio duties of the county judge shall be exercised by the judge of the County Court of Wharton County and all duties and jurisdiction vested in the court of domestic relations by this Act now being performed by the county judge of Wharton County, Texas, is and shall be concurrent.

Dockets; Citations and Other Process

Sec. 10. With reference to all matters civil, criminal and probate, over which the Court of Domestic Relations of Wharton County is given concurrent jurisdiction with the County Court of Wharton County, the judge of the court of domestic relations shall use the same dockets as now provided by the county clerk in accordance with law for the use of the judge of the county court and probate court of Wharton County and the judge of the court of domestic relations and the county judge shall have concurrent jurisdiction over all matters therein insofar as provided in this Act. All suits and other proceedings instituted in the county over which the county court or probate court has jurisdiction shall be addressed to the county court of the county. The judge of either the court of domestic relations or the county judge may hear and dispose of any suit or other proceeding on the civil, criminal and probate dockets of the County Court of Wharton County, without the necessity of transferring the suit or other proceeding, either civil, criminal, or probate, from one court to the other. Every judgment and order shall be entered in the minutes of the county court or probate court and the clerk of the county court in said county shall keep one set of minutes in which shall be recorded all the judgments and orders of the Court of Domestic Relations of Wharton County and the County Court of Wharton County. All citations and other process issued by the county clerk and all notices, restraining orders and other process authorized to be issued by the clerk of the county court shall be returnable to the County Court of Wharton County, and on the return of such process the hearing or trial may be presided over by the judge of the Court of Domestic Relations of Wharton County insofar as provided by this Act or the judge of the county court, and any and all such Acts thus performed by the Court of Domestic Relations of Wharton County or the County Court of Wharton County shall be valid and binding upon all parties to such cases, matters and proceedings.

Suits Involving Adoption, Custody of Children
and Support of Minors

Sec. 11. The District Clerk of Wharton County, who shall be the clerk of the court of domestic relations in all matters wherein the court of domestic relations has concurrent jurisdiction with the district courts of Wharton County, shall file in the court of domestic relations created by this Act all cases involving adoptions and independent actions involving child custody and support of minors, including cases under the Uniform Reciprocal Enforcement of Support Act, as amended (Article 2328b, Vernon's Texas Civil Statutes),¹ all applications to change the names of persons, and all divorce cases. The County Clerk of Wharton County shall be the clerk of the court of domestic relations in all matters wherein the court of domestic relations has concurrent jurisdiction with the county court.

¹ Repealed; see, now, Family Code, § 21.01 et seq.

Court of Record; Seal; Records and Minutes

Sec. 12. The said court of domestic relations shall be a court of record, shall sit and hold court in the county seat of Wharton County, shall have a seal and maintain all necessary dockets, records and minutes therein as herein provided. These dockets, records and minutes shall be separate from the dockets, records and minutes of the district courts of Wharton County and as provided hereinbefore with the County Judge of Wharton County.

Duties of Officers and Agencies

Sec. 13. It shall be the duty of the probation department, the sheriff, constables and other law enforcement agencies of the State of Texas and Wharton County and the cities thereof, as well as welfare agencies, to furnish said court of domestic relations such services in the line of their respective duties as shall be required by said court and all sheriffs and constables within the State of Texas shall render the same services with reference to process and writs from said court of domestic relations as is required of them by law with reference to process and writs from the district courts, county courts, and probate courts.

Writs and Orders; Contempt

Sec. 14. The court of domestic relations and the judge thereof shall have the power to issue writs of habeas corpus and mandamus, injunctions, restraining orders, orders of sale, executions, writs of possession and restitution, and any and all other writs as now or hereafter may be issued under the laws of this state by district courts and county courts, when necessary or proper in cases or matters in which said court of domestic relations has jurisdiction, and also shall have power to punish for contempt.

Terms of Court

Sec. 15. There shall be two terms of the Court of Domestic Relations of Wharton County each year, one beginning on the first Mon-

day in January and continuing until the convening of the next regular term, and one beginning on the first Monday in July and continuing until the next regular term beginning the following January. The first term shall begin on the first Monday following the appointment of the judge thereof and shall continue until the convening of the next term as provided in this section.

Membership of Judge on Juvenile Board; Compensation

Sec. 16. The Judge of the Court of Domestic Relations of Wharton County shall be a member of the Juvenile Board of Wharton County and receive as additional compensation the same salary as paid by Wharton County to the district judges of Wharton County for acting as members of the juvenile board. The juvenile board shall continue as now constituted with the same salary and authority as now provided by law.

Appointment and Election of Judge; Term; Vacancies

Sec. 17. When this Act becomes effective, the Commissioners Court of Wharton County shall appoint a judge of the court of domestic relations, to serve until the next general election. At the general election in 1974 and every four years thereafter, the judge shall be elected for a regular four-year term as provided in Article V, Section 30, and Article XVI, Section 65, Constitution of Texas. Any vacancy occurring in the office of the judge of the Court of Domestic Relations of Wharton County shall be filled by the Commissioners Court of Wharton County, and the appointee shall hold office until the next general election and until his successor is duly elected and qualified.

District or County Attorney; Representation of
State; Fees

Sec. 18. The Criminal District Attorney or County Attorney of Wharton County shall represent the State of Texas in all prosecutions and in all matters in the Court of Domestic Relations of Wharton County as provided by law for such prosecutions and matters in county courts and in district courts over which the court of domestic relations is by this Act given jurisdiction and shall be entitled to the same fees as now prescribed by law in such matters.

Removal of Judge

Sec. 19. The judge of the Court of Domestic Relations of Wharton County may be removed from office in the same manner and for the same causes as any district judge may be removed under the laws of this state.

Appeals

Sec. 20. Except where a direct appeal is allowed to the supreme court, appeals in all civil cases from judgments and orders of this court, including appeals from judgments and orders in probate matters, shall be to the court of civil appeals as is provided for appeals from district and county courts and in all criminal cases shall be to the court of criminal appeals.

Practice and Procedure

Sec. 21. The practice and procedure, rules of evidence, the drawing of jury panels, selection of juries, issuance of process, and all other matters pertaining to the conduct of trials and hearing in this court shall be governed by provisions of this Act and the laws and rules pertaining to district courts, general or special, as well as county courts; provided that juries in all matters civil or criminal shall always be composed of 12 members except that in misdemeanor criminal cases the juries shall be composed of six members, as well as six-member juries in cases where this court has concurrent jurisdiction with the county court as herein provided.

Effect on Jurisdiction of District and County Courts

Sec. 22. Nothing in this Act shall diminish the jurisdiction of the several district courts and the County Court of Wharton County, and such courts shall retain and continue to exercise such jurisdiction as is conferred by law and the jurisdiction given herein is concurrent with the jurisdiction of said courts.

Court Reporter

Sec. 23. The judge of the Court of Domestic Relations of Wharton County may appoint a

court reporter in such cases as may be required by law, and in such other cases as he shall deem it necessary to record and preserve the testimony. The court reporter shall be paid a salary out of the general fund of the county to be fixed by the commissioners court. The judge may appoint a court interpreter, in such cases as may be necessary, who shall be paid such fees and compensation out of the general fund of the county for such service as may be fixed by the judge and approved by the commissioners court. The judge may appoint a stenographer, who shall be paid such compensation as may be fixed by the judge and approved by the commissioners court out of the general fund of the county.

Judge as Attorney at Law

Sec. 24. The judge of the Court of Domestic Relations of Wharton County shall not appear as an attorney at law in any court of record in this state nor shall he appear and practice as an attorney at law in any county or justice court over which he has original or appellate jurisdiction.

[Acts 1973, 63rd Leg., p. 451, ch. 201, eff. Aug. 27, 1973.]

TITLE 44

COURTS—COMMISSIONERS

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- 2341. Vacancy.
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- 2351c. Court Houses and Criminal Court Buildings; Maintenance and Operation Employees under Control of Commissioners' Courts in Counties of Over 500,000.
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- 2351e. Public Cemeteries; Expenditures for Maintenance and Upkeep.
- 2351f. Counties Generally; Expenditures for Maintenance and Upkeep of Public Cemeteries.
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- 2368a-5. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-6. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-7. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-8. Validation of Contracts, Scrip or Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-9. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions; Elections for City Officials.

Article

- 2368a-10. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-11. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions.
- 2368a-12. Validation of Contracts, Warrants, Assessments, Acts and Proceedings, etc. of Certain Counties, Cities and Towns.
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- 2372e. Buildings for Canneries for Unemployment Relief.
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- 2372f. Pickup Trucks, Purchasing and Maintaining in Certain Counties.
- 2372f-1. Automobiles, Purchasing for Each Commissioner; Counties of 97,500 to 100,000.
- 2372f-2. Motor Vehicles; Allowance for Each Member; Counties of 150,000 to 170,000.

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- 2372f-3. Automobile or Pickup; Furnishing Each Commissioner; Counties of 36,800 to 37,500.
- 2372f-4. Automobile; Furnishing Each Commissioner; Counties of 20,300 to 20,500.
- 2372f-5. Two-way Radios for County Vehicles; Counties of 36,800 to 37,500.
- 2372f-6. Automobile; Furnishing Each Commissioner; Counties of 75,700 to 80,000 and 69,000 to 71,100.
- 2372f-7. Automobile for Each Commissioner in Counties of 71,100 to 71,200.
- 2372f-8. Traveling Expenses and Automobile Depreciation; Counties of 35,000 to 36,000.
- 2372g. Repealed.
- 2372g-1. Incapacitated Employees; Payment of Salaries in Counties of 290,000-500,000; Vacations.
- 2372h. Hours of Work, Vacations, Sick Leave, Hospitalization, etc., in Counties of 500,000 or More; Flood Control Districts; Personnel System.
- 2372h-1. Vacations, Holidays and Sick Leave for Employees of County Officers and Commissioners Courts.
- 2372h-2. Hospitalization Insurance for County Officials and Employees.
- 2372h-3. Vacations, Holidays and Sick Pay for Employees of Counties of 34,000 to 34,120.
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- 2372h-5. Travel Expenses of County Officers or Employees.
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- 2372o. County Building Authority Act.
- 2372p. Employment of Special Counsel in Counties of More Than 500,000 Population.
- 2372p-1. Furnishing Counsel and Investigative Services for Indigents Accused of Crime; Counties Over 1,500,000.
- 2372p-2. Personal Bond Offices.
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- 2372q. Acquisition of Natural Gas System for Courthouses and Other County Buildings.
- 2372r. Historical Markers, Monuments and Medallions.
- 2372r-1. Counties of 100,000 to 120,000; Construction, Restoration, Preservation and Maintenance of Historical Landmarks and Buildings.
- 2372s. Parking Stations Near Courthouses in Counties of 900,000 or More.
- 2372s-1. Regulation of Parking in Certain Courthouse Parking Lots.
- 2372s-2. Parking Stations Near Courthouses in Counties of 150,000 or More.
- 2372t. Emergency Ambulance Service in Counties of 9,800 to 10,150.

1. COMMISSIONERS COURTS

Art. 2339. Election

Each county shall be divided into four commissioners precincts, and one commissioner shall be elected biennially in each precinct, and each commissioner shall hold his office for two years.

[Acts 1925, S.B. 84.]

Increase in Term of Office

Const. art. 5, § 18, was amended in November 1954 to increase the term of office of county commissioners from two to four years.

Art. 2340. Oath and Bond

Before entering upon the duties of their office, the county judge and each commissioner shall take the official oath, and shall also take a written oath that he will not be directly or indirectly interested in any contract with, or claim against, the county in which he resides, except such warrants as may issue to him as fees of office. Each commissioner shall execute a bond to be approved by the county judge in the sum of three thousand dollars, payable to the county treasurer, conditioned for the faithful performance of the duties of his office, that he will pay over to his county all moneys illegally paid to him out of county funds, as voluntary payments or otherwise, and that he will not vote or give his consent to pay out county funds except for lawful purposes.

[Acts 1925, S.B. 84.]

Art. 2341. Vacancy

In case of vacancy in the office of commissioner, the county judge shall appoint some suitable person living in the precinct where such vacancy occurs, to serve as commissioner for such precinct until the next general election.

[Acts 1925, S.B. 84.]

Art. 2342. The Court

The several commissioners, together with the county judge, shall compose the "Commissioners Court," and the county judge, when present, shall be the presiding officer of said court.

[Acts 1925, S.B. 84.]

Art. 2343. Quorum

(a) Any three members of the court, including the county judge, constitute a quorum for the transaction of any business except that of levying a county tax.

(b) In case a member of the court is incapacitated from any cause, then any other four members of the court constitute a quorum for levying the tax if

(1) the member's incapacity is certified in writing by a duly licensed physician; and

(2) a district court of the county approves the certification.

[Acts 1925, S.B. 84; Acts 1965, 59th Leg., p. 1002, ch. 488, § 1, eff. June 10, 1965.]

Art. 2344. Seal

Each commissioners court shall have a seal, whereon shall be engraved a star with five points, the words, "Commissioners Court, _____ County, Texas," (the blank to be filled with the name of the County) which seal shall be kept by the clerk of said court and used in

authentication of all official acts of the court, or of the presiding officer or clerk of said court, in all cases where a seal may be necessary for the authentication of any of said acts. [Acts 1925, S.B. 84.]

Art. 2345. The Clerk

The county clerk shall be ex-officio clerk of the commissioners court; and he shall attend upon each term of said commissioners court; preserve and keep all books, papers, records and effects belonging thereto, issue all notices, writs and process necessary for the proper execution of the powers and duties of the commissioners court, and perform all such other duties as may be prescribed by law.

[Acts 1925, S.B. 84.]

Art. 2346. Process

All notices, citations, writs and process issued from said court shall be in the name of the "State of Texas," and shall be directed to the sheriff or any constable of a county and shall be dated and signed officially by the clerk, and shall have the seal of the court impressed thereon. All process of said court, when not otherwise directed by law shall be executed at least five days before the return day thereof, which return day shall be specified in the process. Subpoenas for witnesses may be executed and returned forthwith when necessary.

[Acts 1925, S.B. 84.]

Art. 2347. Notice Posted

Whenever the commissioners court shall be unable to secure the publication of any notice or report required by law in the manner and for the fee provided therefor, such notice or report may be made and published by posting one copy of such notice at the courthouse door, and one of said copies shall be posted at some public place in each commissioners precinct for thirty days prior to the next succeeding term of the commissioners court. No two such copies shall be posted in the same town or city.

[Acts 1925, S.B. 84.]

Art. 2348. Regular Terms

The regular terms of the commissioners court shall be commenced and be held at the court house on the second Monday of each month throughout the year and may continue in session one week; provided the court need not hold more than one session each quarter if the business of the court does not demand a session. Any session may adjourn at any time the business of the court is disposed of. Special terms may be called by the county judge or three of the commissioners, and may continue in session until the business is completed.

[Acts 1925, S.B. 84.]

Art. 2349. Minutes

The court shall require the county clerk to keep suitable books in which shall be recorded the proceedings of each term of the court;

which record shall be read and signed after each term by the county judge, or the member presiding and attested by the clerk. The clerk shall also record all authorized proceedings of the court between terms; and such record shall be read and signed on the first day of the term next after such proceedings occurred.

[Acts 1925, S.B. 84.]

Art. 2350. County Commissioners Salaries

Sec. 1. In counties having the following assessed valuations, respectively, as shown by the total assessed valuations of all properties certified by the county assessor and approved by the Commissioners Court, for county purposes, for the previous year, from time to time, the County Commissioners of such counties shall each receive annual salaries not to exceed the amounts herein specified, said salaries to be paid in equal monthly instalments, at least one-half (1/2), and not exceeding three-fourths (3/4), out of the Road and Bridge Fund, and the remainder out of the General Fund of the county; said assessed valuations and salaries applicable thereto being as follows:

Assessed Valuations	Salaries to be paid each Commissioner
Not to exceed \$3,500,000.00, as provided at end of this Section.	
\$ 3,500,001 and less than 6,000,000 not to exceed	\$1,500.00
\$ 6,000,001 and less than 9,000,000 not to exceed	\$1,800.00
\$ 9,000,001 and less than 10,000,000 not to exceed	\$2,000.00
\$ 10,000,001 and less than 12,000,000 not to exceed	\$2,200.00
\$ 12,000,001 and less than 20,000,000 not to exceed	\$2,500.00
\$ 20,000,001 and less than 30,000,000 not to exceed	\$3,000.00
\$ 30,000,001 and less than 75,000,000 not to exceed	\$3,600.00
\$ 75,000,001 and less than 120,000,000 not to exceed	\$4,000.00
\$120,000,001 and less than 140,000,000 not to exceed	\$4,800.00
\$140,000,001 and less than 400,000,000 not to exceed	\$5,500.00
\$400,000,001 and over not to exceed ...	\$6,000.00

In counties having assessed valuation of less than Three Million, Five Hundred Thousand Dollars (\$3,500,000) each Commissioner shall receive Five Dollars (\$5) per day for each day served as Commissioner, and a like amount when acting as ex-officio road superintendent in his Commissioner's precinct, providing in no event shall his total compensation exceed Twelve Hundred Dollars (\$1200) in any one year. Provided further, however, that in counties having National Forest Preserves and with less than Four Million, Five Hundred Thou-

sand Dollars (\$4,500,000) valuation that the salaries of said Commissioners shall not exceed Eighteen Hundred Dollars (\$1800) per year.

Sec. 1a. The Commissioners Court in each county is hereby authorized to pay the actual traveling expenses incurred by each commissioner while traveling outside of the county on official county business.

Sec. 2. Provided that in any county in this State having a population of less than twenty thousand (20,000) inhabitants and which has a tax valuation of not less than Seventeen Million (\$17,000,000.00) Dollars and not exceeding Twenty-five Million (\$25,000,000.00) Dollars according to the last approved tax roll and with a total area of not less than nine hundred fifty (950) square miles and not exceeding nine hundred eighty (980) square miles, the compensation of each County Commissioner shall be Twenty-four Hundred (\$2,400.00) Dollars per annum; and in counties having a population of not less than fifteen thousand five hundred fifty (15,550) nor more than fifteen thousand five hundred sixty (15,560) according to the last preceding Federal Census, and having an assessed valuation of not less than Twelve Million (\$12,000,000.00) Dollars according to the last approved tax rolls, the salary of each County Commissioner shall be One Thousand Eight Hundred (\$1,800.00) Dollars per annum, to be paid in twelve (12) equal installments as herein provided for in Article 2350 H; and in any county in this State having a population of not less than twenty-nine thousand two hundred ten (29,210) and not more than twenty-nine thousand six hundred thirty (29,630) according to the last preceding Federal Census, the salary of each County Commissioner shall be One Thousand Eight Hundred (\$1,800.00) Dollars per annum, to be paid in twelve (12) equal installments as herein provided for in Article 2350 H.

Sec. 2a. Provided that in counties in this State having a population of three hundred and fifty thousand (350,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Seven Thousand, Two Hundred Dollars (\$7,200) per annum, to be paid in equal monthly installments.

Sec. 2b. In all counties in this State having a population of six hundred thousand (600,000) or more, according to the last preceding Federal Census, the County Commissioners shall each receive a salary of Eight Thousand, Four Hundred Dollars (\$8,400) per annum, to be paid in equal monthly installments from the same funds as such salaries are now being paid.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., p. 435, ch. 290, § 1; Acts 1927, 40th Leg., 1st C.S., p. 138, ch. 46, § 1; Acts 1933, 43rd Leg., p. 727, ch. 216; Acts 1933, 43rd Leg., 1st C.S., p. 220, ch. 83, § 1; Acts 1935, 44th Leg., p. 1036, ch. 362, § 1; Acts 1939, 46th Leg., Spec.Laws, p. 566, §§ 1, 2; Acts 1945, 49th Leg., p. 280, ch. 204, § 1; Acts 1949, 51st Leg., p. 460, ch. 246, § 1; Acts 1951, 52nd Leg., p. 381, ch. 243, § 1; Acts 1969, 61st Leg., p. 1624, ch. 503, § 1, eff. Sept. 1, 1969.]

Arts. 2350(1) to 2350(8). Omitted

These articles provided for compensation of commissioners in various counties, and were derived from:

- Acts 1935, 44th Leg., p. 1036, ch. 362, §§ 2 to 4.
- Acts 1937, 45th Leg., p. 393, ch. 195, § 1.
- Acts 1937, 45th Leg., p. 565, ch. 277, § 1.
- Acts 1937, 45th Leg., 2nd C.S., p. 1881, ch. 13, § 1.
- Acts 1939, 46th Leg., Spec.Laws, p. 562, § 1.
- Acts 1939, 46th Leg., Spec.Laws, p. 570, § 2.
- Acts 1939, 46th Leg., Spec.Laws, p. 583, § 1.
- Acts 1941, 47th Leg., p. 224, ch. 154.
- Acts 1943, 48th Leg., p. 382, ch. 257.
- Acts 1943, 48th Leg., p. 637, ch. 362, § 1.
- Acts 1945, 49th Leg., p. 280, ch. 204, §§ 2, 3.
- Acts 1949, 51st Leg., p. 370, ch. 194, § 1.
- Acts 1953, 53rd Leg., p. 905, ch. 371, § 1.

See, now, arts. 2350, 3883h, 3883i, 3883i-1.

Art. 2350a. Omitted

This article provided for compensation of commissioners in certain counties of judicial districts composed of two counties, and was derived from Acts 1925, 39th Leg., p. 229, ch. 72, § 1. See, now, arts. 2350, 3883h, 3883i, 3883i-1.

Art. 2350b. Unconstitutional

This article, Acts 1925, 39th Leg., p. 302, ch. 118, § 1, was held unconstitutional by the Supreme Court, see Notes of Decisions, note 1. It related to the salary of county commissioners in counties having a population of not less than 17,000 according to the census of 1920, an area of not less than 1060, nor more than 1200, square miles, assessed property valuations of not less than \$10,000,000 and not containing a town or city of 7,500 population or more, but provided that it should not apply to certain named counties.

Arts. 2350c to 2350l. Omitted

These articles provided for compensation of commissioners in certain counties, and were derived from:

- Rev.Civ.St.1911, art. 6901a.
- Acts 1925, 39th Leg., p. 279, ch. 102.
- Acts 1925, 39th Leg., p. 386, ch. 171.
- Rev.Civ.St.1925, art. 2350c.
- Acts 1929, 41st Leg., p. 241, ch. 106, § 1.
- Acts 1929, 41st Leg., p. 685, ch. 306, § 1.
- Acts 1929, 41st Leg., 1st C.S., p. 240, ch. 98, § 1.
- Acts 1929, 41st Leg., 2nd C.S., p. 94, ch. 56, § 1.
- Acts 1930, 41st Leg., 4th C.S., p. 27, ch. 16.
- Acts 1930, 41st Leg., 4th C.S., p. 44, ch. 24, § 1.
- Acts 1930, 41st Leg., 4th C.S., p. 45, ch. 25, § 1.
- Acts 1930, 41st Leg., 4th C.S., p. 86, ch. 44, § 1.
- Acts 1930, 41st Leg., 5th C.S., p. 193, ch. 50, § 1.
- Acts 1930, 41st Leg., 5th C.S., p. 199, ch. 56, § 1.
- Acts 1931, 42nd Leg., Spec.Laws, p. 428, ch. 213.
- Acts 1933, 43rd Leg., p. 50, ch. 24.
- Acts 1933, 43rd Leg., p. 396, ch. 154.
- Acts 1937, 45th Leg., p. 171, ch. 87, § 1.

See, now, arts. 2350, 3883h, 3883i, 3883i-1.

Art. 2350m. Omitted

This article contained a tabulation of special acts covering salaries and expenses of commissioners in various counties. See, now, arts. 2350, 3883h, 3883i, 3883i-1.

Art. 2350n. Repealed by Acts 1959, 56th Leg., p. 502, ch. 221, § 7, eff. May 22, 1959

Article 2350n was derived from Acts 1951, 52nd Leg., p. 812, ch. 456 as amended by Acts 1955, 54th Leg., p. 1153, ch. 437, § 1 and related to allowances for traveling expenses and automobile depreciation. See now, art. 2350o.

Art. 2350o. Allowance for Traveling Expenses and Automobile Depreciation

Sec. 1. In any county in this State having a population of not more than twenty-one thousand, five hundred (21,500), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of such Commissioners Court the sum of not exceeding Seventy-five Dollars (\$75) per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all

expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 2. In any county in this State having a population in excess of twenty-one thousand, five hundred (21,500) but not in excess of one hundred twenty-four thousand (124,000), according to the last preceding or any future Federal Census, the Commissioners Court is hereby authorized to allow each member of the Commissioners Court the sum of not exceeding One Hundred Dollars (\$100) per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the county.

Sec. 3. In any county of this State having a population in excess of 124,000, according to the last preceding or any future federal census, the Commissioners Court is hereby authorized to allow each member of the Commissioners Court the sum of not exceeding \$300.00 per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of such Commissioners Court shall pay all expenses in the operation of such automobile and keep same in repair free of any other charge to the County.

Sec. 4. Repealed by Acts 1971, 62nd Leg., p. 2489, ch. 811, § 2, eff. June 8, 1971.

Sec. 5. The term "members of the Commissioners Court" when used herein means the County Commissioners and the County Judge.

Sec. 6. The provisions of this bill shall apply only to those counties not furnishing an automobile, truck, or by other means providing for the traveling expenses of its commissioners, while on official business within the county.

[Acts 1959, 56th Leg., p. 502, ch. 221; Acts 1971, 62nd Leg., p. 2489, ch. 811, §§ 1, 2, eff. June 8, 1971.]

Saved from Repeal

Article 2350o was saved from repeal by Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, § 3. See article 2372f-2, § 3.

Art. 2350p. Allowance for Traveling Expenses and Automobile Depreciation in Counties of 73,000 to 75,750 and 11,870 to 12,000

Sec. 1. In any county having a population of not less than 73,000 nor more than 75,750 according to the last preceding federal census, the commissioners court may allow each member of the commissioners court not more than \$150 per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of the commissioners court shall pay all expenses in the operation of his automobile and keep it in repair free of any other charge to the county.

Sec. 2. As used in this Act, "members of the commissioners court" means the county commissioners and the county judge.

Sec. 3. This Act applies only to counties not furnishing an automobile or truck or by other means providing for the traveling expenses of members of their commissioners courts while on official business within the county.

Sec. 4. In any county in this state having a population of not less than 11,870 and not more than 12,000 according to the last preceding federal census, the commissioners court is hereby authorized to allow each member of the court the sum of not exceeding \$125 per month for traveling expenses and depreciation on his automobile while on official business within the county. Each member of the court shall pay all expenses in the operation of such automobile and keep the automobile in repair free of any other charge to the county.

Sec. 5. As used in this Act, "the last preceding federal census" means the 1970 census or any future decennial federal census. This is despite any legislation that has been or may be enacted during any session of the 62nd Legislature delaying the effectiveness of the 1970 census for general state and local governmental purposes.

[Acts 1971, 62nd Leg., p. 1927, ch. 583, eff. June 1, 1971.]

2. POWERS AND DUTIES

Art. 2351. Certain Powers Specified

Each commissioners court shall:

1. Lay off their respective counties into precincts, not less than four, and not more than eight, for the election of justices of the peace and constables, fix the times and places of holding justices courts, and shall establish places in such precincts where elections shall be held; and shall establish justices precincts and justices courts for the unorganized counties as provided by law.

2. Establish public ferries whenever the public interest may require.

3. Lay out and establish, change and discontinue public roads and highways.

4. Build bridges and keep them in repair.

5. Appoint road overseers and apportion hands.

6. Exercise general control over all roads, highways, ferries and bridges in their counties.

7. Provide and keep in repair court houses, jails and all necessary public buildings.

8. Provide for the protection, preservation and disposition of all lands granted to the county for education or schools.

9. Provide seals required by law for the district and county courts.

10. Audit and settle all accounts against the county and direct their payment.

11. Provide for the support of paupers and such idiots and lunatics as cannot be admitted into the lunatic asylum, residents of their county, who are unable to support themselves. By the term resident as used herein, is meant a person who has been a bona fide inhabitant of the county not less than six months and of the State not less than one year.

12. Provide for the burial of paupers.

13. Punish contempts by fine not to exceed twenty-five dollars or by imprisonment not to exceed twenty-four hours, and in case of fine, the party may be held in custody until the fine is paid.

14. Issue all such notices, citations, writs and process as may be necessary for the proper execution of the powers and duties imposed by such court and to enforce its jurisdiction.

15. Said court shall have all such other powers and jurisdiction, and shall perform all such other duties, as are now or may hereafter be prescribed by law.

16. Said Court shall have the authority to use county road machinery and funds from the General Fund or Road and Bridge Funds in cleaning streams and in aiding flood control when such improvements are deemed to be of aid of the county in the maintenance and the building of county roads, in counties having a population of from nineteen thousand, eight hundred and fifty (19,850) to nineteen thousand, eight hundred and ninety-five (19,895) according to the last Federal Census.

17. a. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is hereby empowered to create a revolving fund or funds and to make appropriations thereto out of the general revenue of such county; and such revolving fund shall be used by such county only in cooperation with the United States Department of Agriculture to aid and assist in carrying out the purposes and provisions of an Act of Congress of the United States pertaining to the distribution of commodities to persons in need of assistance, under the direction of the United States Department of Agriculture; provided, however, that the county shall have on hand at all times either the moneys appropriated to such revolving fund or funds or the equivalent thereof in stamps issued by the United States Department of Agriculture under the Food and/or Cotton Stamp Plan, which stamps are convertible into cash at any time.

b. In such counties of this State exercising the powers herein granted, an issuing officer shall be appointed to carry out the provisions of this Act and to administer the funds herein appropriated. Such issuing officer shall be a citizen of the

State of Texas and appointed by the County Judge of such County subject to the approval of the Commissioners Court thereof. He shall be required to furnish a good and sufficient surety bond in such amount and upon such terms and conditions as may be required by the Commissioners Court and the United States Department of Agriculture. Such issuing officer shall receive a salary, to be paid out of the general fund or any other fund of the county, except constitutional funds, not otherwise appropriated, not to exceed Two Hundred Dollars (\$200) per month, and may appoint such cashiers and other assistants as may be authorized by such Court. The premiums of all bonds which may be required of such issuing officer, cashiers or other assistants, shall be paid by the Commissioners Court out of any available funds therefor belonging to such county.

c. Provided however the powers herein granted to such counties may be exercised by two (2) or more counties in conjunction with each other and in cooperation with the United States Department of Agriculture. And when such powers are exercised by two (2) or more counties jointly, the County Judges of such counties shall appoint the issuing officer, fix such appointee's bond and to do all other things necessary to cooperate with the United States Department of Agriculture in the same and like manner as is herein granted to any one county of this State.

d. Provided that such Commissioners Courts of such counties may cooperate with any incorporated city or town within such county or counties on such conditions and requirements as may be promulgated by such Commissioners Court or Courts.

e. Whenever any county herein authorized to create such a revolving fund ceases to participate therein the issuing officer appointed under the provisions hereof shall forthwith reduce all stamps to their equivalent in money and return such moneys then on hand to the fund from which same was originally appropriated and render a full account of his administration thereof to the Commissioners Court or Courts as the case may be.

18(a) The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is empowered in all cases where said county has heretofore acquired, or may hereafter acquire, land for an airport through purchase or gift from any person or source whatever, including the Federal Government, or any agency thereof, to lease said land and/or the facilities thereof, or any part thereof to any person or corporation upon such terms as the Commissioners Court shall deem advisable for airport purposes, or other purposes, provided any such lease is not inhibited by the terms of

the grant to such county. Said counties through such Commissioners Courts are also hereby expressly authorized and empowered to contract with reference to oil, gas or other minerals or natural resources which may be vested in said counties by virtue of the ownership of such airports and to execute and deliver to any person upon such conditions and for such consideration, including oil payments, gas payments, over-riding royalties, etc. as the Commissioners Court may deem advisable, mineral deeds or mineral leases of all or any part of said minerals, or the rights thereto, which are vested in the county and to generally contract for the exploration and development of the minerals underlying said land or any part thereof.

(b) The proceeds from the sale of any minerals or mineral rights, or the consideration for the execution of any mineral leases, including cash bonuses, delay rentals and royalties, need not be devoted to the maintenance, upkeep, improvement and operation of such airport, but may be expended by the Commissioners Court for any lawful purpose.

(c) The proceeds received, or to be received from any person from the lease of the surface of said land, or from the lease of the facilities thereof, or any part thereof, for purposes other than airport purposes, or for purposes other than those relating to the operation of an airport, may likewise be expended by the Commissioners Court for any lawful purpose.

(d) The proceeds received, or to be received, from any person for any lease of the surface of said land, or for the lease of the facilities thereof, or any part thereof, for airport purposes, or for purposes related to the operation of an airport, shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of any fiscal year of operation may be expended by such Commissioners Court for any lawful purpose.

(e) The proceeds received, or to be received, from any charges for the use of said airport for airport purposes shall be devoted, first, to the maintenance, upkeep, improvement and operation of such airport and the facilities, structures and improvements thereof, but any surplus remaining at the close of the fiscal year of operation may be expended by the Commissioners Court for any lawful purpose.

19(a) The Commissioners Court of each county of this State, in addition to the powers already conferred upon it by law, is expressly authorized and empowered to contract with the United States Government, or with any agency thereof, and particularly with the Federal Works Administrator, the Housing and Home Finance Ad-

ministrator, and/or the National Housing Administrator, or their successor or successors, for the acquisition of any land, or interest in land, in such county, owned by the United States Government, or any agency thereof, and for the acquisition of any temporary housing on land which the United States Government, or any agency thereof, may own or control; and each such county in this State is authorized and empowered to acquire by purchase, gift or otherwise, any such land and any such housing from the United States Government, or any agency thereof, and to own and operate such land and housing.

(b) Each Commissioners Court in this State is authorized and empowered to adopt a resolution or order requesting the transfer to said county of any such land or housing, or interest therein, which the United States Government, or any agency thereof, is now, or may be hereafter, authorized to convey or transfer to such county, and each such county, through its Commissioners Court, is expressly authorized and empowered to bind itself to comply with any and all terms and conditions which the United States Government, or any agency thereof, may impose as a prerequisite to the transfer or conveyance of any of such land or housing, or either of them, or any interest therein; and any instrument or deed conveying to said county any such land or any such housing, or any interest therein, may contain any conditions and provisions, covenants and warranties which may be prescribed by the United States Government, or any agency thereof, and agreed upon by said county acting through its Commissioners Court, provided that such terms and conditions are not inhibited by the Constitution of the State of Texas.

(c) For the purpose of purchasing or otherwise acquiring said lands or housing, or both, and improving, enlarging, extending or repairing the same, the Commissioners Court of any county may issue negotiable bonds of the county and levy taxes to provide for the interest and sinking funds of any such bonds so issued, the authority hereby given for the issuance of such bonds and the levying and collection of such taxes to be exercised in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended.

(d) Counties are expressly authorized and empowered to lease or rent any lands, housing, or facilities acquired by them pursuant to this Act and to establish and revise the rent or charges therefor; to arrange or contract for the furnishing by any person or agency, public or private, of services, or facilities for, or in connection with, any of such lands, housing or facilities, or the occupants thereof;

(e) Said counties are further authorized to sell and convey all or any part of the land or housing so acquired or to lease or exchange same; and said counties are further expressly authorized to execute oil, gas or mineral leases covering all or any part of said lands so acquired on such terms and conditions as may be deemed advisable by the Commissioners Court and for such consideration, including oil payments, gas payments, overriding royalties, etc. as may be deemed advisable; and such counties, through their Commissioners Courts, are expressly authorized and empowered to execute conveyances of minerals or mineral rights, and to generally contract for the exploration and development of the minerals underlying said land, if any, or any part thereof.

20. The Commissioners Court of each county of this State, in addition to the powers already conferred on it by law, is authorized and empowered in all cases where such county has acquired a water supply from subterranean waters for county purposes, to sell, contract to sell and deliver any or all of such water which is not needed for county purposes to any public or municipal corporation, or political subdivision of this State, including any water control and improvement district, or fresh water supply district now created and existing, or which may hereafter be created under the laws of this State; any such water sold or contracted to be sold and delivered to any such public or municipal corporation or political subdivision of this State, may be used or re-sold for any lawful purpose; and said Commissioners Court shall have the right to fix and determine the rate or rates at which such water shall be sold to any such public or municipal corporation or political subdivision of this State, and to enter into contracts to sell and supply such water at such determined rate or rates for any term of years not exceeding forty (40); and all monies received by the county from the sale of such water shall be placed to the credit of the General Fund of the county and may be expended for general county purposes as now or hereafter permitted by law.

[Acts 1925, S.B. 84; Acts 1939, 46th Leg., Spec.Laws, p. 588, § 1; Acts 1941, 47th Leg., p. 204, ch. 146, § 1; Acts 1949, 51st Leg., p. 501, ch. 275, § 1; Acts 1949, 51st Leg., p. 503, ch. 276, § 1; Acts 1950, 51st Leg., 1st C.S., p. 87, ch. 24, § 1.]

Art. 2351½. Change in Boundaries of Commissioners Precincts and Justice of the Peace Precincts

(a) Whenever the Commissioners Court changes the boundaries of commissioners precincts or of justice precincts, it may specify in its order a future date, not later than the first day of January following the next general election, on which the changes shall become effective. If an election for any precinct office is

held before the effective date of the order, the office shall be filled at the election by the voters of the precinct as it will exist on the effective date of the change in boundaries. A person who has resided within the territory embraced in the new boundaries for the length of time required to be eligible to hold the office shall not be rendered ineligible by virtue of the precinct's not having been in existence for that length of time.

(b) When boundaries of commissioners precincts are changed, the terms of office of the commissioners then in office shall not be affected by such change, and each commissioner shall be entitled to serve for the remainder of the term to which he was elected even though the change in boundaries may have placed his residence outside of the precinct for which he was elected.

(c) When boundaries of justice of the peace precincts are changed, so that existing precincts are altered, new precincts are formed, or former precincts are abolished, if only one previously elected or appointed justice of the peace or constable resides within a precinct as so changed, he shall continue in office as justice or constable of that precinct for the remainder of the term to which he was elected or appointed. If more than one justice or constable resides within a precinct as so changed, or if none resides therein, the office shall become vacant and the vacancy shall be filled as other vacancies; provided, however, that in precincts having two justices, if two reside therein, both shall continue in office, and if more than two reside therein, both offices shall become vacant.

[Acts 1965, 59th Leg., p. 1523, ch. 664, § 1, eff. Aug. 30, 1965.]

Art. 2351a. Fire Fighting Equipment; Purchase Authorized in Certain Counties

Bridges, Etc. Protected

Sec. 1. The Commissioners Court in counties having a population of more than three hundred thousand (300,000) and less than three hundred and fifty thousand (350,000) inhabitants in accordance with the last preceding Federal Census, and in counties having a population of more than forty-eight thousand, five hundred (48,500) and less than forty-nine thousand (49,000) inhabitants, and in counties having a population of not less than twenty-two thousand and eighty-nine (22,089) nor more than twenty-two thousand, one hundred (22,100) inhabitants, and in counties having a population of more than six thousand, one hundred (6,100) and less than six thousand, one hundred and eighty (6,180) inhabitants in accordance with the last preceding Federal Census, shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located

without the limits of any incorporated city or town.

Contracts with Centrally Located Municipality for Operation and Maintenance

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Provisions Cumulative; Partial Invalidity

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any section, subdivision, paragraph, sentence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid.

[Acts 1937, 45th Leg., p. 1127, ch. 453; Acts 1939, 46th Leg., Spec.Laws, p. 587, § 1; Acts 1941, 47th Leg., p. 107, ch. 85, § 1.]

Art. 2351a-1. Fire Protection and Fire Fighting Equipment in All Counties; Contracts; Liability of Municipalities for Firemen's Acts

The Commissioners Court in all counties of this State shall be authorized to furnish fire protection and fire-fighting equipment to the citizens of such county residing outside the city limits of any incorporated city, town or village within the county and/or adjoining counties. The Commissioners Court shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon, and is hereby authorized to issue time warrants of the county and to levy and collect taxes to pay the interest and principal thereon as provided by law. The Commissioners Court of any county of this State shall also have the authority to enter into contracts with any city, town or village within the county and/or adjoining counties, upon such terms and conditions as shall be agreed upon between the Commissioners Court and the governing body of such city, town or village, for the use of the fire trucks and other fire-fighting equipment of the city, town or village. It is specifically provided that the acts of any person or persons while fighting fires, traveling to or from fires, or in any manner furnishing fire protection to the citizens of a county outside the city limits of any city, town or village, shall be considered as the acts of agents of the county in all respects, notwithstanding such person or persons may be regular employees or firemen of a city, town or village. No city, town or village within a county and/or adjoining counties shall be held liable for the acts of any of its employees while engaged in fighting fires outside the city limits pursuant to any contract theretofore entered into between the Commissioners Court of the county and the governing body of the city, town or village.

[Acts 1941, 47th Leg., p. 567, ch. 360, § 1; Acts 1961, 57th Leg., p. 492, ch. 234, § 1.]

Art. 2351a-2. Fire Fighting Equipment; Purchase Authorized in Counties of 350,000 to 450,000; Contracts

Sec. 1. The Commissioners Court in counties having a population of more than three hundred and fifty thousand (350,000) and less than four hundred and fifty thousand (450,000) inhabitants in accordance with the last preceding Federal Census shall have the authority to purchase fire trucks and other fire-fighting equipment by first advertising and receiving bids thereon as provided by law, to be used for the protection and preservation of bridges, county shops, county warehouses, and other property located without the limits of any incorporated city or town.

Sec. 2. The Commissioners Courts in such counties are empowered and authorized to enter into contracts with any centrally located municipality in the county for the operation and maintenance of said fire trucks and other fire-fighting equipment on such terms as the Commissioners Court may deem proper and expedient.

Sec. 3. The provisions of this Act are cumulative of all other laws other than special laws and if any section, subdivision, paragraph, sentence, or clause of this Act be held unconstitutional, the remaining portions thereof shall be valid.

[Acts 1941, 47th Leg., p. 681, ch. 424.]

Art. 2351a-3. Fire Fighting Equipment; Counties Over 350,000; Furnishing Equipment to Towns and Villages Having Volunteer Departments

"County" Defined

Sec. 1. The term "county" when used in this Act shall mean any county in Texas having a population of three hundred and fifty thousand (350,000) or more according to the last preceding Federal Census.

Authority to Furnish Equipment

Sec. 2. The Commissioners Court of the county is hereby authorized to and may furnish fire fighting equipment under the terms and provisions of this Act. It is the legislative intent and purpose that this Act be construed as permitting the Commissioners Court within their discretion to carry out the provisions of this Bill but the language in this Bill shall not be construed as being mandatory in nature.

Petition; Contract

Sec. 3. The governing authorities of any incorporated town or village of the county, which has a volunteer fire department recognized by the Insurance Commission of the State of Texas, may, by an order or resolution, a majority voting in favor thereof, petition the Commissioners Court of the county to enter into a contract to furnish fire fighting equipment as provided in this Act. The Commissioners Court may enter into the contract and furnish the fire fighting equipment where the petitioners show the incorporated town or village is eligi-

ble to receive the service and benefit of such equipment by compliance with the terms of this Act.

Duty of Commissioners Court

Sec. 4. When at least twenty-five (25) citizens, living in any unincorporated village, town or community, who have, or will organize within a reasonable time, a volunteer fire department recognized by the Insurance Commission of the State of Texas, and who are in all respects qualified to vote in a county bond election, petition the Commissioners Court for fire fighting equipment, it may be the duty of the Commissioners Court to enter into a contract and furnish such fire fighting equipment, subject to and in accordance with the provisions of this Act.

"Fire Fighting Equipment" Defined

Sec. 5. The term "fire fighting equipment" referred to herein shall mean a four hundred-gallon booster tank mounted on a suitable truck chassis, equipped with a front-end pump and other necessary appliances and equipment. Total initial cost of each unit of fire fighting equipment shall in no instance exceed the sum of Two Thousand Seven Hundred and Fifty Dollars (\$2,750).

Provisions of Contract

Sec. 6. The contract referred to herein shall provide and be conditioned that the county may furnish the fire fighting equipment for the use and benefit of the petitioners, subject to the agreement and understanding that the petitioners shall furnish a satisfactory place in which to keep and house the fire fighting equipment and pay at their own expense all of the costs of operation of said fire fighting equipment, and furnish the personnel to operate the same. The county shall be charged with the duty of keeping the fire fighting equipment in good working condition and shall be responsible for all replacements and repairs required. The Commissioners Court shall determine when repairs and replacements are necessary for such equipment. The Commissioners Court may provide for at least one emergency unit of fire fighting equipment to be used by the petitioners while the regular unit is being repaired or replaced by the Commissioners Court. The Court shall require that all repairs, including labor and materials, shall be made, in so far as possible, in the shops of the Commissioners, and the Commissioners Court shall have the power to designate any one or all of said shops for such purposes. The Commissioners Court may use trucks or other equipment, now on hand, if they are unable to acquire new trucks or other equipment for the purpose of building or equipping said fire fighting equipment.

The petitioners shall be charged with the safe keeping of the fire fighting equipment. They shall be responsible to the county for any loss of such equipment from theft. They shall be responsible to the county for any loss re-

sulting to said fire fighting equipment assigned them by reason of any negligence of any officer, agent or employee of any incorporated town or village or of any one of the twenty-five (25) petitioners in an unincorporated village, town or community handling or operating such equipment.

Bond

Sec. 7. Before any unit of fire fighting equipment is delivered to any petitioners, they shall give bond with good and sufficient surety, payable to the county, in an amount to be fixed by the Commissioners Court, not to exceed the initial cost of the unit of fire fighting equipment, conditioned that they will pay to the county the amount of the actual loss to each unit of equipment, or any part thereof, resulting from theft or negligence as hereinafter provided.

"Petitioners" Defined

Sec. 8. The term "petitioners" as used herein shall mean any governing body of any incorporated town or village of the county. It shall also mean and include the number of petitioners not less than twenty-five (25) authorized herein to petition the Commissioners Court for fire fighting equipment, who reside in an unincorporated town, village or community.

Location of Equipment; Inspection

Sec. 9. Said fire fighting equipment shall remain in the county and the Commissioners Court shall at all times have the right to inspect and examine said equipment and shall have the right to repossess the same upon noncompliance by the petitioners with the terms of this Act.

Contracts for Use of Equipment

Sec. 10. The Commissioners Court may have, and it is hereby granted, the power and authority to contract with any city or cities within said county for the use of fire fighting equipment and the use and service thereof by the fire department of such city or cities for the purpose of fighting fires outside the city limits of such city or cities, upon such terms and conditions as may be mutually agreed upon by such Commissioners Court and the governing authorities of such city or cities, and said Commissioners Court and it is hereby authorized and empowered to pay out of the General Fund of said county such compensation for such services as may be agreed upon as hereinabove provided.

Costs of Administration

Sec. 11. The Court shall pay all costs of administering this Act out of the General Fund of the county.

[Acts 1943, 48th Leg., p. 566, ch. 336.]

Art. 2351a-4. Fire Fighting Equipment; Time Warrants or Bonds

The Commissioners Court of any county in this State is hereby authorized to purchase fire trucks and other fire fighting equipment to be

used for the protection and preservation of bridges, county shops, county warehouses, and other county property located in the county but without the corporate limits of any incorporated city or town, and in payment thereof is hereby authorized to issue either time warrants or negotiable bonds, or both, of the county, and to levy and collect taxes against the county general fund in payment thereof; provided, however, that any such warrants or bonds must have been authorized by a majority of the qualified property taxpaying voters, who had duly rendered the same for taxation, voting at an election duly called for that purpose by the Commissioners Court, such bonds and warrants to be issued and such taxes to be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, governing the issuance of bonds by cities, towns, and/or counties in this State; and provided further, that said warrants or bonds will be issued only in such amount or amounts as will at all times leave remaining and unencumbered sufficient taxes for general fund purposes to fully take care of all current expenses thereof.

[Acts 1949, 51st Leg., p. 1121, ch. 575, § 1.]

Art. 2351a-5. Contracts with Volunteer Fire Departments for Fire Protection Services in Unincorporated Areas

The commissioners court of any county may contract with any incorporated volunteer fire department which is located within the county but not within the corporate limits of any city or town, for the purpose of furnishing fire protection services to areas of the county which are not within the corporate limits of a city or town. The terms of the contract may be as mutually agreed upon by the commissioners court and the volunteer fire department. The commissioners court may pay for the services under the contract out of the general fund of the county.

[Acts 1951, 52nd Leg., p. 371, ch. 235, § 1; Acts 1965, 59th Leg., p. 1053, ch. 516, § 1, eff. June 16, 1965.]

Art. 2351a-6. Rural Fire Prevention Districts

Organization Authorized

Sec. 1. Rural Fire Prevention Districts may be organized in the State of Texas under the provisions of Section 48-d of Article III of the State Constitution for the protection of life and property from fire and for the conservation of natural and human resources as in this Act provided.

District Within One County; Petition to County Judge

Sec. 2. (1) When it is proposed to create a Rural Fire Prevention District under the provisions of this Act wholly within one county, there shall be presented to the County Judge of that county a petition signed by not less than one hundred (100) of the qualified voters who own taxable real property within the proposed district, or in the event there are less than one hundred such voters then by a majority of such voters.

(2) The County Judge of each county shall have jurisdiction to receive and act on the petition if it shows:

(a) That the district is to be created and operated under the provisions of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district, which shall be "_____ County Rural Fire Prevention District No. _____," filling in name of county and proper consecutive number;

(c) Designation of the boundaries of the proposed district by metes and bounds, or other sufficient legal description;

(d) That none of the land encompassed within said district is now included within any other rural fire protection district;

(e) The mail address of each petitioner.

(3) Said petition shall in addition contain the signed agreement of at least two of the petitioners therein, obligating themselves to pay the cost incident to the formation of the proposed district not to exceed One Hundred Fifty Dollars (\$150.00), which shall include, among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Multi-County Districts; Petition

Sec. 2(a). (1) When it is proposed to create a Rural Fire Prevention District under the provisions of this Act which shall encompass territory not solely within one county, there shall be presented to the County Judge of each county wherein such Rural Fire Prevention District is sought to be created, a petition signed by not less than 100 of the qualified voters who own taxable real property within the proposed district and also in the county where such County Judge presides, or in the event there are less than 100 such voters within that area sought to be made a part of said district within such county, then by a majority of such voters residing therein.

(2) The County Judge of each county wherein such district is sought to be created shall have jurisdiction to receive and act on the petition if it shows:

(a) That the district is to be created and operated under the provisions of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district which shall be "_____ Rural Fire Prevention District";

(c) Designation of the boundaries of the proposed district by metes and bounds or other sufficient legal description;

(d) That none of the land encompassed within the said district is now included within any other Rural Fire Prevention District;

(e) The mailing address of each petitioner residing in the county wherein the County Judge presides.

(3) Said petition shall, in addition, contain the signed agreement of at least two of the petitioners therein, which two shall reside in the county wherein the County Judge presides, obligating themselves to pay the cost incident to the formation of the proposed district not to exceed One Hundred Fifty Dollars (\$150.00), which shall include among any other necessary and incidental expenses, the cost of publication of notices and election costs.

Filing Of and Hearing On Petition

Sec. 3. If the petition is in proper form, the County Judge shall file same with the County Clerk. The Commissioners Court shall at its next regular or special session set the place, day and hour when it will hear and consider the petition.

Notices of Hearing

Sec. 4. The County Clerk shall issue notices of such hearing, which shall state that such district is proposed and shall further state:

(a) That the district is to be created and operated under the terms of Article III, Section 48-d of the Constitution of Texas;

(b) Name of the proposed district;

(c) Designation of the boundaries of said districts, as stated in the petition therefor;

(d) The place, day and hour of hearing on the petition;

(e) and shall notify all persons who may have an interest therein that they are invited to attend said hearing and present their grounds, if any, for or against the formation of said district.

Said notice shall be prepared in multiple copies, one of which shall be retained by the clerk, and sufficient additional copies as may be necessary delivered to the Sheriff.

The Sheriff shall post one copy at the court house door at least twenty (20) days prior to the date of hearing, and have published in a newspaper of general circulation in the proposed district once a week for two consecutive weeks, the first publication thereof to be made at least twenty (20) days prior to the date of hearing.

The return of each officer executing such notice shall be endorsed or attached to a copy of the same, and show the execution of the same, specifying the dates of posting, and publication, and shall be accompanied by a printed copy of such publication.

Hearing on Petition by Commissioners Court; Jurisdiction and Powers

Sec. 5. At the time and place set for the hearing of the petition, or such subsequent date as may then be fixed, the Commissioners Court shall proceed to hear such petition and all issues in respect to the creation of such proposed district, and any person interested may appear before the court in person or by attorney and contend for or contest the creation

of such district, and offer testimony pertinent to any issue thereon. Such court shall have exclusive jurisdiction to determine all issues in respect to the creation of such district, may adjourn the hearing from day to day and from time to time as the facts may require, and shall have power to make all incidental orders deemed proper in respect to the matters before it.

**Granting or Denying Petition; Fixing Boundaries
of District**

Sec. 6. If it shall appear on hearing by the court that the organization of a district as prayed for is feasible and practicable, would benefit the land included therein, and will be conclusive to the public safety, welfare and convenience, and aid in the conservation of the real property or natural resources within said district, the court shall so find and grant the petition and fix the boundaries thereof; otherwise it shall deny the petition.

Appeal to District Court by Persons Aggrieved

Sec. 7. Any person or other owner of real or personal property situated within said district as created, who may consider himself aggrieved by the decision of the Commissioners Court, may appeal to the district court in the same manner as is provided for appeals in cases involving estates of decedents.

Elections

Sec. 8. Upon granting of the petition, the Commissioners Court shall call an election to confirm the organization and authorize the levy of a tax, not to exceed three cents (3¢) on the One Hundred Dollars (\$100.00) valuation. If it appears on the face of the petition that the proposed district is to encompass more than one county or portions thereof, then the Commissioners Court shall not call an election until such time as the Commissioners Court of any other county or such district is proposed shall have also granted the petition. When the foregoing has been accomplished, such election shall be held not less than thirty (30) nor more than sixty (60) days after the order calling the same; and notice of such election shall be given in the same mode and manner as hereinabove required for hearing on the petition to form the District. The notice shall contain the proposition submitted, the classification of voters who are authorized to vote, and the time and place for holding the election. Such time for holding the election if the district be multi-county shall be as near as practical to the time that the Commissioners Courts in the other counties have agreed to hold the election.

**Incorporated City, Town or Village Included in
Proposed District; Referendum**

Sec. 8(a). If the area of the proposed District encompasses the territory of any incorporated city, town or village, the Commissioners Court, if such city, town or village lies within its county, in making the determinations required in Section 6 of this Act, shall also determine whether those findings would be the

same as to the remaining portion of the proposed district, excluding any or all such incorporated municipalities in the event any one or more of such incorporated municipalities should fail to cast a majority vote in favor of the district and the tax.

This finding shall be made as to each particular city, town or village whose territory is proposed to be included within the area of the proposed district.

No district hereafter created shall include the area of any incorporated city, town, or village, unless the majority of the electors residing in the municipality and participating in the election called by the Commissioners Court to confirm the district and levy the tax voted in favor of both the creation of the district and the levy of the tax.

Should a majority of the voters residing in a municipality and participating in the election vote against creation of the district or levy of the tax, the municipality shall not be included within the district, but its exclusion shall not affect the creation of the district embracing the remainder of the proposed territory if the findings of the Commissioners Courts made as required in Section 6 and in this section of this Act are favorable to the creation of the district, as thus restricted. Should any non-consenting city, town or village ever annex territory into such proposed Rural Fire Prevention District, then the Board of Fire Commissioners shall, after due notice, immediately de-annex such area from its district and shall cease to provide any further services to the residents of that area.

**Election Favoring Confirmation of District; Order
of Commissioners Court**

Sec. 9. If a majority of those voting at such election, as provided in Section 2 or Section 2(a) of this Act, vote in favor of the confirmation of the district, it shall thenceforth be deemed an organized Rural Fire Prevention District under this Act; and the Commissioners Courts of the several counties wherein such district is created shall enter orders accordingly in their minutes in the following substantial form:

Whereas, at an election duly and regularly held on the _____ day of _____, A.D. 19____, within that portion of _____ County, State of Texas, described as: (insert description unless the district is county-wide) there was submitted to the legal voters thereof the question whether the above described territory shall be formed into a Rural Fire Prevention District under the provisions of the laws of this state; and

Whereas, at such election _____ votes were cast in favor of formation of said district and _____ votes were cast against such formation; and

Whereas, the formation of such Rural Fire Prevention District received the affirmative vote of the majority votes cast at such election as provided by law;

Now, therefore, the County Commissioners Court of _____ County, State of Texas, does hereby find, declare and order that the tract hereinbefore described has been duly and legally formed into a Rural Fire Prevention District (or a portion thereof) under the name of _____, under and pursuant to Article III, Section 48-d of the Constitution of Texas, and with the powers vested in such district conferred by law.

Districts Declared Political Subdivisions of State;
Powers

Sec. 10. Such fire protection districts are hereby declared to be political subdivisions of the state, and shall have full authority to carry out the objects of their creation and to that end are authorized to acquire, purchase, hold, lease, manage, occupy and sell real and personal property or any interest therein; to enter into and to perform any and all necessary contracts; to appoint and employ the necessary officers, agents and employees; to sue and be sued; to levy and enforce the collection of taxes in the manner and subject to the limitations herein provided against the lands and other property within the district for the district revenues; to accept and receive donations; and to do any and all lawful acts required and expedient to carry out the purposes of this Act.

Further Powers of Districts

Sec. 11. Any fire protection district organized under the provisions of this Act shall further have the authority:

(1) To lease, own, maintain, operate and provide fire engines and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention and extinguishment of fires in the district as authorized in this Act;

(2) To lease, own and maintain real property, improvements and fixtures thereon, suitable and convenient for housing, repairing and caring for fire-fighting equipment;

(3) To enter into contracts with any others, including incorporated cities or towns or other districts whereby fire fighting facilities and fire extinguishment services and/or emergency rescue and ambulance services may be available to the district, upon such terms as the governing body of the district shall determine. The contract may provide for reciprocal operation of services and facilities if the contracting parties find that such operation would be mutually beneficial, and not detrimental to the district.

(4) The Board of Fire Commissioners may cause inspections to be made within the district pertinent to the causes and prevention of fires therein, and may promote such educational programs as it may deem proper to more fully effect the purposes of this Act.

(5) To lease, own, maintain, operate and provide emergency rescue equipment and all other necessary or proper apparatus, instrumentalities, machinery, and equipment for the prevention of loss of life from fire or other hazards, which may result in serious injuries to persons.

(6) To lease, own, maintain, operate and provide emergency ambulance service and all other necessary and proper equipment therewith for the prevention of loss of life from fire and other hazards which may result in serious injuries to persons.

(7) To do and perform all things in its discretion proper and necessary to fully carry out the intent of this Act.

Limitation on Indebtedness; Assessment of
Property; Election; Ballots

Sec. 12. (1) No indebtedness shall be contracted in any one year in excess of funds then on hand or which may be satisfied out of current revenues for the year. The Board of Fire Commissioners shall annually levy and cause to be assessed and collected a tax upon all properties, real and personal, situated within the district and subject to district taxation, in an amount not to exceed three cents (3¢) on the One Hundred Dollars (\$100) valuation for the support of the district, and for the purposes authorized in this Act. Such tax levy shall be certified to the County Tax Assessor-Collector, who shall be the Assessor-Collector for the district. The County Tax Assessor-Collector shall assess property in the district for the purpose of the Rural Fire Prevention District tax at the same values as shown on the county tax rolls, unless a different method of assessing the values has been adopted under the provisions of Subdivisions (2) through (8) of this section.

(2) The Board of Fire Commissioners may by a majority vote of the members order an election in the district, at the expense of the district, on the proposition of assessing property in the district for the purpose of the Rural Fire Prevention District tax at a percentage of actual market value different from the percentage used by the county. The Board of Fire Commissioners shall cause notice of the election to be published by posting notice of the election at each precinct 20 days before the election. The notice shall state the time of holding the election and the question to be voted on. If the district encompasses more than one county it shall be mandatory upon the Board of Fire Commissioners to hold such an election whether such tax be the same percentage of actual market value used by any one or more counties within the district.

(3) Residents of the district eligible to vote in a general election are eligible to vote in the district election provided for in Subdivision (2) of this section.

(4) Except as provided in this Act, the general laws of this state apply to elections held under this Act.

(5) The proposition shall be printed on the ballots as follows:

FOR assessing property in the _____ County Rural Fire Prevention District No. _____ for the purpose of the rural fire prevention district tax at a percentage of actual market value different from that used by the county, not to exceed _____ percent of actual market value.

AGAINST assessing property in the _____ County Rural Fire Prevention District No. _____ for the purpose of the rural fire prevention district tax at a percentage of actual market value different from that used by the county, not to exceed _____ percent of actual market value.

The proposition shall be printed on the ballot of any Rural Fire Prevention District which is in more than one county as follows:

FOR assessing property in the _____ Rural Fire Prevention District for the purpose of the rural fire prevention district tax at a percentage of actual market value not to exceed _____ percent of actual market value.

AGAINST assessing property in the _____ Rural Fire Prevention District for the purpose of the rural fire prevention district tax at a percentage of actual market value not to exceed _____ percent of actual market value.

(6) If the proposition carries, the Board of Fire Commissioners shall certify that fact to the County Tax Assessor-Collector, notifying him of the percentage of actual market value approved for fire prevention district tax purposes.

(7) The County Tax Assessor-Collector shall assess property for the purpose of the rural fire prevention district tax on separate assessment blanks furnished by the district, at the percentage of actual market value approved in the election.

(8) In a county where the County Tax Assessor-Collector makes a separate assessment of property in a district under the provisions of this section, the rural fire prevention district shall reimburse the County Tax Assessor-Collector for any additional expense incurred in assessing and collecting taxes for the district, not to exceed one percent of the taxes collected in each year.

Board of Fire Commissioners; Organization, Officers;
Bond of Treasurer

Sec. 13. (1) The Board of Fire Commissioners, who shall be appointed by the Commissioners Court, shall be the governing body of the districts created under the provisions of this Act. They shall serve for a term of two years and until their successors are appointed and qualified.

(2) Upon the canvass of the election returns and entering of the order creating the district (provided in Section 9), the Commissioners

Court shall name five commissioners to serve until January 1st of the next year. On that date, the court shall designate three of such commissioners to serve for a term of two years and two commissioners to serve for one year. Annually on January 1st thereafter, the court shall appoint a successor to each commissioner whose term has expired. Vacancies on the board shall be filled by the Commissioners Court for their unexpired term.

Each of said fire commissioners shall take the official oath required of members of the Legislature of this state before entering upon his duties.

(3) Said fire commissioners shall choose from their number a president, vice-president, secretary and treasurer, who shall have and perform respectively, the duties usually incumbent upon their said offices. The office of secretary and treasurer may be vested in the same person.

The treasurer shall enter into and file with the county clerk his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the County Judge before it may be filed.

Multi-County District Board of Fire Commissioners;
Election; Term; Oath; Officers;
Bond of Treasurer

Sec. 13(a). (1) The Board of Fire Commissioners of a multi-county fire prevention district shall consist of five (5) members, who will be the governing body of the districts created under the provisions of this Act. They shall serve for a term of two years and until their successors are elected and have taken office.

(2) The County Judges of the county where such Rural Fire Prevention District lies of any Rural Fire Prevention District which is multi-county shall mutually establish a day convenient to them in the month of November to hold an election for the purposes of electing the Board of Fire Commissioners of the district. Any person who is a resident of the district and has attained the age of 18 years shall be eligible to run as Fire Commissioner. He shall give notice to the County Clerk of each county wherein the district lies of his intention to run for office. Such notice shall give his name, age, and address and state that he is serving notice of his intent to run as Fire Commissioner of the Rural Fire Prevention District. Such notice shall be sworn to before the County Clerk can receive it. Upon receipt of such notice the County Clerk shall call such candidate's name to be printed upon the ballots suitable to the County Clerk for an election of this character. The County Clerks of the counties wherein such multi-county district lies shall mutually appoint an election judge to certify the winners of the result of such election. After the election is held each of the County Clerks or one of their deputies wherein the district lies shall prepare a statement of cost under oath of the election. Such statement shall be tendered to the newly elected constituted

Board of the Rural Fire Prevention District. It shall be the duty of the Board of Fire Commissioners to order its proper official to reimburse each county for the cost expended by it for the election.

The term of the Board of Fire Commissioners shall commence on January 1 and run for two years. Then and thereafter elections of the Board shall be held in the month of November on the year after the election of the first Board at a day to be agreed upon by the County Judges wherein the district lies.

Two of the members of the first Board of Fire Commissioners shall have initial terms of one year. In November of the year of taking office another election shall be provided for these two offices. Then and thereafter there shall be one election every two years for these two officers. The two commissioners that shall run for office in the next year shall be the two who received the lowest number of votes in the first election of the board.

Each of said Fire Commissioners shall take the official oath required by members of the legislature of this State before entering upon duty.

(3) Said Fire Commissioners shall choose from their number a President, Vice-President, Secretary and Treasurer who shall have and perform, respectively, the duties usually incumbent upon their said offices. The offices of Secretary and Treasurer may be vested in the same person.

The Treasurer shall enter into and file with the County Clerk of the largest county in population according to the last preceding federal census wherein the district lies his bond conditioned upon the faithful performance of the duties of his office. The sufficiency and amount of the bond shall be determined by the County Judge of that county before it may be filed.

Powers and Duties of Fire Commissioners; Meetings; Records; Quorum; Compensation

Sec. 14. The Board of Fire Commissioners shall administer all the affairs of said district in accordance with the provisions of this Act; shall hold regular monthly meetings, and such other meetings as deemed advisable; and shall keep proper minutes and records of all their acts and proceedings. A majority of said board shall constitute a quorum.

No fire commissioner shall receive any compensation for his services, but when on official business of the district may be compensated for their reasonable and necessary expenses. All moneys of the district shall be disbursed by check signed by the treasurer countersigned by the president, but no payments from tax moneys shall be paid unless a sworn itemized account covering the same has been presented to and approved by the board.

The board shall not later than February 1st of each year render in writing to the Commis-

sioners Court of the county an accounting of its administration for the preceding calendar year and of the financial condition of the district.

The board shall further render such reports as may be required from time to time by the State Fire Marshall and other authorized party or agency.

No fire commissioner shall become interested in any contract or transaction in which said district is a party whereby he may receive any money consideration or other thing of value, other than as a resident or property owner of the district.

Expansion of District Territory; Petition; Hearing; Notice; Resolution; Election; Debts or Taxes

Sec. 14a. (1) Qualified voters who own taxable real property in a defined area of territory not included in a district may file a petition requesting inclusion with the secretary of the Board of Fire Commissioners. The petition shall be signed by fifty (50) such voters or a majority of such voters, whichever number is less.

(2) The board by order shall set the time and place of the hearing on the petition to include the territory in the district. The hearing shall be held not less than thirty (30) days from the date of the order.

(3)(a) The secretary of the board shall issue notice of the time and place of the hearing, and the notice shall describe the territory proposed to be annexed.

(b) The secretary shall post copies of the notice in three public places in the district and one copy in a public place in the territory proposed to be annexed. The notices shall be posted for at least fifteen (15) days before the day of the hearing.

(c) The notice shall be published one time in a newspaper with general circulation in the county. The notice shall be published at least fifteen (15) days before the day of the hearing.

(4) If the board finds after the hearing that the addition would be feasible and practical and would be of benefit to the district, it may add the territory to the district by resolution entered in its minutes. The board does not have to include all the territory described in the petition if it finds that a modification or change is necessary or desirable.

(5)(a) Annexation of the territory is not final until ratified by a majority vote of the electors at a separate election held in the district and by a majority vote of the electors at a separate election held in the territory proposed to be added.

(b) If the district has outstanding debts or taxes, the same election shall determine also whether or not the territory to be added will assume its proportion of the debts or taxes if the land is added to the district.

(6) The ballots shall be printed to provide for voting for or against the following propositions:

(A) "Adding (description of territory to be added) to the _____ Rural Fire Prevention District."

(B) "(description of territory to be added) assuming its proportionate share of the outstanding debts and taxes of the _____ Rural Fire Prevention District, if it is added to such district."

(7) The notice of the election, the manner and time of giving the notice, the manner of holding the election, and qualifications of the voters shall be governed by other provisions of this Act, so far as applicable.

Liberal Construction of Act; Partial Invalldity

Sec. 15. The provisions of this Act and proceedings thereunder shall be liberally construed with a view to effect their objects. If any section or provision of this Act shall be adjudged to be invalid or unconstitutional, such adjudications shall not affect the validity of the Act as a whole, or any section, provision, or part thereof not adjudged to be invalid or unconstitutional.

Validation of Orders or Proceedings of Commissioners Court

Sec. 16. The order of any Commissioners Court by which a rural fire prevention district has been or has sought to be created or established, wholly within one county, are hereby in all things validated, ratified and confirmed, and such district shall be hereafter deemed to have been established and in existence as of the date of the entry of the order by the Commissioners Court which declared such rural fire prevent district to be in existence; provided, however, that this Act shall not apply to validate the organization or creation of such district unless each of the following steps have also been taken: (a) that the Commissioners Court has entered a finding that the court has investigated the benefits to be derived from the creation of the district and that all of the properties and persons within the territorial confines of the district will be benefited by the creation or existence of such district with the powers authorized under this law and under the provisions of Article III, Section 48-d, of the Constitution of Texas; and (b) the order creating the district has heretofore been filed in the deed records of the county, which order or supplement thereto shows the area of the district; and (c) the Commissioners Court has heretofore appointed fire commissioners for the governing of the rural fire prevention district; and (d) the proposition for the creation of the district, levying a tax, or both, has been submitted to the electorate and a majority of those participating in such election voted in favor of the district, the tax, or both, such elec-

tion having been called by the Commissioners Court.

Taxation; Levy and Collection

Sec. 17. In those districts validated and declared to be and to have been established under the provisions of Section 16 of this Act, the district shall have the right to levy and collect the rate of tax of not to exceed the rate of tax voted at the election required under the provisions of Section 16; provided, however, that if the election sought to authorize more than a tax of three cents (3¢) per One Hundred Dollars (\$100.00) valuation contrary to the provisions of Article III, Section 48-d of the Constitution of Texas, the provisions of this section shall not be effective.

Validation of Governmental Proceedings of Districts

Sec. 18. All governmental proceedings of the districts (which are validated by the provisions of Section 16 of this Act) are hereby in all things validated, ratified and confirmed. [Acts 1957, 55th Leg., p. 130, ch. 57; Acts 1959, 57th Leg., p. 31, ch. 19, § 1; Acts 1967, 60th Leg., p. 1089, ch. 478, § 1, eff. June 12, 1967; Acts 1973, 63rd Leg., p. 609, ch. 260, §§ 1 to 9, eff. Aug. 27, 1973; Acts 1973, 63rd Leg., p. 768, ch. 341, § 1, eff. June 12, 1973.]

Art. 2351b-1. Fire Protection; Counties of Less Than 20,000 Population Authorized to Contract For with Municipalities

The Commissioners Courts in counties having a population of less than twenty thousand (20,000), according to the last preceding Federal Census, and a property valuation of more than One Hundred Million Dollars (\$100,000,000), according to the last approved county tax rolls, are authorized and empowered to enter into contracts and agreements with the governing bodies of municipalities within such counties for the purpose of furnishing fire protection within such counties, but outside the corporate limits of such municipalities, and to make appropriations for paying such municipalities for furnishing such fire protection.

[Acts 1939, 46th Leg., Spec.Laws, p. 586, § 1.]

Art. 2351b-2. Aid to State and Federal Agencies

From and after the date of passage of this Act the Commissioners Courts in all counties having a population of not less than twenty-two thousand and fifty (22,050) and not more than twenty-three thousand (23,000), according to the last preceding Federal Census, shall have the power and authority to provide for facilities and such financial aid as the said Commissioners Courts may deem necessary to Federal or State government agencies and bureaus having activities or maintaining projects within the county in which the said Commissioners Court is located.

[Acts 1939, 46th Leg., Spec.Laws, p. 585, § 1.]

Art. 2351b-3. Resettlement or Rural Rehabilitation Projects; Agreements Between Commissioners Courts and United States; Payments in Lieu of Taxes

Definitions

Sec. 1. The following definitions shall be applied to the terms used in this Act:

(1) "Agreement" shall mean contract and shall include renewals and alterations of a contract.

(2) "Political subdivision" shall mean any agency or unit of this State which is now, or hereafter shall be, authorized to levy taxes or empowered to cause taxes to be levied.

(3) "Services" shall mean such public municipal functions as are performed for property in, and for persons residing within, a political subdivision.

(4) "Project" shall mean any resettlement project or rural rehabilitation project for resettlement purposes of the United States located within a political subdivision and shall include the persons inhabiting such projects.

(5) "Governing body" shall mean the board, body, or persons in which the powers of a political subdivision as a body corporate, or otherwise, are vested.

Payments by United States in Lieu of Taxes, Agreements For

Sec. 2. The Commissioners Court of any county in this State is hereby authorized and empowered (a) to make requests of the United States, for and on behalf of the county and political subdivisions whose jurisdictional limits are within or coextensive with the limits of the county, for the payment of such sums in lieu of taxes as the United States may agree to pay, and (b) to enter into agreements with the United States, in the name of the county, for the performance of services by the county and such political subdivisions for the benefit of a project, and for the payment by the United States to the county, in one or more installments, of sums in lieu of taxes.

Contents of Agreements; Notice to Subdivision

Sec. 3. Each agreement entered into pursuant to Section 2 shall contain the names of the political subdivisions in whose behalf it is consummated and a statement of the proportionate share of the payment by the United States to which each political subdivision shall be entitled. The Commissioners Court shall immediately notify each political subdivision in whose behalf an agreement is entered into of the consummation thereof.

Filing Agreement; Receipts

Sec. 4. The Commissioners Court shall file one copy of any agreement for a payment of sums in lieu of taxes with the County Treasurer. On or before the date on which any payment of sums in lieu of taxes is due, the County Treasurer shall present a bill to the United

States, in the name of the county, in the amount of such payment. Whenever such payment is received, the County Treasurer shall issue a receipt therefor in the name of the County.

Apportionment of Payments Received; Acceptance

Sec. 5. Immediately after receiving a payment in lieu of taxes, the County Treasurer shall, without any deduction, apportion and pay it to the several political subdivisions in accordance with the agreement under which the payment was received, notwithstanding any other law controlling the expenditure of county funds. The acceptance by the governing body of a political subdivision of its share of a payment in lieu of taxes shall be construed as an approval of the agreement under which the payment was received. If any governing body shall refuse to accept a political subdivision's share of a payment in lieu of taxes, the County Treasurer shall refund the same, without any deduction, to the United States.

Powers of Subdivisions to Make Agreements with United States

Sec. 6. If the United States declines to deal with a Commissioners Court with respect to any political subdivision whose jurisdictional limits are within or coextensive with the limits of the county, or in the event the jurisdictional limits of a political subdivision lie within more than one county, that political subdivision is authorized to make requests of the United States for such payments in lieu of taxes as the United States may agree to pay. Such political subdivision is hereby empowered to enter into agreements with the United States for the performance by the political subdivision of services for the benefit of a project and for the payment by the United States to the political subdivision, in one or more installments, of sums in lieu of taxes.

Amount of Payments

Sec. 7. The amount of any payment of sums in lieu of taxes may be based on the estimated cost to each political subdivision, for and on whose behalf an agreement is entered into, of performing services for the benefit of a project during the period of an agreement, after taking into consideration the benefits to be derived by each political subdivision from such project, but shall not be in excess of the taxes which would result to each political subdivision from such project for said period if the real property of the project within each political subdivision were taxable.

Deposit of Moneys Received

Sec. 8. All money received by a political subdivision pursuant to Sections 5 and 6 shall be deposited in such fund or funds as may be designated in the agreement; provided, however, that if the agreement does not make such designation, the money shall be deposited in such fund or funds as the governing body of such political subdivision shall by appropriate resolution direct.

Services to be Furnished by Political Subdivisions
for Project

Sec. 9. No provision of this Act shall be construed to relieve any political subdivision of this State, in the absence of an agreement for payment of sums in lieu of taxes by the United States, as provided in this Act, of the duty of furnishing for the benefit of a project all services which the political subdivision usually furnished to property in, and to persons residing within, the political subdivision without a payment of sums in lieu of taxes.

[Acts 1941, 47th Leg., p. 264, ch. 179.]

Art. 2351b-4. National Forests, Prorating Receipts from Federal Government

Whereas Congress has heretofore passed a law which provides that thereafter twenty-five per centum (25%) of all moneys received during any fiscal year from each national forest shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said forest is situated to be expended as the State or Territorial Legislature may prescribe for the benefit of the public schools and the public roads of the county or counties in which the national forest is situated, and whereas the Legislature of the State of Texas has not prescribed any method for prorating said funds, now, therefore, be it enacted that the Commissioners Courts of the counties in Texas in which such national forests are situated are hereby authorized to prorate all such funds received and to be received from the Federal Government for timber and all other income derived from such lands as follows:

Fifty per cent (50%) of such money received shall be allocated to the school districts in proportion to the area in said districts, and fifty per cent (50%) of same to the county for the benefit of the public roads in said county. Provided the Commissioners Court may transfer the fifty per cent (50%) received by said Court to the school districts.

[Acts 1945, 49th Leg., p. 29, c. 19, § 1.]

Art. 2351c. Court Houses and Criminal Court Buildings; Maintenance and Operation Employees under Control of Commissioners' Courts in Counties of Over 500,000

In all Counties having a population of more than five hundred thousand (500,000), according to the last preceding or any future Federal Census, all employees necessary to the repair, maintenance, and operation of all court houses and Criminal Court Buildings shall be under the direction and control of the Commissioners' Court. The Court may designate a building superintendent who shall appoint all necessary employees subject to confirmation by the Commissioners' Court. The Court shall have the right to discharge any such employee at any time for cause. Such appointments shall be in writing, shall be signed by the employee, state the nature of the duties to be performed, the period for which such employment is made, the hours to be worked, and the amount to be paid, and shall conform to the requirements and be

subject to the limitations provided by Section 19, Chapter 465, Acts of 1935, Second Called Session.¹ Such employments shall in no event extend beyond January 1st of the year succeeding the appointment, but may be renewed from year to year. The number of persons to be employed and the amounts to be paid shall be subject to the approval of the County Auditor. All laws regulating the making of employments, the accounting for funds, and all budget laws and regulations applicable in the Counties to which this Act applies shall apply to such employments, except insofar as in conflict with this Act, in which event this Act shall control. All employees, including jail guards, matrons, elevator operators and other such employees engaged in the operation of the jails in such Counties shall continue to be employed and discharged by the Sheriff in the manner now provided by law, and all employees necessary for the proper conduct of the jails or the safekeeping of the prisoners shall be subject to the exclusive direction and control of the Sheriff of such County.

[Acts 1941, 47th Leg., p. 35, ch. 21, § 1.]

¹ Article 3912e.

Art. 2351d. Purchases Through State Board of Control

Sec. 1. The Commissioners Court of each county, from and after the effective date of this Act, is hereby authorized to purchase any road machinery, road equipment, tires and tubes to be used by the county through the State Board of Control. If the Commissioners Court elects to purchase such road machinery, road equipment, tires and tubes by and through the State Board of Control, such road machinery, road equipment, tires and tubes shall be purchased on competitive bids under such rules and regulations as may be made by the State Board of Control. Such purchases shall be made on requisition of the Commissioners Court. The Commissioners Court making such requisition for the purchase of any road machinery, road equipment and tires and tubes shall, when sending in the requisition therefor, include therewith a general description of the article desired and shall certify the funds that will be available to pay therefor.

Sec. 2. The State Board of Control shall have the power to make any rules or to adopt any regulations to effectuate the purpose of this Act.

Sec. 3. This Act shall be cumulative and in addition to all of the laws pertaining to the purchase of road machinery, road equipment, tires and tubes by counties and shall be construed as an additional method for such purchase.

Sec. 4. If any section, subsection, paragraph, sentence, clause, phrase, or word of this Act is held invalid, such invalidity shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1949, 51st Leg., p. 345, ch. 172.]

Art. 2351e. Public Cemeteries; Expenditures for Maintenance and Upkeep**Counties of 1,000 to 1,300 Population**

Sec. 1. Commissioners Courts of those counties in this State having a population of not less than one thousand (1,000) nor more than one thousand, three hundred (1,300) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries in their respective counties.

Counties of 1,800 to 2,000 Population

Sec. 2. Commissioners Courts of those counties in this State having a population of not less than one thousand, eight hundred (1,800) nor more than two thousand (2,000) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries in their respective counties.

Counties of 2,000 to 2,300 Population

Sec. 3. Commissioners Courts of those counties in this State having a population of not less than two thousand (2,000) nor more than two thousand, three hundred (2,300) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

Counties of 2,500 to 2,800 Population

Sec. 4. Commissioners Courts of those counties in this State having a population of not less than two thousand, five hundred (2,500) nor more than two thousand, eight hundred (2,800) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

Counties of 3,500 to 3,800 Population

Sec. 5. Commissioners Courts of those counties in this State having a population of not less than three thousand, five hundred (3,500) nor more than three thousand, eight hundred (3,800) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

Counties of 4,000 to 4,225 Population

Sec. 6. Commissioners Courts of those counties in this State having a population of not less than four thousand (4,000) nor more than four thousand, two hundred and twenty-five (4,225) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of

the public cemeteries situated in their respective counties.

Counties of 4,300 to 4,500 Population

Sec. 7. Commissioners Courts of those counties in this State having a population of not less than four thousand, three hundred (4,300) nor more than four thousand, five hundred (4,500) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

Counties of 6,250 to 6,350 Population

Sec. 8. Commissioners Courts of those counties in this State having a population of not less than six thousand, two hundred and fifty (6,250) nor more than six thousand, three hundred and fifty (6,350) inhabitants according to the last preceding Federal Census are hereby authorized to expend moneys in the General Fund for the purpose of maintenance and upkeep of the public cemeteries situated in their respective counties.

Partial Invalidity

Sec. 9. If any part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portions despite any such invalidity.

[Acts 1949, 51st Leg., p. 961, ch. 529.]

Art. 2351f. Counties Generally; Expenditures for Maintenance and Upkeep of Public Cemeteries

Sec. 1. Commissioners Courts of the counties of this State are hereby authorized to spend moneys in the general fund for the purpose of maintenance and upkeep of public cemeteries in their respective counties.

Sec. 2. If a part, section, subsection, paragraph, sentence, clause, phrase, or word contained in this Act shall be held by the courts to be unconstitutional or invalid, such holding shall not affect the validity of the remaining portions of this Act and the Legislature hereby declares that it would have enacted, and does here now enact, such remaining portion despite any such invalidity.

[Acts 1951, 52nd Leg., p. 437, ch. 271.]

Art. 2351f-1. Perpetual Trust Fund to Maintain Cemeteries

Sec. 1. The commissioners court of any county by resolution may authorize creation of a perpetual trust fund to provide for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, and in the event such action is taken by the commissioners court, it shall appoint the county judge as trustee for such perpetual trust fund.

Sec. 2. The trustee may make reasonable rules and regulations relating to gifts, grants, and donations from any source and to amounts necessary for the permanent maintenance and upkeep of the cemeteries.

Sec. 3. (a) Any person interested in the maintenance and upkeep of neglected and unkept public or private cemeteries within the county may make donations to the trust fund, and acceptance of the funds by the trustee constitutes a permanent and perpetual trust fund for maintenance and upkeep of such cemeteries.

(b) On acceptance of the donations, the trustee shall instruct the county treasurer to issue to each donor a certificate which states:

- (1) the purpose of the donation;
- (2) the amount of the donation; and
- (3) any other information the trustee considers necessary.

Sec. 4. The trustee may invest and reinvest funds of the trust in interest-bearing bonds or securities of federal, state, and local governments, including municipalities and political subdivisions of the state.

Sec. 5. Interest, revenue or any other accrual or increase of funds in the trust fund shall be used only for maintenance and upkeep of neglected and unkept public and private cemeteries in the county, but the original amount of the trust fund shall remain intact as a permanent principal trust fund.

Sec. 6. The provisions of this Act shall not be construed to prevent any person who has an interest in a grave or burial lot or who has kinship within the third degree of affinity or consanguinity to those interred from caring for a particular grave or burial lot in any cemetery maintained and kept by the trustee under this Act.

Sec. 7. After a trust fund is established under this Act, if the county judge refuses to act as trustee, or if the county judge dies or resigns or renounces the trust, the district judge shall appoint a new trustee to carry out the trust. The new trustee appointed shall be a person other than a county commissioner.

Sec. 8. The trustee, the commissioners court, and other elected public officials of the county are hereby prohibited from paying or using any public funds, or using county employees or county equipment and property for the purpose of maintenance and upkeep of neglected and unkept public and private cemeteries.

[Acts 1969, 61st Leg., p. 1652, ch. 516, eff. Sept. 1, 1969.]

Art. 2351g. Repealed by Acts 1965, 59th Leg., p. 1019, ch. 503, § 4, eff. Aug. 30, 1965

Art. 2351g-1. Acquisition of Land for Dumping and Garbage Disposal

Sec. 1. Commissioners Courts of the counties of the State of Texas, are hereby authorized on behalf of the counties, to acquire by

easement or in fee simple, lands on which to locate public dumping and garbage disposal grounds, and to expend moneys out of the General Fund for the purpose of acquiring such easements or fee simple title, either by purchase or by condemnation.

Sec. 2. The location of such dumping or garbage disposal grounds, and the consideration to be paid therefor, shall be a matter committed to the sound discretion of the Commissioners Courts, taking into consideration the convenience of the people to be served, and the general health of, and the annoyance to, the community to be served by such dumping and garbage disposal grounds.

Sec. 3. Counties are hereby given the right of eminent domain in acquiring such grounds in accordance with the provisions of the eminent domain Statutes of the State of Texas; provided, however, that counties shall not have the right of eminent domain in acquiring such grounds as against corporations which also have the right of eminent domain by Statute.

Sec. 4. Chapter 464, Acts of the 54th Legislature, Regular Session, 1955 (codified as Article 2351g, Vernon's Texas Civil Statutes), is repealed.

[Acts 1965, 59th Leg., p. 1019, ch. 503.]

Art. 2351g-2. Repealed by Acts 1971, 62nd Leg., p. 1763, ch. 516, § 22, eff. Aug. 30, 1971

See, now, art. 4477-8.

Art. 2351h. Counties of 800,000 or More; Petty Cash Fund for County Welfare Department; Audits

Sec. 1. In all counties in the State of eight hundred thousand (800,000) population or over, the Commissioners Courts in providing for the support of paupers, through a County Welfare Department, may authorize the disbursement of not to exceed Two Thousand, Five Hundred Dollars (\$2,500) to the head of such department to be used as a petty cash fund, so that immediate cash for transportation and other expenses of such paupers may be handled without delay. This fund must be established under such system as provided and installed by the county auditor of such county, with such reports as required by him to be made by the head of the Welfare Department.

In making payments to support such paupers as should be furnished support by the counties, the Commissioners Court may, with the concurrence of the county auditors, make one (1) payment to the head of the Welfare Department, with the actual disbursements to be made to such paupers by such head of the County Welfare Department on warrants designed by the county auditor, and further subject to his audit at any time. Such disbursements, if made in the prescribed manner, shall be reported on such forms and at such times as the county auditor may prescribe.

Sec. 2. This Act shall be cumulative with all other laws pertaining to this subject unless

they be in conflict with this Act, in which cases this Act shall govern.

[Acts 1957, 55th Leg., p. 223, ch. 106.]

Art. 2352. May Levy Taxes

Said court shall have the power to levy and collect a tax for county purposes, not to exceed twenty-five cents on the one hundred dollars valuation, and a tax not to exceed fifteen cents on the one hundred dollars valuation to supplement the jury fund of the county, and not to exceed fifteen cents for roads and bridges on the one hundred dollars valuation, except for the payment of debts incurred prior to the adoption of the amendment to the Constitution, September 25, A.D. 1883, and for the erection of public buildings, streets, sewers, water works and other permanent improvements, not to exceed twenty-five cents on the one hundred dollars valuation in any one year, and except as in the Constitution otherwise provided. They may levy an additional tax for road purposes not to exceed fifteen cents on the one hundred dollar valuation of the property subject to taxation, under the limitations and in the manner provided for in Article 8, Sec. 9, of the Constitution and in pursuance of the laws relating thereto.

[Act 1925, S.B. 84.]

Art. 2352a. County Tax for Advertising

That in all counties in Texas having a population of at least 202,000 inhabitants and less than 210,000 inhabitants, as shown by the Census of 1920, a direct tax of not over five cents on the valuation of One Hundred Dollars may be authorized and levied by the Commissioners' Court of such county for the purpose of advertising said county and its county seat, provided that all such levy of taxes shall be submitted to the qualified tax-paying voters of the county and a majority vote shall be necessary to levy the taxes.

[Acts 1930, 41st Leg., 5th C.S., p. 182, ch. 42, § 1.]

Art. 2352b. Unconstitutional

This article, Acts 1935, 44th Leg., 1st C.S., p. 1541, ch. 370, was a local law applicable only to El Paso County and hence void as making an unreasonable classification bearing no relation to the object sought to be accomplished by the act. *Miller v. El Paso County*, (1941) 136 T. 370, 150 S.W.2d 1000.

Art. 2352c. County Tax for Advertising in Counties of 40,000 to 50,000 Population; Board of County Development

Sec. 1. In all counties in this State having a population of not less than forty thousand (40,000) inhabitants and not more than fifty thousand (50,000) inhabitants, and containing a city having a population of not less than thirty thousand (30,000) inhabitants nor more than forty thousand (40,000) inhabitants, as shown by the last preceding Federal Census, a direct tax of not over five cents (5¢) on the valuation of One Hundred Dollars (\$100) may be authorized and levied by the Commissioners' Court of such county, for the purpose of advertising and promoting the growth and develop-

ment of said county and its county seat; provided that before the Commissioners Court of any such counties shall be authorized to levy any tax for such purpose, the qualified tax-paying voters of the county shall by a majority vote authorize the Commissioners Court to thereafter levy annually a tax not to exceed five cents (5¢) on the one hundred dollars assessed valuation.

Sec. 2. The amount of money collected from such levy of taxes by the Commissioners Court of any such county shall be paid to the Board of County Development in twelve (12) monthly installments as collected. All moneys received by the Board of County Development from such tax shall be expended only for the purposes authorized by this Act, and such Board shall annually render an itemized account to the County Auditor of all receipts and disbursements.

Sec. 3. There is hereby created in such counties as may vote in favor of this tax a Board of County Development, which shall devote its time and efforts to the growth, advertisement, and development of any such county. The Board of County Development shall consist of five (5) members; two (2) to be appointed by the Commissioners Court of such counties, representative of the agricultural interest of such counties, and three (3) of whom shall be appointed by the Board of Directors of the Chamber of Commerce of the county seat of such county. Said members shall serve for a period of two (2) years from their appointment, without compensation, and until their successors are appointed and accept such appointment. Vacancies on such Board shall be filled in the same manner as the original appointments, and by the same agencies.

All members of such Board of County Development shall be qualified tax-paying voters of the county in which they are appointed to serve.

[Acts 1939, 46th Leg., Spec.Laws, p. 966.]

Art. 2352d. Appropriations for Advertising and Promoting Growth and Development by Certain Counties; Board of Development

Appropriation

Sec. 1. All counties in the State of Texas may appropriate from the General Fund of said counties an amount not exceeding Five Cents (5¢) on the One Hundred Dollars (\$100) assessed valuation for the purpose of advertising and promoting the growth and development of such county; providing that before the Commissioners Court of any county may appropriate any sums for such purpose, the qualified taxpaying voters of said county shall, by a majority vote of the persons voting at such election, authorize the County Commissioners to thereafter appropriate not to exceed Five Cents (5¢) on the One Hundred Dollars (\$100) assessed valuation.

Board of Development Fund; Budget

Sec. 2. The amount of money approved by the Commissioners Court for the Board of De-

velopment shall constitute a separate fund to be known as the Board of Development Fund and shall not be used for any other purpose. Each claim against the Board of Development shall be authorized and approved by the Board of Development before presented for payment and after such approval, shall be presented to the Commissioners Court and acted upon as all other claims against the Commissioners Court.

The Board of Development hereinafter provided for shall annually in advance, prepare and submit to the Commissioners Court a budget for the ensuing year in the same manner as required of counties. The money appropriated annually shall be governed by the discretion of the Commissioners Court, but in no event shall said sum be in excess of Five Cents (5¢) on the One Hundred Dollars (\$100) assessed valuation.

Board of Development

Sec. 3. There is hereby created, in counties qualifying under this law, a Board of Development, which shall devote its time and effort for the purpose of advertising and promoting the growth and development of any such county. The Board of Development shall be authorized to expend any sums reasonably necessary to accomplish its purposes for personnel, rent, and materials, subject to the approval of the Commissioners Court.

The Board of Development shall consist of five (5) members, to be appointed by the Commissioners Court; said members shall serve for a period of two (2) years from their appointment, without compensation and until their successors are appointed and accept said appointment. Vacancies on such Board shall be filled by the Commissioners Court in the same manner as the original appointment.

Law as Cumulative; Maximum Appropriation

Sec. 4. This law shall be cumulative of all other laws authorizing counties to appropriate money, or to levy a tax for advertising and promotional purposes, and counties shall have the option of operating under any one applicable law, but in any event, the maximum amount of money which can be appropriated for such purpose shall not exceed the limits herein fixed.

Appropriations Validated

Sec. 5. Any sums heretofore appropriated or expended for advertising or promotional purposes under any such previous Acts are hereby validated.

[Acts 1941, 47th Leg., p. 341, ch. 186; Acts 1941, 47th Leg., p. 905, ch. 558, § 1; Acts 1951, 52nd Leg., p. 359, ch. 224, § 1; Acts 1955, 54th Leg., p. 899, ch. 351, § 1.]

Art. 2352e. Water Supply for County Purposes; Authority to Acquire Treatment and Distribution Facilities

Adoption of Provisions of Act by Commissioners Court

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any county within this state only

upon the unanimous vote of the members of such court.

Authority to Acquire or Construct Source of Supply; Pools, Lakes, Reservoirs, Wells, Dams; Treatment and Distribution Facilities; Limitation on Cost

Sec. 2. The Commissioners Court of any county is hereby authorized to acquire by purchase, construction or otherwise an adequate source of fresh water, either surface or subterranean, for the purpose of supplying water to the courthouse and for other county purposes provided that such county shall comply with the provisions of Chapter I, Title 128, R.C.S. of Texas, 1925, as amended, relating to water permits, where applicable; and in the furtherance of such project such county shall be authorized and empowered to purchase, construct, repair and maintain pools, lakes, reservoirs, wells, dams, and such treatment and distribution facilities as may be required, all of which is hereinafter sometimes referred to as the project; provided, however, that no project or projects adopted by any one county under the provisions of this Act shall exceed the total cost of Two Hundred Fifty Thousand Dollars (\$250,000), exclusive of interest.

Sale of Water Not Needed for County Purposes

Sec. 3. The Commissioners Court of any county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all water of the project which is not needed for county purposes to any municipal corporation or political subdivision of this state now created or existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interests of the county, but in no event may the county sell water under the terms of this Section if an adequate public water supply is available to such municipal corporation, political subdivision, individual, corporation or company at the time the provisions of this Act are adopted by the county, nor shall the county sell water under this Act for irrigation purposes. The cost of supplying the water, including any increase in the cost of acquisition, storage, treatment and distribution facilities shall be considered a part of the cost of the project as such term is used in the preceding and following Sections.

Bond Issue; Ad Valorem Tax; Rates and Charges for Water; Limitation on Cost of Project

Sec. 4. (a) For the purpose of paying the cost of the project, including, without limitation, legal, fiscal, engineering expenses, and interest during the construction of the project, the county may, after approval in an election as hereinafter provided, issue its negotiable bonds payable from and secured by a pledge of the net revenues of the project. When so provided in the order, and after an election, authorizing the issuance of bonds, bonds issued by the county may be additionally secured by levy of an ad valorem tax on the taxable property of the county out of the Permanent Im-

provement Tax prescribed under Article 8, Section 9 of the Constitution. If the bonds are to be supported by a tax, the Commissioners Court shall levy such tax sufficient to pay the interest on the bonds as it accrues and the principal as it matures, but the order authorizing the issuance of the bonds may provide that the amount of tax to be collected each year may be reduced or abated to the extent that money is on hand from the pledged revenues applicable to the payment of interest and principal.

(b) As to bonds issued by the county secured solely by a pledge of net revenues of the project as aforesaid, it shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for water supplied by the project as will be fully sufficient to operate and maintain the project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All water used by the county for its own facilities shall be paid for out of general funds of the county legally available for such purpose and no free service shall be allowed.

(d) Prior to the construction of the proposed work or any future additional improvements, works or construction, the Commissioners Court must enter a resolution ordering an election on a day certain. Based on such order, notice of such election shall be given, returns made, result declared, orders entered, tax levied, certified, assessed, or collected, and all other matters applicable shall be performed as required by the resolution and order. The order shall set forth the proposed project, the amount of bonds to be issued to pay for the same, their rate of interest and maturity dates, and shall show whether or not a tax shall be levied to redeem such bonds and if so the amount of the tax.

(e) In the event a majority of the electors who own taxable property in the county and who have duly rendered the same for taxation approve the issuance of the bonds, then the Commissioners Court shall issue such bonds as hereinafter provided. In no event shall any single project proposed by the Commissioners Court require the issuance of bonds whose total par value is in excess of Two Hundred Fifty Thousand Dollars (\$250,000).

(f) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six percent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair and insurance of the

project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be used solely to pay the cost of the project as above provided, and shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending the use of the proceeds of the sale of such bonds for the construction of the project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

**Bonds Not Supported by Tax Levy as Revenue
Bonds**

Sec. 5. If the bonds are not supported by a tax levy, they shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this cause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Bonds; Signature; Registration; Approval by Attorney
General; Incontestability

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signature of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955. The county treasurer shall register the bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them.

Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

Acquisition of Land and Easements; Eminent Domain; Relocation

Sec. 7. For the purpose of carrying out any power or authority conferred by this Act the county shall have the right to acquire land and easements, by condemnation in the manner provided by Title 52, Revised Civil Statutes, as amended, relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, in the exercise of the power of eminent domain or power of relocation, or any other power granted hereunder, makes necessary the relocation, raising, rerouting, or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocation, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county. The term "sole expense" shall mean the actual cost of relocation, raising, rerouting, change in grade or alteration of construction in providing comparable replacement without enhancement of such facilities, after deducting therefrom the net salvage value derived from the old facility.

Additional Bonds; Pledge of Revenues; Security

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the project as well as additional bonds payable from the net revenues of the project and additionally secured by levy of an ad valorem tax on the taxable property of the county may be issued for the purpose of improving, repairing or extending the project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and if authorized by proper election.

Refunding Bonds; Issuance; Interest

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds

refunded, unless it is shown mathematically that a saving will result in the total of interest to be paid.

Bonds as Legal Investments; Bonds as Security for Deposits of Public Funds

Sec. 10. All bonds issued under this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

Mandamus to Compel Levy and Collection of Taxes and to Perform Agreements

Sec. 11. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and the employees thereof, including but not limited to the right to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

Taxes Pledged to Pay Bonds

Sec. 12. Obligations issued pursuant to the provisions of this Act which are secured wholly or partially by a pledge of taxes out of the Permanent Improvement Tax prescribed under Article 8, Section 9 of the Constitution shall be considered as payable wholly from such tax for the purpose of determining the availability of taxing power of the county to pay obligations which are payable from such tax.

Law Cumulative

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any county of any and all other powers, rights, privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted. Specifically, nothing herein shall prevent any county from issuing warrants in connection with the project in the manner prescribed by Chapter 163, Acts of the 42nd Legislature, 1931, as amended.

Facilities, Etc., Free From Taxation; Bonds Tax Exempt

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the

county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof, shall at all times be free from taxation within this state.

Partial Invalidity

Sec. 15. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid or ineffective, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment has been rendered.

Time Limitation on Adoption by County

Sec. 15a. No county may adopt the provisions of this Act after September 1, 1963.

[Acts 1961, 57th Leg., p. 990, ch. 433.]

Art. 2352f. State Association of Counties; Membership Fees and Dues

Sec. 1. The commissioners court of each county within the state is authorized to approve the expenditure of county funds from the general fund for membership fees and dues assessed by a nonprofit state association or organization of counties if:

(1) the membership in such association is approved by majority vote of the commissioners court;

(2) such association is established and designed for the betterment of county government and the benefit of all county officials;

(3) the expenditure authorized by this section is made in the name of the county;

(4) such association is not affiliated in any way with a labor organization;

(5) such association or any employee thereof, does not in any way, directly or indirectly, influence or attempt to influence the outcome of any legislation pending before the Legislature of the State of Texas; provided, however, that nothing herein shall be construed to prevent any agent, servant, or representative of such association from providing information for any member of the Legislature, or from appearing before any committee thereof when requested to do so by said member or committee; and

(6) such association or any employee thereof does not, either directly or indirectly, make any contribution, gift or donation of any money, services or other valuable thing to any political campaign or does not endorse any candidate or group of candidates for public office.

Sec. 2. If any association or organization supported in whole or in part by tax money from a political subdivision engages in any act specified in Subdivisions (5) and (6) of Section 1 of this Act, any taxpayer of a political subdivision which pays fees or dues to such association or organization may bring suit to prohibit the political subdivision from making further expenditures to such association or organization and the court upon proof of the violation of any provision hereof shall enjoin any further payments or activity.

[Acts 1969, 61st Leg., p. 1120, ch. 365, eff. Sept. 1, 1969.]

Art. 2353. Tax Limit

No tax levied for the purpose of paying debts incurred prior to the eighteenth day of April, A. D. 1876, shall exceed two and one-half mills on the dollar, and no tax levied for the erection or repair of public buildings shall exceed two and one-half mills on the dollar for any one year.

[Acts 1925, S.B. 84.]

Art. 2354. When Tax Levied

No county tax shall be levied except at a regular term of the court, and when all members of said court are present.

[Acts 1925, S.B. 84.]

Art. 2354a. Expired

Art. 2355. To Fill Vacancies

The Court shall have power to fill vacancies in the office of: County Judge, County Clerk, Sheriff, County Attorney, County Treasurer, County Surveyor, County Hide Inspector, Assessor of Taxes, Collector of Taxes, Justices of the Peace, Constables, and County Superintendent of Public Instruction. Such vacancies shall be filled by a majority vote of the members of said Court, present and voting, and the person chosen shall hold office until the next general election.

[Acts 1925, S.B. 84; Acts 1927, 40th Leg., 1st C.S., p. 248, ch. 90, § 1.]

Art. 2356. Bridges in Corporate Limits

Said court may erect bridges within the corporate limits of any city or town to the same extent and under the same conditions now prescribed by law for the construction of bridges outside the limits of any city or town. Said court and the governing body of any city or town may co-operate in the erection of a bridge within the corporate limits of a city or town, and jointly erect such bridge upon terms and conditions mutually agreed upon; and either or both the city and county may issue its bonds to pay its proportionate part of the debt by complying with the requirements of the law regulating the issuance of bonds by counties and cities and towns.

[Acts 1925, S.B. 84.]

Art. 2357. Shall Keep in Repair

The commissioners court of counties owning bridges, situated within the corporate limits of cities and towns, shall keep the same in repair. This article shall not affect or diminish the liability of town and city corporations for injuries caused by defective condition of such bridges situated within the city limits.

[Acts 1925, S.B. 84.]

Art. 2358. May Contract for Supplies

The commissioners court by an order entered of record, may contract as hereinafter prescribed, with some suitable person or persons to supply the county with blank books, all legal blanks and stationery as may be required by law to be furnished the county officials.

[Acts 1925, S.B. 84.]

Art. 2359. Bids Advertised

The commissioners court shall advertise, at least once in every two years, for sealed proposals to furnish blank books, legal blanks, stationery and such other printing as may be required for the county for the term of such contract, and shall receive separate bids for the different classes hereinafter designated. Such advertisement shall be made by the county clerk, who shall notify by registered letter, each newspaper and job printing house in the county, and at least three stationery and printing houses in the State, of the time said contract is to be awarded, and of the probable amount of supplies needed.

[Acts 1925, S.B. 84.]

Art. 2360. New Bids Advertised For

Should supplies furnished by the successful bidder not be of the quality designated and provided for, then the commissioners court may declare such contract null and void, and from time to time advertise for sealed proposals as in the first instance, rejecting any or all bids as often as they may deem best.

[Acts 1925, S.B. 84.]

Art. 2361. Preference to Local Citizens

All things being equal, contracts must be awarded to a citizen or taxpayer of the county in which the contract is let.

[Acts 1925, S.B. 84.]

Art. 2362. Stationery Classified

The stationery shall be divided into four classes: Class "A" shall embrace all blank books and all work requiring permanent and substantial binding. Class "B" shall embrace all legal blanks, letter heads and other printing, stationery and blank papers. Class "C" shall embrace typewriter ribbons, pens, ink, mucilage, pencils, penholders, ink stands and ware of like kind. Class "D"¹ poll tax receipts and all election supplies of whatever nature and description, not furnished by the State. Each and every bid shall be upon a particular class, separate and apart from any other class.

To the lowest bidder on each class shall be awarded the contract for all work of that class.

[Acts 1925, S.B. 84.]

¹ Words "shall embrace" probably should be inserted.

Art. 2363. Bond with Bid

Each bid shall be accompanied by a bond of the bidder, with two or more good and sufficient sureties, conditioned that, should the contract be awarded to him, he will without delay, upon being notified of such award, enter into a written contract, according to law and with his proposal, and will give such bond as may be required for the faithful performance of said contract.

[Acts 1925, S.B. 84.]

Art. 2364. Unlawful Interest in Contract

No member of the commissioners court or any county officer shall be, either directly or indirectly, interested in any such contract.

[Acts 1925, S.B. 84.]

Art. 2365. Contract Made in Open Court

All contracts shall be made in open court, with the lowest bidder, and all bids shall be spread in full on the minutes of the court.

[Acts 1925, S.B. 84.]

Art. 2366. Contract and Bond

The successful bidder shall enter into a written contract with the court, and shall give bond in the sum of two hundred and fifty dollars for each class or contract, to be approved by the county judge, conditioned for the faithful compliance with his bid and with the law, and shall be made payable to the county judge or his successors in office.

[Acts 1925, S.B. 84.]

Art. 2367. Affidavit with Bid

The manager, secretary or other agent or officer of the bidder shall attach to each bid an affidavit to the effect that affiant has full knowledge of the relations of the bidder with the other firms in the same line of business and that the bidder is not a member of any trust, pool or combination of any kind and has not been for six months last past, directly or indirectly concerned in any pool or agreement or combination to control the price of supplies bid on, or to influence any person to bid or not to bid thereon.

[Acts 1925, S.B. 84.]

Art. 2367a. Counties and Cities; Identical Bids; Casting of Lots

Sec. 1. In all cases where bidding is required and where two or more responsible bidders submit the lowest and best bids in connection with a proposed county, city or district contract and these bids are identical in both amount and nature, the Commissioners Court of the county or the governing body of the city or district shall enter into a contract with only one of the responsible bidders and reject all other bids. The one bidder shall be selected by the casting of lots. The casting of lots shall be in such a manner as shall be prescribed by the

County Judge or Mayor or governing body of the district, as the case may be, and shall be conducted in the presence of the governing body of the county, city or district at which time all qualified bidders or their legal representatives may also be present. Nothing herein shall prohibit the rejection of all bids by the awarding authority.

Sec. 2. The provisions of this Act shall be applicable to all counties, cities and districts in the State of Texas where bidding is required and contracts are to be let on the basis of the lowest and best bid, regardless of whether the bids are submitted pursuant to the provisions of a General Law, a Special Law, a city charter, or a city ordinance; provided, however, that the provisions of this Act shall not apply or be construed to apply to the bidding by any person, bank, banking corporation or association for designation as depository of public funds of any county, city or district or to the letting of contracts therefor, nor shall such provisions apply to bids submitted to an independent school district by those persons or corporations seeking appointment as treasurer of the School Fund under Article 2832, Revised Civil Statutes of Texas, 1925, as last amended by Chapter 48, Acts of the 56th Legislature, Regular Session 1959.

[Acts 1959, 56th Leg., p. 204, ch. 116; Acts 1959, 56th Leg., 3rd C.S., p. 385, ch. 10, § 1.]

Art. 2368. Repealed by Acts 1931, 42nd Leg., p. 269, ch. 163, § 10

This article, Acts 1917, p. 349; Acts 1923, 38th Leg., ch. 127, p. 262, §§ 1, 2, related to advertising for bids and letting contracts. This subject matter is now covered by art. 2368a.

Art. 2368a. Requirements Governing Advertising for Bids by Counties and Cities

Definitions

Sec. 1. The word "city" as used in this Act shall include all cities and towns incorporated under General or Special Laws, and all cities operating under charter adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, unless especially excepted under the terms of this Act.

The term "governing body" as used in this Act shall include the governing body of every city, whether designated as "Board of Alderman," "City Council," "City Commission," or otherwise.

For the purposes of this Act the term "current funds," shall include money in the treasury, taxes in process of collection during such tax year, and all other revenues which may be anticipated with reasonable certainty during such tax year.

The term "bond funds" shall include money in the treasury already received from the sale of bonds, and the proceeds of bonds theretofore voted but not yet issued and delivered.

The term "time warrant" as used in this Act shall include any warrant issued by a city or county not payable out of current funds.

The short title of this Act shall be "Bond and Warrant Law of 1931."

Nothing in this Act shall be construed as to affect any bonds or warrants legally issued or authorized to be issued and for which a tax has been levied for the payment of interest and principal thereof, prior to the time when this Act shall become effective and under the laws existing at that time, nor as affecting the matters covered by House Bill No. 981, Acts of the 42nd Legislature, Regular Session,¹ provided that after June 1, 1932, the requirements of this Act with respect to notice, competitive bidding, and a referendum election shall also be complied with by all cities then acting under the provisions of said House Bill No. 981.

¹ Article 1118a.

Competitive Bidding for Contracts for Public Works; Notice to Bidders; Advertisement; Exceptions; Conflicting Provisions; Noncompliance with Law

Sec. 2. No county, acting through its Commissioners Court, and no city in this state shall hereafter make any contract calling for or requiring the expenditure of payment of Three Thousand Dollars (\$3,000.00) or more out of any fund or funds of any city or county or subdivision of any county creating or imposing an obligation or liability of any nature or character upon such county or any subdivision of such county, or upon such city, without first submitting such proposed contract to competitive bids. Notice of the time and place when and where such contracts shall be let shall be published in such county (if concerning a county contract or contracts for such subdivision of such county) and in such city, (if concerning a city contract), once a week for two (2) consecutive weeks prior to the time set for letting such contract, the date of the first publication to be at least fourteen (14) days prior to the date set for letting said contract; and said contract shall be let to the lowest responsible bidder. The court and/or governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works, then the successful bidder shall be required to give a good and sufficient bond in the full amount of the contract price, for the faithful performance of such contract, executed by some surety company authorized to do business in this state in accordance with the provisions of Article 5160, Revised Statutes of 1925, and the amendments thereto. However, the city or county in making any contract calling for or requiring the expenditure of payment of Three Thousand Dollars (\$3,000.00) or more and less than Fifty Thousand Dollars (\$50,000.00) may, in lieu of the bond requirement, provide in the contract that no money will be paid to the contractor until completion and acceptance of the work by the city or county. If there is no newspaper published in such county, the notice of the letting of such contract by such county shall be given by causing notice thereof to be posted at the County Court House door for fourteen (14) days prior to the time of letting such contract. If there is no news-

paper published in such city, then the notice of letting such contract shall be given by causing notice thereof to be posted at the City Hall for fourteen (14) days prior to the time of letting such contract. Provided, that in case of public calamity, where it becomes necessary to act at once to appropriate money to relieve the necessity of the citizens, or to preserve the property of such county, subdivision, or city, or when it is necessary to preserve or protect the public health of the citizens of such county or city, or in case of unforeseen damage to public property, machinery or equipment, this provision shall not apply; and provided further, as to contracts for personal or professional services; work done by such county or city and paid for by the day, as such work progresses; and the purchase of land and right-of-way for authorized needs and purposes, the provisions hereof requiring competitive bids shall not apply and in such cases the notice herein provided shall be given but only with respect to an intention to issue time warrants with right of referendum as contemplated in Sections 3 and 4 hereof respectively.

Provisions in reference to notice to bidders, advertisement thereof, requirements as to the taking of sealed bids based upon specifications for public improvements or purchases, the furnishing of surety bonds by contractors and the manner of letting of contracts, as contained in the charter of a city, if in conflict with the provisions of this Act, shall be followed in such city notwithstanding any other provisions of this Act.

Any and all such contracts or agreements hereafter made by any county or city in this state, without complying with the terms of this Section, shall be void and shall not be enforceable in any court of this state and the performance of same and the payment of any money thereunder may be enjoined by any property taxpaying citizen of such county or city. Provided, however, that the provisions of this Act shall not apply to counties having a population of more than three hundred fifty thousand (350,000) inhabitants according to the last preceding or any future Federal Census.

Lump Sum Basis; Unit Price Basis; Changes in Plans and Specifications

Sec. 2a. Contracts for the construction of public works or the purchase of materials, equipment and supplies may be let under the provisions of Section 2 on a lump sum basis or on a unit price basis, as the governing body or Commissioners Court shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

In the event it becomes necessary to make changes in the plans or specifications after

performance of a contract has been commenced, or it becomes necessary to decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the Commissioners Court or governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating available funds for that purpose or by authorizing the issuance of time warrants as provided in the Act amended hereby.

Where any change order involves a decrease or increase in cost of five thousand dollars or less, the Commissioner's Court or governing body may grant general authority to one of its administrative officials to approve such change orders.

Provided, however, that the original contract price may not be increased under the provisions of this Section 2a by more than twenty-five (25%) per cent or decreased more than twenty-five (25%) per cent without the consent of the contractor to such decrease.

Contracts for Purchase of Machinery

Sec. 2b. Contracts for the purchase of machinery for the construction and/or maintenance of roads and/or streets, may be made by the governing bodies of all counties and cities within the State in accordance with the provisions of this Section. The order for purchase and notice for bids shall provide full specification of the machinery desired and contracts for the purchase thereof shall be let to the lowest and best bidder.

Issuance of Time Warrants

Sec. 3. When it shall be the intention of the Commissioners' Court, or of the governing body, to issue time warrants for the payment of all or any part of the proposed contract, the notice to bidders required under Section 2 of this Act shall recite that fact, setting out the maximum amount of the proposed time warrant indebtedness, the rate of interest such time warrants are to bear, and the maximum maturity date thereof.

Referendum on Bond Issues

Sec. 4. If, by the time set for the letting of the contract, as many as ten per cent (10%) in number of the qualified voters of said county, or city, as the case may be, whose names appear on the last approved tax rolls as property taxpayers, petition the Commissioners' Court, or governing body, in writing to submit to a referendum vote the question as to the issuance of bonds for such purpose, then such Commissioners' Court, or governing body, shall not be authorized to make said expenditure, and shall not finally award said contract unless the proposition to issue bonds for such purpose is sustained by a majority of the votes cast at such election. The law in reference to elections for the issuance of city and county bonds as contained in Chapters 1 and 2, Title

22, Revised Statutes of 1925,¹ shall govern in so far as consistent with the provisions of this Act. The law in reference to the issuance, approval, registration and sale of bonds as contained in Chapters 1 and 2, Title 22, Revised Statutes of 1925, shall govern in so far as consistent with the provisions of this Act. Provided, that all such bonds shall mature and be payable as provided herein for funding bonds.

If such petition is not so filed with the County Clerk, or the City Secretary or Clerk, then the Commissioners' Court or the governing body may proceed with the final award of the contract and with the issuance of said warrants, but in the absence of such petition, the Commissioners' Court or governing body may at its discretion also submit such question to a vote of the people.

¹ Article 701 et seq.

Expenditures Permissible Without Notice or Referendum

Sec. 5. The notice required in Sections 2 and 3, and the right to referendum election defined in Section 4, shall not be applicable to expenditures payable out of current funds or bond funds, as above described, nor to additional expenditures by counties unless in excess of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars, or a part thereof, of taxable property in said county, according to the last approved tax rolls; provided, however, that in counties of a valuation of less than Six Million (\$6,000,000.00) Dollars, said restriction of Five Hundred (\$500.00) Dollars for each One Million (\$1,000,000.00) Dollars shall not apply, but in lieu thereof the maximum authorized warrants shall be Three Thousand (\$3,000.00) Dollars annually; said Five Hundred (\$500.00) Dollars for every One Million (\$1,000,000.00) Dollars of property shall be the maximum amount of time warrants for all purposes to be issued by such county during the current calendar year; including the proposed expenditure, except in the counties of a valuation of less than Six Million (\$6,000,000.00) Dollars as above provided; and provided further than no such warrants shall ever be issued by a county in excess of One Hundred Thousand (\$100,000.00) Dollars for any one year, without the duty to give notice and the right to referendum provided in Section 3. If in excess of the maximum, the expenditure cannot be authorized until the expiration of the time for filing the petition for referendum vote has expired. The notice required and the right to referendum election defined in Sections 2, 3 and 4 shall not be applicable to expenditures payable out of the current funds or bond funds, as above described, nor to additional expenditures by cities unless in excess of Seven Thousand, Five Hundred (\$7,500.00) Dollars for cities having a population of five thousand (5,000) people, or less, as shown by the Federal Census immediately preceding; in excess of Ten Thousand (\$10,000.00) Dollars for cities having a population of more than five thousand (5,000), and less than

twenty-five thousand (25,000) as shown by the Federal Census immediately preceding; in excess of Twenty-five Thousand (\$25,000.00) Dollars for cities having a population of more than twenty-five thousand (25,000) and less than fifty thousand (50,000), as shown by the Federal Census immediately preceding, and in excess of One Hundred Thousand (\$100,000.00) Dollars for cities having a population of more than fifty thousand (50,000) as shown by the Federal Census immediately preceding. Said respective amounts above described shall be the maximum amounts of time warrants for all purposes to be issued by such cities during the current calendar year, without the duty to give notice and the right to referendum, provided in Sections 2, 3 and 4; otherwise, the expenditure cannot be authorized until the expiration of time for the filing of petition for referendum vote has expired, including the proposed expenditure.

Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery or equipment, the Commissioners Court or the governing body may issue such time warrants as are necessary to provide for the immediate repair, preservation or protection of public property and the lives and health of the citizens of such county or city, irrespective of the limitations contained in this Section and the restrictions imposed by Sections 2, 3 and 4 hereof.

Improvements Exempt from Operation of Act

Sec. 6. The provisions of Sections 2, 3 and 4 of this Act shall not apply to expenditures for, or relating to paving drainage, street widening and other public improvements, the cost of at least one-third of which is to be paid by or through special assessments levied on properties to be benefited thereby. The provisions of this Act shall not affect projects for public improvements theretofore lawfully authorized by a vote of the people, and where there may be a deficiency of funds to complete same in accordance with the plans and purposes authorized by the voters. The provisions of this Act shall not apply to bonds or warrants issued under Title 118, Revised Civil Statutes of 1925,¹ pertaining to sea walls.

¹ Article 6830 et seq.

Provisions Inapplicable to Reconstruction or Repair of Court Houses or Jails

Sec. 6a. The provisions of Section 4 of the "Bond and Warrant Law of 1931"¹ shall not apply to the issuance of warrants for the building, construction, reconstruction and/or repair of a court house and/or jail in any county where the court house has been torn down or demolished and where notice was given under Section 2 of said Bond and Warrant Law prior to the taking effect of this Act, and there was no county court house at the time such notice was published, but in such cases warrants may be issued for the building, construction, reconstruction and/or repair of court

houses and/or jails, without notice, and no election shall be called upon any petition filed under Section 4 of said Bond and Warrant Law. All proceedings for the issuance of warrants, and all warrants issued or to be issued for any such purpose or purposes in any such case are hereby validated.

¹ This article.

Refunding Indebtedness; Procedure

Sec. 7. The Commissioners' Court of any county or the governing body of any city in the State of Texas may pass all necessary orders and ordinances to provide for funding or refunding the whole or any part of any legal debt of such county or city, by canceling evidences thereof and issuing to the holders or creditors, notes, bonds or treasury warrants, with or without coupons, bearing interest payable annually, or semi-annually, at a rate not to exceed six per cent (6%) per annum. The exercise of such authority shall be regulated as follows:

(a) Such Commissioners' Court and such governing bodies shall have the right at all times to issue refunding bonds for the refunding of any outstanding bonds legally issued and outstanding matured interest on any legally issued outstanding bonds, subject to laws applicable to the issuance of refunding bonds and without the necessity of any notice or right to a referendum vote.

(b) Such Commissioners' Courts and governing bodies shall have the power to provide for funding the whole or any part of any legal debt of their respective counties or cities, existing at the time this Act becomes effective, except that which was created upon the condition that it should never become a charge upon the general revenues of such county or city, but canceling the evidences of such indebtedness and issuing to the holders or creditors, notes, bonds, or treasury warrants; provided that if funding bonds are delivered, the evidences of the original indebtedness shall be surrendered to the Comptroller of the State of Texas and cancelled by him prior to the registration of such funding bonds, and prior to their delivery to said holders or creditors.

(c) Such Commissioners' Courts and such governing bodies shall have the power to fund or refund any and all outstanding legal indebtedness, existing at the time this Act becomes effective, into notes or treasury warrants with or without coupons, in accordance with this Act and in accordance with the law as it exists at the time this Act becomes effective.

The funding bonds hereby authorized shall be payable serially not exceeding forty (40) years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the finan-

cial condition of such county or city will not permit in such installment as will make the burden of taxation to support same, approximately uniform throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

(d) After this Act becomes effective, no item of indebtedness thereafter issued, except bonds and matured coupons thereon, and except items of indebtedness to be issued under contracts made before this law becomes effective, shall be funded or refunded except in the manner hereinafter in this subsection prescribed, to-wit:

Notice of intention to issue such funding bonds, including a statement of the amount and purpose of such bonds, shall be published at least once a week for three (3) successive weeks in a newspaper of general circulation within such county, or within such city, as the case may be, at least thirty (30) days before the meeting of the Commissioners' Court or of the governing body, at which time it is proposed to issue such bonds. If no newspaper is published in such county or city, as the case may be, such notice may be posted at the Courthouse door of the county, or at the City Hall, as the case may be. At any time before the date fixed for the issuance of such bonds, not less than ten per cent (10%) of the qualified property tax-paying voters of the county, as shown by the records in the office of the County Tax Collector, or in the office of the City Tax Collector, as the case may be, may file a petition in the office of the County Clerk or City Secretary or Clerk, praying the Court or the governing body to order an election for the purpose of submitting the proposition to issue such bonds to a vote of the qualified property tax-paying voters of the county or city as the case may be. Upon the filing of such petition, such Court or governing body shall at the next meeting thereof, order an election to be held in such county or city to determine whether or not such funding bonds shall be issued as indicated in such petition.

The Commissioners' Court or governing body shall determine the time and the place or places of holding said election; and the manner of holding same shall be governed by the

laws of the State regulating elections for the issuance of other county or city bonds under Chapters 1 and 2, Title 22, Revised Civil Statutes of 1925.¹ If the proposition for the issuance of such bonds be sustained by a majority of the property taxpaying voters, voting at such election, then such bonds shall be authorized and shall be issued by such Commissioners' Court or governing body.

In the event no such petition is presented to the Commissioners' Court or governing body within the time hereinabove prescribed, no election on the proposition shall be required, and such Court or governing body shall then have the power to pass all necessary orders to provide for canceling or funding the indebtedness described in such published notice of intention to fund said debts, and may cancel the evidences thereof by issuing to the holders the necessary amount of funding bonds.

The funding bonds hereby authorized shall be payable serially not exceeding forty years from the date thereof, unless the Commissioners' Court or governing body affirmatively adjudge that the financial condition of such county or city will not permit, in such installments as will make the burden of taxation to support same, approximately uniform throughout the term of said bond issue. Such bonds shall be executed and issued in the same manner now provided by law for the execution and issuance of bonds to refund outstanding county or city bonds. Said bonds shall bear interest not exceeding six per cent (6%) per annum, and shall be approved by the Attorney General and registered by the State Comptroller in the same manner as other county or city refunding or funding bonds.

The Commissioners' Court of any county and the governing body of any city shall at all times have power without notice or the right to referendum to fund or refund any item of indebtedness created in accordance with the provisions of this Act to prevent or relieve a default or an impending default in the payment of principal or interest.

¹ Article 701 et seq.

Tax Levy for Payment of Bonds or Warrants

Sec. 8. It is hereby made the duty of all Commissioners' Courts and of all governing bodies, as the case may be, to levy, and have assessed and collected, taxes sufficient to pay the interest as it accrues and the principal as it matures on all bonds and time warrants issued in accordance with the provisions of this Act. The same duties in reference to the levying, assessment and collection of taxes, as are imposed by the provisions of Chapters 1 and 2, of Title 22, Revised Civil Statutes of 1925,¹ to assure the payment of taxes on bonds therein authorized, are imposed on said Commissioners' Courts and said governing bodies in reference to all bonds and time warrants issued in accordance with this Act; provided that if a tax, meeting the requirements of Article 11, Sections 5 and 7 of the Constitution shall have been levied to pay principal and interest there-

on, any bond or warrant may thereafter be funded or refunded through the issuance of funding or refunding bonds or warrants irrespective of the fact that due to decline of property values or for other reasons, the City or County seeking to issue such funding or refunding bonds or warrants does not then have available taxing power sufficient to pay the principal and interest of such funding or refunding bonds or warrants.

¹ Article 701 et seq.

Refunding Inapplicable to Utility Bonds Payable from Revenues

Sec. 8a. Provided any city or town which has theretofore issued bonds, warrants, certificates, or other securities payable from revenues and income of any utility or utilities owned by such city or town may fund, refund, or extend such bonds, warrants, certificates or other securities, without the necessity of complying with the referendum provisions hereof, provided such refunding does not increase the amount of such indebtedness, taking into consideration interest adjustments; provided, however, that no such bonds, warrants, certificates, or other securities payable from revenues, or from the income of any utility, which may be funded, refunded or extended by a city or town, shall ever be made a charge upon moneys raised or to be raised by taxation.

Bonds Issued in Violation of Act Invalid

Sec. 9. Any warrant bond, funding bond, refunding bond or other evidence of debt or obligation created, or attempted to be created, by the County Commissioners' Court of any county, or the governing body of any city in this State, in violation of or contrary to the provisions of this Act, shall be void, and the payment thereof may be enjoined by any taxpaying citizen of such county, or any taxpaying citizen of such city, in any court of competent jurisdiction in such county.

Provided, however, that notwithstanding anything contained in this Act, Articles 709 to 715, inclusive, of the Revised Statutes of Texas for 1925, shall apply with full force and effect to all bonds, funding bonds and refunding bonds issued under this Act.

Application to Special Charter Cities

Sec. 10. In all cities operating under Special Charter the provisions of this Act shall apply, providing for a referendum vote where the proposed expenditure is not payable out of current funds, or bond funds, and requires the issuance of time warrants in excess of the permitted amount. This Act shall not repeal provisions of Special Charters providing any additional rights to referendum elections. The rights, power and duties conferred on and imposed on all cities in reference to the issuance of funding or refunding bonds and warrants shall be applicable to all cities, irrespective of charter provisions to the contrary. All laws, General and Special, and parts of laws in conflict herewith are hereby expressly repealed.

Article 2368, Revised Civil Statutes of 1925, is expressly repealed.

Mortgage of Utility Systems Permissible

Sec. 11. Nothing herein shall be so construed as to preclude any city or town in this State, whether organized under General or Special Law or operating under Special Charter, from encumbering or mortgaging its light system, water system, sewer system or any other utility, either, both or all, and the franchise and the income thereof and everything pertaining thereto acquired or to be acquired, to secure the payment of funds to purchase same or to make or purchase extensions, additions, or improvements thereto, as contemplated in Articles 1111 to 1118, both inclusive, of the Revised Civil Statutes of Texas, 1925, with amendments thereto, or by valid provisions of the charter of such city or town, or by the provisions of Article 1175, Revised Civil Statutes of Texas, 1925, provided that in making such contracts or agreements or encumbrances and in issuing revenue bonds, warrants or other obligations to be paid out of the property and income from such system or systems, the governing body of such city or town shall comply with the provisions of this Act in regard to notice and competitive bids and the right to a referendum of such question.

Provided, however, that no competitive bids shall be required in case the municipality proposes to acquire an existing utility plant, and in such cases the voters shall be entitled to a referendum, only on the question of whether or not the utility shall be purchased, in the manner and under the conditions set forth in this Act.

Provided, further, that notwithstanding any provisions of this Act, and notwithstanding any provision of its Special Charter, if such city or town is acting under authority of House Bill No. 981, passed by the Regular Session of the 42d Legislature,¹ the requirements of this Act in reference to notice, competitive bids and the rights to referendum shall not apply until after June 1, 1932.

¹ Article 1118a.

Inapplicable to Warrants Based or Issued on Current Funds

Sec. 11a. Nothing contained in this Act shall be construed as requiring any city to give any notice as a condition precedent to issuing warrants payable out of current funds of said city and the issuance of any such warrants by any such city shall not be subject to the terms and provisions of this Act; provided, however, that at the time of the authorization of such warrants the Governing Body of the city, shall also pass an order setting aside such an amount of the current funds as will discharge the principal and interest of the warrants issued and based upon such current funds. And thereafter the so appropriated portion of such current funds shall not be used for any purpose other than to discharge said warrants. And no such warrants shall ever be refunded,

but they must be discharged out of the designated funds.

[Acts 1931, 42nd Leg., p. 269, ch. 163; Acts 1931, 42nd Leg., 1st C.S., p. 42, ch. 24, § 1; Acts 1935, 44th Leg., p. 105, ch. 35, § 1; Acts 1937, 45th Leg., p. 179, ch. 95, § 1; Acts 1947, 50th Leg., p. 283, ch. 173, § 1; Acts 1949, 51st Leg., p. 1064, ch. 549, § 1; Acts 1949, 51st Leg., p. 1098, ch. 560, § 1; Acts 1951, 52nd Leg., p. 281, ch. 164, § 1; Acts 1953, 53rd Leg., p. 383, ch. 105, § 1; Acts 1965, 59th Leg., p. 240, ch. 105, § 1, eff. Aug. 30, 1965; Acts 1967, 60th Leg., p. 870, ch. 376, § 1, eff. June 8, 1967; Acts 1973, 63rd Leg., p. 635, ch. 269, § 1, eff. June 11, 1973; Acts 1973, 63rd Leg., p. 1342, ch. 507, § 1, eff. June 14, 1973.]

Saved From Repeal

Acts 1949, ch. 36, p. 67 [Art. 2368f], relating to the issuance of the time warrants in counties with a population in excess of 300,000 by section 3 excepts section 2 of this article, as amended, from the repeal of the conflicting laws except as to the warrants authorized by that act.

Acts 1971, 62nd Leg., p. 2824, ch. 923, enacting the Certificate of Obligation Act (Article 2368a.1), provided in section 10 that nothing herein shall be construed as repealing the Bond and Warrant Law of 1931. See article 2368a.1, § 10.

Art. 2368a.1. Certificate of Obligation Act

Citation of Act

Sec. 1. This Act shall be known and may be cited as "The Certificate of Obligation Act of 1971".

Definitions

Sec. 2. When used in this Act, unless otherwise apparent from the context:

(a) "Bond funds" shall mean money received from the sale of bonds by the issuer.

(b) "Certificate" means a certificate of obligation authorized to be issued under the terms of this Act.

(c) "City" means any incorporated municipality of this State incorporated under the provisions of (i) any general or special law provided the municipality has the power to levy an ad valorem tax of not less than \$1.50 on each \$100 valuation of taxable property therein, or (ii) the home rule amendment to the Constitution.

(d) "Contractual obligation" shall mean any contract entered by an issuer through its governing body executed pursuant to Section 6 or Section 7 of this Act. No such contract shall be required to be in writing where (i) work is to be done by the regular salaried employees of an issuer, (ii) the work is to be paid for as the work progresses, and (iii) legal services.

(e) "County" means a political subdivision of the State of Texas created and established under Article IX, Section 1, of the Constitution of Texas which, according to the Federal Census then preceding has a population of less than 350,000.

(f) "Current funds" shall mean money in the treasury, taxes in the process of collection during the then current budget year of the issuer, and all other revenues which may be anticipated with reasonable certainty during such budget year.

(g) "Governing body" shall mean the board, council, commission, court or other body or group which is authorized to issue bonds for or on behalf of an issuer.

(h) "issuer" means a city or county.

Certificates Authorized; Amount, Public Works Construction

Sec. 3. (a) The governing body of an issuer may authorize certificates for the purpose of paying any contractual obligation to be incurred for the construction of any public work or for the purchase of materials, supplies, equipment, machinery, the purchase of land and rights-of-way for authorized needs and purposes, or for the payment of contractual obligations for professional services (including tax appraisal engineers, engineering, architectural, attorneys, mapping, auditing, financial advisors, fiscal agent) or for any one or more of such purposes.

(b) Certificates may be authorized in an amount not in excess of 25% of any contractual obligation incurred for construction of public works in order to provide for change orders as work progresses (as contemplated by Section 6) but only such amount of certificates as required to discharge contractual obligation after execution of such change orders shall be delivered by an issuer.

Claims and Accounts; Funding or Exchange

Sec. 4. The governing body of an issuer may provide that claims and accounts may thereafter be incurred for such authorized purposes to represent an undivided interest in certificates simultaneously authorized and may provide for the funding or exchange of such claims and accounts for a like total principal amount of such certificates with any amount in excess of the principal amount of certificates delivered at any one time may be paid in cash or carried forward to a subsequent exchange of claims and accounts for certificates. While the authorization of certificates (and the indebtedness thereby evidenced) may precede the execution of the contract or contracts under the provisions of this section, nothing in this section shall be construed as an exception to the requirement for the receipt of competitive bids under Section 6.

Notice to Bidders

Sec. 5. No certificates of indebtedness may be authorized by any issuer unless the notice to bidders (where the same is required) states (i) the successful bidder or bidders will be required to accept such certificates in payment of all or a portion of the contract price or (ii) that the governing body of any issuer has made provision for the contractor to sell and assign such certificates to another and that

each bidder is required (at the time of the receipt of bids) to elect whether he will accept such certificates in payment of all or a part of the contract price or assign such certificates in accordance with such arrangements.

Competitive Bids; Notice, Publication; Change Orders, Payment of Added Cost; Rejection of Bids; Performance Bond

Sec. 6. (a) Except as provided herein, the governing body of an issuer shall hereafter make no contract calling for requiring the expenditure or payment or creating or imposing an obligation or liability of any nature upon such city, county, or subdivision of the county in excess of \$2,000 without first submitting such proposed contract to competitive bids.

(b) Notice of the time, place, when and where such contract shall be let shall be given in accordance with the provisions of (i) Section 2, or Section 2(a) of the Bond and Warrant Law of 1931, as amended¹ or (ii) the home rule charter of an issuer or (iii) this Act. If such notice is given under the provisions of this Act, it shall be published once a week for two consecutive weeks in a newspaper as defined in Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes), of general circulation in the city or county which is to receive bids, the date of the first publication to be 14 days prior to the date set for the receipt of bids, and shall specify that plans and specifications for the work to be done or specifications for machinery, supplies, equipment or materials to be purchased are on file with a designated official of the issuer where they may be examined without charge. All contracts for the construction of public works, the purchase of materials, equipment, supplies, or machinery let under the provisions of this Act shall be let to the lowest responsible bidder and may be let on a lump sum basis or on a unit price basis, as the governing body shall determine. In the event a contract is to be let on a unit price basis, the information furnished bidders shall specify the approximate quantities estimated upon the best available information, but the compensation paid the contractor shall be based upon the actual quantities constructed or supplied.

(c) After performance of a construction contract has been commenced, if it becomes necessary to (i) make changes in the plans or specifications or (ii) decrease or increase the quantity of work to be performed or materials, equipment or supplies to be furnished, the governing body shall be authorized to approve change orders effecting such changes but the total contract price shall not be increased thereby unless due provision has been made to provide for the payment of such added cost either by appropriating current or bond funds for that purpose, by authorizing the issuance of certificates, or by any one or more such procedures, but the original contract price may not be increased by more than twenty-five per cent (25%) or decreased more than twenty-five

per cent (25%) without the consent of the contractor to such decrease.

(d) The governing body shall have the right to reject any and all bids, and if the contract is for the construction of public works and is for or requires the expenditure of \$2,000 or more, then the successful bidder shall be required to give a good and sufficient payment and performance bond each in the full amount of the contract price, executed by some surety company authorized to do business in this State in accordance with the provisions of Article 5160, Revised Civil Statutes of Texas, 1925, as amended.

¹ Article 2368a.

Advertisements for Bids, Exceptions; Sale of Certificates; Use of Proceeds; Registration, Etc.; Legal Investments and Security for Deposits

Sec. 7. The provisions of Section 6 of this Act relating to advertisement for competitive bids shall not apply in the following instances:

(1) in case of a public calamity where it becomes necessary to act at once to relieve the necessity of the citizens or to preserve the property of such city or county; or

(2) where it is necessary to preserve or protect the public health of the citizens of such city or county; or

(3) in the case of unforeseen damage to public property, machinery or equipment; or

(4) contracts for personal or professional services; or

(5) work done by employees of the issuer and paid for as such work progresses; or

(6) the purchase of land, buildings, existing utility systems or rights-of-way for authorized needs and purposes; or

(7) expenditures for or relating to improvements to a city water system, sewer system, streets or drainage (any one or all) where the cost of at least one-third ($\frac{1}{3}$) of which is to be paid by special assessments levied against properties to be benefited thereby; or

(8) where the entire contractual obligation is to be paid from bond funds or current funds, or where an advertisement for bids has previously been published (in the manner authorized or permitted in Section 6) but the current funds or bond funds are not adequate to permit the awarding of a contract and the certificates are to be issued to provide the deficiency; or

(9) the sale of any public security as such term is defined in Chapter 3, Acts of the 61st Legislature, Regular Session, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969.¹

Certificates authorized to be issued for the purpose or purposes specified in this section, in the discretion of the governing body of the issuer, may be sold for cash and the proceeds

thereof shall be used only for the purpose or purposes for which the same were authorized; provided, (i) accrued interest received, if any, shall be deposited in the interest and sinking fund established for the payment of such certificates and (ii) no certificate may be sold for cash to pay for work done by employees of the issuer and paid for as such work progresses and (iii) a certified copy of the proceedings relating to the authorization of such certificates shall be submitted to the Attorney General of Texas and be approved by such officer as having been authorized in accordance with the provisions of this Act. It shall be the duty of the Attorney General of Texas to examine the proceedings relating to the authorization of such certificates and the provisions of Article 709 through Article 716, inclusive, of Title 22 of the Revised Civil Statutes of Texas, 1925, as amended, and Chapter 204, Acts of the 57th Legislature, Regular Session, 1961, as amended by Chapter 290, Acts of the 60th Legislature, Regular Session, 1967,² shall apply to and govern the execution, approval, registration, and validity of such certificates. From and after the registration of such certificates by the Comptroller of Public Accounts, the same shall be incontestable for any cause.

Certificates approved by the Attorney General shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for any sinking funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas. Such certificates shall be eligible to secure the deposit of any and all public funds of the State of Texas and any and all public funds of cities, towns, villages, counties, school districts and other political corporations or subdivisions of the State of Texas, and shall be lawful and sufficient security for said deposits at their face value when accompanied by all unmatured coupons, if any, appurtenant thereto.

¹ Article 717k-2.
² Article 717j-1.

Certificates as Debt and Security

Sec. 8. Certificates shall be a debt of the issuer within the meaning of Article XI, Sections 5 and 7 of the Constitution of Texas, and when delivered shall be deemed and construed (i) to be a "Security" within the meaning of Chapter 8, Investment Securities, Uniform Commercial Code (Chapter 785, Acts of the 60th Legislature, Regular Session, 1967)¹ and (ii) to be a general obligation of the issuer within the meaning of Chapter 784, Acts of the 61st Legislature, Regular Session, 1969.²

¹ Business and Commerce Code, § 8.101 et seq.
² Article 717k-3.

Certificates Payable From and Secured By Other Revenues; Delivery

Sec. 8a. The governing body of an issuer, in lieu of or in combination with the existing source provided herein for the payment of cer-

tificates, may (under the provisions of this Section):

(i) provide that such certificates will be payable from and secured by other revenues, if the issuer is otherwise authorized by the Constitution or statutes to secure or pay any kind or type of general or special obligation by or from such revenues, and

(ii) deliver the certificates so secured in exchange for services or property in the manner and with the effect provided in other Sections of this law, or sell the same for cash under this Section.

Notice of Intention to Issue Certificates; Contents and Publication; Petition of Protest; Election

Sec. 8(b). Except for certificates issued for the purposes specified in paragraphs numbered (1) through (5) of Section 7, no certificates, irrespective of their sources of payment, may be authorized under Section 9 of this Act until the issuer has caused notice of its intention to issue such certificates to be published in a newspaper, as defined in Chapter 84, Acts of the 43rd Legislature, 1st Called Session, 1933, as amended (Article 28a, Vernon's Texas Civil Statutes), of general circulation in area of the issuer. Such notice shall (i) state the time and place the issuer tentatively proposes to authorize the issuance of certificates, the maximum amount that may be authorized, the purpose thereof, and the manner in which the issuer then proposes to provide for payment of such certificates (by taxes or revenues, either or both) and (ii) be published once a week for two consecutive weeks, the date of the first publication at least fourteen (14) days prior to the date tentatively set for the passage of the order or ordinance authorizing the issuance of such certificates. If prior to the date tentatively set for the authorization of the issuance of the certificates or prior to such authorization a petition signed by 5% of the qualified electors of the issuer is filed with the County Clerk (if the issuer is a county) or the City Secretary or City Clerk (if the issuer is a city) protesting the issuance of such certificates, the issuer shall not be authorized to issue certificates for such purpose unless the issuance thereof is approved at an election called, held, and conducted in the manner provided for bond elections under Chapter 1 of Title 22, Revised Civil Statutes of Texas, 1925, as amended.¹

¹ Article 701 et seq.

Authorization of Certificates; Payment; Options for Redemption; Maturity; Interest

Sec. 9. Certificates may be authorized by (i) an order duly passed and adopted by the governing body of a county (upon compliance with Article 2343 and Article 2354, Revised Civil Statutes of Texas, 1925, as amended) or (ii) an ordinance adopted by the governing body of a city. Certificates shall be payable at such times, be in such form and denomination or denominations, either in coupon form or registered as to principal and interest, or both, may contain such options for redemption prior

to scheduled maturity, and be payable at such place or places and contain such other provisions as the governing body of the issuer may determine, but in no event shall any certificate mature over a period in excess of 40 years from the date thereof, or bear interest at a rate in excess of that prescribed by Chapter 3, Acts of the 61st Legislature, 1969, as amended by Chapter 3, Acts of the 61st Legislature, 2nd Called Session, 1969.¹

¹ Article 717k-2.

Cumulative Effect; Purpose; Conflict

Sec. 10. The provisions of this Act shall be cumulative of other laws and nothing herein shall be construed as repealing the Bond and Warrant Law of 1931, as amended.¹

It is the purpose and intent of this Act to (i) provide an alternate procedure with respect to certain financing which is now subject to being accomplished under the said Bond and Warrant Law of 1931 which is not so cumbersome and (ii) provide a new class of securities which may be issued and delivered within the financial capabilities of an issuer upon compliance with the procedures herein set forth.

In the event of conflict between the provisions of this Act and the Bond and Warrant Law of 1931, an issuer may proceed under either of such procedures and it shall not be necessary for the governing body to designate the statute under which action is being taken.

¹ Article 2368a.

Use by Home Rule City

Sec. 10(a). Except as permitted by the first sentence of Section 6(b) of this Act (relating to the permissive advertising procedures for competitive bids for home rule cities), the provisions and procedures of this Act shall apply to and may be utilized by any home rule city and without reference to any provision of law or charter to the contrary.

Construction; Alternative Procedure; Severability

Sec. 11. Nothing in this Act shall be construed to violate any provision of the Federal or State Constitutions and all acts done hereunder shall be done in such manner as may conform thereto whether herein expressly provided or not. Where any procedure hereunder may be held by any court to be violative of either of such Constitutions, the issuer shall have the power by resolution to provide an alternative procedure conformable to such Constitutions. If any provision of the Act shall be invalid, such fact shall not affect the validity of any other provision of this Act, and the Legislature hereby declares that it would have enacted the valid provisions of this Act notwithstanding the invalidity of any other provision or provisions hereof.

[Acts 1971, 62nd Leg., p. 2824, ch. 923, eff. June 15, 1971; Acts 1973, 63rd Leg., pp. 1777, 1778, ch. 652, §§ 1 to 3, eff. June 16, 1973.]

Art. 2368a-1. Validation of Contracts, Scrip, Warrants and Proceedings

In every instance, since the approval by the Governor of Texas on May 3, 1947 of Chapter

173, Acts of the 50th Legislature of Texas, Regular Session, 1947,¹ where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works, land, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided that no such scrip or time warrants shall be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or governing body, as the case may be, shall have heretofore specifically found and declared that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized or issued. It is expressly provided, however, that this Section 2 shall not validate, ratify or confirm any contract, time warrant or scrip warrant executed or issued by any county with a population in excess of three hundred twenty-five thousand (325,000) according to the last preceding Federal Census, or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1949, 51st Leg., p. 1098, ch. 560, § 2.]

¹ Article 2368a, § 2.

Art. 2368a-2. Validation of Contracts, Scrip, Warrant and Proceedings; Bonds and Proceedings for Issuance

Sec. 1. [Adds §§ 2a, 2b to art. 2368a.]

Sec. 2. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works or improvements, land, materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved; provided, that

such scrip or time warrants themselves shall not be ratified, validated, confirmed and approved by this Act unless the Commissioners Court or the governing body, as the case may be, shall have heretofore specifically and officially found and declared in effect that such county or city has actually received the full benefit of the work performed or the land, materials, supplies, equipment or services furnished to the full extent of the amount of scrip or time warrants so authorized and issued. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work, where such Commissioners Court or governing body shall have heretofore specifically and officially found and declared in effect that such county or city has actually received the full benefit of the work performed or the materials and supplies furnished to the full extent of the amount of scrip or time warrants so issued, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. All proceedings, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city authorizing the issuance of bonds for the purpose of refunding time warrants issued by any county or city and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed, and such refunding bonds now in process of being issued and authorized by proceedings, ordinances, and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, ordinances, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred thousand (300,000), according to the last preceding Federal Census, or any proceedings, ordinances, resolutions or other instruments, or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 383, ch. 105.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-3. Validation of Contracts, Scrip and Time Warrants; Exceptions

In every instance, since the approval by the Governor of Texas on May 3, 1947, of Chapter 173, Acts of the Fiftieth Legislature of the State of Texas, Regular Session, 1947,¹ where the Commissioners Court of a county or the governing body of a city in this State has entered into a contract for the construction of public works, the purchase of land or interests in land, or the furnishing of materials, supplies, equipment, labor, supervision or professional services, and has authorized or issued scrip or time warrants to pay or evidence the indebtedness of such county or city for the cost of such public works, land, materials, supplies, equipment and personal services, all such contracts, scrip and time warrants issued by the Commissioners Court or a governing body, whether issued to the contractor for the construction of public works, the seller of land or interests in land, or issued to the person, firm or corporation furnishing materials, supplies or equipment and personal services, or issued to the person, firm or corporation furnishing money to the county or governing body in the purchase of time warrants, where the county receives full face value of the time warrants and the time warrants do not exceed four per cent (4%) interest and there has been no fraud whatsoever upon the part of the person, firm or corporation buying said time warrants, and the said county or governing body received full face value for such time warrants, and the proceedings adopted by the Commissioners Court or governing body as the case may be, relating thereto, are hereby in all things validated; ratified, confirmed and approved; however, it is expressly provided that this Act shall not validate, ratify or confirm any contract, time warrant or scrip warrant, executed or issued by any county with a population in excess of three hundred and twenty-five thousand (325,000), according to the last preceding Federal Census, or any contract, time warrant or scrip warrant the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1953, 53rd Leg., p. 920, ch. 382, § 1.]

¹ Article 2368a, § 2.

Art. 2368a-4. Validation of Contracts, Scrip and Time Warrants; Proceedings; Refunding Bonds; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas, on June 8, 1953, of Chapter 382, Acts of the Fifty-third Legislature, Regular Session, 1953,¹ where the Commissioners Court of a county in this State has entered into contracts or agreements, or has incurred and recognized or approved claims for the construction of public works or improvements, for the purchase of land or interests in land, including right of ways for public roads or highways and the fencing of right of ways on and along public roads or highways, or for the purchase of materials, supplies, equipment,

labor, supervision, or professional or personal services, and has heretofore adopted orders authorizing the issuance of scrip or interest-bearing time warrants to pay for or to evidence the indebtedness incurred by such county for the cost of such public works or improvements, land, interests in land, including right of ways for public roads or highways and the fencing of right of ways on or along public roads and highways and such materials, supplies, equipment, labor, supervision or professional or personal services, all such contracts or agreements and claims, and assignments of such claims and such scrip and interest-bearing time warrants, and the proceedings adopted by such Commissioners Court relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip and interest-bearing time warrants heretofore issued by the Commissioners Court of any county in this State in payment for or to evidence the indebtedness incurred for work done by such county and paid for by the day as the work progressed, and for materials, supplies, equipment, labor, supervision or professional or personal services purchased or secured in connection with such work, are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any scrip or interest-bearing time warrants issued by the Commissioners Court of a county in this State unless the proceedings of such Commissioners Court shall have heretofore found or declared, in effect, that such county has received full value and consideration for the issuance of such scrip or interest-bearing time warrants. It is expressly further provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of one hundred and sixty-five thousand (165,000) inhabitants according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, orders, resolutions, and other instruments heretofore adopted or executed by any Commissioners Court in this State authorizing the issuance of bonds for the purpose of refunding time warrants issued by any such county and all refunding bonds heretofore issued for such purpose are hereby in all things validated, ratified, approved and confirmed, and such refunding bonds now in process of being issued and authorized by proceedings, orders and resolutions heretofore adopted by any such Commissioners Court may be issued irrespective of the fact that such Commissioners Court in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, orders, resolutions or other instruments, or bonds execut-

ed, adopted, or issued by any county with a population in excess of one hundred and sixty-five thousand (165,000) inhabitants, according to the last preceding Federal Census, or any proceedings, orders, resolutions or other instruments, or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1955, 54th Leg., p. 914, ch. 362.]

¹ Article 2368a-3.

Art. 2368a-5. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city (including home-rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including home-rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including home-rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding federal census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including home-rule cities) or town, and of all officers and officials thereof, authorizing the issuance of or pertaining to time warrants or of bonds for the purpose or refunding time warrants issued by any county or city (including home-rule cities) or town, and all time warrants and all refunding bonds heretofore

issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding federal census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1957, 55th Leg., p. 543, ch. 253.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-6. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas on May 11, 1951, of Chapter 164, Acts of the 52nd Legislature, Regular Session, 1951 (Senate Bill No. 105, page 281),¹ where the Commissioners Court of a county or the governing body of a city (including home-rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including home-rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including home-rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), accord-

ing to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including home-rule cities) or town, and of all officers and officials thereof, authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including home-rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted, or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1959, 56th Leg., p. 700, ch. 321.]

¹ Article 2368a, §§ 5, 6.

Art. 2368a-7. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,¹ where the Commissioners Court of a county or the governing body of a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and

time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of two hundred and fifty thousand (250,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1961, 57th Leg., p. 245, ch. 126.]

¹ Article 2368a-6.

Art. 2368a-8. Validation of Contracts, Scrip or Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance since the approval by the Governor of Texas of Chapter 321, Acts of the Fifty-sixth Legislature, Regular Session, 1959,¹ where a county or a city (including Home Rule Cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, products, services, personal services, professional services, equip-

ment, labor, or supervision and has heretofore adopted contracts, orders or ordinances to authorize the payment therefor out of any fund or funds of such county, city (including Home Rule Cities) or town or the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule Cities) or town for the cost of such public works or improvements, land, material, supplies, products, services, personal services, professional services, equipment, labor, or supervision, all such contracts, scrip and time warrants and the proceedings adopted by or in behalf of the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule Cities) or town and paid for by the day as the work progressed and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or any county with a population of more than three hundred and fifty thousand (350,000) according to the last preceding Federal Census, or any contract, scrip warrant or time warrant the validity of which is now in litigation.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule Cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home Rule Cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county or city (including Home Rule Cities) with a population of less than two hundred and fifty thousand (250,000) or counties with a population of more than three hundred and fifty thousand (350,000), according to the

last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is now in litigation.

[Acts 1961, 57th Leg., 1st C.S., p. 30, ch. 9.]

¹ Article 2368a-6.

Art. 2368a-9. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions; Elections for City Officials

Sec. 1. In every instance since the approval by the Governor of Texas on May 15, 1961, of Chapter 126, Acts of the Fifty-seventh Legislature, Regular Session, 1961,¹ where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, or professional or personal services and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal service rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant or time warrant, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental Acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (in-

cluding Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental Acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental Acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity.

Sec. 4. All actions heretofore taken by the Commissioners Court of any county in ordering the holding of an election for the selection of a mayor and aldermen of a city, town or village heretofore incorporated under the General Laws of the State of Texas, and all orders of such court in canvassing the returns and declaring the results of such elections are hereby in all things ratified and confirmed, and the persons so declared or found to have been elected by the said Court as the result of such election, and their successors in office, shall be and are hereby recognized as the governing body of such city, town or village irrespective of whether such municipal corporation was originally established or incorporated under the aldermanic or commission form of government.

[Acts 1963, 58th Leg., p. 959, ch. 384.]

¹ Article 2368a-7.

Art. 2368a-10. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. [Amends art. 2368a, § 2.]

Sec. 2. In every instance since the approval by the Governor of Texas of Chapter 384, Acts of the 58th Legislature, Regular Session, 1963,¹ where the Commissioners Court of a county or the governing body of a city (including Home-Rule cities) or town in this state has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision,

or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work are hereby in all things validated, ratified, confirmed and approved. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant, or time warrant executed or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant, or time warrant the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 3. All proceedings, governmental acts, orders, ordinances, resolutions, and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance, delivery of or in anywise pertaining to time warrants or of bonds for the purpose of refunding time warrants issued by any county or city (including Home-Rule cities) or town, and all time warrants and all refunding bonds heretofore issued for such purpose, are hereby in all things validated, ratified, approved and confirmed. Such time warrants and refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued irrespective of the fact that the Commissioners Court or governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify, or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, time warrants or bonds the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1965, 59th Leg., p. 240, ch. 105, §§ 2, 3.]

¹ Article 2368a-9.

Art. 2368a-11. Validation of Contracts, Scrip and Time Warrants; Refunding Bonds; Acts and Proceedings; Exceptions

Sec. 1. In every instance where the Commissioners Court of a county or the governing board of a city (including Home-Rule cities) or town in this state has entered into contracts for, or has determined the advisability thereof by giving notice of intention to issue interest-bearing time warrants in payment therefor, the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home-Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home-Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any contract, scrip warrant or time warrant executed or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any contract, scrip warrant or time warrant, the validity of which is involved in litigation at the time this Act becomes effective.

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home-Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home-Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed. Such refunding bonds now in process of being issued and authorized by proceedings, ordinances and resolutions heretofore adopted may be issued, irrespective of the fact that the Commissioners Court or

governing body in giving the notice of intention to issue refunding bonds may not have in all respects complied with statutory provisions. It is expressly provided, however, that this Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred and fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is involved in litigation at the time this Act becomes effective.

[Acts 1967, 60th Leg., p. 157, ch. 83, eff. April 27, 1967.]

Art. 2368a-12. Validation of Contracts, Warrants, Assessments, Acts and Proceedings, etc. of Certain Counties, Cities and Towns

Contracts for Construction, Etc., Scrip or Time Warrants Issued and Related Proceedings

Sec. 1. In every instance where the Commissioners Court of a county or the governing board of a city (including Home Rule cities) or town in this State has entered into contracts for the construction of public works or improvements, the purchase of land or interests in land, or for the purchase of materials, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, and has heretofore adopted orders or ordinances to authorize the issuance of scrip or time warrants to pay or evidence the indebtedness of such county or city (including Home Rule cities) or town for the cost of such public works or improvements, land, material, supplies, equipment, labor, supervision, wages, salaries, or professional or personal services, all such contracts, scrip and time warrants and the proceedings adopted by the Commissioners Court or governing body, as the case may be, relating thereto, are hereby in all things validated, ratified, confirmed and approved. All scrip warrants and time warrants heretofore issued by the Commissioners Court or governing body, as the case may be, in payment of work done by such county or city (including Home Rule cities) or town and paid for by the day as the work progressed, and for materials and supplies purchased in connection with such work and for professional or personal services rendered to the county, city or town, and each of these are hereby in all things validated, ratified, confirmed and approved and all such warrants shall be payable in accordance with their respective terms. In all instances where such city or county has entered into contract with or paid the State of Texas for the construction of drainage improvements through the issuance and delivery of time warrants authorized for the purpose of acquiring and purchasing lands necessary for rights-of-way and to defray all expenses incidental thereto, and the governing body of such city or county has determined and found that the construction of drainage improvements for which the contract was entered or payment made was essential to the acquisi-

tion of rights-of-way for State or federal highways (which may or may not also be classed as city streets), all such contracts or payments and the delivery of time warrants therefor are hereby in all things validated, ratified and confirmed as are such findings made by such governing body.

Proceedings, Governmental Acts, Orders, Etc., Authorizing Issuance of Refunding Bonds

Sec. 2. All proceedings, governmental acts, orders, ordinances, resolutions and other instruments heretofore adopted or executed by a Commissioners Court or governing body of a city (including Home Rule cities) or town, and of all officers and officials thereof authorizing the issuance of or pertaining to refunding bonds for the purpose of refunding scrip or time warrants issued by any county or city (including Home Rule cities) or town and all such warrants and all refunding bonds, heretofore issued for such purpose, and each of these are hereby in all things validated, ratified, approved and confirmed.

Bond Elections and Proceedings

Sec. 3. In every instance where the governing body of a city (including Home Rule cities) or a town or a county has heretofore provided for the calling and holding of an election for the authorization of bonds or has authorized the issuance of refunding bonds to refund time warrants or other obligations, all such election proceedings and proceedings for the authorization of such bonds and refunding bonds are hereby in all things validated, ratified and confirmed.

Leases and Attempted Leases of Nursing Homes or Interests Therein by Counties

Sec. 4. In every instance where the County Court or Commissioners Court in any county of this State acting as such court has leased or attempted to lease a nursing home or an interest therein belonging to said county to any person, firm, or corporation, and where the County Court or Commissioners Court has made, executed, and delivered to any such person, firm, or corporation an instrument purporting to lease such nursing home, and where the lessee or his successors has enlarged or developed the facility, then all such leases or attempted leases are hereby validated, ratified, confirmed, and approved.

Form of Government Change by Cities of 950 to 1,100

Sec. 4a. The adoption of an ordinance to change the form of government of a general law city with a population between 950 and 1,100 from commission to aldermanic is hereby in all respects validated as of the date of such proceedings.

Acquisitions of Property by Counties and Conveyances to University of Texas

Sec. 5. All actions of a Commissioners Court of any county in this State in acquiring

property and the subsequent conveyance of such property by deeds of record in any county in this State to the Board of Regents of The University of Texas, as trustees, for the use and benefit of The University of Texas are hereby ratified and confirmed and in all things approved.

Assessments by Cities for Street or Highway Improvements and Liens and Liabilities Thereby Created

Sec. 6. All assessments and reassessments for street or highway improvements and the liens and liabilities created thereby heretofore levied or purported to be levied by any and all cities in the State against properties abutting their streets or highways and against the owners of such properties, and all proceedings of the governing bodies of such cities levying or purporting to levy such assessments or reassessments are in all respects validated and shall have the force and effect provided by the provisions of Chapter 106 of the 40th Legislature, 1st Called Session, 1927, as amended,¹ except that nothing herein shall be construed to validate or to legalize any assessment lien levied or attempted to be levied against any property or interest in property exempt at the time the improvements were ordered from the lien of special assessment for street improvements.

¹ Article 1105b.

Assignable Certificates of Special Assessment

Sec. 7. All assignable certificates of special assessment issued in evidence of such assessments or reassessments are hereby validated according to their terms. Any city which has not yet issued assignable certificates of special assessment to evidence such assessments may issue same and such certificates shall be valid and legal.

Assessments for Street Improvements Subject to Pending Litigation; Exception

Sec. 8. This Act is not intended to validate, nor does it apply to any assessments or reassessments for street improvements, which are the subject matter of any litigation pending on the effective date of this Act, in any court of competent jurisdiction in this State in which the validity thereof is being challenged, if such litigation is ultimately determined against the validity of same.

Proceedings, Governmental Acts, Orders, Resolutions and Bonds of Counties in Excess of 350,000 or Subject to Litigation; Inapplicability

Sec. 9. This Act shall neither apply to nor validate, ratify or confirm any proceedings, governmental acts, orders, resolutions or other instruments, or bonds executed, adopted or issued by any county with a population in excess of three hundred fifty thousand (350,000), according to the last preceding Federal Census, or any proceedings, governmental acts, orders, ordinances, resolutions or other instruments, or bonds, the validity of which is directly in-

volved as a party in litigation at the time this Act becomes effective.

[Acts 1971, 62nd Leg., p. 2564, ch. 841, eff. June 9, 1971.]

Section 10 of the 1971 act provided: "If any section, subsection, paragraph, sentence, clause, phrase or word in this Act, or application thereof to any person or circumstance is held invalid, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares it would have passed such remaining portions despite such invalidity."

Art. 2368b. Validating Notes, Bonds and Warrant Issues in Certain Cities

Sec. 1. All findings and funding and refunding notes, bonds, warrants, time warrants and treasury warrants heretofore issued or authorized to be issued and attempted to be issued by any and all cities in the State, whether or not incorporated under General or Special Laws, and any and all cities operating under charters adopted under the provisions of Article 11, Section 5, of the Constitution of Texas, having a population in excess of One Hundred Seventy Five Thousand (175,000) according to the last preceding United States census, and which were heretofore issued, authorized to be issued, or attempted to be issued under authority of H.B.No. 312 of the Forty-second Legislature,¹ are in all respects validated.

Sec. 2. All orders of the governing bodies of such cities authorizing such issues of funding and refunding notes, bonds, warrants, time warrants and treasury warrants, or attempting to authorize the same, or any of the same, are in all respects validated.

Sec. 3. All orders of said governing bodies of said cities directing the levying and assessing of taxes to provide for the payment of interest and principal of such funding and refunding notes, bonds, warrants, time warrants and treasury warrants, as they respectively mature, are in all respects validated.

[Acts 1931, 42nd Leg., 1st C.S., p. 85, ch. 40.]

¹ Article 2368a.

Art. 2368b-1. Validating Notes, Taxes, etc. in Certain Counties

Sec. 1. All notes heretofore authorized to be issued and sold for cash, or attempted to be issued and sold for cash, by any county in the State whose Commissioners Court has by official determination declared that such cash is necessary and essential to the continued current operations of the county for its public purposes are in all respects hereby validated.

Sec. 2. All orders of the Commissioners Court of such counties authorizing such notes or attempting to authorize the same, or any of the same, and the sales and attempted sales thereof for cash for the par or principal amount thereof, plus accrued interest to the date of delivery thereof, if said date shall be other than the date of the notes, are in all respects hereby validated.

Sec. 3. All orders of said Commissioners Courts of said counties levying and directing the levying and assessing of taxes to provide

for the payment of the interest on and principal of such notes, as they respectively mature, are in all respects hereby validated.

Sec. 4. The sale of all notes validated by this Act may be consummated by the delivery thereof to and the payment therefor by the purchasers and the same may be refunded into bonds at any time after the effective date of this Act upon proper authorization thereof by duly adopted bond order of the Commissioners Court of any such county in any manner now permitted by law with respect to the refunding of other indebtedness of any such county.

Sec. 5. This Act shall not be applicable to any county having an excess of 350,000 population according to the latest preceding federal census.

Sec. 6. This Act is not intended to validate nor does it apply to any notes which are on the effective date hereof the subject matter of any litigation pending in any court in this State in which the validity thereof is being challenged.

[Acts 1971, 62nd Leg., p. 2863, ch. 941, eff. June 15, 1971.]

Art. 2368c. Validating Proceedings as to Funding Warrants and Bonds in Cities of 11,000 and Not Less Than 10,500

All acts and proceedings of governing bodies of cities containing a population of not more than eleven thousand (11,000) nor less than ten thousand, five hundred (10,500), according to the last preceding Federal Census, in connection with the issuance of funding warrants and funding bonds heretofore authorized or attempted to be authorized, or heretofore issued or attempted to be issued, under the provisions of Chapter 163, Acts Forty-second Legislature, Regular Session,¹ are hereby in all things validated. The fact that by inadvertence or oversight any act of the officers of any such city was omitted shall in no wise invalidate such warrants or bonds. Provided that this Act shall not apply to any city whose bonds or warrants are the subject matter of litigation.

[Acts 1935, 44th Leg., p. 482, ch. 196, § 1.]

¹ Article 2368a.

Art. 2368d. Validation of Funding and Refunding Securities Issued by Commissioners' Court or Cities and Towns

All actions heretofore taken by Commissioners' Courts and by the governing bodies of Cities and Towns in the authorization, execution, issuance and delivery of such funding and refunding bonds and such funding and refunding warrants, in attempted compliance with the provisions of Chapter 163, Acts of the Regular Session of the Forty-second Legislature¹ are hereby validated and all such funding and refunding securities issued pursuant to such actions are hereby validated; provided, however, that such validation shall not affect or in any wise apply to the subject matter of any litigation pending at the time this Act becomes effective, until such litigation is determined, fi-

nally, favorably to its validity, or until such litigation has been dismissed.

[Acts 1937, 45th Leg., p. 179, ch. 95, § 2.]

¹ Article 2368a.

Art. 2368e. Validating Notices to Bidders on Certain County Projects and Time Warrants in Payment

Sec. 1. In each instance wherein a county has given notice to bidders for the construction, improvement, or repair of any public building in the county and notice of intention to issue time warrants in which notice the maximum amount of time warrants stated does not exceed Sixty Thousand Dollars (\$60,000), in payment for all or a part of the cost of such work, and such notice was published in a newspaper of general circulation in said county fourteen (14) days or more prior to the date therein set for receiving bids, and the second publication thereof is had before or after the effective date of this Act, and before the date set for receiving bids, such notice is hereby validated and declared to be legal and sufficient notice, notwithstanding the fact that such notice was not published for two (2) consecutive weeks, and the Commissioners Court is authorized to proceed with the making of a contract pursuant to such notice and the issuance of time warrants in payment therefor. Contracts made, and time warrants authorized in payment therefor, pursuant to such notice and prior to the effective date of this Act, are hereby validated.

Sec. 2. Provided that this Act shall not validate any warrants issued as herein described, the validity of which is attacked in any court of competent jurisdiction by suit pending therein at the time or within fifteen (15) days of the time this Act becomes effective.

[Acts 1941, 47th Leg., p. 37, ch. 24; Acts 1941, 47th Leg., p. 125, ch. 97, § 1.]

Art. 2368f. Time Warrants; Issuance in Counties with 300,000 Population

Sec. 1. In all counties having a population in excess of three hundred thousand (300,000) inhabitants according to the last preceding or any future Federal Census, the Commissioners Court shall have no authority or power to issue time warrants until and unless the same have been authorized by a majority vote of the qualified electors who own taxable property in the county and have duly rendered the same for taxation voting at an election therefor, such election to be held under the authority of and in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of Texas of 1925.¹ Provided, that in case of public calamity caused by fire, flood, storm, or to protect the public health, or in case of unforeseen damage to public property, machinery, or equipment, the Commissioners Court may issue such time warrants in the aggregate amount of not exceeding Fifty Thousand Dollars (\$50,000) during any one calendar year as are necessary to provide for the immediate repair,

preservation or protection of public property, and the lives and health of the citizens of the county without the necessity of such election.

Sec. 2. This Act shall not be construed to apply to time warrants of such counties issued or authorized to be issued prior to the effective date of this Act.

[Acts 1949, 51st Leg., p. 67, ch. 36.]

¹ Article 701 et seq.

Saved From Repeal

Section 3 of Acts 1949, 51st Leg., p. 1098, ch. 560, read as follows: "All General and Special Laws in conflict herewith, except House Bill No. 106 enacted by the 51st Legislature, Regular Session, 1949 [this article], are by this Act expressly repealed; provided, however, that this Act shall not limit or affect the authority granted by Section 5 and Section 6 of Chapter 163, Acts of the 42nd Legislature of Texas, Regular Session, 1931 [Art. 2368a], in the making of expenditures and the issuance of warrants as therein provided, except as such Section 5 and Section 6 are limited by House Bill No. 106, enacted by the 51st Legislature, Regular Session, 1949."

Art. 2369. Commissioners May Repeal Order

The commissioners court may, by order entered of record after contracts have been in force for the specified time in such contract, repeal said order.

[Acts 1925, S.B. 84.]

Art. 2370. Buildings, etc. Other Than Courthouse for Courts and Public Business; Leasing Part; Income; Bonds or Other Evidence of Indebtedness

Sec. 1. The Commissioners Court of any county may, when necessary, provide buildings, rooms, or apartments at the county seat, other than the courthouse, for holding the sessions of the County Courts, District Courts, and for carrying on such other public business as may be authorized by the Commissioners Court, and may lease or rent such part of any such buildings, rooms, or apartments as may not be necessary for public use.

Sec. 2. Whenever any county in this State may have acquired a building (other than the courthouse) at the county seat which is used partly for public business and which is partly rented for private purposes, where such building was acquired by such county in settlement of an obligation owed to the county, and the Commissioners Court of such county desires to enlarge, remodel, renovate, add onto, repair, improve, or otherwise alter such building, and funds are not available for such purpose, the Commissioners Court of such county shall have the power to issue negotiable bonds, notes, warrants, or other evidences of indebtedness to secure funds for such purpose and to pledge, assign, encumber, and hypothecate the net income and revenues from the portion of such

building which the Commissioners Court finds is not then and will not thereafter be necessary for public purposes. No such obligation so issued shall ever be a debt of such county but shall be solely a charge upon the income and revenue so encumbered and no such obligation shall ever be counted in determining the power of any such county to issue any bonds for any purpose authorized by law.

Sec. 3. No part of the income or revenue of any such building shall ever be used to pay any other debt, expense, or obligation of such county until the indebtedness so secured shall have been finally paid; provided that the expense of operation and maintenance including all salaries, labor, materials, interest, improvements, repairs, and extensions necessary to render efficient service and every proper item of expense shall always be a first lien and charge against such income and revenue and only such repairs and extensions as in the judgment of the Commissioners Court are necessary to keep the building in operation and render adequate service, or such as might be necessary to meet some physical accident or condition which would otherwise impair the original security, shall be a lien prior to the lien herein provided for.

There shall be charged and collected as rental for those parts of such building not used for public purposes, a sufficient amount to pay all operating, maintenance, depreciation, replacement, betterment, and interest charges, and expenses, and to create an interest and sinking fund sufficient to pay any securities issued hereunder.

Sec. 4. Each contract bond, warrant, note, or other evidence of indebtedness issued pursuant to this law shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation." Where bonds are issued hereunder, they may be presented to the Attorney General for his approval as is provided for the approval of municipal bonds issued by counties. In such case, upon approval, the bonds shall be registered by the State Comptroller as in the case of other municipal bonds. Projects financed in accordance with this law are hereby declared to be self-liquidating in character and supported by charge other than by taxation. Securities issued under the provisions hereof shall be subject to the applicable provisions of the Bond and Warrant Law of 1931 as amended (House Bill No. 312, Acts of 1931, Forty-second Legislature, page 269, Chapter 163, as amended)¹ except as same may be inconsistent herewith and under no circumstances shall any vote of the taxpayers be required upon any securities issued hereunder.

[Acts 1925, S.B. 84; Acts 1941, 47th Leg., p. 643, ch. 388.]

¹ Article 2368a.

Art. 2370a. Expired

Art. 2370b. County Office, Courts and Jail Buildings; Construction, Improvement, etc.

Power to Acquire, Construct, Reconstruct, Remodel, Etc., Buildings

Sec. 1. Whenever the Commissioners Court of any county determines that the county courthouse is not adequate in size or facilities to properly house all county and district offices and all county and district courts and all justice of the peace courts for the precincts in which the courthouse is situated, and to adequately store all county records and equipment (including voting machines) and/or that the county jail is not adequate in size or facilities to properly confine prisoners and other persons who may be legally confined or detained in a county jail, the Commissioners Court may purchase, construct, reconstruct, remodel, improve and equip, or otherwise acquire an office building or buildings, or courts building or buildings, or jail building or buildings (in addition to the existing courthouse and/or jail), or an additional building or buildings in which any one or more of the county or district offices or county, district or justice of the peace courts, or the county jail or any other county facilities or functions may be housed, conducted and maintained; and may purchase and improve the necessary site or sites therefor, and may use such building or buildings for any or all of such purposes, provided that any such building or buildings so acquired shall be located in the county seat, and provided that no justice of the peace court shall be housed, conducted or maintained in any such building if said building is located out of the boundaries of the precinct of such justice of the peace court.

Use of Buildings

Sec. 2. Such building or buildings, when purchased, constructed or otherwise acquired and equipped may also be used for the purpose of carrying on such other public business as may be authorized by the Commissioners Court, and/or the Commissioners Court may also lease or rent any part or parts of any such building or buildings, (which may not be presently needed for any of the above purposes) to the State of Texas and any of its political subdivisions, and the Federal Government.

Bond Issue; Levy of Taxes

Sec. 3. To pay for the purchase, construction, reconstruction, remodeling, improvement and equipment of any such building or buildings and/or jail or jails, including the purchase and improvement of the site or sites therefor, the Commissioners Court is authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, which taxes shall be levied, pursuant to the authority of Article 8, Section 9 of the Constitution of the State of Texas, as amended, for permanent improvement fund purposes; and such bonds may mature serially or otherwise as may be determined by the Commissioners Court of the county, not exceeding forty (40) years

from their date, and such bonds may contain such option or options of redemption or no option of redemption as may be determined by the Commissioners Court; and the issuance of such bonds and the levy and collection of such taxes shall otherwise be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas,¹ governing the issuance of bonds by cities, towns and/or counties in this State.

¹ Article 701 et seq.

Bond Elections; Propositions Submitted

Sec. 4. The Commissioners Court may submit at any bond election one proposition for the issuance of such bonds which proposition may include all the purposes authorized herein for which such bonds may be issued; or it may, at its option, submit at any bond election one or more separate propositions for the issuance of such bonds, each of which separate propositions may include any one or more of the purposes authorized herein for which such bonds may be issued.

Notices; Posting

Sec. 5. The acquisition or use of any such building or buildings for any of the purposes herein authorized shall not alter, change or affect any requirement of any law to the effect that certain notices shall be posted at the courthouse door of the county; all notices which have heretofore been required to be posted at the courthouse door of the county shall be posted at the door of the main courthouse and nothing in this Act shall require that additional notices shall be posted at the door or doors of the building or of any of the buildings acquired or used pursuant to the authority herein granted.

Provisions Cumulative

Sec. 6. The provisions of this Act are in addition to all the powers given by, and are cumulative of, all other provisions of the Laws of the State of Texas on the same subject.

[Acts 1957, 55th Leg., p. 1386, ch. 476.]

Art. 2370b-1. Branch Courthouses; Counties of 47,500 to 49,000 and 24,500 to 25,000

Sec. 1. In counties which have a population of not less than 47,500 nor more than 49,000, or less than 24,500 nor more than 25,000, according to the last preceding federal census, the Commissioners Court may provide for, operate, and maintain one or more branch courthouses outside the county seat for any length of time the Commissioners Court considers necessary.

Sec. 2. (a) If the branch courthouse is maintained in a building which is owned by the county, the commissioners court shall operate and maintain the building in the same manner in which it operates and maintains the county courthouse. The commissioners court shall have care and custody of the building and may place any limitations on the use and maintenance of the building which it finds necessary.

(b) If the commissioners court does not wish to construct a building or purchase office space for the branch courthouse, the commissioners may rent or lease a sufficient amount of office space for the branch courthouse.

Sec. 3. After the commissioners court has authorized the creation of a branch courthouse, any office, department, facility, court, or other agency of the county may open branch offices in the branch courthouse with the approval of the commissioners court.

Sec. 4. Expenses incurred by the county in operating and maintaining the branch courthouse shall be paid from county funds used to maintain and operate other county buildings.

[Acts 1969, 61st Leg., p. 2704, ch. 886, eff. June 21, 1969; Acts 1971, 62nd Leg., p. 1828, ch. 542, § 50, eff. Sept. 1, 1971.]

Art. 2370c. Counties of Over 900,000; County Workhouses and Farms

Bond Issue; Tax Levy; Election; Notice; Execution, Approval and Registration of Bonds

Sec. 1. The Commissioners Court of any county in this State having a population in excess of nine hundred thousand (900,000) inhabitants according to the last preceding Federal Census is hereby authorized from time to time to issue the negotiable bonds of said county and levy taxes in payment thereof for the purpose of acquiring, constructing and equipping county workhouses and county farms to be used for the confinement of prisoners of the county or for the purpose of utilizing the labor of such prisoners (either or both), including the acquisition or purchase of sites therefor. Such taxes shall be from the Constitutional Permanent Improvement Fund. Such bonds shall be issued and taxes in payment thereof shall be levied and collected in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas, 1925, as amended,¹ governing the issuance of bonds by cities, towns, and/or counties in this State, except as may be otherwise provided in this Act. Any and all bonds authorized to be issued by this Act may be submitted at the bond election in a single proposition. Notice of a bond election shall be given by publication of a notice containing a substantial copy of the election order on the same day in each of two (2) consecutive weeks in a newspaper of general circulation in the county, the first of which publications shall be at least fourteen (14) days prior to the election. No other notice of election shall be necessary. No bonds authorized by this Act (except refunding bonds) shall be issued unless more than a majority of the duly qualified resident electors of said county who own taxable property within said county and who have duly rendered the same for taxation, voting at the election, have voted in favor of the issuance of such bonds. Such bonds shall mature serially or otherwise in not to exceed forty (40) years from their date or dates, and such bonds may or may not contain option of prior redemption provisions as may be determined by the Commissioners Courts. Such

bonds shall be executed in the manner as may be provided in the order authorizing their issuance. All such bonds (including refunding bonds), after the same have been approved by the Attorney General of the State of Texas and registered by the Comptroller of Public Accounts of the State of Texas, shall be incontestable.

¹ Article 701 et seq.

Refunding Bonds

Sec. 2. The Commissioners Court of any such county shall have the right at all times to issue refunding bonds for the purpose of refunding outstanding bonds (including the refunding of refunding bonds) issued under the provisions of this Act, subject to the General Laws applicable to the issuance of refunding bonds by counties and without the necessity of an election or of any notice or of any right to referendum vote. The provisions of Section 1 hereof relating to maturities of original bonds and their execution shall apply to refunding bonds issued hereunder.

Validation of Election Proceedings

Sec. 3. Any and all bonds heretofore authorized for the purposes mentioned in Section 1 hereof by a majority of the duly qualified resident electors of the county who owned taxable property within such county and who had duly rendered the same for taxation, voting at an election called and held for such purpose, and the election proceedings relating to such bonds, are hereby in all things validated; and the Commissioners Court may issue any such bonds in the manner herein provided. It is expressly provided, however, that the validation provisions of this Section 3 shall not apply to litigation pending upon the effective date of this Act.

[Acts 1963, 58th Leg., p. 548, ch. 204.]

Art. 2370c-1. Counties of Over 900,000; Crime Detection Facilities; Certificates of Indebtedness

Sec. 1. The commissioners court of each county having a population in excess of 900,000, according to the most recent federal census, shall be authorized, for and on behalf of the county, to issue negotiable certificates of indebtedness for the purpose of acquiring, purchasing, constructing, repairing, renovating, improving, and/or equipping crime detection facilities, and acquiring any real or personal property in connection therewith, and to levy and pledge annual county ad valorem taxes under Article VIII, Section 9, of the Texas Constitution, sufficient to pay the principal of and interest on said certificates of indebtedness as the same come due. When any such certificates of indebtedness are issued, it shall be the duty of the commissioners court annually to levy the aforesaid taxes, and cause the same to be assessed and collected, in an amount sufficient to pay such principal and interest. Such certificates of indebtedness may be issued in one or more series or issues, shall mature seri-

ally or otherwise not more than 40 years from their date, and shall bear interest at such rate or rates as shall be determined within the discretion of the commissioners court. Said certificates of indebtedness, and any interest coupons appertaining thereto, shall be negotiable instruments, and they may be made redeemable prior to maturity, may be issued in such form, denominations, and manner, and under such terms, conditions, and details, and shall be signed and executed, as provided by the Commissioners Court in the order authorizing the issuance thereof. Such certificates of indebtedness shall be sold for not less than their par value and accrued interest to date of delivery. Such certificates of indebtedness may be issued by order of the commissioners court without the necessity of an election, but the aggregate principal amount of certificates of indebtedness issued pursuant to this Act shall not exceed \$1,500,000.

Sec. 2. All certificates of indebtedness issued pursuant to this Act, and the appropriate proceedings authorizing their issuance, shall be submitted to the Attorney General of the State of Texas for examination. If he finds that such certificates of indebtedness have been authorized in accordance with law he shall approve them, and thereupon they shall be registered by the Comptroller of Public Accounts of the State of Texas; and after such approval and registration such certificates of indebtedness shall be incontestable in any court, or other forum, for any reason, and shall be valid and binding obligations in accordance with their terms for all purposes.

Sec. 3. All certificates of indebtedness issued pursuant to this Act shall be legal and authorized investments for all banks, trust companies, building and loan associations, savings and loan associations, insurance companies of all kinds and types, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic. Said certificates of indebtedness also shall be eligible and lawful security for all deposits of public funds of the State of Texas and all agencies, subdivisions, and instrumentalities thereof, including all counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of said certificates of indebtedness, when accompanied by any unmatured interest coupons appurtenant thereto.

Sec. 4. The commissioners court shall be authorized to operate and maintain the county's crime detection facilities and to fix and collect fees and charges for services performed and information furnished to others by the use of said facilities. The commissioners court shall pay the expenses of operation and main-

tenance of said facilities from such fees and charges and/or from any other available county funds.

[Acts 1969, 61st Leg., p. 176, ch. 73, eff. April 10, 1969.]

Art. 2370d. Counties with City of Over 275,000 Population; Public Health Administration Buildings

Application of Act

Sec. 1. This Act shall apply to any county containing a city which, according to the then latest United States Census, has a population in excess of 275,000.

Validation of Actions for Election and Bond Issue

Sec. 2. All actions heretofore taken by the Commissioners Court of any county mentioned in Section 1 hereof in ordering an election for the issuance of bonds for the purpose of erecting public health administration buildings and acquiring sites and equipment therefor, and all elections held pursuant to any such action and all such bonds heretofore voted or attempted to be voted and which have not been issued and sold are hereby in all things validated, and any such county may proceed with the issuance and sale of such bonds. Provided, however, this Act shall not affect any suit pending in any court of this state prior to the effective date hereof.

Issuance of Bonds; Erection of Public Health Administration Buildings; Repairs

Sec. 3. Any county whose bonds are validated by Section 2 of this Act is hereby authorized to proceed with the issuance of such bonds and to erect and maintain such public health administration buildings and to acquire sites and equipment therefor, and to expand and repair such buildings, acting either alone or jointly with any city contained in such county and to issue the county's general obligation bonds for such purpose. Such bonds shall be authorized in accordance with the provisions of Chapter 1 of Title 22 of the Revised Civil Statutes of the State of Texas (1925), as amended,¹ relating to county bonds. Provided, when a city and a county jointly erect such buildings, they shall share in the cost in such manner as may be agreed upon and as authorized by orders or ordinances to be passed by the respective governing bodies. Such buildings may be jointly occupied and utilized by any such county and city and such county and city shall be vested with an undivided interest in any such buildings in accordance with any agreements reached by such county and city as authorized by orders or ordinances passed by the respective governing bodies. Provided, such buildings shall not be used for hospital purposes but may be used for any other purpose which will contribute to the health of the inhabitants of such county and city.

Partial Invalidity

Sec. 4. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconsti-

tutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

[Acts 1965, 59th Leg., p. 237, ch. 103, eff. April 27, 1965.]

¹ Article 701 et seq.

Art. 2370e. Sale and Lease Back of Land, Buildings, Equipment, etc., in Counties Over 500,000

Sec. 1. The commissioners court of any county in this state having a population in excess of 500,000 inhabitants according to the last preceding federal census is hereby authorized to sell land, buildings, facilities or equipment for the purpose of entering into contracts, to lease or to rent buildings, land, facilities, equipment or services from others for county purposes and to pay the regular monthly utility bills for such land, buildings, facilities, equipment, or services so contracted, leased, or rented, such as electricity, gas, and water; and when in the opinion of a majority of the commissioners court of a county such facilities and equipment are essential to the proper administration of such agencies of the county, said court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the county's general fund by warrant as in the payment of other obligations of the county.

Sec. 2. Provided that all construction projects originated or initiated under the term of this Act, shall be let by contract, which contract shall contain the prevailing wage for all mechanics, laborers and persons employed in the construction of such project. The commissioners court of Tarrant County shall determine and set the prevailing wage, which shall be the same prevailing wage set by the commissioners court of Tarrant County on all construction projects involving the expenditure of county funds.

Sec. 3. All actions, proceedings, orders and contracts for such sale, rental, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any commissioners court of this state, pursuant to which such service has been rendered, are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 4. Provided further, that upon or prior to the expiration of the number of terms of years as set forth in any such contract, and when in the opinion of a majority of the commissioners court of such county the stated price is a reasonable price within the judgment of a majority of said court, such facilities may be purchased and become the property of said county and be paid for out of the general fund.

[Acts 1969, 61st Leg., 2nd C.S., p. 63, ch. 12, eff. Dec. 9, 1969.]

Art. 2371. Rest Room for Women

The Commissioners Court in each county in this State may maintain a rest room for women

in the courthouse, or if for any reason a suitable rest room cannot be had in the courthouse, they may maintain a rest room at some convenient place near the courthouse. The rest room may be comfortably furnished with lounge, chairs, mirror, lavatory, tables, and such other furnishings as may be needed to make the room attractive and comfortable for women who may be in attendance on the Court or who may for other reasons be in town.

The Commissioners Court may assist the business and professional men, the various women's clubs, and other organizations in paying the salary of a matron for the rest room; providing the Commissioners Court shall appoint such matron; providing that the expense of maintaining the rest room shall not exceed One Hundred Dollars (\$100) per month, including the compensation paid by the county to the matron.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 555, ch. 275, § 1; Acts 1937, 45th Leg., 1st C.S., p. 1811, ch. 32, § 1; Acts 1951, 52nd Leg., p. 963, ch. 400, § 1.]

Art. 2372. Interpreters

(a) The commissioners court of each county may fix the amount of compensation for interpreters employed by the various courts within the county. The compensation for interpreters shall be paid out of the general fund of the county on warrants issued by the court or the clerk of the court in favor of the person rendering the service.

(b) The provisions of this Article do not apply to interpreters for deaf or deaf-mute persons employed under Chapter 105, Acts of the 60th Legislature, Regular Session, 1967 (Article 3712a, Vernon's Texas Civil Statutes), or Article 38.31, Code of Criminal Procedure, 1965.

[Acts 1925, S.B. 84; Acts 1937, 45th Leg., p. 201, ch. 106, § 1; Acts 1973, 63rd Leg., p. 355, ch. 153, § 1, eff. May 23, 1973.]

Art. 2372a. Repealed by Acts 1931, 42nd Leg., Spec.L. p. 1, ch. 1, § 1

Art. 2372a-1. Compensation of Interpreters

The Commissioners Court of each county in this State having a population in excess of five hundred thousand (500,000) inhabitants according to the last preceding Federal Census is hereby authorized to pay for the services of interpreters employed by the various courts within their respective counties a sum not to exceed Ten (\$10.00) Dollars per day, which is to be paid out of the General Funds of the county upon warrants issued by the respective courts or clerks thereof in favor of the persons rendering such services; provided, however, that such interpreter shall be paid only for the time he is actually employed.

[Acts 1953, 53rd Leg., p. 452, ch. 138, § 1.]

Art. 2372a-2. County Highway Patrolmen Authorized in Certain Counties

The Commissioners' Courts of Counties containing not less than eleven thousand nine

hundred eighty (11,980) inhabitants, and not more than twelve thousand one hundred (12,100) inhabitants, according to the last preceding Federal Census shall from and after the passage of this Act be empowered to appoint not more than five (5) County Highway Patrolmen for such County, which appointment for Highway Patrolmen shall be limited to the Sheriff or any of his duly appointed Deputies, and any Constable or his duly appointed Deputies, whose duty it shall be to patrol all County Public Roads for the purpose of enforcing the Highway laws of this State, regulating the use of public Highways by motor vehicles. Said County Highway Patrolmen shall have authority to weigh all motor vehicles, if said officer has reasons to believe that the gross weight of any loaded motor vehicle is unlawful and said officer shall have the authority to require such motor vehicle to be driven to the nearest scale, provided however, that such scale is not more than two (2) miles distant and said officer shall have authority to cause said motor vehicle to be unloaded to the extent that the gross weight of such motor vehicle shall not exceed the maximum allowed under the laws of the State of Texas.

Said County Highway Patrolmen may as such be dismissed by said Commissioners' Courts on their own initiative, whenever their services are no longer needed or have proven unsatisfactory, and said County Highway Patrolmen shall as such, receive no compensation from the Commissioners' Court.

[Acts 1937, 45th Leg., p. 830, ch. 407, § 1.]

Art. 2372b. Employment of Dairying Specialists

The Commissioners' Court of Counties having not less than 72,900, and not more than 73,000 at the last regular Federal Census in 1920, shall be empowered to employ dairying specialists at a total salary not to exceed \$7,000.00 annually, said money to be paid out of the funds of said county.

[Acts 1929, 41st Leg., 1st C.S., p. 56, ch. 22, § 1.]

Art. 2372c. Conservation of Agricultural Soils; Use of Road Machinery

Sec. 1. The widespread and rapid extension of soil erosion upon our agricultural and other lands, causing the irreparable¹ waste of soil fertility, and loss of productive power, must be recognized as the gravest menace to the continuing usefulness of this greatest of our natural resources; and as vitally affecting conditions fundamental in the economic well-being of the people.

Sec. 2. The State must recognize its responsibility, as the representative of the people, for the conservation of resources essential in the production of necessary agricultural products, and the promotion of the public welfare; and must provide, by uniform policies, for the cooperation in the discharge of such responsibility, of all constitutional subdivisions of the State.

Sec. 3. The Counties of the State are hereby declared to have the authority to employ, or permit to be employed, any road construction or other machinery or road equipment in the service of soil conservation and prevention of soil waste through erosion, whenever in the judgment of the County Commissioners' Court, entered upon the Minutes of the Court, such machinery or equipment is not demanded for the service of building and the upkeep of the roads of the County; and shall provide for compensation to the County Road Fund, or the road funds of any defined district or authorized subdivision in the County, for such employment of road equipment.

Sec. 4. In the public service of conserving the soil fertility of the lands of the County, the Commissioners' Courts shall have the authority to co-operate with the land owners and taxpayers of the County in all judicious efforts for the preservation of the productiveness of the soil from avoidable waste, and loss of productiveness of agricultural crops necessary to the public welfare, through permission to use the machinery and equipment that may be made available by the County for such purposes under written contract, and the County shall receive from such landowners and taxpayers compensation, upon such uniform basis as may be deemed equitable, and proper, for the co-operation extended and services rendered, all such compensation or funds to the County to be paid into the Road and Bridge Fund of the County; and the County Commissioners' Court may provide for payments from landowners and taxpayers of the County at such stated intervals and in such amounts, as and when the County taxes are collected, as may be equitable, for the use of the equipment for the protection of lands against continuing immeasurable injury through soil erosion; provided that the Commissioners' Court or representative thereof shall not go upon the land of any owner to improve, terrace, protect, or ditch such land until requested to do so in writing by such owner; and provided further, that the Commissioners' Court or representative thereof shall not be required to do such improving, terracing, protecting, and ditching unless such Court shall determine that such work is of some public benefit and said Court elects to do the work.

[Acts 1931, 42nd Leg., p. 81, ch. 53.]

¹ So in enrolled bill. Session Laws read "their repairable."

Saved From Repeal

Section 5(B) of Acts 1941, 47th Leg., p. 491, ch. 308, amending Article 165a-4, provided: "This Act shall not in anywise repeal House Bill No. 13, Acts of the Forty-second Legislature, Regular Session [this article] but the same is hereby expressly preserved in accordance with terms thereof."

A similar provision was contained in section 17B of Acts 1939, 46th Leg., p. 7, (Article 165a-4) which was omitted in the 1941 amendment of the Act of 1939 as a whole.

Art. 2372d. County Horticultural and Agricultural Exhibits

Sec. 1. All counties in the State acting by and through their respective Commissioners' Courts may provide for annual exhibits of horticultural and agricultural products, livestock and mineral products, and such other products as are of interest to the community. In connection therewith, such counties may also establish and maintain museums, including the erection of the necessary buildings and other improvements, in their own counties or in any other county or city in the United States, where fairs or expositions are being held.

Sec. 2. The Commissioners' courts of the respective counties or the Commissioners' Courts of several counties may cooperate with each other and participate with local interests in providing for the erection of such buildings and other improvements as may be necessary to accomplish the purpose mentioned in Section 1, of this Act and for the assembling, erecting, and maintaining of such horticultural and agricultural, livestock and mineral exhibits, and the expenses incident thereto.

Sec. 3. All incorporated cities, water improvement districts, and water control and improvement districts may cooperate with the Commissioners' Courts of such counties for the purposes stated in Section 1, and Section 2 of this Act and appropriate monies in providing for such exhibits, establishing and maintaining such museums, and in the erection of such buildings and improvements, and the assembling, erecting and maintaining of such horticultural, agricultural, livestock and mineral exhibits.

Sec. 4. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163, General Laws, Regular Session, Forty-second Legislature (known as House Bill 312),¹ nor as taking the provisions of this Act out of limitations of said Chapter 163.

[Acts 1934, 43rd Leg., 4th C.S., p. 52, ch. 20; Acts 1936, 44th Leg., 3rd C.S., p. 2103, ch. 507, § 1.]

¹ Article 2368a.

Art. 2372d-1. Validation of Warrants Issued to Construct Exhibition Buildings and Bonds Issued to Fund Such Warrants

Sec. 1. All warrants heretofore authorized and issued by the Commissioners Court of any County for the purpose of constructing a livestock and agricultural exhibition building within said County, where such livestock and agricultural exhibition building has been constructed, are hereby validated notwithstanding any objections other than constitutional that might be raised thereto and are hereby declared to be the valid and legal obligations of such County in accordance with the terms and provisions thereof.

Sec. 2. All bonds heretofore authorized by the Commissioners Court of any County for the purpose of funding any such warrants described in Section 1 hereof are hereby validat-

ed notwithstanding any objections other than constitutional that might be raised thereto, and any such County is hereby authorized to complete proceedings for the delivery of such bonds and to deliver such bonds, when approved by the Attorney General and registered by the State Comptroller of Public Accounts, in exchange for and upon the simultaneous payment and cancellation of such warrants as hereinabove described in Section 1, and said funding bonds when so delivered are hereby declared to be and shall be the valid and legal obligations of said County in accordance with the terms and provisions thereof; provided, however, that the provisions of this Act shall not apply to any warrants or bonds or proceedings therefor, the validity of which is being contested in any suit or litigation pending at the time this Act becomes a law.

[Acts 1943, 48th Leg., p. 124, ch. 94.]

Art. 2372d-2. Buildings and Permanent Improvements for Annual Exhibits and for Coliseum and Auditorium

Sec. 1. The Commissioners Court of any county is hereby authorized to purchase, build, or construct buildings and other permanent improvements to be used for annual exhibits of horticultural and agricultural products, and/or livestock and mineral products of the county, and for a coliseum and auditorium. Such building or buildings and other permanent improvements may be located in the county at such place or places as the Commissioners Court may determine. Payment for such building or buildings and other permanent improvements shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. To pay for such building or buildings and other permanent improvements, the Commissioners Court is hereby authorized to issue negotiable bonds of the county and to levy and collect taxes in payment thereof, the issuance of such bonds and the levy and collection of taxes to be in accordance with the provisions of Chapter 1, Title 22, Revised Civil Statutes of Texas 1925,¹ governing the issuance of bonds by cities, towns, and/or counties in this State.

[Acts 1949, 51st Leg., p. 764, ch. 411; Acts 1959, 56th Leg., 3rd C.S., p. 380, ch. 5, § 1.]

¹ Article 701 et seq.

Art. 2372d-3. Leases and Contracts for Management, Conduct and Maintenance

Sec. 1. The Commissioners Court of any county of this State which has, or may hereafter provide for exhibits or the erection of buildings or improvements authorized by Acts, 1936, Forty-fourth Legislature, Third Called Session, page 2103, Chapter 507,¹ or Acts, 1949, Fifty-first Legislature, page 764, Chapter 411,² are authorized to enter into contracts with persons, firms, or corporations for complete management of, the conducting, maintenance, use, and operation of such exhibits, buildings and improvements on such terms as may be agreeable to the Court, and shall have the authority

to lease such exhibits, buildings and improvements under such terms and agreements as may be satisfactory to the Commissioners Court and the lessee. The action of the Commissioners Court in making such agreements or leases shall be evidenced by order of the Commissioners Court recorded in the Minutes of the Court.

Sec. 2. The Commissioners Court shall have authority to permit the use of such exhibits, buildings or improvements for any useful public purpose which, in the opinion of the Court, will be of benefit to the county and its citizens.

Sec. 3. The Commissioners Court is authorized to determine and provide for the manner in which the net income and revenue derived from the conducting, use and operation of such exhibits, buildings, and improvements, or any projects incident thereto, shall be used and disbursed; provided, that such income and revenue may be used solely for the management, operation, maintenance, development, improvement and promotion of such exhibits, buildings and improvements or projects and purposes for which same are authorized to be used, and for any other proper public purpose.

[Acts 1951, 52nd Leg., p. 78, ch. 49.]

¹ Article 2372d.

² Article 2372d-2.

Art. 2372d-4. Parking Stations Near Coliseums and Auditoriums in Counties of 500,000 or More

Sec. 1. The commissioners court of any county which has a population in excess of 500,000 according to the most recent federal census and which has issued bonds for the purpose of constructing buildings and other permanent improvements to be used for coliseums and auditoriums within the county, upon finding that it is to the best interest of the county and its inhabitants, shall have the power to construct, enlarge, furnish, equip, and operate parking stations in the vicinity of such coliseums and auditoriums. Any said commissioners court is further authorized to lease said parking stations from time to time to such persons or corporations on such terms as the commissioners court shall deem appropriate.

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

"Trust indenture" means the instrument of mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage or deed of trust lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under a trust indenture.

Sec. 3. The commissioners court may issue negotiable revenue bonds to provide funds for

the construction, enlargement, furnishing, or equipping said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation by the county of the parking station or may be payable from rentals received from leasing all or part of said parking station, or from both such net revenues and rentals, and any other revenues resulting from the ownership of the parking station.

Sec. 4. The bonds shall be authorized by bond order or trust indenture adopted or approved by a majority vote of a quorum of the commissioners court (without the prerequisite of an election) and shall be signed by the county judge, countersigned by the county clerk, and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed 40 years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent per annum, and within the discretion of the commissioners court, may be made callable prior to maturity at such times and places as may be prescribed in the order authorizing the bonds.

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sale of the bonds. However, such amounts shall be set aside only in such amount as will cover interest and operating expenses for the estimated period of construction and the first two years of operation and shall be limited to the interest and to the estimated operating expenses over and above earnings for such years.

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the

Comptroller of Public Accounts of the State of Texas, who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals under any leases entered into pursuant hereto or rates for services rendered by the parking station if operated by the county and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation, and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines, and procedures under or in accordance with which the parking station shall be operated. No free use of the parking station or any part thereof shall be afforded to any person, firm, or corporation, and so long as any bonds issued under this Act are outstanding neither the county nor any of its agencies and departments shall make free use thereof, but the commissioners court is hereby authorized in behalf of the county to provide in any order authorizing such bonds or in any lease of the parking station for minimum periodic payments, from any resource of the county, into the bond interest and sinking fund or to the lessee as payment for use by the county and its agencies or departments, of any part of the parking station designated for use by the county or such agencies or departments.

[Acts 1967, 60th Leg., p. 856, ch. 364, eff. June 8, 1967.]

Art. 2372d-5. Museums; Joint Venture by County with City or Town

Sec. 1. In any county in this state having a population of not more than 20,000 and an incorporated city of not less than 10,000 in such county, according to the last federal census, such county acting through its commissioners court and the governing body of such city or town, may jointly erect, equip, maintain and operate a museum. The commissioners court of any such county and the governing board of any such city may, by resolution or proper action, confer upon, delegate to and grant to a board of managers as hereinafter provided, full and complete authority to erect, maintain, own, lease or sublet realty and equip a museum; and such board is authorized to receive in behalf of such county and city, gifts, bequests, to borrow and receive, exchange, sell and lend property for the benefit of such museum. Any gift or loan of property shall be administered as designated by the donor. Such joint county and city museum may be financed out of the general revenues of such city and county in

such proportions as each shall see fit to contribute.

Sec. 2. The board of managers shall be composed of 9 members, four (4) of this number shall be appointed by the commissioners court of such county, four (4) shall be appointed by the governing body of such city or town, and one (1) shall be appointed by the commissioners court of such county and the governing body of such city or town acting jointly as one body. The commissioners court of such county and the governing body of such city or town shall each appoint one member for a term of office expiring at the end of one (1) year from date of appointment, one member for a term of office expiring two (2) years from date of appointment, one member for a term of three (3) years expiring from date of appointment and one for a term of four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the members so appointed to such board the commissioners court or the governing body of such city or town, acting as appointive bodies, shall each reappoint members or make replacement appointments to board positions as filled by the respective body originally for a term of four (4) years each. The commissioners court and the governing board of such city or town, acting jointly as an appointive body, shall appoint one member for a term of office for four (4) years from date of appointment. Thereafter, at the expiration of each term of office of the member so appointed to such board the commissioners court and the governing body of such city or town acting jointly as an appointive body, shall make, and continue to make, similar appointments to such board for a term of four (4) years each. Any vacancy occurring by death or resignation from such board before expiration of the departing member's term shall be filled for the unexpired portion of such term by the body or bodies making such appointment.

Sec. 3. Such board of managers shall select a chairman or presiding officer from among their number who shall preside over all board meetings of said board, and shall sign all contracts, agreements and other instruments made by such board, on behalf of such county and city or town, and have authority to elect such other officers from their body as they shall see fit. A majority of the board shall constitute a quorum with full power and authority to act.

Sec. 4. Such board shall have full and complete authority to enter into any contract connected with or incident to the establishment, equipping, maintaining and operating of such museum, and shall have authority to pay and dispense funds set aside by such county and city for purposes connected with operating and maintaining same as if such action were taken by the governing body of such county and city.

Sec. 5. Once each year such board shall prepare and present to this county and city governing bodies a complete financial state-

ment as to the condition of said museum, and shall submit to such bodies a proposed budget as to the anticipated financial needs for the ensuing year. On the basis of such financial statement and budget the commissioners court and governing body of the city shall appropriate and set aside for the use of such board in the operation of such museum the amount of money which seems proper and necessary.

Sec. 6. The board of managers shall have authority to hire a superintendent or manager of such museum and such superintendent or manager shall have the right with the consent of the board to hire extra help, but at all times the superintendent or manager and extra help shall be subject to the bylaws, rules and regulations as prescribed by the board.

[Acts 1969, 61st Leg., p. 994, ch. 319, eff. May 19, 1969.]

Art. 2372e. Buildings for Canneries for Unemployment Relief

Sec. 1. That County Commissioners Courts of this State be, and the same are hereby authorized to purchase materials for the purpose of aiding and cooperating with the agencies of the State and Federal Governments in the construction of buildings for the purpose of housing canneries and canning factories where appropriations have been or may hereafter be made out of the Federal and State Funds set aside for the relief of the unemployed and needy people in the State of Texas, and to pay for such materials out of the County's Permanent Improvement Fund.

Sec. 2. Nothing herein contained shall be construed as repealing or modifying any of the provisions of Chapter 163, General Laws, Regular Session, Forty-second Legislature (known as House Bill 312),¹ nor as taking the provisions of this Act out of limitations of said Chapter 163.

[Acts 1934, 43rd Leg., 4th C.S., p. 58, ch. 24.]

¹ Article 2368a.

Art. 2372e-1. Renting Office Space for Administration of Unemployment Relief in Counties of 48,900 to 49,000 Population

Sec. 1. The County Commissioners' Courts and the City Commission of any incorporated town within said County of this State are hereby authorized to lease or rent office space for the purpose of aiding and cooperating with the agencies of the State and Federal Governments engaged in the administration of relief of the unemployed and needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas and water; and when in the opinion of a majority of the Commissioners' Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Courts are hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrant as in the payment of other obligations of

the County. The provisions of this Act shall apply to counties having a population of not less than forty-eight thousand nine hundred and not more than forty-nine thousand according to the last preceding Federal Census.

Sec. 2. All actions, proceedings, orders and contracts for such rental, lease or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any Commissioners' Courts of this State, pursuant to which such service has been rendered, are hereby validated, confirmed and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 3. If any part, section, paragraph, sentence, clause, phrase, or word contained in this Act shall ever be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, and the legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1937, 45th Leg., 2nd C.S., p. 1869, ch. 5.]

Art. 2372e-2. Renting Office Space for Administration of Unemployment Relief; Cooperation with State and Federal Agencies

Sec. 1. The County Commissioners Courts and the City Commission of any incorporated town or city of this State are hereby authorized to lease, rent, or provide office space for the purpose of aiding and co-operating with the agencies of the State and Federal Governments engaged in the administration of relief to the unemployed or needy people of the State of Texas, and to pay the regular monthly utility bills for such offices, such as lights, gas, and water; and when in the opinion of a majority of a Commissioners Court of a county such office space is essential to the proper administration of such agencies of either the State or Federal Governments, said Court is hereby specifically authorized to pay for same and for the regular monthly utility bills for such offices out of the County's General Fund by warrants as in the payment of such other obligations of the county.

Sec. 2. All actions, proceedings, orders, and contracts for such rentals, lease, or utility bills for such purposes as stated in Section 1 hereof, made and entered into by any Commissioners Court of this State, pursuant to such services as have been rendered are hereby validated, confirmed, and declared to be in full force and effect, notwithstanding any irregularity thereof prior to the enactment of this Act.

Sec. 3. If any part, section, paragraph, sentence, clause, phrase, or word contained in this Act shall ever be held by the Courts to be unconstitutional, such holding shall not affect the validity of the remaining portions of this Act, and the Legislature hereby declares that it would have passed such remaining portions despite such invalidity.

[Acts 1939, 46th Leg., p. 558.]

Art. 2372f. Pickup Trucks, Purchasing and Maintaining in Certain Counties

In any county in this State having a population of not less than sixty thousand, five hundred (60,500) nor more than sixty thousand, five hundred and twenty-five (60,525), and in any county having a population of not less than forty-three thousand, thirty-six (43,036), and not more than forty-three thousand, seventy-five (43,075), according to the last preceding Federal Census, the Commissioners Court is hereby authorized to allow each Commissioner to purchase a pickup truck to be used in each respective Precinct on official business and it shall be paid for out of the Road and Bridge Fund of the respective Commissioner's Precinct, and each Commissioner shall make under oath an account of his expenditures for such purpose.

[Acts 1937, 45th Leg., p. 874, ch. 430, § 1.]

Repealer

Acts 1971, 62nd Leg., p. 2019, ch. 622, providing for the setting of compensation, expenses and allowances for certain county and precinct officials and employees by the commissioners courts effective January 1, 1972, provides in section 8 thereof that to the extent any local, special, or general law, including Acts of the 1971 Legislature, prescribes such compensation, expenses and allowances for any official or employee covered by this Act, that law is repealed. See article 3912k.

Art. 2372f-1. Automobiles, Purchasing for Each Commissioner; Counties of 97,500 to 100,000

In any county in this State having a population of not less than 97,500 and not more than 100,000 according to the last preceding federal census the Commissioners Court is hereby authorized to allow each commissioner to purchase an automobile to be used in each respective precinct on official business, to be paid for out of county funds and each commissioner shall make under oath an account of his expenditures for such purpose.

[Acts 1961, 57th Leg., p. 1033, ch. 456, § 1; Acts 1971, 62nd Leg., p. 1821, ch. 542, § 22, eff. Sept. 1, 1971.]

Art. 2372f-2. Motor Vehicles; Allowance for Each Member; Counties of 150,000 to 170,000

Sec. 1. In any county having a population in excess of one hundred fifty thousand (150,000) but not in excess of one hundred seventy thousand (170,000) according to the last preceding or any future federal census, the Commissioners Court is hereby authorized to furnish each member of the Commissioners Court an adequate motor vehicle, including all expenses incidental to the upkeep and operation of such motor vehicle, for use on official business.

Sec. 2. The cost of such motor vehicles, together with all expenses incidental to the up-

keep and operation thereof may be paid out of county funds and each member of the Commissioners Court shall make under oath an account of his expenditures for such purposes.

Sec. 3. The provisions of this Act shall not repeal by implication or otherwise the provisions of Article 2350-o of the Revised Civil Statutes relating to motor vehicle transportation for certain counties of this state.

[Acts 1962, 57th Leg., 3rd C.S., p. 71, ch. 26, §§ 1 to 3; Acts 1971, 62nd Leg., p. 1837, ch. 542, § 85, eff. Sept. 1, 1971.]

Art. 2372f-3. Automobile or Pickup; Furnishing Each Commissioner; Counties of 36,800 to 37,500

Sec. 1. This Act applies to every county in this State which has a population of not less than 36,800 nor more than 37,500, according to the last preceding federal census.

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile or pickup, including all expenses incidental to the upkeep and operation of such automobile or pickup, for use in official business.

Sec. 3. The cost of each automobile or pickup together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each County Commissioner shall make an account of his expenditures for such purposes under oath.

[Acts 1963, 58th Leg., p. 749, ch. 283; Acts 1971, 62nd Leg., p. 1831, ch. 542, § 60, eff. Sept. 1, 1971.]

Art. 2372f-4. Automobile; Furnishing Each Commissioner; Counties of 20,300 to 20,500

Sec. 1. This Act applies to every county within a judicial district of this State comprised of four counties, one of which counties has a population of not less than twenty thousand, three hundred (20,300) and not more than twenty thousand, five hundred (20,500).

Sec. 2. The Commissioners Court in any county to which this Act applies may furnish each County Commissioner in such county an adequate automobile, including all expenses incidental to the upkeep and operation of such automobile, for use in official business.

Sec. 3. The cost of each automobile together with all expenses incidental to the upkeep and operation thereof may be paid out of county funds and each County Commissioner shall make an account of his expenditures for such purposes under oath.

[Acts 1963, 58th Leg., p. 954, ch. 379; Acts 1971, 62nd Leg., p. 1829, ch. 542, § 54, eff. Sept. 1, 1971.]

Art. 2372f-5. Two-way Radios for County Vehicles; Counties of 36,800 to 37,500

Sec. 1. The Commissioners Court of all counties having a population of not less than

36,800 nor more than 37,500 according to the last preceding federal census may purchase two-way radios for county vehicles.

Sec. 2. The commissioners court may pay from county funds the cost of the radios as well as all operational and incidental expenses.

[Acts 1965, 59th Leg., p. 760, ch. 353, eff. June 9, 1963; Acts 1971, 62nd Leg., p. 1830, ch. 542, § 57, eff. Sept. 1, 1971.]

Art. 2372f-6. Automobile; Furnishing Each Commissioner; Counties of 75,700 to 80,000 and 69,000 to 71,100

Sec. 1. This Act applies to any county having a population of not less than 75,700 nor more than 80,000, or not less than 69,000 nor more than 71,100, according to the last preceding federal census.

Sec. 2. The Commissioners Court may furnish each County Commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds. The Commissioner shall pay the expenses of operating the automobile and keeping it in repair.

[Acts 1965, 59th Leg., p. 789, ch. 375, eff. June 9, 1965; Acts 1971, 62nd Leg., p. 1828, ch. 542, § 49, eff. Sept. 1, 1971.]

Art. 2372f-7. Automobile for Each Commissioner in Counties of 71,100 to 71,200

Sec. 1. This Act applies to any county having a population of not less than 71,100 nor more than 71,200, according to the last preceding Federal Census.

Sec. 2. The Commissioners Court may furnish each county commissioner an automobile for use in official business and the cost of the automobile may be paid out of county funds, and the expenses of operating the automobile and keeping it in repair may be paid out of county funds.

[Acts 1969, 61st Leg., p. 282, ch. 110, eff. May 1, 1969; Acts 1971, 62nd Leg., p. 1405, ch. 384, § 1, eff. May 26, 1971; Acts 1971, 62nd Leg., p. 1847, ch. 542, § 121, eff. Sept. 1, 1971.]

Art. 2372f-8. Traveling Expenses and Automobile Depreciation; Counties of 35,000 to 36,000

In any county having a population of not less than 35,000 nor more than 36,000, according to the last preceding federal census, the Commissioners Court may allow each county commissioner an amount of not more than \$150 a month to pay the commissioner's traveling expenses and automobile depreciation while he is engaged in official business within the county. Each county commissioner shall pay any expenses in the operation of his automobile and shall keep the automobile repaired without charge to the county.

[Acts 1969, 61st Leg., p. 1551, ch. 469, § 1, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1838, ch. 542, § 89, eff. Sept. 1 1971.]

Art. 2372g. Repealed by Acts 1945, 49th Leg., p. 82, ch. 58, § 4

Art. 2372g-1. Incapacitated Employees; Payment of Salaries in Counties of 290,000-500,000; Vacations

Sec. 1. From and after the effective date of this Act, in all counties in this State, having a population of not less than two hundred and ninety thousand (290,000), nor more than five hundred thousand (500,000) inhabitants, according to the last Federal Census and any future Federal Census, the Commissioners Courts shall provide for, and it shall be their duty to pay employees of such counties while incapacitated from duty on account of injury suffered or sustained while in the active and actual discharge of his or her duty to said county, upon the following basis and in the following manner, to wit: Where said employee suffers or sustains physical injury while in the actual discharge of his or her duties to the county, which renders said employee totally unfit for the discharge of such duties as may be imposed upon said employee by the Commissioners Court, then said Commissioners Court is hereby authorized and required to pay said employee not exceeding six (6) months pay upon the following basis: (a) The first three (3) months total incapacity, or any fractional part thereof, upon the basis of said employee's full and regular pay; (b) the last three (3) months total incapacity, or any fractional part thereof, if such incapacity should continue for said period, upon the basis of one-half ($\frac{1}{2}$) the regular pay of said employee.

Sec. 2. The Commissioners Courts of said counties and each of them shall inquire into any and all injuries of said employees before making any awards of money under this law, and it shall be the duty of said Commissioners Courts to examine witnesses, conduct hearings and subpoena witnesses for the purpose of determining the merits of each claim. The said Commissioners Courts are hereby specifically authorized to grant or refuse awards of money unto any employee, and are also given the right to make awards in any amount not exceeding the limits as set by this Act. Any employee feeling himself or herself aggrieved by the action of the Commissioners Court shall have the right of appeal to the Court having jurisdiction of the amount involved, provided said appeal is taken within ten (10) days after rendition of the judgment of the Commissioners Court of such county and said trial shall be de novo.

Sec. 3. The Commissioners Courts may grant vacations to employees in the actual employ of such counties not exceeding fourteen (14) days in any calendar year and, when such vacations are granted, all employees in actual employment of such counties shall be compensated for such vacation time as if actual service were being rendered under their employment. It being the purpose of this Act to grant reasonable vacation time during each

calendar year for employees in the counties embraced within this Act.

[Acts 145, 49th Leg., p. 82, ch. 58.]

Saved From Repeal

The last sentence of section 10 of Acts 1951, 52nd Leg., p. 471, ch. 299 (article 6812b), relating to the payment of road, bridge and ferry employees of counties of 198,000 to 400,000 population, provided: "Nothing in this Act, however, shall be construed as repealing or being in conflict with the provisions of Article 2327g-1, Vernon's Revised Statutes of 1925."

Art. 2372h. Hours of Work, Vacations, Sick Leave, Hospitalization, etc., in Counties of 500,000 or More; Flood Control Districts; Personnel System

Rules and Regulations; Form of Contract

Sec. 1. In all counties having a population of five hundred thousand (500,000) or more according to the last preceding or any future Federal Census, the Commissioners' Court of the county shall have authority to formulate in the manner hereinafter set out rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences with reference to all persons whom this Act affects, and to establish for such persons classifications of positions and rates of compensation therefor, and to provide for the filing by the incumbents thereof of time, work, and statistical reports. The said rules and regulations when adopted as hereinafter provided shall apply to and govern all deputies, assistants, and employees of the county, or any flood control district lying wholly within the boundary lines of any such county, working under the Commissioners' Court or its appointees, and the deputies and assistants appointed by county and district officers pursuant to the provisions of Chapter 465, Acts of the 44th Legislature, 1935, Section 19, as amended,¹ where the salaries are paid from county or from the funds of any flood control district in said county, provided that nothing herein shall be construed as repealing said Chapter 465, supra., with respect to the authority of the county or district officers therein named to apply for appointment of deputies or assistants or the maximum amount or source of compensation which may be paid, but all such regulations with respect to deputies or assistants to such officers shall conform to laws now in effect or such as may hereafter be enacted by the Legislature and each county officer and each district officer, where the deputy or assistant or employee is authorized to be paid from county funds or funds of any flood control district within the county, shall continue to make appointments according to existing laws and shall designate the employee for each such position and shall direct and control the work or terminate the employment at the pleasure of such officer, as is now or as may be hereafter provided by law, it being the inten-

tion of this Act only to authorize the Commissioners' Court, in addition to the authority now vested in it by law, to formulate rules and regulations governing the hours of work, vacations, holidays, sick leave, medical care, hospitalization, compensation and accident insurance, and deductions for absences; to establish classifications of positions and salaries therefor; and to provide for filing of time, work, and statistical reports by such deputies, assistants, and employees, in the interests of efficiency and economy.

After appointment and approval thereof by the proper authority, all employments shall be placed in effect through written contracts of employment. Said court shall have the right to prescribe the form of contract of employment for its employees and employees of any said flood control district and for all employees of officers who are required to execute deputations under Chapter 465, Acts of the 44th Legislature, 1935, as amended,¹ and all officers whose deputies are appointed subject to the approval of the Commissioners' Court shall be required to use such forms in the appointment of their deputies and assistants.

¹ Article 3912e.

Contracts; Hospital and Insurance Fund

Sec. 2. The Commissioners' Court of any such county shall have the right to provide in said contract of employment that deputies, assistants, and other employees of the county, its departments or officers, or of any flood control district within such county, whose compensation is payable from funds of any such county or flood control district therein, may receive hospitalization and medical care and treatment in any county or city-county operated hospitals located in such county under such rules, regulations, and conditions as said court may prescribe and shall be authorized to enter into contracts with the proper municipal authorities for that purpose. All such rules, regulations, and conditions adopted pursuant to the provisions of this Act and approved as provided herein, including those for hospitalization, medical care, and insurance, shall become a part of each deputation or contract of employment. The Commissioners' Court may provide in unusual cases for the expense of such hospital care in a private hospital and may provide for compensation, accident, hospital, or disability insurance, and for contributions for part payment from deputies, assistants, and employees. To provide for cases of hospitalization or medical attention in a county or city-county hospital, or private hospital when necessary, and for the payment of premiums for accident, disability, hospital, or compensation insurance, a fund shall be created to be known as "Hospital and Insurance Fund—County Employees," and there shall be credited to such fund agreed deductions made from the salaries or wages of deputies, assistants, and employees, and contributions from the county or flood control district, from which fund payments shall be authorized only for the purpose

of expenses of hospital and medical care and the payment of premiums on accident, disability, or compensation insurance under the adopted rules and regulations, which claims shall be payable under existing laws in like manner as other county or flood control district claims. Any employee who shall be discharged or voluntarily leave the service of the county or flood control district for any reason shall have no further right in said hospital and insurance fund or any right to the further benefits of this Act, but said fund shall continue to be used for the benefit of all remaining employees of the county or flood control district. No contract of employment shall become effective as to any deputy, assistant, or employee as defined herein until the employment is made conformably to law and until the person employed shall have agreed in writing to the terms and conditions thereof. No deduction from the salary of any employee shall be made except he shall have consented in writing given at the time of his employment or at the effective date of the rules and regulations adopted pursuant to the provisions of this Act; provided any employee not contributing shall not receive any hospitalization or insurance benefits hereunder, but all other provisions hereof shall apply to him. In the event of the abandonment by the Commissioners' Court of the system herein authorized with respect to insurance and hospitalization, the balance remaining in the fund provided for shall thereupon be transferred to the county and to any flood control district participating, in proportion to the total contributions of each.

Personnel and Equipment Records

Sec. 3. Upon the occasion of each employment of each deputy, assistant, or employee whose salary or wages is paid in whole or in part from county or flood control district funds, the employing officer shall file in such form as may be prescribed by lawful authority and in addition to the other requirements of law, a statistical record which shall disclose, among other things, the date of employment, the rate of pay, nature of employment, business or personal history, the education record of employee, and his race, sex, color, age, place and date of birth, and previous experience, and other information essential to the keeping of proper personnel records. Each officer or department head of the county or any flood control district affected hereby shall file sworn pay rolls at the close of each month or oftener if authorized or required by law, which pay rolls shall show the names of each employee working under the officer in the department affected, the dates present or absent, time worked, rates of pay, and amounts due each deputy or assistant, and in addition thereto in cases of engineers and employees in the field engaged in road, flood control, or construction work, reports shall accompany said pay roll indicating the dates upon which the work was performed, the nature of the work, the road or project location, and such other information as

may be needed for statistical or accounting purposes and said work reports shall be signed and shall accompany or be a part of each pay roll which pay roll in each case shall be signed and sworn to by the officer filing the same.

The county auditor shall install and maintain an adequate system of personnel and equipment records and shall prescribe the forms and systems necessary to carry out the provisions of this law and shall have authority to enforce the rules and regulations adopted. He shall be authorized annually to assemble statistics and make recommendations which may be incorporated in, printed, and distributed with and as a part of the annual report now required by law of said officer.

In the event of failure to file reports as provided in this Act or to furnish essential information as required, he may withhold payment of claims for salaries until such information has been given in the form and manner required. All contracts of employment shall be made in the manner and be governed by the laws now in effect, except as herein specifically provided. All the rules, regulations, and forms provided for in the Act shall be subject to the approval of the county auditor of the county.

Reports

Sec. 4. Each officer and employee of any county or its departments, or any county or district officer, or any employee of any flood control district in any such county affected by this Act who operates equipment purchased from and operated with public funds or personal equipment for which he is reimbursed by the county or flood control district for operation and maintenance charges shall file with each pay roll a report in writing showing the daily use to which each piece of equipment in his charge was put and the time and mileage run, the amount expended for repairs, the gasoline, oil, and grease purchased, and the roads, bridges, or projects concerning which the work was performed; and all said reports shall be in writing and signed and certified by the officer or employee actually using said equipment. In like manner each said officer or employee shall file reports of accidents involving equipment in his charge, giving the cause, damage, location, circumstances and persons and equipment involved. All such reports shall be on prescribed forms and shall be filed not later than the fifth day of the month succeeding the period of operation, and shall disclose all facts essential to a proper analysis of maintenance and operating costs and for statistical purposes.

Rules and Regulations

Sec. 5. Before adopting any rules or regulations, or revising rules or regulations theretofore adopted in connection with the subject matter of this Act, the Commissioners' Court shall give at least fifteen (15) days' notice of such proposed adoption or revision of rules or regulations by publishing a notice at least once

in each week for two (2) successive weeks in some newspaper published in the county in which such rules, regulations, or revisions are to be made effective of its intention so to do, and that a hearing is to be held before said court at a fixed time and day to be specified in the notice. At the time and place fixed for hearing, any employee or taxpayer may appear to protest against the adoption of any such rule or regulation, or revision of existing rules. If sustained, the regulations shall be adjusted accordingly. Upon the adjustment or the overruling of protests, the court shall adopt the regulations and direct their recording upon its minutes, and upon approval thereof, as herein provided, they shall become effective on the date set out therein. The notice published shall contain a brief summary of the rules or regulations, or the amendments or changes therein, which it is proposed to make.

Persons Subject to Regulations

Sec. 6. Juvenile officers and probation officers appointed under the terms of Title 82, Revised Civil Statutes of Texas, 1925, as amended,² shall be subject to the provisions of such regulations as hereinbefore provided, including those for retirement, to the extent that the juvenile board of any county affected by this Act may determine. In like manner, court reporters in the various courts in such counties shall be subject to the provisions of such regulations to the extent that a majority of the District Judges of such counties in meeting assembled may determine by a vote of the majority present; an order to be entered in the minutes of each of the courts of such judges and a certified copy thereof to be supplied to the Commissioners Court. In like manner, the County Auditor and his assistants in such counties shall be subject to the provisions of such regulations hereinbefore provided for to the extent that the County Auditor in such counties may determine, with the approval of the District Judges, or a majority of them; unless a majority of the judges of the District Courts in such counties voting in a meeting of which all of the District Judges shall have notice, shall adopt the rules and regulations promulgated by the Commissioners Court and make them uniformly applicable so far as practicable to all the juvenile, probation officers, court reporters, and the County Auditor and his assistants. Nothing contained herein shall be construed as authorizing any change in regard to the time, method and manner of appointment or discharge of juvenile and probation officers, or the County Auditor or his assistants, or court reporters, or as authorizing any change in the number thereof or the salaries to be paid, it being the intention of the Legislature that all of such matters shall continue to be regulated by the Statutes applying thereto. If any juvenile, or probation officer, or County Auditor or his assistants shall be jointly employed by two (2) or more subdivisions of Government, the rules and regulations applying to them may be adapted or amended accordingly. For the pur-

pose of adapting such regulations to such employees, they may, if necessary to give equal application to the regulations to all employees, be considered as being upon the same basis as if they were employed by one such unit, and the total salary paid by such unit, and the necessary expense of administration and contributions may be prorated to the different employing units.

² Article 5119 et seq.

Effect of Act

Sec. 7. The provisions of this Act shall be cumulative of any other laws upon the subject matter, but where in conflict with such other laws, this Act shall prevail.

Partial Invalidity

Sec. 8. If any section, subsection, sentence, clause, or phrase of this Act is for any reason held to be unconstitutional, void, or invalid, the validity of the remaining portion of this Act shall not be affected thereby, it being the intent of the Legislature in adopting, and of the Governor in approving this Act, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any other portion, provision, or regulation.

[Acts 1941, 47th Leg., p. 754, ch. 472; Acts 1949, 51st Leg., p. 433, ch. 233, § 1.]

Art. 2372h-1. Vacations, Holidays and Sick Leave for Employees of County Officers and Commissioners Courts

In each county of this State, each elected county officer or the Commissioners Court, as the case may be, shall have authority to provide for vacations, holidays fixed by State law, and sick leaves, without deduction or loss of pay, and to provide for deductions for absences, for the employees working under the elected county officer or his appointees or under the Commissioners Court or its appointees or under a County Commissioner or his appointees, regardless of whether the employee is paid on a fixed salary basis or on the basis of an hourly or daily wage. Nothing in this Act shall affect existing laws authorizing or regulating vacations, holidays, sick leave and absences for county employees, it being the intention of this Act only to provide such authority with respect to the employees covered by this Act in counties where it does not now exist.

[Acts 1959, 56th Leg., p. 544, ch. 243, § 1.]

Art. 2372h-2. Hospitalization Insurance for County Officials and Employees

The Commissioners Court of any county may adopt any insurance plan, as they deem necessary, to provide hospitalization insurance to any county official, deputy, assistant, and/or any other county employee.

[Acts 1959, 56th Leg., p. 585, ch. 268, § 1.]

Art. 2372h-3. Vacations, Holidays and Sick Pay for Employees of Counties of 34,000 to 34,120

The Commissioners Court of any county having a population of more than 34,000 and less than 34,120, according to the last preceding federal census, may provide for vacations, holidays fixed by State law, sick leaves without deduction or loss of pay, and deductions for absences from work of all county employees whether paid a fixed salary or an hourly or daily wage.

[Acts 1965, 59th Leg., p. 1412, ch. 624, eff. June 17, 1965; Acts 1971, 62nd Leg., p. 1842, ch. 542, § 103, eff. Sept. 1, 1971.]

Art. 2372h-4. Payroll Deductions; Authorized Purposes

Sec. 1. (a) The commissioners court of any county of 20,000 or more population may authorize payroll deductions to be made from the wages and salaries of county employees, on each employee's written request, to a credit union, and to pay membership dues in a labor union or a bona fide employees association.

(b) Each employee requesting a deduction under this Act shall submit to the county auditor a written request indicating the amount to be deducted from the employee's wages or salary and to transfer the withheld funds to the credit union, proper labor union or employees association. The request shall remain in effect until the county auditor receives written notice of revocation signed by the employee.

(c) The amount deducted from an employee's wages or salary for the purpose stated in this Act shall not be more than the amount stipulated in the written request.

(d) Participation in the program authorized by this Act is voluntary on the part of any county employee and the county.

Sec. 2. The provisions of this Act shall not alter, amend, modify, or repeal any of the provisions of Chapter 135, Acts of the 50th Legislature, 1947 (Article 5154c, Vernon's Texas Civil Statutes).

Sec. 3. Public funds shall not be used to defray the administrative cost of making the deductions authorized under this Act. The credit union, labor union or employees association shall pay the full and complete administrative cost, if any, as determined and approved by the commissioners court of the deductions made under this Act.

[Acts 1969, 61st Leg., p. 1380, ch. 419, eff. Sept. 1, 1969.]

Art. 2372h-5. Travel Expenses of County Officers or Employees

The Commissioners Court of any county may authorize the payment of reasonable travel expenses incurred by any officer, agent, or employee of the county, or by any board or committee member appointed by the Commissioners Court, in the event that the travel expenses were incurred by the officer, agent, employee,

or board or committee member while performing any county business authorized by the Commissioners Court.

[Acts 1971, 62nd Leg., p. 1085, ch. 234, eff. Aug. 30, 1971.]

Art. 2372h-6. Civil Service System in Counties of 300,000 or More

Definitions

Sec. 1. In this Act, unless the context requires a different definition:

(1) "Commission" means the county civil service commission.

(2) "Chairman" means the chairman of the county civil service commission.

(3) "Employee" means any person who obtains his position by appointment and who is not authorized by statute to perform governmental functions in his own right involving some exercise of discretion, but does not include a holder of an office the term of which is limited by the Constitution of the State of Texas.

(4) "Department" means any county, district, or precinct office or other agency of the county which has jurisdiction and control of the activities of the employees' official duties.

Establishment of Civil Service

Sec. 2. Any county having a population of 300,000 or more inhabitants according to the last preceding federal census may establish a county civil service system under the provisions of this Act to cover all employees of the county.

Methods for Creation of a County Civil Service System

Sec. 3. Before a county civil service system may be created under the provisions of this Act, the system must be approved either by an order adopted by a majority of the members of the Commissioners Court or by a majority vote of the qualified electors of the county voting at an election called for that purpose.

Creation by Order

Sec. 4. If the civil service system is created by order of the county commissioners, a copy of the order shall be placed in the minutes of the Commissioners Court and shall be available for public inspection.

Creation by Election

Sec. 5. (a) On its own motion, the Commissioners Court may order an election to be held to approve the creation of a county civil service system. The election must be held within the 60-day period immediately following the date of the order of election.

(b) The order calling the election shall specify the time and place, or places, of holding the election, the form of the ballots, and the presiding judge for each voting place.

(c) The Commissioners Court shall publish a substantial copy of the election order in a newspaper of general circulation in the county

once a week for two consecutive weeks before the election. The first notice must be published before the 14-day period immediately preceding the day of the election.

(d) The presiding judge of each voting place shall supervise the counting of all votes cast and shall certify the results to the Commissioners Court within 24 hours after the election. A copy of the results is to be filed with the county clerk and become of public record.

(e) At the election, the qualified electors shall vote on the proposition of whether or not a county civil service system is to be created. To create the system, a majority of the qualified electors voting in the election must approve the proposition.

(f) The ballots shall be printed to allow for voting for or against the proposition: "Creation of a county civil service system."

(g) If the proposition is approved, the Commissioners Court shall declare the results and order the civil service system created. A copy of this order shall be placed in the minutes of the Commissioners Court.

Creation of the Civil Service Commission

Sec. 6. (a) After a civil service system is approved under the provisions of this Act, the Commissioners Court shall appoint a civil service commission consisting of three members to administer the system. The Commissioners Court shall designate one of the members as chairman of the commission.

(b) Each member of the commission holds office for a term of two years and until his successor is appointed and has qualified. Any vacancy on the commission shall be filled by appointment of the Commissioners Court for the unexpired term of the member whose position has been vacated.

(c) To qualify for appointment to the commission, a person must:

(1) be at least 25 years of age; and

(2) have been a resident of the county for the three-year period immediately preceding the beginning of his term of office.

Compensation; Expenses; Staff; Etc.

Sec. 7. The members of the commission serve without compensation, but the Commissioners Court shall reimburse them for expenses necessarily incurred in performing their duties. The Commissioners Court shall provide the commission with adequate office space and with enough money to employ an adequate staff and to purchase necessary supplies and equipment.

Powers of Commission

Sec. 8. (a) The commission shall make, publish, and enforce rules, consistent with the purposes of this Act, relating to:

(1) selection and classification of county employees;

(2) competitive examinations;

(3) promotions, seniority, and tenure;

- (4) layoffs and dismissals;
- (5) disciplinary actions;
- (6) grievance procedures and other procedural and substantive rights of employees; and
- (7) other matters having to do with selection of employees and their advancement, rights, benefits, and working conditions.

(b) The commission may adopt or use as a guide any civil service laws, rules, or regulations of the United States or of this State or any political subdivision or municipal corporation in this State to the extent that they promote the purposes of this Act and are consistent with the necessities and circumstances of the county.

Appeals

Sec. 9. (a) Any employee who, under a final decision of the commission, is demoted, suspended, or removed from his position, may appeal the decision by filing a petition in a district court of the county within 30 days after the date of the decision.

(b) Appeals under this section shall be tried de novo.

(c) If the district court renders judgment for the petitioner, it may order reinstatement, back pay, and any other appropriate relief.

(d) Suits instituted under this section have precedence over other civil cases, and the judgment of the district court is appealable as in other civil cases.

Exemptions

Sec. 10. (a) Any person who is an employee of a county covered by this Act on the effective date of this Act shall not be required to take any competitive examination or perform any other act to maintain his present employment.

(b) Nothing in this Act applies to:

(1) assistant district attorneys, investigators, or other employees of the district attorney;

(2) the official shorthand reporter of any district or criminal district court.

Dissolution of System

Sec. 11. (a) In any county in which the provisions of this Act have been in effect for one year, on being petitioned by at least 10 percent of the qualified electors of the county, the Commissioners Court shall call an election to determine whether or not the county civil service should be dissolved.

(b) The provisions of Section 5 of this Act shall apply to holding an election under the provisions of this section.

(c) The ballots shall be printed to allow for voting for or against the proposition: "Dissolution of the civil service system."

(d) If the proposition is approved, the Commissioners Court shall declare the results and

order the civil service system dissolved. A copy of this order shall be placed in the minutes of the Commissioners Court.

Limitation on Elections

Sec. 12. After an election is held in accordance with Section 5 or Section 11 of this Act, a two-year period of time must elapse prior to the calling of another election under either Section 5 or Section 11.

Severability

Sec. 13. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1971, 62nd Leg., p. 1151, ch. 262, eff. Aug. 30, 1971; Acts 1973, 63rd Leg., p. 1262, ch. 461, § 1, eff. June 14, 1973.]

Art. 2372i. Burial Ground for Veterans

Each Commissioners Court in this State may purchase sufficient burial ground to be used exclusively for the burial of any honorably discharged person who has served in any branch of the armed forces of the United States during any war in which the United States participated, and who may hereafter die without leaving sufficient means to defray funeral expenses. Provided, however, that the Commissioners Court shall not purchase such burial ground in any instance where there is situated within the county a national military cemetery or other military plot in which honorably discharged veterans of the armed forces of the United States of America may be buried free of charge.

[Acts 1949, 51st Leg., p. 734, ch. 396, § 1.]

Art. 2372j. County Office Building and Other Buildings; Certain Counties of 90,000 to 225,000

Sec. 1. In all counties having a population in excess of ninety thousand (90,000) persons and not more than two hundred and twenty-five thousand (225,000) persons according to the last preceding Federal Census, having an assessed valuation on property for ad valorem tax purposes of more than One Hundred and Twenty-five Million Dollars (\$125,000,000) and having at least four (4) incorporated cities within the county, at least one (1) of which cities having a population of more than fifty thousand (50,000) inhabitants according to the last preceding Federal Census, whenever the Commissioners Court of any such county determines that the county courthouse is not adequate in size or facilities to properly house all county offices and permit the proper exercise of the duties of such office, and/or that the county jail is not adequate in size or facilities to properly confine prisoners, and/or that there is a need for an agricultural building, said Commissioners Court may purchase, construct, or otherwise acquire either in the city

of the county seat or elsewhere in the county, a county office building or buildings for any such offices for which the courthouse is not adequate, and/or for which there is a need, including the site or sites therefor. Without limitation of the generalization of the foregoing, any such jail, agricultural building, or other structure or improvement may include an auditorium to be used by the Commissioners Court or any other county officer or county office for any proper county purpose or public purpose. Payment for such buildings or improvements, including the site or sites therefor, shall be made from the Constitutional Permanent Improvement Fund.

Sec. 2. All proceedings heretofore had by the Commissioners Court of any such county within the past two (2) years providing for and/or establishing any of the buildings herein authorized by Section 1 of this Act, are hereby approved and validated as the proper, lawful and authorized proceedings of any such county and/or its Commissioners Court; provided, however, nothing in this Act shall affect any case or cause of action now pending in any court in this State.

Sec. 3. This Act shall be cumulative of all other laws on the same subject.

Sec. 4. If any Section, subsection, sentence, phrase or word of this Act shall be held unconstitutional or invalid, such invalidity shall not affect the remaining portions of this Act and the Legislature hereby declares it would have enacted such remaining portions despite such invalidity.

[Acts 1949, 51st Leg., p. 781, ch. 421.]

Art. 2372k. Real Estate Subdivisions in Counties of 190,000; Requirements as to Roads

Sec. 1. (a) In all counties having a population of not less than one hundred ninety thousand (190,000), according to the last preceding or any future Federal Census, the Commissioners Courts of such counties shall have the authority to require the owner or owners of any tract of land situated outside of the boundaries of any incorporated town or city in such counties, who may hereafter divide the same in two or more parts for the purpose of laying out any subdivision of any such tract of land, or for laying out suburban lots or building lots, and streets, alleys or parks or other portions intended for public use, or the use of purchasers or owners of lots of any such tract of land, to provide for a right-of-way of not less than sixty (60) feet for any road or street within such subdivision.

(b) The Commissioners Courts of any such counties shall have the authority to promulgate reasonable specifications to be followed in the construction of any such roads or streets within such subdivisions, which specifications may include provisions for the construction of adequate drainage for such roads or streets.

Sec. 2. The Commissioners Courts of any such counties shall have the authority to re-

quire the owner or owners of any such tract of land which may be so subdivided to give a good and sufficient bond for the proper construction and maintenance of such roads or streets, executed by some surety company authorized to do business in this State. Such bond shall be made payable to the County Judge, or his successors in office, of the county wherein such subdivision lies, and conditioned that the owner or owners of any such tract of land to be subdivided will construct any roads or streets within such subdivision in accordance with the specifications promulgated by the Commissioners Court of such county and will maintain such roads or streets for a period of one year from the date of the approval by such Commissioners Court of any map or plat of any such subdivision. The bond shall be in such amount as may be determined by the Commissioners Court but shall not exceed a sum equal to Three (\$3.00) Dollars for each lineal foot of road or street within such subdivision.

Sec. 3. The Commissioners Courts of any such counties shall have the authority to refuse to approve and authorize any map or plat of any such subdivision unless such map or plat provides for not less than the minimum right-of-way for roads or streets as required in Section 1(a) hereof; and there is submitted with such map or plat a bond as required by Section 2 hereof.

Sec. 4. All laws or parts of laws in conflict with the provisions of this Act are hereby expressly repealed.

Sec. 5. If any section, subsection, paragraph, sentence, clause or provision of this law be declared unconstitutional or invalid by the courts, it shall not affect the constitutionality or validity of the remainder thereof, and it is hereby declared that this Act would nevertheless have been passed without such section, subsection, paragraph, sentence, clause or provisions so declared unconstitutional.

[Acts 1951, 52nd Leg., p. 256, ch. 151.]

Art. 2372l. Zoning of Padre Island

Legislative Finding

Sec. 1. The Legislature finds as a matter of fact that that portion of Padre Island lying within Cameron and Willacy Counties is frequented for recreational purposes by citizens from every part of the State and that the orderly development and utilization of this area is a matter of concern to the entire State. The Legislature further finds as a matter of fact that buildings on islands which are frequented as resort areas tend to become congested and to be put to uses which interfere with the proper use of the area as a place of recreation, to the detriment of the health, safety, morals, and the general welfare of the public.

Authority of Commissioners' Courts

Sec. 2. For the purpose of promoting health, safety, peace, morals and the general welfare of the community, including the recreational use of county parks, the Commissioners

Courts of Cameron and Willacy Counties are hereby empowered to regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes, and to regulate the placing of water, sewerage, park and other public requirements on such island in areas of such island lying outside the corporate limits of a city, town or village, and within two miles of any publicly owned park or recreational development and all areas which lie within two miles of any beach, wharf or bath house which is used by as many as five hundred persons annually.

Districts

Sec. 3. For any or all of said purposes the Commissioners Court of each said county may divide said area in said islands into districts of such number, shape, and area as may be deemed best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All such regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes in View

Sec. 4. Such regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets and roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and to assist in developing said island into parks, playgrounds and places of recreation for the inhabitants of the State of Texas, and other states and nations. Such regulations shall be made with reasonable consideration, among other things, to the character of the district and its peculiar suitability for particular uses, and with a review to conserving the value of buildings and encouraging the most appropriate use of land throughout said islands, and it is hereby provided that this Act shall not enable said Commissioners Courts to require the removal or destruction of property existing at the time said Commissioners Courts shall take advantage of this Act.

Method of Procedure

Sec. 5. The said Commissioners Courts shall provide for the manner in which such regulations and restrictions and the boundaries of such districts shall be determined, established, and enforced, and from time to time amended, supplemented, or changed. However,

no such regulation, restriction, or boundary shall become effective until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least fifteen (15) days notice of the time and place of such hearing shall be published in a paper of general circulation in each said county.

Changes

Sec. 6. Such regulations, restrictions, and boundaries may from time to time be amended, supplemented, changed, modified, or repealed. In case, however, of a protest against such change, signed by the owners of twenty (20%) per cent or more either of the area of the lots included in such proposed change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of such opposite lots, such amendment shall not become effective except by the favorable vote of three-fourths of all the members of the Commissioners Court. The provisions of the previous section relative to public hearing and official notice shall apply equally to all changes or amendments.

Zoning Commission

Sec. 7. In order to avail itself of the powers conferred by this Act, the said Commissioners Courts shall appoint a commission, all of whom shall be residents of each said county, and to be known as the Zoning Commission, to be composed of seven (7) members, to recommend the boundaries of the various original districts, and appropriate regulations to be enforced therein. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and said Commissioners Court shall not hold its public hearings or take action until it has received the final report of such commission. Where a Board of Park Commissioners for each said county already exists, it may be appointed as the Zoning Commission. Written notice of all public hearings on proposed changes in classification shall be sent to all owners of property, or to the person rendering the same for county taxes, affected by such proposed changes of classification, and to all owners of property, or to the person rendering the same for county taxes, located within two hundred (200) feet of any property affected thereby, within not less than ten (10) days before any such hearing is held. Such notice may be served by depositing the same, properly addressed and postage paid, in the post office.

The Zoning Commission shall choose from its own membership its chairman for such tenure (not extending beyond the term of his office as a member of said commission) as it sees fit and at any time may choose from its own membership for any particular meeting or occasion, an acting chairman; and it may employ its own secretary, and at any time an acting secretary, and other technical and clerical help to be paid by each said county, compensation not in excess of the amount determined by prior order of the said Commissioners Court.

No member of the commission shall be entitled to compensation as such, but may be entitled to expenses actually incurred while serving on the commission in accordance with the provisions of any order entered by the County Commissioners Court to that effect.

Board of Adjustment

Sec. 8. The said Commissioners Court may provide for the appointment of a board of adjustment, and in the regulations and restrictions adopted pursuant to the authority of this Act may provide that the said board of adjustment may, in appropriate cases, and subject to appropriate conditions and safeguards, make special exceptions to the terms of the zoning regulations in harmony with their general purpose and intent and in accordance with general or specific rules therein contained.

The board of adjustment shall consist of five members, each to be appointed for a term of two (2) years and removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant.

The board shall adopt rules in accordance with the provisions of any order adopted pursuant to this Act. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Such chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record.

Appeals to the Board of Adjustment may be taken by any person aggrieved or by any officer, department, board, or bureau of the county or of any municipality affected by any decision of the administrative officer. Such appeal shall be taken within a reasonable time, as provided by the rules of the board, by filing with the officer from whom the appeal is taken, and with the Board of Adjustment, a notice of appeal specifying the grounds thereof. The officer from whom the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal stays all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Board of Adjustment after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board of Adjustment or by a court of record on

application on notice to the officer from whom the appeal is taken and on due cause shown.

The Board of Adjustment shall fix a reasonable time for the hearing of the appeal, give public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The Board of Adjustment shall have the following powers:

1. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of this Act or of any order adopted pursuant thereto;
2. To hear and decide special exceptions to the terms of the order upon which such board is required to pass under such order;
3. To authorize upon appeal in specific cases such variance from the terms of the order as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the order will result in unnecessary hardship, and so that the spirit of the order shall be observed and substantial justice done.

In exercising the above mentioned powers such board may, in conformity with the provisions of this Act, reverse or reaffirm, wholly or partly, or may modify the order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.

The concurring vote of four (4) members of the board shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to pass under any such order, or to effect any variation in such order.

Any person, or persons, jointly or severally, aggrieved by any decision of the Board of Adjustment, or any taxpayer, or any officer, department, board, or bureau of the county or of the municipality, may present to a court of record a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of the illegality. Such petition shall be presented to the court within ten (10) days after the filing of the decision in the office of the board.

Upon the presentation of such petition the court may allow a writ of certiorari directed to the Board of Adjustment to review such decision of the Board of Adjustment and shall prescribe therein the time within which a return thereto must be made and served upon the relator's attorney, which shall not be less than ten (10) days and may be extended by the court. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to

the board and on due cause shown, grant a restraining order.

The Board of Adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by such writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review.

Costs shall not be allowed against the board unless it shall appear to the court that it acted with gross negligence, or in bad faith, or with malice in making the decision appealed from.

All issues in any proceeding under this section shall have preference over all other civil actions and proceedings.

Enforcement and Remedies

Sec. 9. The said Commissioners Court may provide by order for the enforcement of this Act and of any order or regulation made thereunder. A violation of this Act or of such order or regulation is hereby declared to be a misdemeanor, and such local legislative body may provide for the punishment thereof by fine or imprisonment or both. It is also empowered to provide civil penalties for such violation.

In case any building or structure is erected, constructed, re-constructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of this Act or of any order or other regulation made under authority conferred hereby, the proper authorities of the county, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, re-construction, alteration, repair, conversion, maintenance, or use, to restrain, correct, or abate such violation, to prevent the occupancy of said building, structure, or land, or to prevent any illegal act, conduct business, or use in or about such premises.

Conflict with Other Laws

Sec. 10. Wherever the regulations made under authority of this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local order or regulation, the provisions of the regulations made under authority of this Act shall govern. Wherever the

provisions of any other statute or local order or regulation requires a greater width or size of yards, courts, or other open spaces, or require a lower height of building or a less number of stories, or require a greater percentage of lot to be left unoccupied, or impose other higher standards than are required by the regulations made under authority of this Act, the provisions of such statute or local order or regulation shall govern.

Telephone Buildings

Sec. 10a. The provisions of this Act or of any orders, regulations or restrictions made or entered under the authority of this Act, shall not apply to the location, construction, maintenance or use of central office buildings of corporations, firms, or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance or use of any equipment in connection with such buildings or as a part of such telephone system, necessary in the furnishing of telephone service to the public.

[Acts 1953, 53rd Leg., p. 636, ch. 246.]

Art. 2372l-1. Zoning of Portion of Val Verde County Surrounding Amistad Recreation Area

Legislative Finding

Sec. 1. The Legislature finds as a matter of fact that a portion of Val Verde County surrounding Amistad recreation area is frequented for recreational purposes by citizens from every part of the state and that the orderly development and utilization of this area is a matter of concern to the entire state. The Legislature further finds as a matter of fact that buildings in this area which are frequented for resort or recreation purposes tend to become congested and to be put to uses which interfere with the proper use of the area as a place of recreation, to the detriment of the health, safety, morals, and the general welfare of the public.

Authority of Commissioners Court

Sec. 2. For the purpose of promoting health, safety, peace, morals, and the general welfare of the community, including the recreational use of county land, the Commissioners Court of Val Verde County may regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts, and other spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence, or other purposes, and regulate the placing of water, sewerage, park, and other public requirements for those areas of the county which would be on the lakeward side of the following described boundaries:

BEGINNING at a point on the South side of the Del Rio-Rocksprings Highway near or at the Northeast corner of Survey 38, Block AZ, GC&SF.RY.CO.

THENCE in a Southwesterly direction across Surveys 38, 24, 25, 2, 1, 5 and 65 Block AZ, GC&SF.RY.CO., to the Northeast corner of Survey 15, Block 3, GS&SF.RY.CO.;

THENCE in a Southerly direction with the East lines of Surveys 15, 14, 7, 5 and across Survey 2, Block 3, GC&SF.RY.CO., to a point being the North corner of Survey 579, Kinney County School Land;

THENCE in a Southwesterly direction across Surveys 579, 536 and 575 to the South corner of Survey 575, Kinney County School Land;

THENCE in a Southerly direction along the East lines of Surveys 863, 740 and 487 to the Southeast corner of Survey 487, CCSD&RGNG. RY.CO.

THENCE Westerly direction to the Northeast Corner of Survey 30, Block 5, GC&SF.RY.CO.:

THENCE Southerly direction with the East lines of Survey 28, Block 5, GC&SF.RY.CO., Survey 30, Block 5, and across Surveys 7 and 4, in Block 1, GC&SF.RY.CO., and across Survey 920 EL & RR Ry. Co., to the South line of Survey 920, E.L.&R.R.RY.CO.;

THENCE in a Westerly direction with the South lines of Surveys 920, 919 E.L.&R.R.RY. CO. and Survey 876 C. E. Stroude, and the South lines of Survey 7, 8, 9, 18 and 16 in Block 5, GC&SF.RY.CO. to a point on the Southeast line of Survey 31, Block 12, I&G.N. RY.CO.;

THENCE in a Southwesterly direction with the Southeast line of said Survey 31, Block 12, to the bank of the Rio Grande River;

THENCE in a Northerly and Northwesterly direction with the bank of the Rio Grande River and the Reservoir of the Amistad Lake to a point on the North Bank of the Rio Grande River near Langtry at a point in the South line of Survey 619 Torres I. & M. Company;

THENCE in a Northerly direction with the East line of the townsite of the town of Langtry as shown by plat of record in Vol. 1 page 70 Map Records of Val Verde County, Texas, to a point about $\frac{3}{4}$ mile to the South line of U. S. Highway 90;

THENCE in a Southwesterly direction with the South line of U. S. Highway 90 to the Northwest corner of the Langtry townsite;

THENCE in a Southerly direction with the West line of the Langtry townsite to the Rio Grande River;

THENCE in a westerly direction with the Rio Grande River to a point being the Southwest corner of Survey 47, Block S-3 E.L.&R.R. RY.CO.;

THENCE in a Northerly direction with the West line of Survey 47, Block S-3, and the West lines of 124, 125, 126, 95, 94, 71, 54 and 53m, Block D-8 E.L.&R.R.CO., to the South line of the Southern Pacific Railroad;

THENCE in a Southeasterly direction with the South line of the Southern Pacific Rail-

road to the East line of Survey 84, Block S-2 EL&R.R. Ry. Co.;

THENCE in a Northerly direction with the East lines of Surveys 84, 83, 76 and 75 to the Northwest corner of Survey 77, Block S-2;

THENCE in an Easterly direction with the North lines of Surveys 77, 78, 80, 45 and across Surveys 34, 35, 36, 37, 38 and 39, all in Block S-2, E.L.&R.R. Ry. Co., and across the Pecos River with the North lines of Surveys 8 and 34, in Block EG, GC&SF.RY.CO. to the Northeast corner of said Survey 34;

THENCE in the Southerly direction with the East line of Survey 34, and across Surveys 36, 46, 44 Block EG, GC&SF.RY.CO., and across Surveys 4, 3, 2, 1, Block EM, GCSD&RGNG. RY.CO., to the North Line of the Southern Pacific Railroad;

THENCE in an Easterly and Southeasterly direction with the North line of the Southern Pacific Railroad to a point in the West line of Survey 84, Block N, G.H.&S.A.RAILWAY CO.;

THENCE in a Southerly direction with the West lines of Surveys 84 and 83 in Block N, to the Southwest corner of Survey 83;

THENCE in an Easterly direction with the South line of said Survey 83, and continuing Easterly across Blocks N, V-21 and 1, to the Northeast corner of Survey 50 $\frac{1}{2}$, at a point on the West bank of the Devil's River;

THENCE in an Easterly Northeasterly direction across Devil's River to the place of beginning.

Districts

Sec. 3. For any or all of the purposes set forth in Section 2 of this Act, the commissioners court may divide the area into zoned districts of such number, shape, and area as it may consider best suited to carry out the purposes of this Act; and within such districts it may regulate and restrict the erection, construction, reconstruction, alteration, repair, or use of buildings, structures, or land. All regulations shall be uniform for each class or kind of building throughout each district, but the regulations in one district may differ from those in other districts.

Purposes in View

Sec. 4. These regulations shall be made in accordance with a comprehensive plan and designed to lessen congestion in the streets and roads; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, parks, and other public requirements, and to assist in developing said area into parks, playgrounds and places of recreation for the inhabitants of the State of Texas, and other states and nations. In making these regulations the commissioner's court shall give reasonable consideration to the character of the district and its peculiar suitability for

particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the area. However, this Act shall not enable the commissioners court to require the removal or destruction of property existing at the time the commissioners court implements the provisions of this Act, nor may the commissioners court limit or otherwise restrict the right of a landowner acting in his own behalf to construct improvements to be used for agricultural purposes, or otherwise use his land for agricultural purposes. However, the commissioners court may limit, restrict, or prohibit any commercial agricultural enterprise such as feed lots.

Zoning Commission

Sec. 5. (a) The commissioners court shall appoint a zoning commission, to be composed of five members, to recommend the boundaries of the various original zoned districts, and appropriate regulations to be enforced therein. The commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the commissioners court shall not hold its public hearings or take action until it has received the final report of the commission. Written notice of all public hearings on proposed changes in classification shall be sent to all owners of property, or to the person rendering the same for county taxes, affected by such proposed changes of classification, and to all owners of property, or to the person rendering the same for county taxes, located within 200 feet of any property affected thereby, within not less than 10 days before any such hearing is held. This notice may be served by depositing a letter, properly addressed and postage paid, containing all necessary information, in the post office.

(b) The zoning commission consists of an ex officio chairman and four additional members. The chairman shall be a public official in Val Verde County, and shall be appointed by the Commissioners Court of Val Verde County to hold a term of office of two years. Initial appointment of the four additional members of the zoning commission shall be made by the commissioners court with members to be assigned terms of one, two, three, and four years. Thereafter, in the event of resignation, end of term, or vacancy occurring in the membership, new members shall be selected by the commissioners court. A vacancy in the office of ex officio chairman shall be filled by appointment of the commissioners court.

(c) The zoning commission may employ a secretary, and an acting secretary, and other technical and clerical help to be paid not in excess of an amount determined by prior order of the commissioners court.

(d) Members of the commission shall receive compensation in the amount of \$10 per month, and may also be entitled to expenses actually incurred while serving on the commission in

accordance with the provisions of any order entered by the commissioners court to that effect. However, the chairman shall not receive compensation under this subsection if he receives compensation in his capacity as a public official in Val Verde County.

(e) No person may be appointed to, or serve on, the commission after his 70th birthday.

Method of Procedure

Sec. 6. (a) No preliminary report, or proposed order, rule, or regulation of the zoning commission is effective until it has been approved and adopted by the commissioners court.

(b) The commissioners court shall hold a public hearing before adopting any preliminary report or proposed order, rule, or regulation of the zoning commission, and it shall publish public notice of the hearing at least 15 days in advance of the hearing in a newspaper of general circulation in Val Verde County.

(c) A preliminary report, or proposed order, rule, or regulation of the zoning commission may be amended, supplemented, altered, modified, or rejected by a majority vote of the commissioners court. However, in the event of a protest against any such change, signed by the owners of 20 percent or more either of the lots included in the change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of these opposite lots, the change shall not become effective except upon favorable vote of three-fourths of all the members of the commissioners court. The commissioners court shall hold a public hearing after receiving such a protest, and the provisions of public notice set forth in Subsection (b) of this section shall apply to the hearing.

Appeals

Sec. 7. (a) Any person aggrieved, or any officer, department, board, or bureau of Val Verde County, or of any municipality in Val Verde County, may petition the commissioners court for a special exception to any final report, order, rule, or regulation adopted by the commissioners court. The commissioners court shall hold a public hearing on the petition and shall publish public notice of the hearing at least 15 days in advance of the hearing in a newspaper of general circulation in Val Verde County.

(b) The commissioners court may grant any petition for a special exception by majority vote; however, in the event of a protest against the special exception presented at the hearing and signed by the owners of 20 percent or more either of the lots included in the change, or of those immediately adjacent in the rear thereof extending 200 feet therefrom, or from the street frontage of these opposite lots, the change shall not become effective except upon favorable vote of three-fourths of all the members of the commissioners court.

Enforcement and Remedies

Sec. 8. (a) The commissioners court may provide by order for the enforcement of this Act and of any order or regulation made thereunder. Any person who violates any provision of this Act, or any rule or regulation made pursuant to this Act by the commissioners court, is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$500 nor more than \$1,000. Each day that a violation occurs constitutes a separate offense. Trial of offenses under this section shall be in the district court.

(b) In the event any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used, in violation of this Act or any order or other regulation made pursuant to the authority conferred on the commissioners court by this Act, the proper authorities of the county may, in addition to other remedies, institute an appropriate action or proceeding to prevent the unlawful action or use, to restrain, correct, or abate the violation, to prevent the occupancy of the building, structure, or land, or to prevent any illegal act, conduct of business, or other use in or about the premises.

Conflict With Other Laws

Sec. 9. (a) Whenever the regulations made by the commissioners court pursuant to the authority granted in this Act require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of lot to be left unoccupied, or impose higher standards than are required in any other statute or local order or regulation, the provisions of the regulations made pursuant to this Act shall govern.

(b) Wherever the provisions of any other statute or local order or regulation require a greater width or size of yards, courts, or other open spaces, or require a lower height of building or less number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other higher standards than are required by the regulations made pursuant to this Act, the provisions of the statute or other local order or regulation shall govern.

Inapplicability to Telephone Systems

Sec. 10. The provisions of this Act or of any orders, regulations, or restrictions made or entered under the authority of this Act, shall not apply to the location, construction, maintenance, or use of central office buildings of corporations, firms, or individuals engaged in the furnishing of telephone service to the public, or to the location, construction, maintenance, or use of any equipment in connection with such buildings or as a part of such telephone systems, necessary in the furnishing of telephone service to the public.

[Acts 1971, 62nd Leg., p. 1125, ch. 250, eff. May 17, 1971.]

Art. 2372m. Rabies; Regulations

Declaration of Danger of Epizootic; Powers; Duration of Regulations

Sec. 1. The Commissioners Court of any county in this State is hereby authorized, by an order duly entered in the minutes of proceedings of said court in order to prevent the introduction or spread of rabies, to declare the area of said county to be in danger of a rabies epizootic in the animal population thereof. Upon such order being duly entered, as above described, that the existence of such epizootic would be a menace to the health and safety of the people of each area of the county, said Commissioners Court shall be authorized to promulgate and establish regulations in accordance with this Act, including but not limited to, the requirement for restraint of domestic animals, anti-rabies vaccination of dogs, registration of dogs, quarantining of biting animals and rabies suspects.

The Commissioners Court may declare such emergency to exist after a public hearing held by the Court concerning the proposed regulation. Said regulations shall remain in effect until amended or rescinded by the Court after a public hearing concerning the proposed amendment or rescission.

Regulations Authorized

Sec. 2. The regulations necessary for the control of animals of such county as determined by the Commissioners Court shall be set forth in the minutes of the Court. The said Court shall have the power and authority upon the basis of preventing the introduction or spread of rabies in the county to protect public health and safety of the people, to determine and fix any reasonable regulation to control animals, which may include the following but which shall not limit the power of the Court to act:

A. To authorize the County Health Officer or his delegate to enforce a rabies quarantine in the county and cause the removal or disposition of animals which may endanger the public health and safety.

B. Require each and every dog in the county to be registered with the county unless registered with a local municipality within the county. Such registration shall be evidenced by an identification tag to be furnished by the enforcing agency, which tag shall carry the registration number of the dog and, as required by this Act, an anti-rabies vaccination is a condition precedent to the issuance of such a registration, the tag bearing the number and fact of such vaccination shall be securely fastened to a collar or harness worn by such dog. Such registration shall be good for one (1) year from the date of registration and the owner of such dog shall be required to renew the registration each year.

C. To require a current anti-rabies vaccination of dogs by the time they reach 4 months of age with a vaccine (preferably

modified live virus) approved by the United States Department of Agriculture as a condition precedent to the issuance of such registration to help prevent the spread of rabies in the animal population, since the existence of a rabies epizootic would be a menace to the health and safety of the people in such county. A rabies vaccination shall remain current for such period as determined by the court upon due consideration of the specific type of anti-rabies vaccine to be administered and the local rabies situation. Evidence of the current vaccination certified by a licensed veterinarian, shall be furnished to the enforcement agency before issuance of such registration and evidence of such shall be carried on the tag required to be fastened to the collar or harness of the dog.

D. To declare any dog, whether registered and tagged or unregistered and untagged, that is not restrained by the owner within the county to be a public nuisance and require that such animal be detained or impounded by any person or persons designated by the Court. The Commissioners Court shall have authority to direct the holding of such dog until claimed, to charge the owner of such animal for impoundment and board during the period of retention at a rate to be set by the Court, and to dispose of any animals which are unclaimed by their owners.

E. To allow the enforcement agency (whether it be the county or local municipality therein) to collect a fee set by the Commissioners Court order for the registration of any dog. Such fees shall be used only to help defray the expense of administration of these regulations promulgated by the Commissioners Court.

F. To require the reporting to the enforcement agency of all animal bites and the quarantining for a minimum of 10 days under the supervision of a licensed veterinarian of the biting animal suspected of being rabid or being exposed to a possibly rabid animal.

G. The promulgation and establishment of regulations by the Commissioners Court of any county in accordance with this Act shall not prevent or jeopardize a corporate municipality within the county to establish more stringent rules and regulations to prevent the introduction and spread of rabies and the control of animals within their corporate limits, and such ordinances established by said corporate municipalities shall supersede the county order within the municipality so that dual enforcement will not occur.

Punishment for Violations

Sec. 3. Any owner who fails to restrain a dog in the county, whether registered and tagged or not, or any owner who fails to vaccinate or register any dog in violation of any or-

der of the Commissioners Court promulgated pursuant to this Act or otherwise violating any provision thereof or any provision of any regulation established by the Court, shall be guilty of a misdemeanor and shall upon conviction be punished by a fine not exceeding Fifty Dollars (\$50) for the first offense; by a fine not exceeding One Hundred Dollars (\$100) for the second offense; and by a fine not exceeding Two Hundred Dollars (\$200) or imprisonment in the County Jail not to exceed sixty (60) days, or both such fine and imprisonment for each subsequent offense.

[Acts 1954, 53rd Leg., 1st C.S., p. 89, ch. 40; Acts 1955, 54th Leg., p. 515, ch. 151, §§ 1, 2; Acts 1969, 61st Leg., p. 1690, ch. 549, § 1, eff. June 10, 1969.]

Art. 2372n. Public Platform Tonnage Scales

Sec. 1. In each county in this State, upon the presentation of a suitable petition in writing signed by not less than five hundred (500) inhabitants of the county, the Commissioners Court shall have the power and authority to purchase and install one (1) or more public platform tonnage scales suitable and adapted for the weighing of livestock, produce, agricultural products or any other articles, goods or wares as will permit, facilitate and encourage the development of truck farming, cattle raising or other trades or businesses in which the availability of such public scales is necessary or desirable.

Sec. 2. The Commissioners Court in each county shall have authority to prescribe rules and regulations concerning use of such scales and prescribe the fees to be charged for such use, and the Commissioners Court shall have the power and authority to operate such public scales, to provide adequate personnel for the operation of such scales, or to lease, let or rent such scales to responsible private individuals, corporations, business concerns or associations upon the terms and conditions prescribed by the Commissioners Court. Provided, however, that such public scales provided for in this Act shall at all times be available for use by the public.

Sec. 3. Any and all money which may be collected or received by virtue of the use or operation of such scales and through any contract which may be executed under the provisions of this Act shall be designated to the General Fund of the county.

[Acts 1954, 53rd Leg., 1st C.S., p. 95, ch. 44.]

Art. 2372o. County Building Authority Act

Application of Act

Sec. 1. This Act shall be applicable only to counties having a population in excess of 600,000 according to the last preceding Federal Census and which own and use, in conjunction with other structures, a courthouse which is more than thirty (30) years old or has not been completely renovated or remodeled within a thirty (30) year period. County Building Authorities without taxing power may be created

as hereinafter provided. This law shall be known as the "County Building Authority Act."

Definitions

Sec. 2. As used in this law: (a) "County" means any county to which this Act is applicable;

(b) "Authority" means a County Building Authority created under this Act;

(c) "Board" or "Board of Directors" means the board of directors of the Authority;

(d) "Project" means the building and property to be constructed or acquired by the Authority;

(e) "Bond Resolution" means the resolution of the Board of Directors authorizing the issuance of revenue bonds;

(f) "Trust Indenture" means the mortgage, deed of trust or other instrument pledging revenues of, or creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the Authority;

(g) "Trustee" means the trustee under the Trust Indenture.

County Building Study Committee; Powers; Payment of Costs

Sec. 3. When the Commissioners Court of any county coming under the provisions of this Act shall find that it is to the best interest of the county and its inhabitants it shall by order create a County Building Study Committee composed of five (5) members, one (1) to be appointed by each County Commissioner and one (1) by the County Judge. The Study Committee shall have the power to study the needs of the county for a new or expanded county building and the possibility of incorporating therewith devices and characteristics designed to afford protection of life and property in modern warfare, make preliminary plans and surveys with reference to requirements, costs and feasibility of the project and to make recommendations to the Commissioners Court. The county may pay the cost of such study, not to exceed Twenty-five Thousand Dollars (\$25,000.).

Election on Construction of County Building and Issuance of Bonds; Ballots

Sec. 4. The Commissioners Court, after reviewing and considering the recommendations of the Study Committee, may call an election of the qualified voters of the county on the question of construction of a County Building and the issuance of bonds. At such election the following question shall be submitted to the voters:

"FOR the constructing, acquiring, improving, equipping, furnishing a County Building and to issue negotiable revenue bonds to provide funds for this purpose."

"AGAINST constructing, acquiring, improving, equipping, furnishing a County Building and to issue negotiable revenue bonds to provide funds for any of its purposes."

If a majority of the qualified voters of the county vote affirmatively on the above question the Authority shall come into existence and the following Sections of this Act shall apply.

Board of Directors; Membership; Terms; Vacancies; Appointments; Qualifications; Compensation

Sec. 5. The Authority shall be governed by a board of five (5) directors; each County Commissioner shall appoint one (1) director and the County Judge shall appoint one (1) director. Each director shall serve for a term of not more than two (2) years ending on December 31 not more than two (2) years after his term begins. The directors may provide for overlapping terms, in which event, the directors who are to serve until the following December 31, and those who are to serve until December 31 of the following year shall be determined by lot. Upon the death, resignation, or expiration of the term of any director, a new director to succeed said director, shall be appointed by the person then holding the office of County Judge or County Commissioner, as the case may be, who originally appointed such retiring director; and further, no provisions may hereafter be made in the bylaws of the Authority herein created, to provide for any other means of filling vacancies on the Board of Directors, as if and when they may occur. No officer or employee of any such county shall be eligible for appointment as a director. Directors shall not receive compensation for services but shall be entitled to reimbursement of their expenses incurred in performing such service.

Officers; Quorum; Appointment of Managers of Properties; Comptroller; Duties

Sec. 6. (a) The Board of Directors shall elect from among its members a president and a vice-president, and shall elect a secretary and a treasurer who may or may not be directors, and may elect such other officers as may be authorized by Authority's bylaws. The offices of secretary and treasurer may be combined. The president shall have the same right to vote on all matters as other members of the Board. A majority of the members of the Board shall constitute a quorum and when a quorum is present action may be taken by a majority vote of directors present. The Board shall employ a manager or executive director of the properties and such other employees, experts and agents as it may see fit, but it may delegate to the manager the power to employ and discharge employees. The Board may employ legal counsel.

(b) The County Auditor shall appoint a Comptroller for the Authority, subject to the approval of the Board of Directors and the Commissioners Court. The Comptroller shall work under the direction of the County Auditor and shall institute such budgetary, purchasing and fiscal procedures as conform to accepted business and accounting practices. The Comptroller shall make quarterly reports to the

Commissioners Court. His employment may be terminated by the County Auditor and a majority vote of the Board of Directors, and a majority vote of the Commissioners Court. The Comptroller's salary shall be fixed by the County Auditor and approved by the Board of Directors and by the Commissioners Court, and his salary shall be paid by the Authority.

**Power to Construct, Enlarge and Furnish
Courthouse; Bids**

Sec. 7. The Authority shall have the power, subject to the approval of the Commissioners Court, to construct, enlarge, furnish and equip a building to be used principally as a county courthouse. The Board of Directors shall comply with Chapter 163, Acts of the 42nd Legislature (Vernon's Annotated Civil Statutes Article 2368a), as amended, and Sections 2a and 2b thereof with reference to any construction contract or contract for purchase of equipment and material calling for or requiring the expenditure or payment of Two Thousand Dollars (\$2,000.) or more.

**Purpose; Cooperation with Civil Defense Administrator;
Participation in Federal or State Assistance**

Sec. 8. The Authority is created primarily for the purpose of constructing, acquiring, improving, equipping, furnishing, maintaining and operating a County Building adequate to meet the needs and requirements of such county, and may incorporate shelter protection as a part of the underground facilities to be constructed. In this connection the Authority is authorized to cooperate with the Civil Defense Administrator operating under the Acts of Congress and with the Civil Defense Officers operating under state laws and may make all necessary contracts which would entitle the Authority to participate in Federal or State Assistance in constructing and operating such shelter protection facilities. In making the plans for any such building the Authority may take into consideration the anticipated population and economic growth of the county and its consequent increasing demands for space for housing offices, courts and other activities of the county.

General Powers of Authority

Sec. 9. The Authority is hereby granted and shall have and may exercise all powers necessary or convenient for the carrying out of the purposes set forth in Section 6 above, including but without limiting the generality of the grant of powers, the following rights and powers:

- (a) To sue and be sued, implead and be impleaded, to complain and defend in all courts;
- (b) To adopt, use and alter at will a corporate seal;
- (c) To acquire, purchase, hold and use the land necessary for carrying out the purpose of the Authority, including the power, but without limitation as to the generality of the power hereby granted, to

lease as lessee from such county any land or any interest therein for a term not to exceed ninety-nine (99) years, at a nominal rental, or at such annual rental as may be determined by contract between the county and the Authority; to lease as lessor to the county any property, real, personal or mixed, or any interest therein for a term of not exceeding ninety-nine (99) years, at a nominal rental or at such annual rental as may be determined by contract between the county and Authority; to lease as lessor to other persons any property, real, personal or mixed, or any interest therein or any space therein, for a term of not exceeding forty (40) years, at such annual rental as may be determined by contract between the Authority and such person or persons, but with the proviso that upon such notice as may be specified therein the possession of such property will be surrendered by such person or persons to the Authority in the event and to the extent that it shall then be required for use by the county, provided that the obligations of the Authority under its bond resolution and indenture are not to be impaired thereby;

(d) To make bylaws for the management and regulation of its affairs;

(e) To fix, alter, charge and collect rates, rentals, and other charges for the use of the facilities of, or for the services rendered by the Authority or the Project, which must yield an aggregate income adequate to provide for the payment of the expenses of the Authority, maintenance and operation of the Project and to pay the principal of and interest on the obligations of the Authority, including the amounts necessary to establish and maintain such reserve funds as are required under the resolution authorizing the issuance of Authority's obligations and under the indenture securing such obligations;

(f) To make contracts of all kinds and to execute all instruments necessary or convenient for the carrying on of its business;

(g) Without limitation of the foregoing to borrow money and accept grants from, and to enter into contracts, leases or other transactions with any Federal Agencies;

(h) To have and exercise the power of eminent domain to the same extent and to be exercised in the same manner and under the same laws that are applicable to counties under the laws of the State of Texas for the purpose of acquiring property needed for any purpose authorized by this law;

(i) Prior to the beginning of each fiscal year the Comptroller under the direction of the Board of Directors shall prepare the budget for the ensuing fiscal year and submit it to the Commissioners Court. The Commissioners Court is authorized to ap-

prove or revise the budget within fifteen (15) days after it is so submitted;

(j) To do all acts and things necessary or convenient to carry out the powers granted to it by this Act or any other Acts.

Authority of Counties; Accomplishment of
Objectives of Act

Sec. 10. A county, acting through its Commissioners Court is authorized to do all things necessary or convenient to permit the accomplishment of the objectives of this Act including, but without limitation as to the generality of such authorization, the following:

(a) The acquisition of land and the conveyance of such land and additional land owned by the county, to the Authority, which in the opinion of such court is needed for the Project, such conveyance to be either in the form of a deed or a lease, and upon such consideration as may be deemed reasonable by such court, after taking into consideration the fact that the Project is for the primary benefit of the county;

(b) To enter into such contracts of lease, as lessee, with the Authority as lessor, as may be necessary or convenient under this Act, to the extent that such contracts are considered by the court to be in the best interest of the county and in such contract of lease the county is authorized to obligate itself to pay to the Authority, at a bank to be designated by the Authority, an annual rental fixed or determined in the manner provided in such lease and to levy a tax sufficient to pay such rental as it becomes due.

Issuance of Negotiable Revenue Bonds

Sec. 11. The Authority may issue negotiable revenue bonds to provide funds for any of its purposes. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of its properties and any other revenues resulting from the ownership thereof. The bonds may be additionally secured by a mortgage or deed of trust on real and personal property of the Authority.

Bond Issue Election; Notice; Series; Maturity Date;
Interest Cost; Recall Prior to Maturity

Sec. 12. No bonds shall be issued unless authorized by an election held throughout the Authority for that purpose. Such election shall be called by resolution of the Board of Directors. Said election shall be called and held and notice thereof published in the manner provided by Chapter 1 of Title 22, Revised Civil Statutes of 1925, as amended.¹ The bonds shall be authorized by resolution adopted by a majority vote of a quorum of the Board of Directors, and shall be signed by the president or vice-president and countersigned by the secretary, or either or both of their facsimile signatures may be printed thereon. The seal of the Authority shall be impressed or printed thereon. The bonds shall mature serially or

otherwise in not to exceed (40) years and may be sold at a price and under terms determined by the Board of Directors to be the most advantageous reasonably obtainable, provided that the interest cost to the Authority, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six percent (6%) per annum, and within the discretion of the Board, may be made callable prior to maturity at such times and prices as may be prescribed in the resolution authorizing the bonds, and may be made registrable as to principal or as to both principal and interest.

¹ Article 701 et seq.

Bonds Constituting Junior Lien on Net Revenues;
Issuance; Bond Resolution

Sec. 13. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the Bond Resolution or Trust Indenture. Parity bonds may be issued under condition specified in the Bond Resolution or Trust Indenture.

Money for Payment of Initial Interest and Operating
Expenses

Sec. 14. Money for the payment of not more than two (2) years interest on the bonds and an amount estimated by the Board to be required for operating expenses during the first year of operation may be set aside for those purposes out of the proceeds from the sale of the bonds.

Refunding Bonds; Exchange by Comptroller

Sec. 15. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds except that no election shall be required, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied in accordance with the procedure prescribed in Chapter 503, Acts of the 54th Legislature.¹

¹ Article 717k.

Examination of Bonds by Attorney General; Lease
Contracts; Approval; Registration

Sec. 16. After any bonds (including refunding bonds) are authorized by the Authority such bonds and the record relating to their issuance shall be submitted to the Attorney General for his examination as to the validity thereof. Where such bonds recite that they are secured by a pledge of the proceeds of a lease contract theretofore made between the Authority and the county, or other governmental agency, a copy of such contract and the proceedings of the county or other governmental agency, authorizing such lease contract shall also be submitted to the Attorney General. It shall be the duty of the Attorney General to approve the bonds, and the lease contract, if any, if he finds them to be valid. If he shall approve the bonds and such lease contract the bonds then shall be registered by the Comptroller of Public Accounts. Thereafter, the bonds,

and the lease contract, if any, shall be valid and binding and shall be incontestable for any cause. The creation of the Authority, the bonds, the provision made for the payment and security thereof, and the lease contract if one is made, may also be adjudicated as to validity in the manner provided by Senate Bill No. 349, Acts of the Regular Session of the 56th Legislature.¹

¹ Article 717m.

Legal and Authorized Investments; Eligibility to Secure Deposit of Public Funds

Sec. 17. All bonds of the Authority shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, insurance companies, fiduciaries, trustees, guardians, and the sinking funds of cities, towns, villages, counties, school districts, or other political subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of the State of Texas, and any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their value, when accompanied by all unmatured coupons appurtenant thereto.

Operation of Properties Without Private Profit; Payment of Expenses; Sinking Fund; Bond Reserve Fund

Sec. 18. The properties shall be operated without the intervention of private profit for the use and benefit of the public. But it shall be the duty of the Board of Directors to charge sufficient rentals and charges and to utilize other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the property, to pay the interest on the bonds as it becomes due, to create a sinking fund to pay the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the Bond Resolution or Trust Indenture.

Depository

Sec. 19. The Authority may select a depository or depositories according to the procedures provided by law for the selection of county depositories or it may award its depository contract to the same depository or depositories selected by the county and on the same terms.

Use of Property for Benefit of Public; Tax Exemption

Sec. 20. The property owned by Authority will be held for governmental and public purposes only and will be devoted exclusively to the use and benefit of the public, and it shall be exempt from taxation of every character.

Investment of Funds

Sec. 21. The law as to the security for, and the investment of funds, applicable to counties

shall control, insofar as applicable the investment of funds belonging to the Authority. The Bond Resolution or the Indenture or both may further restrict the making of such investments. In addition to other powers, the Authority shall have the right to invest the proceeds of its bonds, until such money is needed, in the direct obligations of or obligations unconditionally guaranteed by the United States Government, to the extent authorized in the Bond Resolution or Indenture or in both.

Partial Invalidity

Sec. 22. If any provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of the Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

Limiting Rights and Powers of Commissioners Court

Sec. 23. No power or authority herein delegated, given, or granted to the Authority authorized to be created by this Act, shall in any manner, alter or limit the rights and powers of the County Commissioners Court, to continue to provide for itself, and the public to be served, such buildings and other facilities which, in their judgment are necessary for the convenience of the people in populated areas.

Payment of Indebtedness; Conveyance of Property to County; Dissolution

Sec. 24. After payment of all indebtedness incurred by the Authority, the Authority shall convey all of its properties and assets to the county without cost to the county, and the Authority shall be dissolved upon the making of such conveyance.

[Acts 1959, 56th Leg., 2nd C.S., p. 126, ch. 25.]

Art. 2372p. Employment of Special Counsel in Counties of More Than 500,000 Population

The Commissioners Court of all counties containing more than five hundred thousand (500,000) population according to the last preceding Federal Census shall have the authority to employ special counsel, learned in the law, to represent the county in all suits brought by or against such county, and particularly with authority to render aid and work with the Commissioners Court, the county engineer and other county employees in the preparation of documents necessary in the acquisition of rights-of-way for the county, or in cases where the county is required to obtain rights-of-way for state highways, or to assist in the acquisition of such rights-of-way; to represent the county in all condemnation proceedings for the acquisition of rights-of-way for highways and other proper purposes where the right of eminent domain is given to counties. Provided, however, that in such counties having a County Attorney, the special counsel shall be named by the County Attorney, and in such counties having no County Attorney, special counsel shall be named by the District Attorney or Criminal

District Attorney, and such employment shall be made for such time and on such terms as said County Attorney, District Attorney, or Criminal District Attorney may deem proper and expedient, subject to the approval of the Commissioners Court.

[Acts 1961, 57th Leg., p. 493, ch. 235, § 1.]

Art. 2372p-1. Furnishing Counsel and Investigative Services for Indigents Accused of Crime; Counties Over 1,500,000

Authority to Contract

Sec. 1. For the purpose of providing timely and effective assistance of counsel to those persons accused of crime and who are financially unable to employ counsel on their own, the Commissioners Court of any county in this State having a population of more than 1,500,000, according to the last preceding federal census, may contract with some already established bar association, nonprofit corporation, nonprofit trust association or any other nonprofit entity (which has for its purpose the providing of timely effective assistance of counsel for the indigent accused of crime) to assist the courts in providing the timely and effective assistance of counsel.

Aid to Court Appointed Counsel

Sec. 2. Under the terms of such contract, provision may be made for the contracting entity to provide additional legal counseling and advice to the court appointed counsel as well as the necessary investigative services authorized by Article 26.05, Code of Criminal Procedure, 1965.

Recommendations for Release on Personal Bond

Sec. 3. Likewise, for the purpose of providing the judge before whom a criminal case is pending the information necessary for making a proper determination as to whether or not the accused should be released on personal bond as authorized by Article 17.03, Code of Criminal Procedure, 1965, the commissioners court of any such county may contract with such above named entity to interview the accused, to verify the information given, to make the appropriate recommendation as to release to the judge of the court where the case is pending, and, if the accused is released on his personal bond, to assure the judge of the court that such entity will assist in securing the presence of the accused at his trial.

Duration of Contract; Renewal

Sec. 4. Such contract may not be entered into for in excess of one year, but may be renewed from time to time. Either party to such contract may terminate the same by giving six months notice of intention to do so.

Compensation for Services

Sec. 5. Services provided under said contract shall be compensated for from the general funds of the county, and the commissioners court is empowered to accept grants or other financial assistance from the federal govern-

ment or other private source to aid and assist in carrying out the purposes of this Act.

[Act 1969, 61st Leg., p. 2454, ch. 821, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1836, ch. 542, § 81, eff. Sept. 1, 1971.]

Art. 2372p-2. Personal Bond Offices

Sec. 1. Any county, or any judicial district with jurisdiction in more than one county, with the approval of the commissioners court of each county in the district, may establish a personal bond office to gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.

Sec. 2. (a) The commissioners court of a county that establishes the office, or the district and county judges of a judicial district that establishes the office, may employ a director of the office.

(b) The director may employ the staff authorized by the commissioners court of the county or the commissioners courts of each county in the judicial district if the judicial district includes more than one county.

Sec. 3. If a judicial district establishes the office, each county in the district shall pay its pro rata share of the costs of administering the office according to its population in the last preceding federal census.

Sec. 4. (a) If a court releases an accused on personal bond on a personal bond office's recommendation, the court shall assess a personal bond fee of \$10 or of three percent of the amount of the bail fixed for the accused, whichever is greater. The court may waive the fee or assess a lesser fee if good cause is shown.

(b) Fees collected under this Act may be used solely to defray expenses of the personal bond office, including defraying the expenses of extradition.

(c) Fees collected under this Act shall be deposited in the county treasury, unless the office serves more than one county in which event the fees shall be apportioned to each county in the district according to each county's pro rata share of the costs of the office.

[Acts 1973, 63rd Leg., p. 788, ch. 352, eff. June 12, 1973.]

Art. 2372p-3. Licensing and Regulation of Bail Bondsmen

Declaration of Policy

Sec. 1. The business of executing bail bonds is declared to be a business affecting the public interest. It is declared to be the policy of this state to provide reasonable regulation to the end that the right of bail be preserved and implemented by just and practical procedures governing the giving or making of bail bond and other security to guarantee appearance of the accused.

Definitions

Sec. 2. In this Act:

(1) "Person" includes corporations, other business entities, and associations of persons.

(2) "Bondsman" means any person who for hire or for any compensation deposits any cash or bonds or other securities, or executes as surety any bond for other persons, as many as five times in any 12-month period.

(3) "Company" includes corporations and other business entities.

(4) "Bond" includes cash deposit and any similar deposit or written undertaking to assure appearance.

(5) "Board" means the County Bail Bond Board.

Requirements of License

Sec. 3. (a) No person may act as a bondsman without the license required under the provisions of this Act, except as provided in Subsections (b), (c), and (d) of this section.

(b) Persons who are actually engaged in the practice of law and who are members of the State Bar of Texas who personally execute bail bonds or act as sureties for persons they actually represent in criminal cases may execute bail bonds or sureties without being licensed under this Act, but they are prohibited from engaging in the practices made the basis for revocation of license under this Act and, if found guilty of violating the terms of this Act, may not qualify thereafter under the exception provided in this subsection.

(c) The provisions of this Act do not apply to the execution of bail bonds in counties having a population of less than 150,000 according to the last preceding federal census.

(d) Persons who execute bonds as cosureties with a licensed bondsman.

Examination of Bondsman by Any Sheriff

Sec. 4. A sheriff may examine under oath any proposed bondsman, or an officer or attorney of any company proposing to execute a bond, as to the indemnity, if any, deposited or otherwise provided directly or indirectly against loss by reason of the bond, and may refuse to accept the bond if, in the exercise of his discretion, he is satisfied that the security is insufficient, any portion of the security has been feloniously obtained, or the provisions of this Act have been violated.

County Bail Bond Board

Sec. 5. (a) There is hereby created in all counties having a population of 150,000 or more, according to the last preceding federal census, a County Bail Bond Board.

(b) It shall be the duty of the County Bail Bond Board to set rules and regulations relative to the making of bail bonds by bondsmen within the county. No person may act as a bondsman unless he first obtains a license

from the board unless exempted under the provisions of Section 3 of this Act.

(c) The County Bail Bond Board shall be composed of the following persons:

(1) the county sheriff or his designee;

(2) a district judge of the county having jurisdiction over criminal matters designated by the presiding judge of the administrative judicial district;

(3) the county judge or a member of the commissioners court designated by the county judge;

(4) a judge of a county court or a county court at law in the county having jurisdiction over criminal matters designated by the commissioners court;

(5) the district attorney or his designee.

(d) The board shall meet within 60 days after its creation. The board shall initially elect one of its members as chairman who shall preside at all meetings to be held thereafter at the call of the chairman.

(e) Three members of the board shall constitute a quorum for the conduct of business. All action by the board shall require the vote of a majority of the members present.

(f) Unless clearly not required by this Act, all rules, regulations, and actions of the board passed pursuant to this Act shall be posted at an appropriate place in the courthouse for a period of 10 days prior to their effective date.

(g) The County Bail Bond Board has the following powers and duties:

(1) To establish rules to be followed in the county relating to the setting and taking of bail bonds;

(2) To conduct hearings and make determinations respecting the issuance of licenses to bondsmen within the provisions of this Act and to issue licenses to those applicants who qualify under the terms of this Act;

(3) To administer oaths and examine witnesses in its hearings;

(4) To investigate applicants and licensees and all persons in concert with them to determine their qualifications to meet the requirements of this Act;

(5) To cause records and transcripts to be made of all its proceedings; and

(6) To maintain records and minutes and otherwise operate its office affairs.

Application and Issuance of License

Sec. 6. (a) Any person desiring to act as a bondsman in any court of the county shall file with the County Bail Bond Board a sworn application for a license. The application shall be in such form as the board may prescribe, and shall set forth:

(1) The name and address of the applicant, and if the applicant shall be a firm or corporation, the name of each officer and director thereof and all of its em-

ployees actively engaged in processing the giving or making of bail bonds within the county;

(2) The name under which the business shall be conducted;

(3) The name of the place or places wherein the business is to be conducted;

(4) The list of nonexempt properties owned by the applicant and rendered on the tax rolls of the county, the same to be certified by the county tax assessor and collector of the county involved, along with a personal financial statement of the applicant;

(5) Any corporation duly qualified to act as a surety in the State of Texas shall name its agent or agents proposed to do business of making bail in the county;

(6) A statement that such applicant has not been denied or refused a license in the county during the past 12 months.

(b) The application shall be accompanied by letters of recommendation from three reputable persons who have known the applicant for a period of at least three years. Each letter shall recommend applicant as having a reputation of honesty, truthfulness, fair dealing, and competency and shall recommend that the permit be granted to the applicant.

(c) The application shall be accompanied by a fee of \$500 for the filing of any original application.

(d) Upon notice from the board that the application has been tentatively approved, the applicant shall then:

(1) deposit with the county treasurer of the county in which his principal office is located a cashier's check, certificate of deposit, or cash in the amount of \$5,000, to be held in a special fund to be called the bail security fund; or

(2) execute in trust to the sheriff of the county in which his principal office is located a deed to nonexempt real property of the value, as determined by the sheriff, of not less than \$10,000, the condition of the trust being that the property may be sold to satisfy any forfeitures that may be made in bonds executed by him after such notice and upon such conditions as are hereinafter provided.

(e) The cash deposit or the funds realized from the trust may be used to pay the judgments of any bail forfeitures that result from the person's execution of a bail bond, if the licensee fails to satisfy the judgment within 30 days subsequent to the date of issue by presentment of final judgment to the county treasurer. When any sums are depleted from the deposit or trust to pay a judgment resulting from a forfeited bond, the licensee shall, as a condition to continuing as a licensee, replenish the amount so depleted. When the licensee ceases to engage in the business of executing bail bonds

and ceases to maintain his license, he may withdraw his security deposit or trust upon presentment of a release by the sheriff, if there are no judgments or bond liabilities outstanding against the license. Any portion of the deposit or trust not used to pay judgments shall be returned to the licensee or his heirs or assigns upon presentment of a release by the sheriff.

(f) Before application of the cash deposit, cashier's check, or certificate of deposit, or before any action is taken to liquidate property held in trust, the sheriff or his agent shall make demand of the licensee to pay the judgment. In the event of failure or refusal to do so within 30 days of the demand, the sheriff may apply the deposit to pay the judgment or liquidate the trust and apply the proceeds to pay the judgment. The licensee shall keep the sheriff notified of the mailing address to which notice of a judgment may be sent, and the mailing of notices by certified mail to the address provided by the licensee shall be sufficient to comply with the notice requirements of this section.

Corporation as Surety

Sec. 7. (a) Wherever in this Act any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety. When any such corporation authorized by law to act as a surety undertakes to be a surety on a bail bond, such corporation, before being acceptable as a surety on a bail bond, shall be required to meet the same requirements an individual is required to meet by this chapter before being acceptable as a personal surety on a bail bond.

(b) The certificate of authority to do business in this state issued to a corporation by the State Board of Insurance pursuant to Article 8.20, Insurance Code, as now or hereafter amended, shall not be conclusive evidence as to the sufficiency of the security, the corporation's solvency, or its credits; and if the court or officer taking the bail bond is not fully satisfied as to the sufficiency of the security offered by the corporation, further evidence shall be required before approving the bail bond.

(c) Any corporation which acts as a surety shall, before executing any bail bond, first file in the office of the county clerk of the county where such bail bond is given a power of attorney designating and authorizing the named agent, agents, or attorney of such corporation to execute such bail bonds by such agent, agents, or attorney. This power of attorney shall be a valid and binding obligation of the corporation.

(d) Notwithstanding any statutory requirements to the contrary, any agent so designated and licensed hereunder for the purpose of writing bail bonds shall not be required to be licensed as a local recording agent as defined in Article 21.14, Texas Insurance Code, as amended, for the purpose of this Act.

Expiration of License

Sec. 8. (a) A license issued under this Act expires 24 months after the date of its issuance and may not be renewed unless an application for renewal is filed with the board at least 30 days before expiration. The application for renewal shall have the same form and content as an application for an original license under this Act. The application for renewal shall be accompanied by a renewal fee of \$250. The license may then be renewed for a period of 12 months from the date of expiration and may be renewed subsequently each year in like manner.

(b) All fees collected by the board shall be deposited in the general fund of the county.

(c) Each license, when issued, shall show on its face the date of expiration and license number, and it shall be the responsibility of the licensee to file for renewal under the terms of this Act, and each subsequent renewal license shall have the same number as assigned the original license.

Refusal and Revocation of Licenses

Sec. 9. (a) No license may be issued to any person who:

- (1) is bankrupt or insolvent; or
- (2) has had his license revoked for default upon a bond and has not satisfied the obligation of the bond.

(b) Any license may be suspended or revoked by the board for:

- (1) violation of the provisions of this Act;
- (2) fraudulently obtaining a license under the provisions of this Act;
- (3) conviction under the laws of this or any other state or of the federal government of a misdemeanor involving moral turpitude or of a felony;
- (4) being adjudged bankrupt or becoming insolvent;
- (5) failing to pay within 30 days any final judgment rendered on any forfeited bond in any court of competent jurisdiction within this state;
- (6) failure to pay, in addition to the principal amount of a forfeited bond, all necessary and reasonable expenses incurred by all peace officers in arresting the principal on any bail bond executed by him, in the event the principal fails to appear as required by law;
- (7) a licensee's paying commission or dividing commissions or fees with any person, company, firm, or corporation not permitted hereunder to execute bonds or in any manner passing anything of value to any person for referrals of bond business; or

(8) soliciting bail bond business in any building where prisoners are processed or confined.

Procedure for Suspension or Revocation of License

Sec. 10. (a) The board may revoke or suspend a license in accordance with the procedure provided in this section for the violation of any provision of this Act.

(b) Notice of a hearing to suspend or revoke shall be given by certified mail addressed to the last known address of the licensee at least 10 days prior to a date set for the hearing.

(c) The notice shall specify the charges of violation of this Act made against the licensee, and no other charges shall be made at the hearing pursuant to the notice.

(d) The hearing shall afford to the licensee opportunity to be heard, to present witnesses in his behalf, and to question witnesses against him.

(e) A record of the hearing shall be made. It shall be made available to the licensee on his request subject to his paying reasonable costs of transcription.

Court Review

Sec. 11. An appeal may be taken from any board's order revoking, suspending, or refusing to issue a license. The appeal must be made within 30 days after written notice of the suspension, revocation, or refusal by filing a petition in a district court in the county in which the license is issued or refused. If no appeal is taken within 30 days after written notice of suspension, revocation, or refusal, such action shall become final. An appeal shall be by trial de novo, as in proceedings appealed from justice to county courts. The decision of the board shall have full force and effect pending the termination of the appeal. All appeals taken from actions of the board shall be against the board and not against the members individually.

Other Procedural Provisions

Sec. 12. (a) In each instance where a principal has been rearrested and returned to the county wherein his bond was made within 120 days after the date of the final judgment on the bond forfeiture and no appeal has been taken and provided that the principal was rearrested as a result of money spent or information furnished by the surety, the surety thereon may file a motion of remittance in the court commanding the appearance of the principal and the court shall order at least 50 percent of the amount paid on the judgment remitted. The payment shall be made by the county treasurer.

(b) Any licensee under this Act may execute bail bonds in the county in which his license is issued and, after being certified by the sheriff in his county, may present a bail bond to any sheriff in the state having custody of the accused person named therein, except that a sheriff of a county having a population in excess of 150,000 according to the last preceding federal census may require that all bail bonds be executed by persons licensed in that county.

(c) A person whose application for license to engage in the execution of bail bonds has been refused may not make or renew the application for a period of one year from the date of final rejection.

Surrender of Principal

Sec. 13. (a) No person who executes a bail bond as a surety for a principal may surrender the principal unless he forthwith executes an affidavit to be filed with the clerk of the court stating:

- (1) the date the bond was made;
- (2) the fee paid for the bond; and
- (3) the reason for the surrender.

(b) If the reason for surrender is deemed without reasonable cause by the principal, any agent of the sheriff, or any attorney representing the state or any accused in the proceeding, that person may bring the matter to the attention of the court.

(c) If the court determines that the person who surrendered the principal did so without reasonable cause, the court in its discretion may require that all or a part of the fees paid as a condition for making the bail bond shall be returned to the principal. In making the determination the court shall determine what fees, whether denominated fees for the making of the bond or not, were in fact paid for the purpose of inducing the surety to make the bond.

Approval of Bond

Sec. 14. The sheriff of any county has the sole responsibility of receiving and approving bail bonds for the purpose of gaining the release of a named principal held in custody by any authority in his county upon accusation of an offense of which the county or district court has jurisdiction.

Acts Subject to Fine

Sec. 15. (a) No person required to be licensed under this Act may execute a bail bond without a license.

(b) No bondsman or agent of a bondsman may, by any means, recommend or suggest to any person whose bail bond has been posted by that person the name of any particular attorney or firm of attorneys for employment in connection with a criminal offense.

(c) No sheriff, peace officer, or his deputy or employee, or clerk, or deputy clerk of any court may recommend to any person or persons, family of such person or persons, friends, relatives, or employer the name of any particular bondsman. In all places where prisoners are examined, processed, or confined, a list of licensed bondsmen of that county may be displayed.

(d) No person may advertise as a bondsman who does not hold a valid license under this Act. Provided, however, any second or subsequent violation of this subsection shall be punishable as provided by Subsection (g) of this section.

(e) Any person who violates a provision of this section commits a misdemeanor punishable by a fine of not more than \$500.

(f) No stocks or bonds or real estate used as security for the making of any bail bond may be transferred at any time while there remains an outstanding bail bond secured by this property; except that a surety may make application to the sheriff for permission to sell or trade any portion of such property and the sheriff shall give a written consent for such sale or trade upon finding that the remaining property is sufficient security for all outstanding bonds of the licensee.

(g) Any person who violates Subsection (f) of this section shall be guilty of a misdemeanor or punishable by a fine of not more than \$1,000 or confinement in the county jail for not more than one year or both.

Severability

Sec. 16. If any provision of this Act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

[Acts 1973, 63rd Leg., p. 1520, ch. 550, eff. Aug. 27, 1973.]

Art. 2372q. Acquisition of Natural Gas System for Courthouses and Other County Buildings

Adoption of Act; Eligible County Defined

Sec. 1. The provisions of this Act may be adopted by an order of the Commissioners Court of any eligible county within this state upon a majority vote of the members of such court. An eligible county is defined to mean any county which at the time of the adoption of this Act by the county has a county seat that is an unincorporated community or city with a population in excess of 5,000 inhabitants, according to the then last preceding Federal Census.

Purchase or Construction of System; Facilities for Supply and Distribution

Sec. 2. In order to acquire an adequate and dependable supply of natural gas for the county courthouse, county offices and other county buildings, the Commissioners Court of any eligible county is authorized to acquire by purchase or construction (but not through the exercise of the power of eminent domain) a natural gas system and in the furtherance of such project, such county shall be authorized to construct, repair and maintain such facilities for the supply and distribution of natural gas as may be required for the purpose of supplying natural gas to the courthouse, county offices and other county buildings, all of which is hereinafter sometimes referred to as the Project.

Sale of Gas Not Needed for County Purposes

Sec. 3. The Commissioners Court of any eligible county is hereby authorized and empowered to sell, contract to sell, deliver and distribute any or all natural gas of the Project which is not needed for county purposes to any municipal corporation or political subdivision of this state now existing or hereafter established under the laws of the State of Texas, or to any individual, corporation or company under such terms and conditions as the court may determine to be in the best interest of the county. The cost of supplying the natural gas, including any increase in the cost of the distribution lines or facilities, shall be considered as a part of the Project as such term is used in the preceding and the following Sections.

Bonds; Rates and Charges; Manner of Sale; Redemption; Proceeds

Sec. 4. (a) For the purpose of paying the cost of the Project, including, without limitation, legal, fiscal, engineering expenses, and interest during the construction of the Project, the county may issue its negotiable bonds, payable from and secured by a pledge of the net revenues of the Project.

(b) It shall be the mandatory duty of the Commissioners Court to contract for and impose such rates and charges, for gas supplied by the Project as will be fully sufficient to operate and maintain the Project and produce all amounts required to pay principal and interest on the bonds when due, and establish such reserves as may be provided in the order authorizing the issuance of such bonds.

(c) All gas used by the county for its own facilities shall be paid out of General Funds of the county legally available for such purpose and no free service shall be allowed.

(d) The Commissioners Court shall have full discretion in fixing the details of the bonds and in determining the manner of sale thereof provided the bonds shall bear interest at not exceeding six percent (6%) per annum and mature in not more than forty (40) years from their date and such order may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the county in relation to the acquisition of properties and the construction, maintenance, operation, repair and insurance of the Project, and the custody, safeguarding, and application of all moneys, and may set forth the rights and remedies of the bondholders and may contain such other provisions as the Commissioners Court may deem reasonable and proper for the security of the bondholders, including but without limitation covenants prescribing all happenings or occurrences which constitute events of default and the rights, liabilities, powers and duties arising upon breach by the county of any of its duties or obligations. The bonds may be made redeemable prior to maturity in such manner and at such

prices as may be determined by the Commissioners Court in the order authorizing their issuance. All bonds issued hereunder shall and are hereby declared to have all the qualifications and incidents of negotiable instruments under the Negotiable Instruments Law of Texas. The proceeds of the bonds shall be disbursed under such restrictions as may be provided in the bond order, and there shall be and is hereby created and granted a lien upon such moneys until so applied in favor of the holders of the bonds. Pending use of the proceeds of the sale of such bonds for the construction of the Project such proceeds may be invested in direct obligations of the United States Government having maturities not more than ninety-one (91) days from the date of investment. Unless otherwise provided in such order or indenture, if the proceeds of the bonds prove insufficient to pay the cost of the Project, additional bonds may be issued under the methods herein prescribed to the amount of the deficit.

Debt of County; Pledge of Revenues

Sec. 5. The bonds shall never constitute a debt of the county, but shall be solely a charge upon the pledged revenues, and shall never be reckoned in determining the power of the county to issue bonds or incur other debt for any purpose authorized by law, and each bond shall contain this clause: "The holder hereof shall never have the right to demand payment of this obligation out of any funds raised or to be raised by taxation."

Form of Bonds; Approval

Sec. 6. The bonds shall be signed by the county judge and attested by the county clerk, but the facsimile signatures of such officials may be printed or lithographed on the bonds in accordance with the provisions of Chapter 293, Acts of the 54th Legislature, 1955.¹ The county treasurer shall register the bonds, but he need not sign them. The seal of the Commissioners Court shall be impressed on the bonds or a facsimile of the seal may be printed or lithographed thereon. The bonds and the record relating to their issuance shall be presented to the Attorney General of Texas, and if they have been issued in accordance with the Constitution and this law he shall approve them. Upon approval by the Attorney General the bonds shall be registered by the Comptroller of Public Accounts, and thereafter the bonds and the provisions made for their security and payment shall be incontestable.

¹ Article 717j (repealed).

Eminent Domain

Sec. 7. It is expressly provided that an eligible county shall not have any power of eminent domain in the acquisition of any existing facilities constituting the Project as that term is used in Section 2 of this Act, nor shall any such county exercise such power outside of its own territorial limits, but for the purpose of carrying out any other power or authority conferred by this Act, such county shall have the right to acquire land and easements, by con-

demnation in the manner provided by Title 52, Revised Civil Statutes of Texas, 1925, as amended,¹ relating to eminent domain. The amount of and character of interest in land and easements thus to be acquired shall be determined by the Commissioners Court. In the event that the county, in the exercise of the power of eminent domain or power of relocation, raising, rerouting or changing the grade of, or altering the construction of any highway, railroad, electric transmission line or pipeline or telephone or telegraph properties and facilities, all such necessary relocations, raising, rerouting, changing of grade or alteration of construction shall be accomplished at the sole expense of the county.

¹ Article 3264 et seq.

Additional Bonds

Sec. 8. Additional bonds payable solely by a pledge of the net revenues of the Project as well as additional bonds payable from the net revenues of the Project may be issued for the purpose of improving, repairing or extending the Project or for any or all such purposes if permitted by the order authorizing the original issue of bonds, and under the conditions therein provided.

Refunding Bonds

Sec. 9. Subject to any restrictions which may appear in the bond authorizing order, the Commissioners Court may provide for the issuance of bonds for the purpose of refunding any of the bonds issued under this Act and at the time outstanding. The issuance of such refunding bonds, the maturities and other terms thereof, the rights of the holders thereof, and the duties of the county in respect to the same, shall be governed by the foregoing provisions of this Act insofar as the same may be applicable, but no such refunding bonds shall be delivered unless delivered in exchange for the bonds authorized to be refunded thereby or unless sold and delivered to provide funds for the payment of matured or redeemable bonds maturing or redeemable within six (6) months. Such refunding bonds shall bear interest at the same or lower rate than borne by the bonds refunded, unless it is shown mathematically that a savings will result in the total of interest to be paid.

Notice of Intention to Issue Bonds

Sec. 10. No bonds may be authorized under and pursuant to the provisions of this Act until such time as the Commissioners Court of such county has, after adoption of the provisions hereof as provided in Section 1, given notice of intention to issue bonds. Such notice shall specify the maximum amount of bonds proposed to be issued, the maximum interest rate and maximum maturity of the proposed bonds and the time and place the court proposes to proceed with the authorization thereof and such notice shall be published once a week for two (2) consecutive weeks in a newspaper of general circulation in such county, the date

of the first publication being at least fourteen (14) full days prior to the date set for the authorization of such bonds. Upon the time and place specified in said notice, the court may proceed with the authorization of bonds pursuant to the provisions of this Act, provided, however, if a petition executed by more than ten percent (10%) of the resident qualified property taxpaying voters of the county asking that an election be called on the issuance of such bonds is presented to the court, the court may not proceed with the authorization of bonds until such time as a proposition for the issuance of bonds has been approved by a majority of the resident qualified property taxpaying voters of the county at an election held for such purpose. Notice of any such election shall be given by publishing a substantial copy of the resolution calling the election in a newspaper of general circulation in such county one (1) each week for two (2) consecutive weeks, the first publication being at least fourteen (14) full days prior to the election. The returns of the election shall be made to the Commissioners Court within five (5) days of the holding of such election. The General Laws relating to elections shall be applicable to such elections except as modified by the provisions of this Act.

Legal and Authorized Investments

Sec. 11. All bonds issued under this law shall be and are hereby declared to be legal and authorized investments for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance companies, fiduciaries, trustees, guardians, and for the sinking funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas. Such bonds shall be eligible to secure the deposit of any and all public funds of cities, towns, villages, counties, school districts, or other political corporations or subdivisions of the State of Texas; and such bonds shall be lawful and sufficient security for said deposits to the extent of their face value.

Enforcement of Rights Against County

Sec. 12. The holder or holders of any of such bonds herein authorized to be issued shall have the right, in addition to all other rights, by mandamus or other proceedings in any court of competent jurisdiction to enforce his or their rights against the county and its employees and against the agents and employees thereof, including but not limited to the right to require the county to impose and collect sufficient rates and charges to carry out the agreements contained in the bond order and to perform all agreements and covenants therein contained and duties arising therefrom.

Cumulative Effect

Sec. 13. This Act is declared cumulative of all other Acts or laws and the powers, rights and privileges and functions hereby conferred shall not prevent the exercise by any such county of any and all other powers, rights,

privileges, or functions conferred upon such county by any other Act or law now existing or hereafter enacted.

Accomplishment of Purposes of Act

Sec. 14. The accomplishment of the purposes stated in this Act being for the benefit of the people of this state, and for the improvement of their commerce and property, the county in carrying out the purposes of this Act will be performing an essential governmental function and shall not be required to pay any tax or assessment on the Project or any part thereof, and the bonds issued hereunder and their transfer and the income therefrom including any profits made on the sale thereof, shall at all times be free from taxation within this state.

[Acts 1961, 57th Leg., p. 638, ch. 298.]

Art. 2372r. Historical Markers, Monuments and Medallions

The Commissioners Court of each county of this state, in addition to the powers already conferred on it by law, is hereby empowered to appropriate from the general fund of said counties, monies for the purpose of erecting historical markers, monuments, and medallions, and purchasing objects and collections of objects of any kind which are of historical significance to such county.

[Acts 1963, 58th Leg., p. 431, ch. 150, § 1.]

Art. 2372r-1. Counties of 100,000 to 120,000; Construction, Restoration, Preservation and Maintenance of Historical Landmarks and Buildings

Sec. 1. This Act applies to any county of this State having a population of not less than 100,000 nor more than 120,000, according to the last preceding federal census.

Sec. 2. The Commissioners Court is hereby empowered to appropriate and expend from the General Fund of said counties, monies for the purpose of purchasing, constructing, restoring, preserving, maintaining, and reconstructing historical landmarks, buildings, and furnishings which are of historical significance to such counties. The Commissioners Court may appropriate and expend such monies for the purposes herein given to historical foundations and organizations in said counties that are duly incorporated under the laws of this state as a non-profit corporation.

[Acts 1967, 60th Leg., p. 1017, ch. 446, eff. June 12, 1967; Acts 1971, 62nd Leg., p. 1820, ch. 542, § 18, eff. Sept. 1, 1971; Acts 1971, 62nd Leg., p. 2374, ch. 735, § 1, eff. Sept. 1, 1971.]

Art. 2372s. Parking Stations Near Courthouses in Counties of 900,000 or More

Power to Construct and Operate Parking Stations; Leases

Sec. 1. The commissioners court of any county which had a population in excess of 900,000 according to the most recent federal census upon finding that it is to the best interest of the county and its inhabitants shall have

the power to construct, enlarge, furnish, equip and operate a parking station in the vicinity of the courthouse of the county. It is further authorized from time to time to lease said parking station to a person or corporation on such terms as the commissioners court shall deem appropriate.

Definitions

Sec. 2. As used in this law, "parking station" means a lot or area or surface or subsurface structure for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof, and the site therefor;

"Bond order" means the order authorizing the issuance of revenue bonds;

"Trust indenture" means the mortgage, deed of trust or other instrument pledging revenues, or in addition thereto, creating a mortgage lien on properties, or both, to secure the revenue bonds issued by the county;

"Trustee" means the trustee under the trust indenture.

Bonds; Pledge of Revenues; Payment of Bonds

Sec. 3. The commissioners court may issue negotiable bonds to provide funds for the construction, enlargement, furnishing or equipping said parking station. Such bonds shall be payable from and secured by a pledge of the net revenues to be derived from the operation of the parking station and any other revenues resulting from the ownership of the parking station properties including rentals received from leasing all or part of said parking station. The commissioners court may additionally secure and provide for the payment of such bonds by the levy of an ad valorem tax of not to exceed two and one-half cents on each \$100 of taxable property in the county, in which event the provision stated in Section 8 hereof shall not be contained in the bonds.

Authorization of Bonds; Signature and Seal; Maturity Date

Sec. 4. The bonds shall be authorized by order adopted by a majority vote of a quorum of the commissioners court, (without the prerequisite of an election) and shall be signed by the county judge, countersigned by the county clerk and registered by the county treasurer. The seal of the commissioners court shall be impressed or printed thereon. The bonds shall mature serially or otherwise in not to exceed forty (40) years and may be sold at a price and under terms determined by the commissioners court to be the most advantageous reasonably obtainable, provided that the interest cost to the county, including the discount, if any, calculated by use of standard bond interest tables currently in use by insurance companies and investment houses does not exceed six per cent (6%) per annum, and within the discretion of the commissioners court, may be made callable prior to maturity at such times and prices as may be prescribed in the order authorizing the bonds.

Bonds Constituting Junior Liens; Parity Bonds

Sec. 5. Bonds constituting a junior lien on the net revenues or properties may be issued unless prohibited by the bond order or trust indenture. Parity bonds may be issued under conditions specified in the bond order or trust indenture.

Payment of Bond Interest

Sec. 6. Money for the payment of interest on the bonds and an amount estimated by the commissioners court to be required for operating expenses until the parking station becomes sufficiently operative may be set aside out of the proceeds from the sales of the bonds.

Refunding Bonds

Sec. 7. Bonds may be issued for the purpose of refunding outstanding bonds in the manner provided in this Act for other bonds, and may be exchanged by the Comptroller of Public Accounts of the State of Texas or sold and the proceeds applied to the payment of outstanding bonds.

Approval of Attorney General; Incontestability

Sec. 8. Bonds issued under this Act and the record relating to their issuance shall be submitted to the Attorney General of Texas and if he finds that they have been issued in accordance with this law and constitute valid and binding special obligations of the county and are secured as recited therein he shall approve them, and they shall be registered by the Comptroller of Public Accounts of the State of Texas who shall certify such registration thereon. Thereafter they shall be incontestable. The bonds shall be negotiable and shall contain the following provision: "The holder hereof shall never have the right to demand payment thereof out of money raised or to be raised by taxation."

Rentals and Rates for Services

Sec. 9. It shall be the duty of the commissioners court to charge sufficient rentals or rates for services rendered by the parking station and to utilize any other sources of its revenues so that revenues will be produced sufficient to pay all expenses in connection with the ownership, operation and upkeep of the parking station, to pay the principal of and interest on the bonds as they become due, and to create and maintain a bond reserve fund and other funds as provided in the bond order or trust indenture. The bond order or trust indenture may prescribe systems, methods, routines and procedures under or in accordance with which the parking station shall be operated.

[Acts 1965, 59th Leg., p. 352, ch. 168; Acts 1967, 60th Leg., p. 205, ch. 117, §§ 1, 2, eff. May 4, 1967; Acts 1973, 63rd Leg., p. 1295, ch. 485, § 1, eff. June 14, 1973.]

Section 2 of the 1973 amendatory act provided: "The provisions of this Act are severable. If any word, phrase, clause, paragraph, sentence, section, part, or provision of this Act or the application thereof to any person or circumstance shall be held to be invalid or unconstitutional, the remainder of this Act shall nevertheless be

valid; and the Legislature hereby declares that the Act would have been enacted without such invalid or unconstitutional word, phrase, clause, paragraph, sentence, section, part, or provision."

Art. 2372s-1. Regulation of Parking in Certain Courthouse Parking Lots

Sec. 1. This Act shall apply in every county having a population of not less than 12,500 nor more than 13,000, and in every county having a population of not less than 14,000 nor more than 14,000, and in every county having a population of not less than 15,000 nor more than 15,340, and in every county having a population of not less than 18,093 nor more than 18,099, and in every county having a population of not less than 27,800 nor more than 28,000, and in every county having a population of not less than 140,000 nor more than 180,000, according to the last preceding federal census.

Sec. 2. The commissioners court is authorized to purchase such equipment as is necessary and make and enforce regulations for parking in county-owned or county-leased parking lots in, under, adjacent to, or near the county courthouse. The commissioners court may in its discretion contract with the city for enforcement of the regulations and likewise the city in its discretion may contract with the county. The Sheriff's Department of such counties is hereby authorized to enforce any and all regulations passed by the Commissioners Court.

Sec. 3. A person who violates a regulation authorized by this Act is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than \$1 nor more than \$20.

[Acts 1965, 59th Leg., p. 802, ch. 387, eff. June 9, 1965; Acts 1969, 61st Leg., p. 2453, ch. 820, §§ 1, 2, eff. Sept. 1, 1969; Acts 1971, 62nd Leg., p. 1844, ch. 542, § 108, eff. Sept. 1, 1971.]

Art. 2372s-2. Parking Stations Near Courthouses in Counties of 150,000 or More**Definition**

Sec. 1. The term "parking station," as used in this Act, shall mean a lot or area or surface or subsurface structure of one or more levels for the parking of automotive vehicles, together with equipment used in connection with the maintenance and operation thereof.

Authority to Appropriate and Expend; Lease

Sec. 2. The commissioners courts of counties with a population of 150,000 or more are hereby empowered to appropriate and expend from the general fund or permanent improvement fund of said counties, moneys for the purpose of constructing, enlarging, furnishing, equipping and operating a parking station adjacent to or near the courthouse of the county. It is further authorized from time to time to lease said parking station to a person or corporation on such terms as the commissioners court shall deem appropriate.

[Acts 1973, 63rd Leg., p. 579, ch. 248, eff. June 11, 1973.]

Art. 2372t. Emergency Ambulance Service in Counties of 9,800 to 10,150

Sec. 1. The commissioners court of any county with a population in excess of 9,800 inhabitants but less than 10,150, according to the last preceding federal census, may provide within the county for emergency ambulance service, including all necessary equipment, personnel, and maintenance for the service.

Sec. 2. In providing for the service required by Section 1 of this Act, a commissioners court may enter into agreements with any city or town, hospital district, sheriff's office or fire department, private ambulance service, or any other agency or entity which the commissioners court finds to be suitably organized to provide efficient emergency ambulance service within the county.

Sec. 3. Any agreement to provide emergency ambulance service within a city, town, or hospital district entered into under Section 2 of this Act shall have the approval of the gov-

erning body of the city, town, or hospital district within which the service is to be rendered.

Sec. 4. A commissioners court operating under this Act may expend county funds to defray the expense of the establishment, operation, and maintenance of emergency ambulance service within the county, whether such service is provided directly by the county or by agreement with some other governmental agency or private entity.

Sec. 5. A commissioners court providing for emergency ambulance service under this Act shall establish reasonable fees for the service. The charging and collection of fees established may be done either by the commissioners court or by any other agency or entity performing the service. Special provision may be made for the rendering of emergency ambulance service to indigent persons.

[Acts 1971, 62nd Leg., p. 2417, ch. 766, eff. June 8, 1971.]

TITLE 45

COURTS—JUSTICE

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CHAPTER ONE. JUSTICES AND JUSTICE COURTS

Article
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Art. 2373. Election, Bond and Term of Office

The qualified voters of each justice precinct in this State, at each election, shall elect one justice of the peace, styled in this title "justice," who shall hold his office for four years. Each justice shall give bond payable to the county judge in a sum not to exceed five thousand dollars, conditioned that he will faithfully and impartially discharge the duties required of him by law, and will promptly pay over to the party entitled to receive it, all moneys that may come into his hands during his term of office.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 703, ch. 291, § 1, eff. Aug. 28, 1967.]

Art. 2374. In Unorganized Counties

The commissioners courts of counties to which unorganized counties are attached for judicial purposes may appoint a justice and a constable for each unorganized county attached to said county for judicial purposes, in accordance with the law authorizing such appointments in organized counties. Whenever, in any unorganized county, a necessity may exist for the appointment of more than one justice and constable, and one hundred qualified voters of said county shall petition the commissioners court of the organized county to which such unorganized county is attached for judicial purposes, asking the appointment of such offi-

cers, such commissioners court shall lay off and designate as many justice precincts in such unorganized county as may be necessary, not exceeding four, and such court may appoint one justice and one constable for each justice precinct in such unorganized county; and such justice precincts shall be legally constituted election precincts.

[Acts 1925, S.B. 84.]

Art. 2375. Two Justices Elected

Where there is a city of eight thousand inhabitants or more in a justice precinct, two justices of the peace shall be elected.

[Acts 1925, S.B. 84.]

Art. 2376. Commissioned

Each justice of the peace shall be commissioned as justice of the peace of his precinct and ex officio notary public of his county.

[Acts 1925, S.B. 84.]

Art. 2377. Nearest Justice to Hold Court

Whenever there is a vacancy or the justice in any precinct shall be absent, or unable or unwilling to perform the duties of his office, the nearest justice in the county may temporarily perform the duties of the office.

[Acts 1925, S.B. 84.]

Art. 2378. Disqualification

No justice of the peace shall sit in a cause where he may be interested, or where he may be related to either party within the third degree by consanguinity or affinity.

[Acts 1925, S.B. 84.]

Art. 2379. Justice's Office

When the justice precinct where the courthouse of any county is located contains more than seventy-five thousand inhabitants, the commissioners court of said county shall provide and furnish a suitable place in such courthouse for such justice to hold court.

[Acts 1925, S.B. 84.]

Art. 2380. Term of Court

These rules shall govern as to the terms of court:

1. Each justice shall hold a term of his court for civil business once in each month, and may transact such business out of term time as may be authorized by law.

2. Each justice shall hold the regular term of his court at his office at such time as the commissioners court may prescribe.

3. The justice may hold court from day to day until all business shall be dis-

posed of, or may adjourn the court or the trial of any case to a particular day.

4. If the regular term from any cause shall not be opened on the day fixed therefor by law, the court shall be considered adjourned until its next regular term.

[Acts 1925, S.B. 84.]

Arts. 2381, 2382. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2383. Custody of Books, etc.

Each justice shall arrange and safely keep all dockets, books and papers transmitted to him by his predecessors, and all papers filed in any case in his court subject at all reasonable times to the inspection of any interested party. Any person having possession of dockets, books or papers belonging to the office of any justice shall deliver the same to such justice on demand.

[Acts 1925, S.B. 84.]

Art. 2384. Enforcing Delivery

If any person having such dockets, books or papers, refuses to deliver the same on such demand, he may, upon motion, be attached and imprisoned by order of the county judge in term time or vacation, until he shall make such delivery; but such motion shall be supported by affidavit, and three days' notice thereof shall be given to the party against whom such motion is made.

[Acts 1925, S.B. 84.]

Art. 2385. Jurisdiction

Justice courts shall, in addition to their other powers and duties, have and exercise original jurisdiction in civil matters of all cases where the amount in controversy is two hundred dollars, or less, exclusive of interest, of which exclusive original jurisdiction is not given to the district or county courts, and of cases of forcible entry and detainer, and to foreclose mortgages and enforce liens on personal property, where the amount in controversy is within their jurisdiction.

[Acts 1925, S.B. 84.]

Art. 2386. Other Powers

Justices of the peace shall also have power:

1. To issue writs of attachment, garnishment and sequestration within their jurisdiction, the same as judges and clerks of the district and county courts.

2. To exercise jurisdiction over all other matters not hereinbefore enumerated that are or may be cognizable before a justice of the peace under any law of this State.

3. To proceed with all unfinished business of his office in like manner as if such business had been originally commenced before him.

[Acts 1925, S.B. 84; Acts 1971, 62nd Leg., p. 2535, ch. 831, § 4, eff. Aug. 30, 1971.]

Art. 2387. No Jurisdiction

Justice courts have no jurisdiction of suits in behalf of the State to recover penalties, forfeitures and escheats, of suits for divorce, of suits to recover damages for slander or defamation of character, suits for the trial of title to land, or of suits for the enforcement of liens on land.

[Acts 1925, S.B. 84.]

Arts. 2388, 2389. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER TWO. INSTITUTION OF SUIT

Article

2390. Suits, Where Brought.

2391. Residence of a Single Man.

2392. Where There Are Two Justices.

2393. If Justice is Disqualified.

2393a. Exchange of Benches.

2394 to 2398. Repealed.

2399. Special and Temporary Justices.

2400 to 2402. Repealed.

Art. 2390. Suits, Where Brought

Every suit in the justice court shall be commenced in the county and precinct in which the defendant or one or more of the several defendants resides, except in the following cases and such other cases as are or may be provided by law:

1. Cases of forcible entry and detainer must be brought in the precinct where the premises, or a part thereof, are situated.

2. Suits against executors, administrators and guardians as such must be brought in the county in which such administration or guardianship is pending, and in the precinct in which the county seat is situated.

3. Suits against counties must be brought in such county and in the precinct in which the county seat is situated.

In the following cases the suit may, at the plaintiff's option, be brought either in the county and precinct of the defendant's residence or in that provided in each exception:

4. Suits upon a contract in writing promising performance at any particular place, may be brought in the county and precinct in which such contract was to be performed, provided that in all suits to recover for labor actually performed, suit may be brought and maintained where such labor is performed, whether the contract for same be oral or in writing.

5. Suits for the recovery of rents may be brought in the county and precinct in which the rented premises, or a part thereof are situated.

6. Suits for damages for torts may be brought in the county and precinct in which the injury was inflicted.

7. Suits against transient persons may be brought in any county and precinct where such defendant is to be found.

8. Suits against non-residents of the State or persons whose residence is unknown, may be brought in the county and precinct where the plaintiff resides.

9. Suits for the recovery of personal property may be brought in any county and precinct in which the property may be.

10. Suits against private corporations, associations and joint stock companies may be brought in any county and precinct in which the cause of action or a part thereof arose, or in which such corporation, association or company has an agency or representative, or in which its principal office is situated.

11. Suits against railroad and canal companies, or the owners of any line of transportation vehicles of any character, for any injury to person or property upon the road, canal, or line of vehicles of the defendant, or upon any liability as a carrier, may be brought in any precinct through which the road, canal or line of vehicles may pass, or in any precinct where the route of such railroad, canal, or vehicle may begin or terminate.

12. Suits against fire, marine or inland insurance companies may be brought in any county and precinct in which any part of the insured property was situated; and suits against life and accident insurance companies or associations may be brought in the county and precinct in which the persons insured, or any of them resided at the time of such injury or death.

13. Suits against the owners of a steamboat or other vessel may be brought in any county or precinct where such steamboat or vessel may be found, or where the cause of action arose or the liability was contracted or accrued. In every suit commenced in a county or precinct in which the defendants or one of them may reside, it shall be affirmatively shown in the citation or pleading, if any, that such suit comes within one of the exceptions named in this article.

[Acts 1925, S.B. 84.]

Art. 2391. Residence of a Single Man

The residence of a single man is where he boards.

[Acts 1925, S.B. 84.]

Art. 2392. Where There Are Two Justices

Where, in any one precinct, incorporated city or town there may be more than one justice of the peace, the suit may be brought before either of them.

[Acts 1925, S.B. 84.]

Art. 2393. If Justice is Disqualified

If there be no justice qualified to try the suit in the proper precinct, the suit may be

commenced before the nearest justice of the county who is not disqualified to try the same. [Acts 1925, S.B. 84.]

Art. 2393a. Exchange of Benches

A justice may hold court for any other justice whose precinct is in the same county; and the justices of a county may exchange benches whenever they deem it expedient.

[Acts 1967, 60th Leg., p. 954, ch. 421, § 1, eff. Aug. 28, 1967.]

Arts. 2394 to 2398. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2399. Special and Temporary Justices

(a) If a justice be disqualified from sitting in any civil case, or is sick or absent from the precinct, the parties to such suit may agree upon some person to try the case; and should they fail to agree at the first term of the court after service is perfected, the county judge in whose county said case is pending, shall, upon the application of the justice in whose court said cause is pending, or upon the application of either party to said suit, appoint some person who is qualified to try said cause. The fact of the disqualification of the justice and the selection by agreement or appointment of some other person to try said cause shall be noted on the docket of said justice in said cause.

(b) If a justice is temporarily unable to perform his official duties because of illness, injury, or other disability, the county judge may appoint a qualified person to serve as temporary justice during the duration of the disability. The Commissioners Court shall compensate the temporary justice by the day, week, or month, in an amount equal to the compensation of the regular justice.

[Acts 1925, S.B. 84; Acts 1967, 60th Leg., p. 291, ch. 135, § 1, eff. May 8, 1967.]

Arts. 2400 to 2402. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER THREE. APPEARANCE AND TRIAL

Article

2403 to 2412. Repealed.

2413. Summons for Jury.

2414. Summoning Jury.

2415. Jurors Called.

2416. Excuses.

2417. Defaulting Jurors.

2418. Talesmen.

2419 to 2427. Repealed.

2428. Pay of Jurors.

Arts. 2403 to 2412. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2413. Summons for Jury

Whenever at any term of a justice court there may be any jury cases pending for trial,

the justice shall order the sheriff or constable to summon such number of legally qualified jurors as he may deem necessary, to attend as a jury before such justice at a day and place directed. The justice, on delivering such order to the officer, shall administer to him the following oath "You do solemnly swear that you will, to the best of your skill and ability, and without bias or favor toward any party, summon such jurors as may be ordered by the court; that you will select none but impartial, sensible and sober men, having the qualifications of jurors under the law; that you will not, directly or indirectly, converse or communicate with any juryman, touching any case pending for trial; and that you will not, by any means, attempt to influence, advise or control any juryman in his opinion in any case which may be tried by him. So help you God." [Acts 1925, S.B. 84.]

Art. 2414. Summoning Jury

The officer shall immediately summon the required number of jurors to appear before the justice at the day and place named. Such summons shall be by an oral notice by the officer to the juror that he is required to appear as a juror before such justice on the day and at the place named. [Acts 1925, S.B. 84.]

Art. 2415. Jurors Called

At the time fixed for taking up the jury cases, the justice shall proceed to call the names of the jurors so summoned. [Acts 1925, S.B. 84.]

Art. 2416. Excuses

The court may hear any reasonable excuse of a juror, supported by oath, and may excuse him for the trial of any particular case, or for one or more days of the term. [Acts 1925, S.B. 84.]

Art. 2417. Defaulting Jurors

If any person so summoned as a juror shall fail or refuse to attend, the justice shall enter a fine nisi against him not exceeding five dollars, to the use of the county, to be made final, with costs, unless such person shall, after being cited to do so, show a good and sufficient excuse for such failure. [Acts 1925, S.B. 84.]

Art. 2418. Talesmen

If the number of jurors present and not excused be less than six, or less than the justice shall deem necessary, he shall order the sheriff or constable to summon a sufficient number of other qualified jurors. [Acts 1925, S.B. 84.]

Arts. 2419 to 2427. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2428. Pay of Jurors

Jurors in Justice Courts who serve in the trial of civil cases in such courts shall receive Three Dollars (\$3) in each case in which they sit as jurors, provided that no juror in such court shall receive more than Six Dollars (\$6) for each day or fraction of a day he may so serve as such juror, to be paid out of the jury fund of the county."

[Acts 1925, S.B. 84; Acts 1955, 54th Leg., p. 593, ch. 201, § 2; Acts 1969, 61st Leg., p. 290, ch. 115, § 1, eff. Sept. 1, 1969.]

CHAPTER FOUR. JUDGMENT AND NEW TRIAL [Repealed]

Arts. 2429 to 2444. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER FIVE. EXECUTION

Article
2445 to 2449. Repealed.
2450. Repealed.
2451. Dormant Judgments.
2452, 2453. Repealed.

Arts. 2445 to 2449. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2450. Repealed by Acts 1931, 42nd Leg., p. 392, ch. 238, § 1

Art. 2451. Dormant Judgments

If no execution is issued within ten (10) years after a judgment is rendered, the judgment shall become dormant, and no execution shall thereafter issue unless an execution shall have theretofore issued on such judgment within ten (10) years after a judgment is rendered. Where the first execution has issued within the ten (10) years after the rendition of a judgment, the judgment shall not become dormant unless ten (10) years shall have elapsed between the issuance of executions thereon, and execution may issue at any time within ten (10) years after the issuance of the preceding execution.

[Acts 1925, S.B. 84; Acts 1931, 42nd Leg., p. 394, ch. 240, § 1.]

Arts. 2452, 2453. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

CHAPTER SIX. APPEAL AND CERTIORARI

Article

2454. Appeal.
 2455. To District Court, When.
 2455-1. Appeal, etc., to District Court, When.
 2456 to 2459. Repealed.
 2460. Certiorari.

Art. 2454. Appeal

A party to a final judgment in any justice court may appeal therefrom to the county court where such judgment, or the amount in controversy, shall exceed twenty dollars exclusive of costs, and in such other cases as may be expressly provided by law.

[Acts 1925, S.B. 84.]

Art. 2455. To District Court, When

In all counties in which the civil jurisdiction of the county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court, in the same manner and under the same circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court.

[Acts 1925, S.B. 84.]

Art. 2455-1. Appeal, etc., to District Court, When

In all counties in which the civil and criminal jurisdiction, or either, of county courts has been transferred to the district courts, appeals and writs of certiorari may be prosecuted to remove a case tried before a justice of the peace to the district court in the same manner and under the same circumstances under which appeals and writs of certiorari are allowed by general law to remove causes to the county court.

[Acts 1879, p. 125.]

Saved from repeal, see Code of Criminal Procedure, Art. 54.02.

Arts. 2456 to 2459. Repealed by Rules of Civil Procedure (Acts 1939, 46th Leg., p. 201, § 1)

Art. 2460. Certiorari

A cause tried before a justice, wherein the amount in controversy or the judgment exceeds twenty dollars, exclusive of costs, may be removed from such justice court to the county court by certiorari under the rules prescribed in the title and chapter relating thereto. Whenever a writ of certiorari to remove any cause from the justice court to the county court shall be served on any justice of the peace, he shall immediately make out a certified copy of the entries made on his docket, and of the bill of costs, as provided in case of appeals, and send same, together with the original papers in the cause, to the clerk of the

county court in the manner and within the time prescribed in the preceding article.

[Acts 1925, S.B. 84.]

CHAPTER SEVEN. SMALL CLAIMS COURT

Art. 2460a. Creation; Jurisdiction; Procedure

Creation; Judge

Sec. 1. There is hereby created and established in each of the several counties of this State a court of inferior jurisdiction to be known as the "Small Claims Court". The justices of the peace in their several counties and precincts shall sit as judges of said courts and exercise the jurisdiction hereby conferred in all cases arising under the provisions of this Chapter.

Jurisdiction

Sec. 2. The Small Claims Court shall have and exercise concurrent jurisdiction with the Justice of the Peace Court in all actions for the recovery of money by any person, association of persons, corporation or by any attorney for such parties, or other legal entity only where the amount involved, exclusive of costs, does not exceed the sum of One Hundred and Fifty Dollars (\$150), except that when the claim is for wages or salary earned, or for work or labor performed under any contract of employment, the jurisdictional amount, exclusive of costs, shall not exceed Two Hundred Dollars (\$200). Provided, however, that no action may be brought in the Small Claims Court by any assignee of such action or upon any assigned claim or by any person, firm, partnership, association or corporation engaged, either primarily or secondarily, in the business of lending money at interest, nor by any collection agency or collection agent. Provided, further, however, that nothing in this Act shall prevent the bringing of any action by a legal heir or heirs on any account or claim otherwise within the jurisdiction of these Courts.

Venue

Sec. 3. All actions brought under the provisions of this Act shall be brought in the county and precinct in which the defendant resides except that when a defendant has contracted to perform an obligation in a particular county the action upon such obligation may be brought in such county. Except nothing in this Section shall conflict with Article 2392 of the Revised Civil Statutes.

Commencement of Action

Sec. 4. Actions shall be commenced under the provisions of this Act whenever the claimant, or the personal representative of a deceased claimant, appears before the judge of the Small Claims Court and files a statement

of his claim under oath. Such statement shall be in substantially the following form:

In the Small Claims Court of _____, County, Texas.

A. B., Plaintiff

vs.

C. D., Defendant

State of Texas

County of _____

A. B., whose post office address is _____

Street and

_____, _____ County, Texas, being

duly sworn, on his oath deposes and says that

C. D., whose post office address is _____

Street and

_____, _____ County, Texas, is justly

indebted to him in the sum of _____ Dollars and _____ Cents (\$_____), for _____

(here the nature of the claim should be stated in concise form and without technicality, including all pertinent dates), and that there are no counterclaims existing in favor of the defendant and against the plaintiff, except _____

Plaintiff

Subscribed and sworn to before me this _____ day of _____, 19____.

Judge

Filing Fee; Process

Sec. 5. Upon the filing of the said affidavit and the payment of a Three Dollar (\$3) filing fee, the Judge shall issue process in the same manner as any other case in Justice Court, service being by citation served by an officer of the State duly authorized to serve other citations. Service of citation may be made in any manner authorized for service of citation in a district or county court or justice court.

The Three Dollar (\$3) filing fee provided for in this Section, the Three Dollar (\$3) jury fee provided for in Section 11 of this Act and the Two Dollar (\$2) citation fee provided in Section 5a shall constitute the only fees or costs authorized to be charged in the Small Claims Court; provided, however, such fees shall constitute only the Court costs accruing up to and including entry of judgment in the Small Claims Court and do not affect any fee or Court cost accruing in any Court after the entry of said judgment and do not apply to any proceeding or execution after entry of judgment in said Court.

Fee for Service of Citation

Sec. 5a. A fee of Two Dollars (\$2) shall be charged for the service of citation provided for in Section 5 and shall be accountable as a fee of office by the officer serving citation.

Failure of Parties to Appear; Postponement

Sec. 6. Upon the date set for the hearing of such action, if the defendant fails to appear at the time and place specified in the notice and order to appear, he having been duly served therewith as herein provided, the judge shall enter judgment for the amount proved to be due the plaintiff. If the plaintiff does not appear, the judge may enter an order dismissing the action. No postponement or continuance shall be granted except for good cause shown.

Hearing

Sec. 7. If both parties appear, the judge shall proceed to hear the case. No formal pleading other than the affidavit hereinabove described, shall be required. The judge shall hear the testimony of the parties and such other witnesses as they may produce, together with such other evidence as may be offered. The hearing shall be informal, with the sole objective of dispensing speedy justice between the parties.

Plea of Privilege

Sec. 8. Provided nothing in this Act shall prevent a plea of privilege which shall be filed in writing as set out in the Texas Rules of Civil Procedure and appeal may be taken from the final ruling of the justice to the County Court where a trial de novo shall be had on such plea.

Evidence and Witnesses

Sec. 9. In every case before the Small Claims Court, it shall be the duty of the judge to develop all of the facts in the particular case. In the exercise of this duty, the judge may propound any question of any witness or party to the suit or upon his own motion may summon any party to appear as a witness in the suit as, in the discretion of the judge, appears necessary to effect a correct judgment and speedily dispose of such case.

Judgment and Execution

Sec. 10. Upon the conclusion of the hearing the judge shall render such judgment as the justice of the case shall require. If the judgment is against the defendant, he shall pay the same forthwith, and in default of such payment execution may issue as in the justice courts.

Jury Trial

Sec. 11. If either party desires a trial by jury he shall, at least one (1) calendar day prior to the date upon which the hearing is to be held, file with the Small Claims Court a request for a trial by jury, depositing with the judge, at the time such request is filed, a jury fee of Three Dollars (\$3). Thereupon, a jury shall be had as in other civil cases in the justice courts.

Right of Appeal

Sec. 12. Where the amount in controversy, exclusive of costs, exceeds the sum of Twenty Dollars (\$20), upon the rendition of final judg-

ment by the judge of the Small Claims Court, a dissatisfied party may appeal to the County Court or County Court at Law of the proper county in the same manner as is now provided by statute for appeals from the justice court to the County Court.

Hearing on Appeal; Costs; Finality of Judgment

Sec. 13. It shall be the duty of the County Court or County Court at Law to dispose of all such appeals with all convenient speed. The trial on appeal shall be de novo, but no further pleadings shall be required and the procedure shall be the same as that herein prescribed for the Small Claims Court. In the event of such an appeal to the County Court, all costs not

heretofore paid by the parties shall accrue until judgment is rendered by the County Court. It is specifically provided that the judgment of the County Court or County Court at Law shall be final.

Blank Forms, Docket Books and Supplies

Sec. 14. The Commissioners Court of each of the several counties shall furnish to the justices of the peace a reasonable supply of blank forms, docket books, and other supplies necessary for the use of such justices and judges when sitting as a Small Claims Court.

[Acts 1953, 53rd Leg., p. 778, ch. 309; Acts 1955, 54th Leg., p. 571, ch. 187, §§ 1, 2; Acts 1963, 58th Leg., p. 938, ch. 368, §§ 1 to 3.]

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